

**SUBSTITUTE FOR
HOUSE BILL NO. 4803**

A bill to amend 1956 PA 40, entitled
"The drain code of 1956,"
by amending sections 1, 2, 3, 6, 8, 10, 12, 21, 23, 24, 25, 26,
27, 28, 29, 30, 31, 32, 33, 51, 52, 53, 54, 101, 102, 103, 104,
105, 106, 151, 152, 153, 154, 155, 156, 157, 158, 161, 191, 192,
199, 200, 221, 222, 223, 241, 242, 243, 244, 245, 247, 261, 262,
263, 265, 266, 267, 269, 270, 273, 274, 275, 276, 277, 278, 279,
280, 282, 283, 301, 302, 303, 304, 306, 307, 322, 322b, 323, 324,
326, 327, 328, 391, 392, 393, 395, 421, 422, 423, 425, 429, 430,
431, 433, 463, 464, 465, 466, 467, 468, 469, 472, 473, 474, 476,
478, 483, 490, 491, 499, 513, 515, 517, 518, 519, 520, 521, 524,
525, 532, 540, 541, 601, 602, [622,] 626, and 627 (MCL 280.1, 280.2,
280.3, 280.6, 280.8, 280.10, 280.12, 280.21, 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, 280.101, 280.102,

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280.103, 280.104, 280.105, 280.106, 280.151, 280.152, 280.153,
280.154, 280.155, 280.156, 280.157, 280.158, 280.161, 280.191,
280.192, 280.199, 280.200, 280.221, 280.222, 280.223, 280.241,
280.242, 280.243, 280.244, 280.245, 280.247, 280.261, 280.262,
280.263, 280.265, 280.266, 280.267, 280.269, 280.270, 280.273,
280.274, 280.275, 280.276, 280.277, 280.278, 280.279, 280.280,
280.282, 280.283, 280.301, 280.302, 280.303, 280.304, 280.306,
280.307, 280.322, 280.322b, 280.323, 280.324, 280.326, 280.327,
280.328, 280.391, 280.392, 280.393, 280.395, 280.421, 280.422,
280.423, 280.425, 280.429, 280.430, 280.431, 280.433, 280.463,
280.464, 280.465, 280.466, 280.467, 280.468, 280.469, 280.472,
280.473, 280.474, 280.476, 280.478, 280.483, 280.490, 280.491,
280.499, 280.513, 280.515, 280.517, 280.518, 280.519, 280.520,
280.521, 280.524, 280.525, 280.532, 280.540, 280.541, 280.601,
280.602, [280.622,] 280.626, and 280.627), sections 21 and 464 as
amended by

1989 PA 134, section 33 as amended by 1982 PA 356, section 223 as
amended by 1989 PA 61, section 280 as amended by 1983 PA 176,
section 282 as amended by 1984 PA 80, sections 283 and 499 as
amended by 1989 PA 149, section 423 as amended by 1996 PA 552,
and section 433 as amended by 1982 PA 449, and by adding sections
7, 7a, 7b, 7c, 13, 14, 34, 35, [36,] 53a, 55, 56, 57, 58, 59, 60,
61,
62, 63, 103a, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116,
117, 201, 275a, 277a, 329, 330, 467a, 467b, 474a, 500, 519a, [

] 615, 616, and 617; and to

repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 CHAPTER 1 —

2 ~~DRAINS.~~ GENERAL PROVISIONS

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

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

19 (A) "AGENCY" INCLUDES AN OFFICER, BOARD, COMMISSION, AND
20 OTHER BODY CREATED BY A PUBLIC CORPORATION OR BY THE FEDERAL GOV-
21 ERNMENT, AUTHORIZED TO ACT IN HIS, HER, OR ITS OWN NAME.

22 (B) "BENEFIT" OR "BENEFITS" MEANS ADVANTAGES RESULTING FROM
23 A PROJECT TO PUBLIC CORPORATIONS, THE RESIDENTS OF THIS STATE,
24 AND PROPERTY WITHIN THIS STATE. BENEFIT MAY INCLUDE ADVANTAGES
25 THAT RESULT FROM ELIMINATION OF POLLUTION AND ELIMINATION OF
26 FLOOD DAMAGE, OR ELIMINATION OF WATER CONDITIONS THAT JEOPARDIZE

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1 THE PUBLIC HEALTH OR SAFETY; INCREASE OR DECREASE OF THE VALUE OR
2 USE OF LANDS AND PROPERTY RESULTING FROM THE PROJECT; AND THE
3 POSITIVE OR NEGATIVE CONSEQUENCES OF THE PROJECT FOR INDIVIDUAL
4 PARCELS OF LAND WHICH MAY INCLUDE, BUT NEED NOT BE LIMITED TO, 1
5 OR MORE OF THE FOLLOWING:

6 (i) INCREASE OR DECREASE IN NATURAL RESOURCE VALUES.

7 (ii) INCREASE OR DECREASE IN FLOODING.

8 (iii) THE AMOUNT AND QUALITY OF RUNOFF FROM LAND ENTERING A
9 DRAIN AS DETERMINED BY APPLICABLE FACTORS INCLUDING, BUT NOT
10 LIMITED TO, THE FOLLOWING:

11 (A) THE DEPTH, CHARACTER, AND QUALITY OF SURFACE AND SUBSUR-
12 FACE SOILS OF THE LAND.

13 (B) THE AMOUNT OF IMPERVIOUS SURFACE ON THE LAND.

14 (C) WHETHER THE ACT OR OMISSION OF A PERSON INCREASES OR
15 DECREASES THE NEED FOR THE PROJECT.

16 (D) WHETHER THE ACT OR OMISSION OF A PERSON IMPROVES OR
17 DEGRADES THE WATER QUALITY.

18 (C) "COUNTY DRAIN" MEANS A DRAIN THAT PROVIDES DRAINAGE OR
19 SERVES LANDS IN ONLY 1 COUNTY AND HAS LANDS IN ONLY 1 COUNTY THAT
20 MAY BE SUBJECT TO ASSESSMENT.

21 (D) "COUNTY DRAIN COMMISSIONER", "DRAIN COMMISSIONER", OR,
22 UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE, "COMMISSIONER"
23 MEANS 1 OF THE FOLLOWING:

24 (i) THE ELECTED COUNTY DRAIN COMMISSIONER OR THE PERSON OR
25 PERSONS DESIGNATED TO PERFORM THE DUTIES OF THE ELECTED COUNTY
26 DRAIN COMMISSIONER AS PROVIDED BY THIS ACT.

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

2 (iii) THE OFFICIAL OR BODY LAWFULLY DESIGNATED BY CHARTER TO
3 EXERCISE THE POWERS AND PERFORM THE DUTIES OF A COUNTY DRAIN COM-
4 MISSIONER IN A COUNTY ORGANIZED UNDER 1966 PA 293, MCL 45.501 TO
5 45.521.

6 (E) "DIRECTOR OF AGRICULTURE" MEANS THE DIRECTOR OF THE
7 DEPARTMENT OF AGRICULTURE OR HIS OR HER DESIGNEE, SUBJECT TO SEC-
8 TION 13.

9 (F) "DIRECTOR OF TRANSPORTATION" MEANS THE DIRECTOR OF THE
10 STATE TRANSPORTATION DEPARTMENT OR HIS OR HER DESIGNEE, SUBJECT
11 TO SECTION 13.

12 (G) "DRAIN" MEANS ANY OF THE FOLLOWING IF ESTABLISHED PURSU-
13 ANT TO THIS ACT:

14 (i) THE MAIN STREAM OR TRUNK OR A TRIBUTARY OR BRANCH OF A
15 CREEK OR RIVER.

16 (ii) A WATERCOURSE OR DITCH, EITHER OPEN OR CLOSED.

17 (iii) A COVERED DRAIN.

18 (iv) A SANITARY OR A COMBINED SANITARY AND STORM SEWER OR
19 STORM SEWER OR CONDUIT.

20 (v) A STRUCTURE OR MECHANICAL DEVICE TO PURIFY OR IMPROVE
21 THE FLOW OF A DRAIN.

22 (vi) PUMPING EQUIPMENT NECESSARY TO ASSIST OR RELIEVE THE
23 FLOW OF A DRAIN.

24 (vii) ANY DAM, LEVEE, DIKE, OR BARRIER FOR DRAINAGE OR TO
25 PURIFY OR IMPROVE THE FLOW OF A DRAIN.

26 (viii) STORM WATER STORAGE, DETENTION, OR RETENTION
27 FACILITIES.

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1 (H) "DRAIN" DOES NOT INCLUDE ANY DAM AND CONNECTED FLOWAGE
2 RIGHTS USED FOR THE GENERATION OF POWER BY A PUBLIC UTILITY
3 SUBJECT TO REGULATION BY THE PUBLIC SERVICE COMMISSION.

4 (I) "DRAINAGE DISTRICT" MEANS THE AREA DESCRIBED IN THE
5 FINAL ORDER OF DETERMINATION OR, FOR A PROPOSED DRAIN FOR WHICH A
6 FINAL ORDER OF DETERMINATION HAS NOT BEEN MADE, THE AREA THAT
7 WOULD BE DRAINED BY THE PROPOSED DRAIN. ONCE ESTABLISHED, A
8 DRAINAGE DISTRICT IS A BODY CORPORATE WITH POWER TO CONTRACT, TO
9 SUE AND TO BE SUED, AND TO HOLD, MANAGE, AND DISPOSE OF REAL AND
10 PERSONAL PROPERTY, IN ADDITION TO ANY OTHER POWERS CONFERRED UPON
11 IT BY LAW.

12 (J) "ENGINEER" MEANS A PROFESSIONAL ENGINEER LICENSED UNDER
13 ARTICLE 20 OF THE OCCUPATIONAL CODE, 1980 PA 299, MCL 339.2001 TO
14 339.2014.

15 (K) "IMPROVEMENT" MEANS AND "IMPROVE" REFERS TO ANY OF THE
16 FOLLOWING WITH RESPECT TO THE DRAIN IF THE DRAIN OR THAT PORTION
17 OF THE DRAIN HAS ACTUALLY BEEN CONSTRUCTED OR ESTABLISHED:

18 (i) RELOCATING, WIDENING, DEEPENING, STRAIGHTENING, TILING,
19 EXTENDING, OR ADDING BRANCHES TO A DRAIN.

20 (ii) PROVIDING DAMS, LEVEES, DIKES, BARRIERS, STRUCTURES, OR
21 MECHANICAL DEVICES THAT WILL PROPERLY PURIFY, CONTROL, OR IMPROVE
22 THE FLOW OF A DRAIN.

23 (iii) PROVIDING PUMPING EQUIPMENT OR CONSTRUCTING RELIEF
24 DRAINS NECESSARY TO ASSIST OR RELIEVE THE FLOW OF A DRAIN.

25 (l) "INTERCOUNTY DRAIN" MEANS A DRAIN THAT PROVIDES DRAINAGE
26 OR SERVES LANDS IN MORE THAN 1 COUNTY THAT MAY BE SUBJECT TO
27 ASSESSMENT.

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1 (M) "LANDOWNER" MEANS A PERSON HOLDING THE MOST RECENT FEE
2 TITLE OR A LAND CONTRACT VENDEE'S INTEREST IN LAND AS SHOWN BY
3 THE RECORDS OF THE COUNTY REGISTER OF DEEDS. IF THERE IS MORE
4 THAN 1 PERSON WITH A FEE INTEREST OR LAND CONTRACT VENDEE'S
5 INTEREST IN LAND, EACH SUCH PERSON IS A SEPARATE LANDOWNER [, BUT
ONLY 1 SUCH PERSON SHALL SIGN A PETITION UNDER THIS ACT].

6 (N) "MAINTENANCE" AND "MAINTAIN" REFER TO ANY OF THE FOLLOW-
7 ING IF WITHIN THE CAPACITY OF A DRAIN AS PREVIOUSLY ESTABLISHED
8 OR CONSTRUCTED:

9 (i) MAINTAINING A DRAIN OR DRAINS IN WORKING ORDER TO CON-
10 TINUE A NORMAL FLOW OF WATER, INCLUDING BUT NOT LIMITED TO THE
11 MAINTENANCE, REPAIR, OR REPLACEMENT OF AND UTILITY SERVICE FOR
12 PUMPING STATIONS, SEWAGE TREATMENT FACILITIES, OR MECHANICAL
13 DEVICES.

14 (ii) CLEANING OUT A DRAIN OR DRAINS.

15 (iii) KEEPING A DRAIN OR DRAINS FREE FROM RUBBISH, DEBRIS,
16 SILTATION, OR OBSTRUCTIONS.

17 (iv) REPAIRING A PORTION OR ALL OF A TILE, DRAIN, OR DRAINS
18 TO CONTINUE THE NORMAL FLOW OF WATER.

19 (v) RESTORATION OF PREVIOUSLY ESTABLISHED DEPTHS, BOTTOM
20 WIDTHS, AND GRADE BASED ON RECORDS MAINTAINED AT THE OFFICE OF
21 THE DRAIN COMMISSIONER.

22 (vi) EROSION REPAIR AND CONTROL.

23 (vii) EROSION AND SEDIMENTATION CONTROL.

24 (viii) MAINTENANCE, REPAIR, OR REPLACEMENT OF LEVEES, DIKES,
25 DAMS, AND RETENTION AND DETENTION BASINS.

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1 (*ix*) MAINTENANCE, REPAIR, OR REPLACEMENT OF STRUCTURES, SUCH
2 AS BRIDGES, CULVERTS, OR FORDS, THAT HAVE DIMINISHED THE CAPACITY
3 OF THE DRAIN OR THAT ARE OR MAY BECOME UNSTABLE OR UNSAFE.

4 (*x*) REMOVAL AND DISPOSAL OF CONTAMINATED MATERIAL.

5 (*xi*) REMOVAL OF OBSTRUCTIONS DOWNSTREAM FOR THE PURPOSE OF
6 RESTORING ADEQUATE OUTLET FOR LANDS WITHIN AN EXISTING DRAINAGE
7 DISTRICT OR DISTRICTS, SUBJECT TO SECTION 422.

8 (*xii*) ACTIVITIES ASSOCIATED WITH MAINTENANCE DESCRIBED IN
9 SUBPARAGRAPHS (*i*) THROUGH (*xi*).

10 (*xiii*) ACTIVITY UNDER PART 91 OF THE NATURAL RESOURCES AND
11 ENVIRONMENTAL PROTECTION ACT, 1994 PA 451, MCL 324.9101 TO
12 324.9123.

13 (O) "MUNICIPALITY" MEANS A COUNTY, CITY, VILLAGE, OR TOWN-
14 SHIP, OR AN AUTHORITY WITH POWER TO LEVY A TAX CREATED BY ANY OF
15 THESE.

16 (P) "PERSON" MEANS AN INDIVIDUAL, PARTNERSHIP, CORPORATION,
17 ASSOCIATION, GOVERNMENTAL ENTITY, OR OTHER LEGAL ENTITY.

18 (Q) "PROJECT" MEANS WORK UNDERTAKEN AS A RESULT OF PETITION
19 AND AN ORDER OF NECESSITY OR UNDERTAKEN AS MAINTENANCE ON A DRAIN
20 PURSUANT TO SECTION 199.

21 (R) "PUBLIC CORPORATION" MEANS A STATE DEPARTMENT OR AGENCY,
22 INCLUDING, BUT NOT LIMITED TO, A COLLEGE OR UNIVERSITY DESCRIBED
23 IN SECTION 4, 5, OR 6 OF ARTICLE VIII OF THE STATE CONSTITUTION
24 OF 1963; AN AUTHORITY CREATED BY OR PURSUANT TO STATE LAW; A
25 JUNIOR COLLEGE OR COMMUNITY COLLEGE ESTABLISHED PURSUANT TO
26 SECTION 7 OF ARTICLE VIII OF THE STATE CONSTITUTION OF 1963; A
27 SCHOOL DISTRICT; OR A MUNICIPALITY. HOWEVER, IN CHAPTERS 20 AND

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1 21, PUBLIC CORPORATION MEANS A CITY, VILLAGE, OR TOWNSHIP; WITH
2 RESPECT TO A STATE TRUNK LINE HIGHWAY, THIS STATE; OR WITH
3 RESPECT TO A COUNTY ROAD, THE COUNTY.

4 (S) "ROADWAY" MEANS A STATE TRUNK LINE HIGHWAY, COUNTY ROAD,
5 CITY OR VILLAGE STREET, OR A ROAD UNDER THE JURISDICTION OF A
6 TOWNSHIP.

7 (T) "ROADWAY AUTHORITY" MEANS, WITH RESPECT TO A STATE TRUNK
8 LINE HIGHWAY, THE STATE TRANSPORTATION COMMISSION OR THE DIRECTOR
9 OF TRANSPORTATION; WITH RESPECT TO A COUNTY ROAD, THE BOARD OF
10 COUNTY ROAD COMMISSIONERS, THE COUNTY EXECUTIVE, OR OTHER AGENCY
11 ACTING AS THE COUNTY ROAD COMMISSION; WITH RESPECT TO A CITY OR
12 VILLAGE STREET, THE CITY OR VILLAGE; AND WITH RESPECT TO A ROAD
13 UNDER TOWNSHIP JURISDICTION, THE TOWNSHIP.

14 (U) "SURVEYOR" MEANS A PROFESSIONAL SURVEYOR LICENSED UNDER
15 ARTICLE 20 OF THE OCCUPATIONAL CODE, 1980 PA 299, MCL 339.2001 TO
16 339.2014.

17 Sec. 3. ~~The word "drain", whenever used in this act, shall~~
18 ~~include the main stream or trunk and all tributaries or branches~~
19 ~~of any creek or river, any watercourse or ditch, either open or~~
20 ~~closed, any covered drain, any sanitary or any combined sanitary~~
21 ~~and storm sewer or storm sewer or conduit composed of tile,~~
22 ~~brick, concrete, or other material, any structures or mechanical~~
23 ~~devices, that will properly purify the flow of such drains, any~~
24 ~~pumping equipment necessary to assist or relieve the flow of such~~
25 ~~drains and any levee, dike, barrier, or a combination of any or~~
26 ~~all of same constructed, or proposed to be constructed, for the~~
27 ~~purpose of drainage or for the purification of the flow of such~~

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~~1 drains, but shall not include any dam and flowage rights used in
2 connection therewith which is used for the generation of power by
3 a public utility subject to regulation by the public service
4 commission.~~

5 (1) A DRAIN MAY BE ESTABLISHED, CONSTRUCTED, MAINTAINED, AND
6 IMPROVED CONSISTENT WITH THE PROVISIONS OF THIS ACT.

7 (2) EACH COMMISSIONER, EACH DRAINAGE BOARD, AND THE DIRECTOR
8 OF AGRICULTURE SHALL, AS PART OF ANY DRAIN CONSTRUCTION OR
9 IMPROVEMENT PROJECT, DO ALL OF THE FOLLOWING:

10 (A) PROTECT WATER QUALITY, HEADWATERS, MAIN BRANCHES, AND
11 TRIBUTARIES AND PROTECT THE HYDRAULIC CAPACITY OF FLOODPLAINS AND
12 FLOODWAYS [IN NEW DRAINS, IMPROVEMENTS, AND MAINTENANCE PROJECTS].

13 (B) AVOID, MINIMIZE, AND MITIGATE IMPACTS OF NEW DRAINS,
14 IMPROVEMENTS, AND MAINTENANCE ON LAND OR INTERESTS IN LAND,
15 INCLUDING, BUT NOT LIMITED TO, EASEMENTS, OWNED FOR PRESERVATION
16 OR CONSERVATION PURPOSES BY A PUBLIC CORPORATION OR PRIVATE NON-
17 PROFIT ORGANIZATION.

18 (C) INCORPORATE FLOW PATTERNS INTO CRITERIA FOR DRAIN DESIGN
19 AND STORM WATER MANAGEMENT.

20 (D) MAKE ON-SITE RETENTION AND DETENTION OF STORM WATER A
21 PRIORITY.

22 (E) UTILIZE APPLICABLE MANAGEMENT PRACTICES ADOPTED BY THE
23 COMMISSION OF AGRICULTURE [IN NEW DRAINS, IMPROVEMENTS, AND
24 MAINTENANCE PROJECTS]. THE COMMISSION OF AGRICULTURE SHALL
25 ADOPT MANAGEMENT PRACTICES ON OR BEFORE THE EXPIRATION OF 2 YEARS
26 AFTER THE EFFECTIVE DATE OF THE 2000 AMENDATORY ACT THAT AMENDED
THIS SECTION. THE COMMISSION OF AGRICULTURE SHALL ADOPT AND MAY

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1 REVISE THE MANAGEMENT PRACTICES AFTER DOING BOTH OF THE

2 FOLLOWING:

3 (i) CONSULTING WITH THE DEPARTMENT OF NATURAL RESOURCES, THE
4 DEPARTMENT OF ENVIRONMENTAL QUALITY, [PUBLIC CORPORATIONS,] AND
INTERESTED DRAIN
5 COMMISSIONERS.

6 (ii) HOLDING AT LEAST 1 APPROPRIATELY NOTICED PUBLIC HEARING
7 ON THE PROPOSED MANAGEMENT PRACTICES OR REVISIONS.

8 (F) EVALUATE THE IMPACTS OF THE PROJECT ON NATURAL RESOURCES
9 AND IDENTIFY APPROPRIATE MEASURES TO MINIMIZE ADVERSE IMPACTS.

10 (G) OBTAIN ANY PERMITS REQUIRED UNDER THE NATURAL RESOURCES
11 AND ENVIRONMENTAL PROTECTION ACT, 1994 PA 451, MCL 324.101 TO
12 324.90106.

13 Sec. 6. All ~~established~~ drains regularly located and
14 established ~~in pursuance of~~ UNDER law ~~existing~~ IN EFFECT at
15 the time of ~~location and~~ establishment and visibly in exis-
16 tence, ~~which were established as drains, and~~ OR all drains vis-
17 ibly in existence in written drain easements, ~~or~~ rights-of-way,
18 ORDERS, OR OTHER RECORDS, SUCH AS MAPS, ENGINEERING PLANS, SURVEY
19 OR CONSTRUCTION RECORDS, OR APPORTIONMENT, ASSESSMENT, OR PROCE-
20 DURAL RECORDS, on file in the office of the commissioner, ~~shall~~
21 ~~be deemed~~ ARE public drains ~~located~~ AND SHALL BE PRESUMED TO
22 HAVE BEEN ESTABLISHED UNDER LAW. THE EASEMENTS AND THE DRAINS
23 SHALL BE PRESUMED TO HAVE BEEN LOCATED in public easements or
24 rights-of-way which are valid and binding against any ~~owners of~~
25 ~~any~~ PERSONS MAKING A CLAIM ON THE BASIS OF OWNERSHIP OF A prop-
26 erty interest who became ~~or hereafter become such~~ owners after
27 the ~~location and~~ establishment of the drain or the existence of

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1 the drain became visible or the written drain easement, ~~or~~
2 right-of-way, OR ORDER was executed. ~~, and the~~ THE commissioner
3 or drainage board may use, enter upon, and preserve ~~such~~ THE
4 easement or right-of-way for maintenance AND IMPROVEMENT of the
5 ~~visible~~ drain and any other lawful activity with respect to the
6 ~~same~~ DRAIN not requiring a larger or different easement or
7 right-of-way and may exercise any rights granted in the written
8 easement, ~~or~~ right-of-way, OR ORDER on file in the office of
9 the DRAIN commissioner. Easements or rights-of-way ~~, or por-~~
10 tions of easements or rights-of-way ~~, no longer necessary for~~
11 drainage purposes may be conveyed or released to the ~~fee owners~~
12 LANDOWNERS by the commissioner or drainage board on behalf of the
13 drainage district. ~~The drain commissioner or drainage board~~
14 ~~shall give at least 30 days' notice of the intention to release~~
15 ~~the excess easements by publishing a notice in a newspaper of~~
16 ~~general circulation in the county or a newspaper of general cir-~~
17 ~~ulation where the drainage district boundaries are located.~~
18 ~~This notice shall give a general description of the excess ease-~~
19 ~~ments to be released and the date any taxpayers may appear to~~
20 ~~protest said release. After said date if no protests are~~
21 ~~received, the drain commissioner or drainage board may release~~
22 ~~said excess easements or portions thereof not necessary for~~
23 ~~drainage purposes.~~

24 SEC. 7. (1) FOR THE PURPOSES OF THIS ACT, A DRAIN COMMIS-
25 SIONER OR DRAINAGE BOARD MAY ACQUIRE PROPERTY OR A PROPERTY
26 INTEREST, INCLUDING, BUT NOT LIMITED TO, LAND, EASEMENTS, AND
27 RIGHTS OF WAY. THE PROPERTY OR A PROPERTY INTEREST MAY BE

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1 ACQUIRED BY GIFT, GRANT, DEDICATION, PURCHASE, OR CONDEMNATION
2 UNDER THE UNIFORM CONDEMNATION PROCEDURES ACT, 1980 PA 287, MCL
3 213.51 TO 213.77.

4 (2) A RELEASE OF RIGHT-OF-WAY NEGOTIATED BY THE DRAIN COM-
5 MISSIONER AFTER THE EFFECTIVE DATE OF THE 2000 AMENDATORY ACT
6 THAT ADDED THIS SECTION SHALL DESCRIBE THE LAND TO BE GRANTED OR
7 CONVEYED INCLUDING GROUND NECESSARY FOR THE DEPOSIT OF DRAINAGE
8 EXCAVATIONS. IF A PORTION OF A DRAIN IS LOCATED WITHIN A ROAD-
9 WAY, OR PUBLIC PLACE, THEN A RESOLUTION OF THE ROADWAY AUTHORITY
10 OR THE GOVERNING BODY HAVING JURISDICTION OVER THE PUBLIC PLACE,
11 RESPECTIVELY, GRANTING LEAVE TO CONSTRUCT THE DRAIN THEREIN AND
12 DESIGNATING THE PLACE TO BE TRAVERSED BY THE DRAIN, IS A SUFFI-
13 CIENT RELEASE OF THE RIGHT-OF-WAY, UNDER THIS ACT.

14 (3) A COUNTY DRAIN OR INTERCOUNTY DRAIN MAY BE LAID WITHIN
15 OR ACROSS THE RIGHT-OF-WAY OF A ROADWAY IF THE DRAIN COMMISSIONER
16 OR DRAINAGE BOARD, RESPECTIVELY, OBTAINS A PERMIT FROM THE ROAD-
17 WAY AUTHORITY.

18 (4) IF THE FEDERAL GOVERNMENT IS PARTICIPATING IN A PROJECT
19 UNDER THIS ACT, PROPERTY OR A PROPERTY INTEREST FOR THE PROJECT
20 MAY BE ACQUIRED BY THE FEDERAL GOVERNMENT UNDER APPLICABLE FED-
21 ERAL LAW. EXCEPT AS PROVIDED IN SECTION 431, THE COST FOR THE
22 FEDERAL GOVERNMENT TO ACQUIRE THE PROPERTY OR A PROPERTY INTEREST
23 SHALL BE CONSIDERED A PART OF THE COST OF THE PROJECT AS IF THE
24 PROPERTY OR A PROPERTY INTEREST WERE ACQUIRED UNDER SUBSECTION
25 (1).

26 SEC. 7A. (1) IF A DRAIN COMMISSIONER OR DRAINAGE BOARD
27 ACQUIRES PROPERTY OR AN INTEREST IN PROPERTY AFTER THE EFFECTIVE

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1 DATE OF THE AMENDATORY ACT THAT AMENDED SECTION 1 IN CONNECTION
2 WITH ANY PROPOSED DRAIN OR DRAINS, THE DRAIN COMMISSIONER OR
3 DRAINAGE BOARD SHALL RECORD THE PROPERTY OR INTEREST IN PROPERTY
4 IN THE OFFICE OF THE REGISTER OF DEEDS.

5 (2) PROPERTY OR AN INTEREST IN PROPERTY ACQUIRED AT ANY TIME
6 IN CONNECTION WITH AN EXISTING DRAIN SHALL BE RECORDED IN THE
7 OFFICE OF THE REGISTER OF DEEDS WHEN THE DRAIN IS MAINTAINED,
8 IMPROVED, OR CONSOLIDATED. PROVIDED, HOWEVER, THE PROPERTY OR
9 INTEREST IN PROPERTY FOR ALL ESTABLISHED DRAINS UNDER THE JURIS-
10 DICTION AND CONTROL OF THE DRAIN COMMISSIONER SHALL BE RECORDED
11 IN THE OFFICE OF THE REGISTER OF DEEDS NOT LATER THAN 10 YEARS
12 AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT AMENDED SEC-
13 TION 1. IF A DRAIN IS CONSOLIDATED, ANY EASEMENTS GRANTED TO THE
14 SEPARATE DRAINAGE DISTRICTS SHALL BE CONSIDERED TO BE ASSIGNED TO
15 THE CONSOLIDATED DRAINAGE DISTRICT WITH FULL FORCE AND EFFECT OF
16 LAW AS ORIGINALLY GRANTED.

17 (3) THE DRAIN COMMISSIONER MAY CONTRACT FOR SERVICES IN
18 ORDER TO ACCOMPLISH THE RECORDING REQUIRED UNDER THIS SECTION.

19 (4) THE COST OF RECORDING AND CONTRACTED SERVICES UNDER THIS
20 SECTION SHALL BE PAID BY THE DRAINAGE DISTRICT.

21 SEC. 7B. A CERTIFICATE, REPORT, OR DETERMINATION AUTHORIZED
22 OR REQUIRED BY THIS ACT, OR THE RECORD THEREOF, OR A CERTIFIED
23 COPY OF ANY SUCH CERTIFICATE, REPORT, OR DETERMINATION OR RECORD,
24 IS PRIMA FACIE EVIDENCE OF THE FACTS RECITED THEREIN, OF THE
25 TITLE TO THE PROPERTY DESCRIBED OR REFERRED TO, AND OF THE RIGHT
26 OF THE DRAINAGE BOARD OR COMMISSIONER TO TAKE THE PROPERTY FOR
27 DRAIN PURPOSES.

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1 SEC. 7C. THE OWNER OF ANY LAND OVER, THROUGH, OR ACROSS
2 WHICH A DRAINAGE DISTRICT HAS ACQUIRED AN EASEMENT OR
3 RIGHT-OF-WAY FOR THE CONSTRUCTION AND MAINTENANCE OF AN OPEN OR
4 COVERED DRAIN SHALL NOT USE THE LAND WITHIN THE EASEMENT OR
5 RIGHT-OF-WAY IN A MANNER THAT WILL INTERFERE WITH THE OPERATION
6 OF THE DRAIN, THAT WILL INCREASE THE COST TO THE DISTRICT OF PER-
7 FORMING WORK ON THE DRAIN, OR THAT IS OTHERWISE INCONSISTENT WITH
8 THE EASEMENT OR RIGHT-OF-WAY OF THE DISTRICT. A LANDOWNER WHO
9 VIOLATES THIS SECTION IS SUBJECT TO SECTION 421.

10 Sec. 8. (1) The business ~~which~~ PERFORMED BY AND ANY HEAR-
11 ING HELD BY a board or ~~commission~~ COMMITTEE created pursuant to
12 this act ~~, or a body of special commissioners appointed pursuant~~
13 ~~to this act, may perform~~ shall be conducted at a public meeting
14 of the board ~~, commission, or body of special commissioners~~ OR
15 COMMITTEE held in compliance with ~~Act No. 267 of the Public Acts~~
16 ~~of 1976, being sections 15.261 to 15.275 of the Michigan Compiled~~
17 ~~Laws~~ THE OPEN MEETINGS ACT, 1976 PA 267, MCL 15.261 TO 15.275.
18 Public notice of the time, date, and place of the meeting shall
19 be given in the manner required by ~~Act No. 267 of the Public~~
20 ~~Acts of 1976~~ THE OPEN MEETINGS ACT, 1976 PA 267, MCL 15.261 TO
21 15.275.

22 (2) IN ADDITION TO THE REQUIREMENTS OF SUBSECTION (1) AND
23 EXCEPT AS OTHERWISE PROVIDED IN THIS ACT, NOTICE OF PUBLIC HEAR-
24 INGS FOR THE BOARD OF DETERMINATION, DAY OF REVIEW, OR BOARD OF
25 REVIEW; HEARINGS OF PRACTICABILITY AND NECESSITY OF THE DRAINAGE
26 BOARD, THE RECEIVING OF BIDS, AND THE REVIEW OF APPORTIONMENTS;
27 NOTICE OF AN ORDER UNDER SECTION 151 CHANGING THE NAME OR NUMBER

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1 OF A DRAIN OR THE BOUNDARIES OF A DRAINAGE DISTRICT; AND NOTICE
2 OF AN ORDER UNDER SECTION 199(1) FOR INSPECTION OF A DRAIN AT
3 LEAST EVERY 3 YEARS SHALL BE SENT BY FIRST-CLASS MAIL TO ALL
4 LANDOWNERS OTHER THAN PUBLIC CORPORATIONS SUBJECT TO AN ASSESS-
5 MENT IN THE DRAINAGE DISTRICT OR PROPOSED DRAINAGE DISTRICT AT
6 THE ADDRESS IN THE LAST CITY, VILLAGE, OR TOWNSHIP TAX ASSESSMENT
7 ROLL. IF A PUBLIC CORPORATION OTHER THAN A STATE DEPARTMENT MAY
8 BE SUBJECT TO AN ASSESSMENT FOR THE DRAIN, NOTICE SHALL BE PER-
9 SONALLY DELIVERED OR SENT BY FIRST-CLASS MAIL TO THE GOVERNING
10 BODY OF THE PUBLIC CORPORATION. IF A STATE DEPARTMENT MAY BE
11 SUBJECT TO AN ASSESSMENT FOR THE DRAIN, NOTICE SHALL BE PERSON-
12 ALLY DELIVERED OR SENT BY FIRST-CLASS MAIL TO THE HEAD OF THE
13 STATE DEPARTMENT. HOWEVER, IF THE HEAD OF THE STATE DEPARTMENT
14 IS A COMMISSION, NOTICE SHALL BE PERSONALLY DELIVERED OR SENT BY
15 FIRST-CLASS MAIL TO THE PRINCIPAL EXECUTIVE OFFICER OF THE STATE
16 DEPARTMENT. NOTICE SHALL ALSO BE PERSONALLY DELIVERED OR SENT BY
17 FIRST-CLASS MAIL TO THE DIRECTOR OF TRANSPORTATION, THE DIRECTOR
18 OF THE DEPARTMENT OF NATURAL RESOURCES, THE DIRECTOR OF THE
19 DEPARTMENT OF ENVIRONMENTAL QUALITY, AND THE BOARD OF COUNTY ROAD
20 COMMISSIONERS. NOTICE OF A CHANGE IN ROUTE OF THE DRAIN AFTER
21 THE FIRST ORDER OF DETERMINATION SHALL BE DELIVERED IN THE MANNER
22 PROVIDED IN THIS SUBSECTION BUT NEED ONLY BE DELIVERED TO LAND-
23 OWNERS WHOSE LANDS WILL BE AFFECTED AS A RESULT OF THE CHANGE OF
24 ROUTE. IN ADDITION, NOTICE OF A HEARING OF [A DRAINAGE BOARD
25 UNDER SECTION 467, 467B, OR 519A OR OF AN AUGMENTED DRAINAGE BOARD
UNDER SECTION 519] SHALL ALSO BE
26 SENT BY FIRST-CLASS MAIL TO ALL LANDOWNERS WHOSE LAND MAY BE

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1 TRAVERSED OR BORDERED BY THE PROPOSED DRAIN. THE NOTICE SHALL BE
2 MAILED AS FOLLOWS:

3 (A) FOR A HEARING UNDER SECTION 467 OR 469, NOT LESS THAN 21
4 DAYS BEFORE THE DATE OF THE HEARING.

5 (B) FOR ANY OTHER PROCEEDING, NOT LESS THAN 14 DAYS BEFORE
6 THE DATE OF THE PROCEEDING.

7 (C) FOR A CHANGE IN ROUTE OF THE DRAIN AFTER THE FIRST ORDER
8 OF DETERMINATION, NOT MORE THAN 14 DAYS AFTER THE APPROVAL OF THE
9 ROUTE.

10 (D) FOR AN ORDER UNDER SECTION 151 CHANGING THE NAME OR
11 NUMBER OF A DRAIN OR THE BOUNDARIES OF A DRAINAGE DISTRICT OR AN
12 ORDER UNDER SECTION 199(1), NOT MORE THAN 14 DAYS AFTER ENTRY OF
13 THE ORDER.

14 (3) THE PERSON GIVING NOTICE SHALL MAKE AN AFFIDAVIT OF THE
15 MAILING AND SHALL RECITE IN THE AFFIDAVIT THAT THE PERSONS TO
16 WHOM THE NOTICE WAS MAILED CONSTITUTE ALL OF THE PERSONS WHOSE
17 NAMES AND ADDRESSES APPEAR UPON THE TAX ROLLS AS OWNING LAND
18 WITHIN THE DRAINAGE DISTRICT OR PROPOSED DRAINAGE DISTRICT [AND WHO
19 ARE ENTITLED TO NOTICE UNDER THIS SECTION]. THE
20 AFFIDAVIT OF MAILING IS CONCLUSIVE PROOF THAT NOTICE OF A PUBLIC
21 HEARING DESCRIBED IN SUBSECTION (2) WAS MAILED ACCORDING TO THIS
22 ACT. FAILURE TO RECEIVE A NOTICE BY MAIL IS NOT A JURISDICTIONAL
23 DEFECT INVALIDATING A DRAIN PROCEEDING OR SPECIAL ASSESSMENT IF
24 NOTICE HAS BEEN SENT AS PROVIDED IN THIS ACT.

25 (4) THE NOTICE DESCRIBED IN SUBSECTION (2) SHALL BE POSTED
26 IN THE OFFICE OF EACH DRAIN COMMISSIONER INVOLVED BY THE DATE BY
WHICH PUBLICATION IS FIRST REQUIRED.

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1 (5) NOTICE OF A PUBLIC HEARING DESCRIBED IN SUBSECTION (2)
2 SHALL BE PUBLISHED IN A NEWSPAPER OF GENERAL CIRCULATION IN THE
3 DRAINAGE DISTRICT. THE NOTICE SHALL BE PUBLISHED AT LEAST ONCE,
4 NOT LESS THAN 14 DAYS BEFORE THE DATE OF THE PROCEEDING.

5 HOWEVER, FOR A HEARING UNDER SECTION 467 OR 469, NOTICE SHALL BE
6 PUBLISHED AT LEAST TWICE, WITH THE FIRST PUBLICATION NOT LESS
7 THAN 21 DAYS BEFORE THE DATE OF THE HEARING.

8 (6) NOTICE OF A PUBLIC HEARING DESCRIBED IN SUBSECTION (2)
9 SHALL BE PUBLISHED IN A NEWSPAPER OF GENERAL CIRCULATION IN THE
10 DRAINAGE DISTRICT. THE NOTICE OF A HEARING DESCRIBED IN SUBSEC-
11 TION (2) SHALL SET FORTH THE TIME, DATE, PLACE, AND PURPOSE OF
12 THE MEETING. IF THE HEARING IS FOR THE BOARD OF DETERMINATION,
13 DAY OF REVIEW, OR BOARD OF REVIEW, THE NOTICE SHALL INCLUDE THE
14 NAME, ADDRESS, AND TELEPHONE NUMBER OF THE DRAIN COMMISSIONER IN
15 THE COUNTY WHERE THE PROCEEDING WILL TAKE PLACE. IF THE HEARING
16 IS A HEARING OF PRACTICABILITY AND NECESSITY OF THE DRAINAGE
17 BOARD, THE NOTICE SHALL INCLUDE THE NAME, ADDRESS, AND TELEPHONE
18 NUMBER OF EACH OF THE MEMBERS OF THE DRAINAGE BOARD. THE NOTICE
19 SHALL EXPLAIN THE CONSEQUENCE OF ANY OF THE DECISIONS MADE AT THE
20 HEARING AND SHALL SPECIFY ANY APPEAL PERIOD FOR THE ACTION
21 TAKEN. [IF THE HEARING IS A HEARING OF NECESSITY OF THE BOARD OF
22 DETERMINATION OR DRAINAGE BOARD, THE NOTICE SHALL ALSO SET FORTH ALL
23 OF THE FOLLOWING:

24 (A) THE RELIEF REQUESTED BY THE PETITION.

(B) THE REASONS FOR RELIEF AS PRESENTED IN THE PETITION.

(C) THAT THERE IS AVAILABLE FOR INSPECTION AT THE DRAIN
COMMISSIONER'S OFFICE A COPY OF THE PRELIMINARY ANALYSIS INCLUDING A
DESCRIPTION OF THE DRAINAGE DISTRICT, A RECOMMENDED ROUTE AND COURSE
FOR THE DRAIN, A RECOMMENDED TYPE OF CONSTRUCTION FOR THE DRAIN, AND
AN ESTIMATE OF THE COST OF THE DRAIN. THIS SUBDIVISION DOES NOT
APPLY TO A HEARING OF NECESSITY UNDER CHAPTER 20 OR 21.]

25 (7) ~~(2)~~ A writing prepared, owned, used, in the possession
26 of, or retained by a board, COMMITTEE, commission, or advisory
27 committee created pursuant to this act, or a commissioner

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1 appointed pursuant to this act, in the performance of an official
2 function shall be made available to the public in compliance with
3 ~~Act No. 442 of the Public Acts of 1976, being sections 15.231 to~~
4 ~~15.246 of the Michigan Compiled Laws~~ THE FREEDOM OF INFORMATION
5 ACT, 1976 PA 442, MCL 15.231 TO 15.246.

6 Sec. 10. Drains may be laid or extended into or along or
7 from any lake or other body of water surrounded wholly or in part
8 by a swamp, marsh or other low lands for the general purpose of
9 drainage contemplated by this act, but not so as to impair the
10 navigation of any navigable river, SUBJECT TO ANY PERMIT REQUIRED
11 UNDER THE NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT,
12 1994 PA 451, MCL 324.101 TO 324.90106.

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

17 The commissioner shall have jurisdiction over all estab-
18 lished county drains within his OR HER county, heretofore estab-
19 lished and now in the process of being established except that in
20 the case of a drain located or to be located entirely within a
21 single city or village, such jurisdiction shall be consented to
22 by resolution of the governing body of such city or village.

23 ~~If any drainage project lies entirely within the limits of~~
24 ~~a municipality less than a county, such municipality, by its gov-~~
25 ~~erning body, shall have the power to pledge the full faith and~~
26 ~~credit of the municipality for the payment of bonds or drain~~
27 ~~orders issued in connection with such project, and if a~~

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1 ~~deficiency exists in the drain fund or sinking fund for said~~
2 ~~drain 1 year after the last installment of the deficiency assess-~~
3 ~~ment provided for in section 280 of this act, shall have become~~
4 ~~delinquent, such municipality shall forthwith advance to the~~
5 ~~county drain fund the amount of such deficiency and thereafter~~
6 ~~all receipts of such drain fund from the sale of delinquent tax~~
7 ~~lands, which had been assessed for said drain, shall be paid to~~
8 ~~the municipality within 90 days after receipt by the county~~
9 ~~treasurer.~~

10 Sec. 12. Except as provided in section 8, ~~when~~ IF a time
11 is specified in this act in which the drain commissioner or a
12 drainage board shall take a specified administrative action or a
13 procedural step, the specification of time ~~shall be considered~~
14 IS directory and not mandatory, and failure to take the action or
15 step within the time specified ~~shall~~ DOES not affect the legal-
16 ity and validity of a drain proceeding. ~~where~~ IF the specifi-
17 cation of time relates to the giving of notice, the filing of
18 objections, the taking of an appeal, the commencement of an
19 action in a court, the taking of an action or step in the assess-
20 ment, levy, or collection of drain assessments ~~, taxes~~ or other
21 charges, or to a requirement of due process, the specification of
22 time ~~shall be considered~~ IS mandatory if so provided in this
23 act.

24 SEC. 13. (1) THE DIRECTOR OF AGRICULTURE MAY DESIGNATE AN
25 INDIVIDUAL TO ACT ON HIS OR HER BEHALF WITH RESPECT TO THE EXER-
26 CISE OF POWERS AND THE PERFORMANCE OF DUTIES UNDER THIS ACT. IF
27 A DEPUTY OR ASSISTANT ACTS IN THE CAPACITY OF THE DIRECTOR OF

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1 AGRICULTURE UNDER THIS ACT, HE OR SHE SHALL BE CONSIDERED TO HAVE
2 BEEN PROPERLY DESIGNATED BY THE DIRECTOR OF AGRICULTURE. ANY
3 OFFICIAL PROCEEDINGS MAY BE SIGNED BY THE DESIGNEE IN HIS OR HER
4 OWN NAME. THE SIGNATURE OF THE DESIGNEE SHALL BE FOLLOWED BY HIS
5 OR HER OFFICIAL TITLE. IF AN INDIVIDUAL IS DESIGNATED BY THE
6 DIRECTOR OF AGRICULTURE TO ACT IN HIS OR HER STEAD IN CONNECTION
7 WITH ALL THE PROCEEDINGS AS TO ANY PROJECT, THEN ANY NOTICE
8 REQUIRED TO BE SERVED UPON OR MAILED TO THE DIRECTOR OF AGRICUL-
9 TURE MAY BE SERVED UPON OR MAILED TO THE DESIGNEE.

10 (2) EXPENSES INCURRED BY THE DIRECTOR OF AGRICULTURE UNDER
11 THIS ACT SHALL BE ASSUMED BY THE DEPARTMENT OF AGRICULTURE.

12 (3) THE DIRECTOR OF TRANSPORTATION MAY DESIGNATE AN EMPLOYEE
13 OF THE STATE TRANSPORTATION DEPARTMENT TO ACT ON HIS OR HER
14 BEHALF WITH RESPECT TO THE EXERCISE OF POWERS AND THE PERFORMANCE
15 OF DUTIES UNDER THIS ACT. IF AN EMPLOYEE OF THE STATE TRANSPOR-
16 TATION DEPARTMENT ACTS IN THE CAPACITY OF THE DIRECTOR OF TRANS-
17 PORTATION UNDER THIS ACT, THE EMPLOYEE SHALL BE CONSIDERED TO
18 HAVE BEEN PROPERLY DESIGNATED BY THE DIRECTOR OF TRANSPORTATION.
19 ANY OFFICIAL PROCEEDINGS MAY BE SIGNED BY THE DESIGNEE IN HIS OR
20 HER OWN NAME. THE SIGNATURE OF THE DESIGNEE SHALL BE FOLLOWED BY
21 HIS OR HER OFFICIAL TITLE. ANY NOTICE REQUIRED TO BE SERVED UPON
22 OR MAILED TO THE DIRECTOR OF TRANSPORTATION SHALL BE SERVED UPON
23 OR MAILED TO THE DESIGNEE.

24 SEC. 14. (1) FOR A PUBLIC CORPORATION OTHER THAN A STATE
25 DEPARTMENT TO BE A PETITIONER UNDER THIS ACT, THE PETITION SHALL
26 BE AUTHORIZED BY RESOLUTION OF THE GOVERNING BODY AND SIGNED ON
27 BEHALF OF THE PUBLIC CORPORATION BY AN OFFICER DESIGNATED BY THE

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1 GOVERNING BODY. A CERTIFIED COPY OF THE RESOLUTION SHALL BE
2 ATTACHED TO THE PETITION.

3 (2) FOR A STATE DEPARTMENT TO BE A PETITIONER UNDER THIS
4 ACT, THE PETITION SHALL BE SIGNED ON BEHALF OF THE STATE DEPART-
5 MENT BY THE HEAD OF THE STATE DEPARTMENT. HOWEVER, IF THE HEAD
6 OF THE STATE DEPARTMENT IS A COMMISSION, THE PETITION SHALL BE
7 SIGNED BY THE PRINCIPAL EXECUTIVE OFFICER OF THE STATE
8 DEPARTMENT.

9 CHAPTER 2 —

10 COUNTY DRAIN COMMISSIONER —

11 Sec. 21. (1) ~~At~~ SUBJECT TO THIS SECTION, AT the general
12 election to be held in November ~~, 1976~~ 2000, and each fourth
13 year after November ~~, 1976~~ 2000, a county drain commissioner
14 shall be elected in each county having a drain commissioner by
15 the qualified electors of the county. The term of office of
16 ~~the~~ A commissioner shall begin on the January 1 following the
17 drain commissioner's election and continue for a period of 4
18 years and until his or her successor is elected and qualified,
19 whichever occurs earlier.

20 (2) As determined by the county board of commissioners, the
21 county drain commissioner shall be covered by a blanket bond or,
22 before entering upon the duties of office, shall execute and file
23 with the county clerk a bond to the people of the state in the
24 penal sum of ~~-\$5,000.00-~~ \$100,000.00, issued by a surety company
25 licensed to do business in this state, conditioned upon the
26 faithful discharge of the duties of the office. The county board
27 of commissioners may fix the individual bond to be required of

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1 the commissioner at a different amount if, in its judgment, that
2 is desirable.

3 (3) The county board of commissioners of a county having a
4 population of less than 12,000, by resolution of a 2/3 vote of
5 the members elect, may abolish the office of county drain commis-
6 sioner and transfer the powers and duties of the office to the
7 board of county road commissioners.

8 (4) If a county establishes a department of public works
9 pursuant to ~~Act No. 185 of the Public Acts of 1957, as amended,~~
10 ~~being sections 123.731 to 123.786 of the Michigan Compiled Laws~~
11 ~~1957 PA 185, MCL 123.731 TO 123.786, or a public improvement~~
12 ~~agency with the drain commissioner designated as the county agent~~
13 ~~pursuant to the county public improvement act of 1939, Act~~
14 ~~No. 342 of the Public Acts of 1939, as amended, being sections~~
15 ~~46.171 to 46.188 of the Michigan Compiled Laws~~ 1939 PA 342, MCL
16 46.171 TO 46.188, the county board of commissioners, by resolu-
17 tion of a 2/3 vote of the members elected and serving, may com-
18 bine the powers, duties, and functions set forth in ~~Act No. 185~~
19 ~~of the Public Acts of 1957, as amended, Act No. 342 of the Public~~
20 ~~Acts of 1939, as amended~~ 1957 PA 185, MCL 123.731 TO 123.786,
21 THE COUNTY PUBLIC IMPROVEMENT ACT OF 1939, 1939 PA 342, MCL
22 46.171 TO 46.188, and this act into 1 county department headed by
23 a public works commissioner. The public works commissioner shall
24 be elected in the same manner and for the same term as a drain
25 commissioner. ~~and shall carry out the powers and duties of a~~
26 ~~drain commissioner.~~

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1 (5) A resolution provided for in subsection (4) may not be
2 adopted unless the county board of commissioners has first held
3 at least 1 ~~generally publicized~~ public hearing on the
4 resolution. NOTICE OF THE HEARING SHALL BE PUBLISHED AS PROVIDED
5 IN SECTION 8(3).

6 (6) Not less than 3 years after a county establishes the
7 office of public works commissioner pursuant to subsections (4)
8 and (5), or a public improvement agency, the county board of com-
9 missioners, by resolution approved by a 2/3 vote of the members
10 elected and serving, may abolish the office of public works com-
11 missioner not less than 6 months before the next primary election
12 for that office. The office of public works commissioner shall
13 be abolished in the county effective 180 days after a resolution
14 is adopted pursuant to this subsection. The office shall then be
15 referred to as the drain commissioner and the person in office at
16 the time a resolution of abolishment is passed shall fulfill the
17 remainder of the term of office until the next general election.

18 (7) ~~A~~ IN A county that is organized under ~~Act No. 293~~ of
19 ~~the Public Acts of 1966, being sections 45.501 to 45.521 of the~~
20 ~~Michigan Compiled Laws~~ 1966 PA 293, MCL 45.501 TO 45.521, whose
21 charter prescribes an elected county executive, and which county
22 has a population of more than 2,000,000 at the time the charter
23 is adopted, ~~shall be governed by section 21a in place of this~~
24 ~~section~~ THE POWERS AND DUTIES OF THE DRAIN COMMISSIONER, UNDER
25 THIS ACT, SHALL BE PERFORMED BY A PERSON OR PERSONS DESIGNATED
26 UNDER THE COUNTY'S CHARTER.

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1 Sec. 23. The commissioner shall have jurisdiction over all
2 COUNTY drains within ~~his~~ THE county, including those
3 ~~heretofore established and now~~ in THE process of ~~construction~~
4 BEING ESTABLISHED OR CONSTRUCTED. Drains extending into more
5 than 1 county ~~,~~ or affecting lands in more than 1 county ~~,~~
6 ARE UNDER THE JURISDICTION OF THE DRAINAGE BOARD AND shall be
7 established and constructed in accordance with the provisions of
8 this act regulating the establishment and construction of drains
9 traversing more than 1 county or affecting lands in more than 1
10 county. ~~Nothing in this act shall be construed as depriving a~~
11 THE drain commissioner OF A COUNTY IS NOT DEPRIVED of jurisdic-
12 tion ~~or as making any drain~~ OVER A DRAIN AND THE DRAIN DOES NOT
13 BECOME an intercounty drain, merely because ~~a~~ THE drain extends
14 into another county for the purpose of securing a proper outlet
15 and not for the purpose of draining any lands in the other
16 county, ~~:- Provided, such~~ IF THE extension is approved by the
17 drain commissioners and IS APPROVED BY the COUNTY board of
18 ~~supervisors~~ COMMISSIONERS of each affected county AFTER A
19 PUBLIC HEARING OF THE COUNTY BOARD OF COMMISSIONERS NOTICED AND
20 CONDUCTED IN THE MANNER PROVIDED BY LAW FOR MEETINGS OF THE
21 COUNTY BOARD OF COMMISSIONERS. The portion of ~~any such~~ THE
22 drain extending into another county shall not be considered in
23 determining the number of signers required ~~to~~ FOR a petition.
24 ~~to locate, establish and construct.~~

25 Sec. 24. (1) THE COUNTY BOARD OF COMMISSIONERS MAY EMPLOY
26 AN ENGINEER WHO SHALL PERFORM UNDER THIS ACT THE SERVICES

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1 REQUIRED TO BE PERFORMED BY AN ENGINEER OR SURVEYOR AS MAY BE
2 DIRECTED BY THE DRAIN COMMISSIONER.

3 (2) A commissioner may appoint a deputy or deputies ~~—, if~~
4 ~~the county board of commissioners approves,~~ and may revoke the
5 appointment at pleasure. The appointment shall be made in writ-
6 ing and filed with the clerk of the county. TO THE EXTENT AUTHO-
7 RIZED BY THE DRAIN COMMISSIONER, A DEPUTY MAY EXECUTE THE POWERS
8 AND DUTIES OF A DRAIN COMMISSIONER UNDER THIS ACT. If the commis-
9 sioner is unable to execute the duties of office, the deputy or
10 deputies shall execute or assist in the execution of the duties
11 of the county drain commissioner. ~~assigned by the county drain~~
12 ~~commissioner. As determined by the county board of commission-~~
13 ~~ers, the deputy or deputies, either shall be covered by a blanket~~
14 ~~bond or shall file a bond with and to be approved by the commis-~~
15 ~~sioner in a sum not to exceed \$5,000.00, conditioned upon the~~
16 ~~faithful discharge of the deputy's or deputies' duties.~~ If the
17 commissioner dies during his or her term, the deputy commissioner
18 shall have all of the powers and be charged with all of the
19 duties of a commissioner until a commissioner is appointed or
20 elected.

21 (3) AS DETERMINED BY THE COUNTY BOARD OF COMMISSIONERS, THE
22 DEPUTY OR DEPUTIES EITHER SHALL BE COVERED BY A BLANKET BOND OR
23 SHALL FILE WITH THE DRAIN COMMISSIONER A BOND TO BE APPROVED BY
24 THE DRAIN COMMISSIONER IN A SUM NOT TO EXCEED \$100,000.00, CONDI-
25 TIONED ON THE FAITHFUL DISCHARGE OF THE DUTIES OF THE DEPUTY OR
26 DEPUTIES.

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1 Sec. 25. (1) The commissioner and ~~his bondsmen shall be~~
2 THE SURETIES ON THE INDIVIDUAL OR BLANKET BONDS COVERING THE
3 COMMISSIONER AND DEPUTY ARE liable for all the acts and defaults
4 of ~~the~~ A deputy ~~or deputies when~~ appointed as ~~herein~~ pro-
5 vided IN SECTION 24. After entry of the order designating drain-
6 age districts as provided in section ~~54 and section~~ 55 OR 105,
7 ~~of this act,~~ the drainage district as designated ~~shall be~~
8 ~~responsible for and~~ IS liable for all acts and defaults of
9 ~~such~~ THE commissioner ~~and his~~ OR A deputy, ~~or deputies,~~
10 except for acts of malfeasance or misfeasance. THE COMMISSIONER
11 IS LIABLE ON THE BLANKET BOND OR HIS OR HER INDIVIDUAL BOND FOR
12 GROSS NEGLECT OF DUTY OR A MISAPPLICATION OF MONEY COMING UNDER
13 HIS OR HER CONTROL AS COMMISSIONER.

14 (2) The COUNTY board of ~~supervisors~~ COMMISSIONERS may
15 adopt resolutions providing that public liability or other insur-
16 ance may be purchased at the expense of the county to cover such
17 potential liabilities of the ~~various~~ drainage districts under
18 the supervision of the county drain commissioner.

19 Sec. 26. Each deputy commissioner shall receive ~~such~~ THE
20 salary or compensation ~~as the~~ DETERMINED BY THE COUNTY board of
21 ~~supervisors shall allow~~ COMMISSIONERS and all traveling
22 expenses actually and necessarily spent ~~by him~~ in the discharge
23 of his OR HER duties as prescribed in this act. ~~he shall make~~
24 ~~a report to the commissioner of all work performed by him on or~~
25 ~~before the first Saturday of each month and an annual report on~~
26 ~~or before the second Wednesday in September of each year.~~

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1 Sec. 27. (1) ~~County clerks, or the board of auditors in~~
2 ~~counties having such boards, shall be authorized, and it shall be~~
3 ~~their duty to procure, at the expense of their respective coun-~~
4 ~~ties, the necessary books, blanks and stationery for the use of~~
5 ~~said commissioners; and each commissioner shall furnish upon~~
6 ~~request blank applications or petitions to any person who may~~
7 ~~desire to file the same under this act. The~~ AT THE EXPENSE OF
8 THE COUNTY AND SUBJECT TO COUNTY APPROPRIATIONS, THE office of
9 the DRAIN commissioner shall be furnished ~~at the expense of the~~
10 ~~county by the board of supervisors, or by the board of auditors~~
11 ~~in counties having such boards, and shall be maintained at the~~
12 ~~county seat, in which said office said commissioner shall be and~~
13 ~~remain at least 1 day per week such day to be painted on the door~~
14 ~~of the commissioner's office and printed or stamped on his~~
15 ~~stationery.~~ WITH ALL OF THE FOLLOWING AS NECESSARY TO FULFILL
16 THE DUTIES OF THIS ACT OR OTHER ACTS, ORDINANCES, OR RESOLUTIONS
17 SPECIFYING DUTIES TO BE PERFORMED BY THE DRAIN COMMISSIONER:
18 (A) BOOKS, BLANKS, DOCUMENTS, STATIONERY, AND OFFICE
19 SUPPLIES.
20 (B) OFFICE EQUIPMENT NECESSARY TO MAKE PROFILES, BLUEPRINTS,
21 AND SPECIFICATIONS IN ANY DRAINAGE DISTRICT, WORD PROCESSING
22 EQUIPMENT, AND MAPPING AND ASSESSING EQUIPMENT.
23 (C) SPACE AND FACILITIES TO FILE, PRESERVE, AND RETAIN FIELD
24 NOTES, BLUEPRINTS, PROFILES, ESTIMATES, AND ALL OTHER RECORDS.
25 (2) THE OFFICE OF THE COMMISSIONER SHALL BE MAINTAINED AT AN
26 OFFICIAL COUNTY FACILITY.

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1 (3) WITH THE APPROVAL OF THE COUNTY BOARD OF COMMISSIONERS,
2 A DRAIN COMMISSIONER MAY ADD TO THE ASSESSMENTS OF LANDS IN EACH
3 DRAINAGE DISTRICT ESTABLISHED PURSUANT TO CHAPTER 3 OR 20 NOT
4 MORE THAN 1% PER YEAR FOR EDUCATION AND TRAINING FOR THE DRAIN
5 COMMISSIONER AND HIS OR HER STAFF WITH REGARD TO 1 OR MORE OF THE
6 FOLLOWING:

7 (A) BEST MANAGEMENT PRACTICES.

8 (B) ENVIRONMENTAL PROTECTION AND ENHANCEMENT.

9 (C) WATERSHED MANAGEMENT AND PLANNING.

10 (D) ASSESSING FOR DRAIN PROJECTS.

11 (E) FINANCING FOR DRAIN PROJECTS.

12 (F) DRAIN CONSTRUCTION METHODS AND TECHNIQUES.

13 (G) ALTERNATIVES FOR ON-SITE MANAGEMENT OF STORM WATER.

14 (H) ANY OTHER MATTER RELATED TO THE OPERATION OF THE OFFICE
15 OF DRAIN COMMISSIONER OR THE CONSTRUCTION, OPERATION, MAINTENANCE,
16 OR IMPROVEMENT OF DRAINS.

17 (4) FUNDS COLLECTED PURSUANT TO SUBSECTION (3) SHALL BE CONSOLIDATED
18 AND HELD IN A SEPARATE ACCOUNT FOR THE PURPOSES SET FORTH IN
19 SUBSECTION (3). INTEREST EARNED ON THE FUND SHALL BE CREDITED TO
20 THE FUND. SUBSECTION (3) IS INTENDED TO SUPPLEMENT, NOT REPLACE,
21 APPROPRIATIONS OF COUNTY GENERAL FUND MONEY FOR THE PURPOSES SET
22 FORTH IN SUBSECTION (3).

23 Sec. 28. (1) ~~Each~~ SUBJECT TO SUBSECTION (2), A DRAIN commissioner
24 shall receive an annual salary ~~to be paid at other~~ AND FRINGE BENEFITS,
25 ~~county officers are paid, the~~ IF ANY, AS DETERMINED BY THE COUNTY BOARD
26 OF COMMISSIONERS. THE amount of the salary ~~to~~ AND FRINGE BENEFITS,
27 IF ANY, SHALL be fixed by

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1 the county board of commissioners before November 1 of each year
2 AND SHALL BE PAID FROM THE GENERAL FUND OF THE COUNTY in the same
3 manner AND AT THE SAME TIME as the salaries AND FRINGE BENEFITS
4 of other county officers are fixed AND PAID. ~~The~~ A DRAIN
5 COMMISSIONER'S salary may be increased but shall not be decreased
6 during ~~his or her~~ THE term of office ~~, and in addition, each~~
7 ~~commissioner shall be allowed~~ OF THAT DRAIN COMMISSIONER. [
8
9
10

11] A DRAIN COMMISSIONER'S FRINGE BENEFITS SHALL NOT BE
12 DECREASED DURING THE TERM OF OFFICE TO A GREATER EXTENT THAN THE
13 FRINGE BENEFITS OF ELECTED COUNTY OFFICIALS IN GENERAL ARE
14 DECREASED. THE COUNTY SHALL PAY A DRAIN COMMISSIONER FOR his or
15 her actual necessary expenses, including traveling expenses
16 incurred in the discharge of the duties of the office. ~~, includ-~~
17 ~~ing all actual and necessary expense for clerk hire and recording~~
18 ~~by the county board of commissioners or board of county auditors~~
19 ~~to be paid by the county.~~ The expense account shall be an item-
20 ized account. ~~and verified by oath taken before a proper~~
21 ~~officer.~~ The amounts paid to the commissioner for salary and
22 expenses shall be in full for all services rendered by the com-
23 missioner and all expenses incurred in the performance of the
24 duties of the office.

25 (2) ~~Notwithstanding subsection (1), for~~ IF a county
26 ~~which~~ has a county officers compensation commission, the
27 compensation for ~~each~~ THE county drain commissioner shall be

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1 determined by that commission UNDER 1978 PA 485, MCL 45.471 TO
2 45.477. ~~A change in compensation for a county drain commis-~~
3 ~~sioner of a county which has a county officers compensation com-~~
4 ~~mission shall commence at the beginning of the first odd numbered~~
5 ~~year after the determination is made by the county officers com-~~
6 ~~mission and is not rejected.~~

7 Sec. 29. ~~The county shall furnish the commissioner with~~
8 ~~all necessary books and papers for use in the survey, and such~~
9 ~~office equipment as shall be necessary in making profiles, blue-~~
10 ~~prints and specifications in any drainage district. The surveyor~~
11 ~~or engineer shall file with the commissioner all field notes,~~
12 ~~blueprints, profiles, estimates and all other papers in his pos-~~
13 ~~sion relating to said drain. The board of supervisors of any~~
14 ~~county may employ an engineer who shall perform under this act~~
15 ~~the services required to be performed by an engineer or~~
16 ~~surveyor.~~ THE DRAIN COMMISSIONER'S OFFICE SHALL FURNISH TO ANY
17 PERSON, WHO MAY SO DESIRE, DOCUMENTS AS MAY BE REQUIRED TO IMPLE-
18 MENT THE PROCEDURES OF THIS ACT, AND THE DRAIN COMMISSIONER MAY
19 ASSIST IN THE PREPARATION OF SUCH DOCUMENTS AS MAY BE REQUIRED TO
20 IMPLEMENT THE PROCEDURES OF THIS ACT.

21 Sec. 30. ~~It shall be the duty of each commissioner to make~~
22 ~~and keep~~ A DRAIN COMMISSIONER SHALL MAINTAIN a full financial
23 statement of each drainage district. The commissioner shall also
24 make and keep in ~~his~~ THE COMMISSIONER'S office ~~in a book to be~~
25 ~~provided for that purpose~~ a complete record of each drainage
26 district. ~~, which~~ THE record shall include a copy of ~~the~~ ANY
27 application for laying out and designating ~~such~~ THE district

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1 UNDER FORMER PROVISIONS OF THIS ACT, of the petition for the
2 drain, of the minutes of the survey, of the releases of the
3 right-of-way where the same have been released, of the orders of
4 determination of the necessity for and of the establishment of
5 the drain, and of the apportionment and assessment of benefits
6 therefor ~~. Where special commissioners have been called, it~~
7 ~~shall also contain a copy of the application to the probate~~
8 ~~court, of the return of the special commissioners and of all~~
9 ~~other papers~~ RECORDS in ~~his~~ THE office necessary to show a
10 complete history of each drainage district, all of which said
11 original ~~papers~~ RECORDS shall then be enrolled and filed in the
12 office of the county drain commissioner. No drain ~~tax~~
13 ASSESSMENT shall be spread until all the records required have
14 been deposited and filed in the office of the county drain
15 commissioner.

16 Sec. 31. ~~(1) Each commissioner shall make a report to the~~
17 ~~county board of commissioners at its annual meeting in October of~~
18 ~~the drainage districts laid out, the drains constructed, fin-~~
19 ~~ished, or begun under his or her supervision during the year~~
20 ~~ending October 1, and the commissioner shall also submit to the~~
21 ~~board a full financial statement of each drainage district. If~~
22 ~~authorized by resolution of the county board of commissioners,~~
23 ~~the report shall be made before April 2 of each year and shall~~
24 ~~cover the preceding calendar year. The commissioner shall also~~
25 ~~make reports and furnish information as required by the director~~
26 ~~of the department of agriculture.~~

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1 ~~(2) The reports required by subsection (1) shall include an~~
2 ~~itemized statement of the orders issued on account of each~~
3 ~~drainage district and a debit and credit balance of the district~~
4 ~~fund. The commissioner shall be liable on the blanket bond or~~
5 ~~his or her individual bond for gross neglect of duty or a misap-~~
6 ~~plication of money coming under his or her control as~~
7 ~~commissioner.~~

8 (1) IF REQUESTED BY THE LEGISLATIVE BODY OF A MUNICIPALITY,
9 A DRAIN COMMISSIONER SHALL SUBMIT AN ANNUAL REPORT TO THE LEGIS-
10 LATIVE BODY AT ITS FIRST REGULAR MEETING HELD ON OR AFTER OCTOBER
11 1. THE REPORT SHALL COVER DRAINS ESTABLISHED OR CONSTRUCTED BY
12 THE DRAIN COMMISSIONER DURING THE 1-YEAR PERIOD ENDING SEPTEMBER
13 30. EACH REPORT UNDER THIS SUBSECTION SHALL INCLUDE A FULL
14 FINANCIAL STATEMENT FOR EACH DRAINAGE DISTRICT WITHIN THE MUNICI-
15 PALITY, INCLUDING, BUT NOT LIMITED TO, AN ITEMIZED STATEMENT OF
16 THE ORDERS ISSUED UNDER THIS ACT ON ACCOUNT OF EACH DRAINAGE DIS-
17 TRICT AND A DEBIT AND CREDIT BALANCE OF THE DISTRICT FUND. IF
18 THE MUNICIPALITY IS A CITY, VILLAGE, OR TOWNSHIP, THE REPORT
19 SHALL ONLY APPLY TO A DRAIN AND DRAINAGE DISTRICT IF THE DRAINAGE
20 DISTRICT LIES ENTIRELY WITHIN THE CITY, VILLAGE, OR TOWNSHIP.

21 (2) IF REQUESTED BY THE LEGISLATIVE BODY, A REPORT UNDER
22 SUBSECTION (1) SHALL BE SUBMITTED BETWEEN JANUARY 1 AND APRIL 2
23 AND SHALL COVER THE PRECEDING CALENDAR YEAR.

24 (3) A DRAIN COMMISSIONER SHALL SUBMIT TO THE DIRECTOR OF
25 AGRICULTURE REPORTS AND INFORMATION REQUIRED BY THE DIRECTOR OF
26 AGRICULTURE. A REPORT UNDER THIS SUBSECTION SHALL INCLUDE AN
27 ITEMIZED STATEMENT OF THE ORDERS ISSUED ON ACCOUNT OF EACH

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1 DRAINAGE DISTRICT COVERED BY THE REPORT AND A DEBIT AND CREDIT
2 BALANCE OF THE DRAINAGE DISTRICT FUND.

3 (4) A REPORT UNDER THIS SECTION IS ADVISORY AND IS NOT A
4 PREREQUISITE TO THE LEVY OF ANY SPECIAL ASSESSMENTS UNDER THIS
5 ACT. THE FAILURE TO SUBMIT A REPORT UNDER THIS SECTION DOES NOT
6 INVALIDATE A DRAIN PROCEEDING OR SPECIAL ASSESSMENT.

7 Sec. 32. The COUNTY board of ~~supervisors of each county~~
8 ~~having a drain commissioner~~ COMMISSIONERS may adopt a resolution
9 authorizing the county to enter into an agreement with the secre-
10 tary of ~~health, education and welfare pursuant to the provisions~~
11 ~~of Act No. 205 of the Public Acts of 1951, as amended, being sec-~~
12 ~~tions 38.851 to 38.870 of the Compiled Laws of 1948,~~ THE DEPART-
13 MENT OF HEALTH AND HUMAN SERVICES UNDER 1951 PA 205, MCL 38.851
14 TO 38.871, to allow the drain commissioner and all the employees
15 of the drain commissioner's office to obtain the benefits pro-
16 vided by the ~~federal~~ social security act, CHAPTER 531,
17 49 STAT. 620. The funds necessary for this coverage shall be
18 appropriated from the county general fund. ~~or from the revolving~~
19 ~~drain fund.~~

20 Sec. 33. (1) ~~The salary of the commissioner, deputy com-~~
21 ~~missioners, and clerks and employees of the drain commissioner's~~
22 ~~office shall, except as otherwise provided in this act, be paid~~
23 ~~from the general fund of the county in the same manner and at the~~
24 ~~same time as other county employees are paid. (2) The drain~~
25 commissioner may, with the approval of the county board of com-
26 missioners, hire drain maintenance employees. ~~Such drain~~ DRAIN
27 maintenance employees ~~shall be considered~~ ARE county employees

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1 and shall be compensated from the general fund of a county in the
2 same manner and at the same time as other county employees.

3 (2) ~~-(3)-~~ The general fund of a county shall be reimbursed
4 by the drain districts in which work is performed by drain main-
5 tenance employees hired by the commissioner pursuant to subsec-
6 tion (2) for compensation, including the cost of fringe benefits,
7 paid to the drain maintenance employees by the county from its
8 general fund. The county board of commissioners may waive the
9 reimbursement for emergency work ~~not exceeding \$800.00~~ per-
10 formed on any 1 drain during the course of 1 year.

11 SEC. 34. (1) IF A MUNICIPALITY DETERMINES THAT CONSTRUCTION
12 OR OTHER ACTIVITY THAT THE MUNICIPALITY HAS AUTHORITY TO APPROVE
13 MAY HAVE A SIGNIFICANT EFFECT ON THE QUANTITY OF WATER ENTERING A
14 DRAIN OR ON THE HYDROLOGY OF A DRAIN, THE MUNICIPALITY SHALL PRO-
15 VIDE THE DRAIN COMMISSIONER WITH PRIOR NOTICE AND OPPORTUNITY TO
16 REVIEW THE ACTIVITY BEFORE THE MUNICIPALITY ISSUES ITS APPROVAL.
17 THE DRAIN COMMISSIONER'S REVIEW UNDER THIS SUBSECTION IS LIMITED
18 TO THE ABILITY OF THE DRAIN TO TRANSPORT STORM WATER RUNOFF FROM
19 THE PROPOSED ACTIVITIES, AND NOT A DETERMINATION OF THE PROPRIETY
20 OR IMPROPRIETY OF THE PROPOSED LAND USE OR ZONING ISSUES. ANY
21 COMMENTS ON THE PROPOSED ACTIVITY SHALL BE MADE BY THE DRAIN COM-
22 MISSIONER WITHIN 30 DAYS OF HIS OR HER RECEIPT OF THE PLANS FOR
23 THE PROPOSED ACTIVITY.

24 (2) THE DRAIN COMMISSIONER OR DRAINAGE BOARD MAY REVIEW AND
25 MAY APPROVE ALL REQUESTS TO DISCHARGE INTO, MAKE A CONNECTION TO,
26 OR CONSTRUCT A CROSSING OF ANY ESTABLISHED COUNTY OR INTERCOUNTY
27 DRAINS. THE DRAIN COMMISSIONER MAY PROPOSE AND THE COUNTY BOARD

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1 OF COMMISSIONERS MAY ADOPT AN ORDINANCE TO IMPLEMENT THIS
2 SUBSECTION. THE ORDINANCE MAY INCLUDE A SCHEDULE OF FEES TO BE
3 CHARGED FOR THE REVIEW AND INSPECTION OF ANY DISCHARGES, CONNEC-
4 TIONS, OR CROSSINGS AND PENALTIES FOR NONCOMPLIANCE. THE FEES
5 SHALL BE DEPOSITED IN A REVOLVING FUND AND USED FOR REVIEWS AND
6 INSPECTIONS AS SPECIFIED IN THE ORDINANCE. IF THE REVOLVING FUND
7 IS NOT SUFFICIENT TO COVER EXPENSES FOR THE REVIEWS AND INSPEC-
8 TIONS, THE EXPENSES SHALL BE PAID FROM THE COUNTY GENERAL FUND.

9 (3) THE DRAIN COMMISSIONER MAY ESTABLISH RULES AND SCHEDULE
10 OF FEES FOR OTHER REVIEWS AND INSPECTIONS REQUIRED OF THE DRAIN
11 COMMISSIONER'S OFFICE BY THE COUNTY BOARD OF COMMISSIONERS OR BY
12 OTHER STATUTE, INCLUDING BUT NOT LIMITED TO THE LAND DIVISION
13 ACT, 1967 PA 288, MCL 560.101 TO 560.293, THE MOBILE HOME COMMIS-
14 SION ACT, 1987 PA 96, MCL 125.2301 TO 125.2349, AND THE CONDOMIN-
15 IUM ACT, 1978 PA 59, MCL 559.101 TO 559.275. THE RULES AND
16 SCHEDULE OF FEES SHALL NOT TAKE EFFECT UNLESS APPROVED BY THE
17 COUNTY BOARD OF COMMISSIONERS. THE FEES SHALL BE DEPOSITED IN A
18 REVOLVING FUND UNDER SUBSECTION (1).

[SEC. 35. A DRAIN COMMISSIONER SHALL MEET WITH A PERSON WHO IS
CONSIDERING FILING A PETITION UNDER THIS ACT AND WHO REQUESTS A
MEETING TO DISCUSS A POTENTIAL PROJECT OR THE REQUIREMENTS OF THIS
ACT. THE DRAIN COMMISSIONER SHALL MEET WITHIN 14 DAYS AFTER THE
REQUEST IS MADE, UNLESS THE PERSON REQUESTING THE MEETING AGREES TO
MEET AT A LATER DATE.]

19 [SEC. 36.] (1) IF A DRAIN COMMISSIONER WHO IS REQUIRED TO
20 APPORTION BENEFITS UNDER THIS ACT, OR THE SPOUSE OR CHILD OF SUCH
21 A DRAIN COMMISSIONER, OWNS LANDS THAT WOULD BE LIABLE TO AN
22 ASSESSMENT FOR THE BENEFITS, OR IF THE COMMISSIONER IS OTHERWISE
23 DISQUALIFIED TO ACT IN THE MAKING OF AN APPORTIONMENT OF BENE-
24 FITS, THE COMMISSIONER SHALL FILE WITH THE JUDGE OF PROBATE OF
25 THE COUNTY A COPY OF THE PETITION AND A SIGNED STATEMENT SHOWING
26 THAT THE DRAIN COMMISSIONER IS DISQUALIFIED TO ACT IN MAKING THE
27 APPORTIONMENT OF BENEFITS.

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1 (2) NOT MORE THAN 14 DAYS AFTER RECEIVING THE PETITION AND
2 SIGNED STATEMENT UNDER SUBSECTION (1), THE JUDGE OF PROBATE SHALL
3 APPOINT A DISINTERESTED DRAIN COMMISSIONER OF AN ADJOINING OR
4 NEARBY COUNTY TO MAKE THE APPORTIONMENT OF BENEFITS ON THE
5 DRAIN. THE DISINTERESTED COMMISSIONER APPOINTED SHALL MAKE AND
6 COMPLETE WITHIN A PERIOD OF 28 DAYS, OR WITHIN SUCH REASONABLE
7 TIME THEREAFTER AS MAY BE NECESSARY, AN APPORTIONMENT OF THE BEN-
8 EFITS OF THE DRAIN AND FILE THE APPORTIONMENT WITH THE DISQUALI-
9 FIED COMMISSIONER. THE APPORTIONMENT SHALL BE ADOPTED FOR THE
10 DRAIN, SUBJECT TO THE SAME RIGHTS OF APPEAL AS PROVIDED IN THIS
11 ACT. THE DISQUALIFIED COMMISSIONER SHALL FURNISH THE DISINTER-
12 ESTED COMMISSIONER WITH A COPY OF THE FINAL ORDER OF DETERMINA-
13 TION ON THE DRAIN.

14 (3) THE SALARY OF THE COMMISSIONER APPOINTED UNDER SUBSEC-
15 TION (2) SHALL BE THE SAME AS THAT RECEIVED FROM THE COUNTY OF
16 WHICH HE OR SHE IS THE COMMISSIONER. THE SALARY, TOGETHER WITH
17 ALL EXPENSES ACTUALLY AND NECESSARILY INCURRED BY THE COMMISSION-
18 ER, SHALL BE ASSESSED AGAINST THE DRAIN IN CONNECTION WITH WHICH
19 THE SERVICES WERE PERFORMED AND SHALL BE PAID IN THE SAME MANNER
20 AS OTHER EXPENSES ARE PAID.

21 CHAPTER 3 —

22 COUNTY DRAINAGE DISTRICTS AND COUNTY DRAINS —

23 Sec. 51. (1) ~~Before a commissioner takes any action on any~~
24 ~~application to locate, establish and construct any drain, there~~
25 ~~shall first be filed with him an application to lay out and des-~~
26 ~~ignate a drainage district with reference to a proposed drain~~
27 ~~therein; such application shall tentatively describe the location~~

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~~1 and route of such proposed drain. The application shall be
2 signed by not less than 10 freeholders of the township or town-
3 ships in which such proposed drain or the proposed lands to be
4 drained thereby may be situated: Provided, That 5 or more of
5 said signers shall be the owners of land liable to an assessment
6 for the construction of such proposed drain: Provided further,
7 if it shall appear to the drain commissioner on filing an appli-
8 cation to lay out and designate a drainage district that said
9 district might not include 20 freeholders whose lands would be
10 liable for such assessment, in such case such application shall
11 be received if any one of the signers is a freeholder liable to
12 an assessment for the construction of such proposed drain. TO
13 INITIATE THE ESTABLISHMENT OF A DRAINAGE DISTRICT AND THE ESTAB-
14 LISHMENT AND CONSTRUCTION OF A COUNTY DRAIN, A PETITION SHALL BE
15 FILED WITH THE DRAIN COMMISSIONER OF THAT COUNTY. SUBJECT TO
16 SUBSECTION (2), THE PETITION SHALL BE SIGNED BY [10] LANDOWNERS IN
17 THE PROPOSED DRAINAGE DISTRICT WHOSE LANDS WOULD BE LIABLE TO
18 ASSESSMENT FOR BENEFITS OR AT LEAST 50% OF THE LANDOWNERS IF
19 THERE ARE LESS THAN [10] LANDOWNERS WHOSE LANDS WOULD BE LIABLE FOR
20 ASSESSMENT OR MAY BE SIGNED BY LANDOWNERS REPRESENTING 25% OF THE
21 LAND AREA LIABLE FOR ASSESSMENT. The DRAIN COMMISSIONER SHALL
22 DETERMINE THE eligibility of the signers to ~~such application~~
23 ~~shall be determined by the drain commissioner according to their~~
24 ~~interest of record in the office of the register of deeds, in the~~
25 ~~probate court or in the circuit court of the county in which such~~
26 ~~lands are situated at the time such application is~~ THE PETITION
27 BASED ON THEIR STATUS AS LANDOWNERS WHEN THE PETITION WAS filed.~~

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1 ~~The board of supervisors, by resolution, may instruct the drain~~
2 ~~commissioner to refuse any application to lay out a drainage dis-~~
3 ~~trict unless a cash deposit, sufficient to cover the preliminary~~
4 ~~costs, accompanies the application. If the drain is completed,~~
5 ~~the cost advanced shall be returned to the depositor or his per-~~
6 ~~sonal representative out of the first tax collections on the~~
7 ~~drain. If uncompleted, any excess above costs shall be so~~
8 ~~returned. In lieu of an application signed by freeholders as~~
9 ~~aforsaid, such an application may be signed solely by the board~~
10 ~~of health of the county~~

11 (2) INSTEAD OF LANDOWNERS, A PUBLIC CORPORATION MAY PETITION
12 FOR THE ESTABLISHMENT OF A DRAINAGE DISTRICT AND THE ESTABLISH-
13 MENT AND CONSTRUCTION OF A DRAIN if the proposed drain is neces-
14 sary for ~~the~~ public health, ~~of any part of the county, or~~
15 SAFETY, OR WELFARE OR FOR AGRICULTURE AND may be signed solely by
16 any ~~city, village or township~~ PUBLIC CORPORATION, when duly
17 authorized by its governing body, if the proposed drain is neces-
18 sary for the public health, ~~of such municipality and if such~~
19 ~~municipality~~ SAFETY, OR WELFARE OR FOR AGRICULTURE IN THE PUBLIC
20 CORPORATION AND IF THE PUBLIC CORPORATION will be liable for an
21 assessment at large ~~against it~~ for a percentage of the cost of
22 the proposed drain. The entry of an order ~~designating a drain-~~
23 ~~age district, as hereinafter provided,~~ OF NECESSITY UNDER
24 SECTION 54 shall be considered a determination of the sufficiency
25 of ~~such application~~ THE PETITION.

26 (3) THE PETITION SHALL REQUEST THE ESTABLISHMENT OF A
27 DRAINAGE DISTRICT AND THE ESTABLISHMENT AND CONSTRUCTION OF A

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1 DRAIN AND SET FORTH THE REASONS FOR THE REQUEST. THE PETITION
2 MAY REQUEST THAT MEASURES BE UNDERTAKEN WHICH ARE INTENDED BOTH
3 TO ENHANCE OR IMPROVE THE NATURAL RESOURCE VALUES OF THE PROPOSED
4 DRAIN AND WHICH PROVIDE DIRECT BENEFIT TO THE DESIGNED FUNCTION,
5 LONGEVITY, OR HYDRAULIC CAPACITY OF THE PROPOSED DRAIN. THE
6 PETITION MAY PROPOSE A LOCATION AND ROUTE FOR THE DRAIN.

7 (4) THE PETITION SHALL BE ACCOMPANIED BY A DESCRIPTION OR
8 TAX PARCEL NUMBER OF THE LAND IN THE PROPOSED DISTRICT OWNED BY
9 EACH SIGNER AND BY A CERTIFICATE OF THE COUNTY TREASURER AS TO
10 PAYMENT OF TAXES AND SPECIAL ASSESSMENTS AGAINST THE LANDS. THE
11 CERTIFICATE SHALL BE IN SUBSTANTIALLY THE FOLLOWING FORM:

12 I HEREBY CERTIFY THAT THERE ARE NO TAXES OR SPECIAL ASSESS-
13 MENTS UNPAID AGAINST ANY OF THE LANDS DESCRIBED IN THE ANNEXED
14 LIST ACCORDING TO THE RECORDS OF THE COUNTY TREASURER'S OFFICE
15 FOR THE PRECEDING 3 YEARS, EXCEPT AS FOLLOWS:

16

17	DESCRIPTION	YEAR	TAX OR ASSESSMENT	AMOUNT
18

19 (5) THE NAME OF ANY SIGNER AS TO WHOSE LAND THE CERTIFICATE
20 SHOWS TAXES OR ASSESSMENTS UNPAID FOR THE PRECEDING 3 YEARS SHALL
21 NOT BE COUNTED. IF IT APPEARS FROM THE CERTIFICATE THAT 33-1/3%
22 OR MORE OF THE LANDS IN THE PROPOSED DRAINAGE DISTRICT HAVE BEEN
23 RETURNED AS TAX DELINQUENT AND STILL REMAIN DELINQUENT, THE COM-
24 MISSIONER SHALL NOT TAKE FURTHER ACTION ON THE PETITION.

25 (6) THE COUNTY BOARD OF COMMISSIONERS, BY RESOLUTION, MAY
26 INSTRUCT THE DRAIN COMMISSIONER TO REFUSE ALL PETITIONS TO
27 ESTABLISH A DRAINAGE DISTRICT AND ESTABLISH AND CONSTRUCT A DRAIN

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1 UNLESS THE PETITIONS ARE ACCOMPANIED BY CASH DEPOSITS. A CASH
2 DEPOSIT SHALL EQUAL THE DRAIN COMMISSIONER'S REASONABLE ESTIMATE
3 OF THE COSTS TO BE INCURRED BY THE OFFICE OF DRAIN COMMISSIONER
4 IN PROCEEDINGS UNDER THIS CHAPTER UNTIL THE ENTRY OF AN ORDER OF
5 NO NECESSITY OR AN ORDER OF NECESSITY. A CASH DEPOSIT SHALL BE
6 APPLIED TO ANY LIABILITY OF THE PETITIONERS UNDER SUBSECTION
7 (7).

8 (7) COSTS INCURRED BY THE OFFICE OF DRAIN COMMISSIONER IN
9 PROCEEDINGS UNDER THIS CHAPTER, INCLUDING ANY ATTORNEY FEES,
10 SHALL BE PAID AS FOLLOWS:

11 (A) BY THE DRAINAGE DISTRICT, IF THE BOARD OF DETERMINATION
12 ENTERS AN ORDER OF NECESSITY. ANY DEPOSIT REQUIRED UNDER SUBSEC-
13 TION (6) SHALL BE RETURNED TO THE DEPOSITOR OUT OF THE FIRST SPE-
14 CIAL ASSESSMENT COLLECTIONS OF THE DRAINAGE DISTRICT OR BORROWED
15 FUNDS SECURED BY SPECIAL ASSESSMENT COLLECTIONS ON THE DRAIN,
16 WHICHEVER IS RECEIVED FIRST.

17 (B) BY THE PETITIONERS, IF THE BOARD OF DETERMINATION ENTERS
18 AN ORDER OF NO NECESSITY AND THE COUNTY BOARD OF COMMISSIONERS
19 REQUIRED A DEPOSIT UNDER SUBSECTION (6). HOWEVER, IF THE BOARD
20 OF DETERMINATION FIRST ENTERS AN ORDER OF PRACTICALITY, COSTS
21 INCURRED AFTER ENTRY OF THE ORDER OF PRACTICALITY THROUGH ENTRY
22 OF THE ORDER OF NO NECESSITY SHALL NOT BE PAID BY THE PETITIONERS
23 BUT SHALL BE APPORTIONED AS PROVIDED IN CHAPTER 7 AND ASSESSED
24 AGAINST THE DRAINAGE DISTRICT AS DESCRIBED IN THE ORDER OF
25 PRACTICALITY.

26 (C) FROM THE COUNTY GENERAL FUND, IF THE BOARD OF
27 DETERMINATION ENTERS AN ORDER OF NO NECESSITY UNDER SECTION 55

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1 AND THE COUNTY BOARD OF COMMISSIONERS DID NOT REQUIRE A DEPOSIT
2 UNDER SUBSECTION (6).

3 (8) IF THE PETITION SHOWS, OR IT IS DETERMINED THEREAFTER,
4 THAT THE PROPOSED DRAIN WILL AFFECT LANDS IN MORE THAN 1 COUNTY,
5 THE COMMISSIONER SHALL PROCEED UNDER CHAPTER 5.

6 Sec. 52. ~~Upon filing of such application for a new drain-~~
7 ~~age district, the commissioner shall immediately cause a survey~~
8 ~~to be made by a competent surveyor or engineer to determine the~~
9 ~~area which would be drained by the proposed drain, and the route~~
10 ~~and type of construction of the drain or drains most serviceable~~
11 ~~for that purpose. He shall not be limited in such determination~~
12 ~~to the route described in the application. In any county having~~
13 ~~a board of county auditors, no survey shall be ordered without~~
14 ~~the approval of such board but if the application shows, or it is~~
15 ~~determined thereafter, that any such proposed drainage district~~
16 ~~will affect lands in more than 1 county, the commissioner shall~~
17 ~~proceed under the portions of chapter 5 of this act relating to~~
18 ~~intercounty drains, and in such case the approval of the board of~~
19 ~~county auditors shall not be required. If upon the survey, or if~~
20 ~~before the survey is made, the commissioner determines that the~~
21 ~~proposed drain is impractical, he shall take no further action~~
22 ~~thereon but shall, in writing, notify the persons who delivered~~
23 ~~the application to him, of that fact, and his reasons for making~~
24 ~~his determination. If upon the survey the commissioner deter-~~
25 ~~mines the proposed drain to be practical, he shall lay out a~~
26 ~~drainage district, prepare and file in the office of the drain~~
27 ~~commissioner a description of the drainage district, which may be~~

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~~1 described by its boundaries of highways and streets and tracts
2 and parcels of land including therein all highways and streets,
3 townships, cities and villages or by a description of all tracts
4 or parcels of land, highways, townships, cities and villages
5 which would be benefited by the construction of the proposed
6 drain, and which would be liable to an assessment therefor,
7 should the drain be constructed as hereinafter provided. The
8 commissioner shall obtain from the county treasurer a statement
9 showing as near as may be the amount of taxes and special assess-
10 ments levied against the lands in the proposed drainage district
11 on the tax rolls for the 3 years next preceding, and the amount
12 of such taxes and assessments remaining unpaid, and if it appears
13 from the statement that 33 1/3% or more of the lands in the pro-
14 posed drainage district have been returned as tax delinquent and
15 still remain delinquent, no further action shall be taken.~~

16 (1) IF THE DRAIN COMMISSIONER DETERMINES THAT A PETITION
17 FILED WITH THE DRAIN COMMISSIONER MEETS THE REQUIREMENTS OF
18 SECTION 51, THE COMMISSIONER SHALL PROMPTLY ARRANGE FOR THE PREP-
19 ARATION OF A PRELIMINARY ANALYSIS. EXCEPT AS PROVIDED IN SUBDI-
20 VISION (A), AN ENGINEER SHALL PREPARE THE PRELIMINARY ANALYSIS.
21 THE COMMISSIONER SHALL SELECT THE ENGINEER BASED ON THE
22 ENGINEER'S QUALIFICATIONS. THE PRELIMINARY ANALYSIS SHALL
23 DESCRIBE A DRAIN AND DRAINAGE DISTRICT TO ADDRESS THE REASONS FOR
24 A DRAIN AND DRAINAGE DISTRICT SET FORTH IN THE PETITION. THE
25 PRELIMINARY ANALYSIS SHALL INCLUDE ALL OF THE FOLLOWING:

26 (A) A DESCRIPTION OF THE DRAINAGE DISTRICT BY ITS BOUNDARIES
27 OF STREETS OR HIGHWAYS OR TRACTS OR PARCELS OF LAND, OR BY A

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1 DESCRIPTION OF ALL TRACTS OR ALL PARCELS OF LAND, INCLUDING ALL
2 HIGHWAYS, TOWNSHIPS, COUNTIES, CITIES, AND VILLAGES WHICH WOULD
3 BE BENEFITED BY THE CONSTRUCTION OF THE PROPOSED DRAIN. THE
4 DESCRIPTION OF THE DRAINAGE DISTRICT MAY BE PREPARED BY A
5 SURVEYOR.

6 (B) A PROPOSED ROUTE AND COURSE FOR THE DRAIN.

7 (C) A PROPOSED TYPE OF CONSTRUCTION OF THE DRAIN.

8 (D) AN ESTIMATE OF THE COST OF THE PROPOSED DRAIN.

[(E) A DESCRIPTION OF THE IMPACTS TO THE NATURAL RESOURCES OF
THE PROPOSED DRAIN.]

9 (2) UPON COMPLETION OF THE PRELIMINARY ANALYSIS, THE DRAIN
10 COMMISSIONER SHALL FILE A COPY OF THE PRELIMINARY ANALYSIS IN HIS
11 OR HER OFFICE AND MAKE IT AVAILABLE FOR PUBLIC INSPECTION. THE
12 DRAIN COMMISSIONER SHALL ALSO FILE THE PRELIMINARY ANALYSIS WITH
13 THE DISTRICT OFFICE OF THE LAND AND WATER MANAGEMENT DIVISION,
14 DEPARTMENT OF ENVIRONMENTAL QUALITY, FOR THE DISTRICT WHERE THE
15 PROJECT IS LOCATED.

16 (3) AS SOON AS PRACTICABLE AFTER THE FILING OF THE PRELIMI-
17 NARY ANALYSIS UNDER SECTION 51, THE COMMISSIONER AUTHORIZED TO
18 ACT ON THE PETITION, IF NOT DISQUALIFIED UNDER SECTION 35 TO MAKE
19 THE APPORTIONMENT OF BENEFITS, MAY APPOINT A BOARD OF DETERMINA-
20 TION COMPOSED OF 3 DISINTERESTED INDIVIDUALS AND AN ALTERNATE
21 DISINTERESTED INDIVIDUAL. IF THE COMMISSIONER IS DISQUALIFIED OR
22 CHOOSES NOT TO APPOINT THE BOARD OF DETERMINATION, THE COMMIS-
23 SIONER SHALL IMMEDIATELY FILE WITH THE CHAIRPERSON OF THE COUNTY
24 BOARD OF COMMISSIONERS A COPY OF THE PETITION, TOGETHER WITH A
25 STATEMENT SIGNED BY THE COMMISSIONER, EXPLAINING WHY HE OR SHE IS
26 DISQUALIFIED OR CHOOSES NOT TO ACT IN APPOINTING A BOARD OF
27 DETERMINATION. AS SOON AS PRACTICABLE AFTER RECEIVING THE COPY

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1 OF THE PETITION AND THE STATEMENT, THE CHAIRPERSON OF THE COUNTY
2 BOARD OF COMMISSIONERS, IF NOT OTHERWISE INTERESTED AS SET FORTH
3 IN SECTION 35, SHALL APPOINT THE BOARD OF DETERMINATION AND SHALL
4 IMMEDIATELY NOTIFY THE DRAIN COMMISSIONER OF THE NAMES AND
5 ADDRESSES OF THOSE APPOINTED. IF THE CHAIRPERSON OF THE COUNTY
6 BOARD OF COMMISSIONERS HAS A PRIVATE INTEREST IN THE PROCEEDINGS,
7 THE FINANCE COMMITTEE OF THE COUNTY BOARD OF COMMISSIONERS SHALL
8 APPOINT THE BOARD OF DETERMINATION.

9 (4) EACH MEMBER OF A BOARD OF DETERMINATION SHALL BE A
[LANDOWNER AND] RESI-

10 DENT OF THE COUNTY, BUT NOT OF A TOWNSHIP, CITY, OR VILLAGE IN
11 THE PROPOSED DRAINAGE DISTRICT. A MEMBER OF THE BOARD OF DETER-
12 MINATION SHALL NOT BE ANY OF THE FOLLOWING:

13 (A) A MEMBER OF THE COUNTY BOARD OF COMMISSIONERS OR COUNTY
14 BOARD OF ROAD COMMISSIONERS.

15 (B) THE SPOUSE, PARENT, CHILD, OR SIBLING OF A MEMBER OF THE
16 COUNTY BOARD OF COMMISSIONERS OR OF THE DRAIN COMMISSIONER.

17 (5) A HEARING OF THE BOARD OF DETERMINATION SHALL BE CALLED
18 WITHIN THE DRAINAGE DISTRICT AT A CONVENIENT PLACE TO BE DESIG-
19 NATED BY THE DRAIN COMMISSIONER. THE BOARD OF DETERMINATION
20 HEARING ALSO MAY BE HELD OUTSIDE THE DRAINAGE DISTRICT AT A SUIT-
21 ABLE PUBLIC BUILDING ANYWHERE WITHIN THE CITY, VILLAGE, OR TOWN-
22 SHIP IN WHICH THE DRAIN IS LOCATED OR, IF THERE IS NO SUCH BUILD-
23 ING, AT ANY SUITABLE PUBLIC BUILDING NEAR THE DRAINAGE DISTRICT.
24 IF ANY INDIVIDUAL APPOINTED TO THE BOARD OF DETERMINATION FAILS
25 OR REFUSES TO SERVE OR IS DISQUALIFIED, THE DRAIN COMMISSIONER,
26 THE COUNTY BOARD OF COMMISSIONERS, OR THE FINANCE COMMITTEE OF

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1 THE COUNTY BOARD OF COMMISSIONERS, WHICHEVER APPOINTED THE
2 INDIVIDUAL, SHALL APPOINT A SUCCESSOR.

3 (6) THE PER DIEM COMPENSATION, MILEAGE, AND EXPENSES OF A
4 MEMBER OF THE BOARD OF DETERMINATION SHALL BE PAID IN THE SAME
5 AMOUNT AS PAID TO A MEMBER OF THE COUNTY BOARD OF COMMISSIONERS
6 OF THE COUNTY. IN A COUNTY IN WHICH MEMBERS OF THE COUNTY BOARD
7 OF COMMISSIONERS ARE NOT PAID ON A PER DIEM BASIS, THE COMPENSA-
8 TION, MILEAGE, AND EXPENSES SHALL BE FIXED BY THE DRAIN
9 COMMISSIONER.

10 (7) UPON REQUEST, THE DRAIN COMMISSIONER SHALL INFORM IN
11 WRITING THE STATE LEGISLATOR WHO REPRESENTS THAT PORTION OF THE
12 AREA IN WHICH THE PROPOSED DRAIN IMPROVEMENT IS TO BE CONSTRUCTED
13 OF THE NAMES AND ADDRESSES OF THE PERSONS APPOINTED TO A BOARD OF
14 DETERMINATION.

15 (8) NOTICE OF THE HEARING OF THE BOARD OF DETERMINATION
16 SHALL BE GIVEN IN THE MANNER PROVIDED IN SECTION 8.

17 (9) THE DRAIN COMMISSIONER SHALL ARRANGE FOR A CERTIFIED
18 COURT REPORTER, STENOMASK REPORTER, OR COURT RECORDER TO ATTEND
19 EACH HEARING OF THE BOARD OF DETERMINATION AND TAKE A VERBATIM
20 RECORD OF THE PROCEEDINGS. IF PROCEEDINGS ARE INITIATED IN THE
21 CIRCUIT COURT UNDER SECTION 56 OR 58, THE DRAIN COMMISSIONER
22 SHALL PROMPTLY REQUEST THE REPORTER OR RECORDER TO FURNISH A
23 TRANSCRIPT OF THE PROCEEDINGS TO THE COURT. [THE AGGRIEVED PARTY MAY
REQUEST AND SHALL BE PROMPTLY FURNISHED A TRANSCRIPT OF THE
PROCEEDINGS AT COST.]

24 (10) THE BOARD OF DETERMINATION SHALL MEET AT THE TIME AND
25 PLACE SPECIFIED IN THE NOTICE. THE BOARD OF DETERMINATION SHALL
26 ACT BY MAJORITY VOTE. THE DRAIN COMMISSIONER OR DEPUTY DRAIN

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1 COMMISSIONER SHALL ATTEND THE HEARING OF THE BOARD OF
2 DETERMINATION.

3 Sec. 53. ~~The surveyor or engineer authorized to make the~~
4 ~~survey shall ascertain the size and depth of the drains and he~~
5 ~~shall preserve all minutes with reference thereto. He shall pre-~~
6 ~~pare preliminary plans, drawings and profiles thereof, together~~
7 ~~with a computation of the yards of earth to be excavated, the~~
8 ~~amount of tile or pipe to be used and the necessary bridges and~~
9 ~~culverts or fords to be built in constructing such proposed~~
10 ~~drain, and his estimate of the cost of such construction, and~~
11 ~~where practicable shall recommend the leveling of the spoil~~
12 ~~banks. He shall thereupon lay out a drainage district, which~~
13 ~~district may be described by its boundaries of streets or high-~~
14 ~~ways or tracts or parcels of land, or by a description of all~~
15 ~~tracts or all parcels of land, including therein all highways,~~
16 ~~townships, counties, cities and villages which would be benefited~~
17 ~~by the construction of the proposed drain, all of which he shall~~
18 ~~deliver to the commissioner. The surveyor or engineer shall not~~
19 ~~be limited to the route described in the application but may rec-~~
20 ~~ommend a route and type of construction for the drains he consid-~~
21 ~~ers most serviceable for draining the area involved.~~ THE BOARD
22 OF DETERMINATION SHALL DO ALL OF THE FOLLOWING AT THE HEARING
23 UNDER SECTION 52:

24 (A) ELECT A CHAIRPERSON.

25 (B) ELECT A SECRETARY.

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1 (C) RECEIVE TESTIMONY AND EVIDENCE ON WHETHER THE DRAIN IS
2 NECESSARY AND CONDUCTIVE TO THE PUBLIC HEALTH, SAFETY, OR WELFARE
3 OR FOR AGRICULTURE.

4 (D) CONSIDER THE PRELIMINARY ANALYSIS.

5 (E) DETERMINE 1 OF THE FOLLOWING:

6 (i) THAT THE PROPOSED DRAIN IS NECESSARY AND CONDUCTIVE TO
7 PUBLIC HEALTH, SAFETY, OR WELFARE OR FOR AGRICULTURE.

8 (ii) THAT THE PROPOSED DRAIN IS NOT NECESSARY AND CONDUCTIVE
9 TO PUBLIC HEALTH, SAFETY, OR WELFARE OR FOR AGRICULTURE.

10 (iii) THAT THE DRAIN IS PRACTICAL, BUT THAT ADDITIONAL
11 INFORMATION IS NEEDED TO DETERMINE WHETHER THE DRAIN IS NECESSARY
12 AND CONDUCTIVE TO THE PUBLIC HEALTH, SAFETY, OR WELFARE OR FOR
13 AGRICULTURE, OR TO DETERMINE THE BOUNDARIES OF THE DRAINAGE
14 DISTRICT. IF THE BOARD OF DETERMINATION FINDS THAT THE DRAIN IS
15 PRACTICAL, IT SHALL RECEIVE TESTIMONY AND EVIDENCE ON THE EXTENT
16 OF THE LANDS PROPOSED TO BE SERVED BY THE DRAIN AND DETERMINE THE
17 BOUNDARIES OF THE TENTATIVE DRAINAGE DISTRICT, WHICH LANDS WILL
18 BE SUBJECT TO ASSESSMENT FOR COSTS INCURRED BY THE DRAIN COMMIS-
19 SIONER IN GATHERING THE REQUESTED ADDITIONAL INFORMATION, IF THE
20 DRAIN IS SUBSEQUENTLY DETERMINED NOT NECESSARY.

21 SEC. 53A. (1) AFTER THE BOARD DETERMINES THE DRAIN PRACTI-
22 CAL AND ESTABLISHES A TENTATIVE DRAINAGE DISTRICT, IT SHALL
23 RECESS TO ALLOW THE DRAIN COMMISSIONER TO GATHER THE ADDITIONAL
24 INFORMATION AND SHALL ENTER AN ORDER OF PRACTICALITY, WHICH ORDER
25 SHALL SPECIFY:

26 (A) THE INFORMATION FROM WITHIN SECTION 60 WHICH IS NEEDED,
27 AND

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1 (B) THE BOUNDARIES OF THE TENTATIVE DRAINAGE DISTRICT.

2 (2) IF DURING THE GATHERING OF THE ADDITIONAL INFORMATION
3 THE DRAIN COMMISSIONER DETERMINES THAT THE DRAIN IS NOT PRACTI-
4 CAL, HE SHALL RECONVENE THE BOARD OF DETERMINATION. NOTICE OF
5 THE RECONVENED BOARD OF DETERMINATION SHALL BE PURSUANT TO SEC-
6 TION 8 AND SHALL SPECIFY THE DETERMINATION BY THE DRAIN COMMIS-
7 SIONER AND THE REASONS THEREFOR.

8 (3) AT THE HEARING OF THE RECONVENED BOARD OF DETERMINATION
9 UNDER SUBSECTION (2), THE BOARD SHALL DO THE FOLLOWING:

10 (A) RECEIVE THE DETERMINATION OF THE DRAIN COMMISSIONER.

11 (B) RECEIVE TESTIMONY AND EVIDENCE AS TO THE DRAIN
12 COMMISSIONER'S DETERMINATION.

13 (C) DIRECT THE DRAIN COMMISSIONER TO COMPLETE THE GATHERING
14 OF THE ADDITIONAL INFORMATION OR FIND THE DRAIN IS NOT NECESSARY
15 AND CONDUCIVE TO THE PUBLIC HEALTH, SAFETY, OR WELFARE OR FOR
16 AGRICULTURE AND ORDER THAT THE COSTS BE PAID PURSUANT TO SECTION
17 51(7).

18 (4) IF THE RECONVENED BOARD OF DETERMINATION DIRECTS THE
19 DRAIN COMMISSIONER TO COMPLETE THE GATHERING OF THE ADDITIONAL
20 INFORMATION, THE DRAIN COMMISSIONER SHALL GATHER THE ADDITIONAL
21 INFORMATION.

22 (5) AFTER GATHERING THE ADDITIONAL INFORMATION, THE DRAIN
23 COMMISSIONER SHALL CALL THE BOARD OF DETERMINATION TO RECONVENE.
24 THE DRAIN COMMISSIONER SHALL GIVE NOTICE OF THE RECONVENING OF
25 THE BOARD OF DETERMINATION IN THE MANNER PROVIDED IN SECTION 8.
26 THE RECONVENED HEARING OF THE BOARD OF DETERMINATION SHALL DO ALL
27 OF THE FOLLOWING:

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1 (A) RECEIVE AND CONSIDER THE ADDITIONAL INFORMATION FROM THE
2 DRAIN COMMISSIONER.

3 (B) RECEIVE TESTIMONY AND EVIDENCE ON WHETHER THE DRAIN IS
4 NECESSARY AND CONDUCIVE TO THE PUBLIC HEALTH, SAFETY, OR WELFARE
5 OR FOR AGRICULTURE.

6 (C) DETERMINE WHETHER OR NOT THE DRAIN IS NECESSARY AND CON-
7 DUCIVE TO THE PUBLIC HEALTH, SAFETY, OR WELFARE OR FOR
8 AGRICULTURE.

9 (6) IF THE RECONVENED BOARD OF DETERMINATION FINDS THE DRAIN
10 IS NECESSARY AND CONDUCIVE TO THE PUBLIC HEALTH, SAFETY, OR WEL-
11 FARE OR FOR AGRICULTURE, IT SHALL PROCEED AND MAKE SUCH ORDERS AS
12 SET FORTH IN SECTION 54.

13 (7) IF THE RECONVENED BOARD OF DETERMINATION FINDS THE DRAIN
14 IS NOT NECESSARY AND CONDUCIVE TO THE PUBLIC HEALTH, SAFETY, OR
15 WELFARE OR FOR AGRICULTURE, IT SHALL ENTER AN ORDER TO THAT
16 EFFECT AND ORDER THAT THE COSTS BE PAID PURSUANT TO SECTION
17 51(7).

18 Sec. 54. ~~The commissioner shall prepare and file in his~~
19 ~~office his order designating a drainage district and give it a~~
20 ~~name or number and describe therein the boundaries of the dis-~~
21 ~~trict by streets or highways or parcels of land for each of the~~
22 ~~several tracts or parcels of land included therein and the coun-~~
23 ~~ties, townships, cities, villages and state trunk line highways~~
24 ~~which would be benefited by the construction of the drains and~~
25 ~~would be liable to assessment therefor, also a description of the~~
26 ~~drains as determined by him, showing the beginning, route,~~
27 ~~terminus, type of the proposed construction and the estimated~~

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~~1 cost of such proposed construction. The commissioner shall give
2 notice of filing the order designating a drainage district by
3 publishing a notice in a newspaper of general circulation in the
4 county, or a newspaper of general circulation in the area where
5 the drainage district boundaries are located, which notice shall
6 give a general description of the route of the proposed drain or
7 drains and of the drainage district as shown by the order.~~

~~8 At any time after the order designating a drainage district
9 and giving it a name or number has been filed in the office of
10 the drain commissioner, the order may be amended as to the name
11 or number of the drain at any time by presenting to the drain
12 commissioner of the county a petition signed by no less than 5
13 land owners whose land is traversed by the drain, which petition
14 shall state the then present name or number of the drain and the
15 change or changes to be made in the name or number. Upon receipt
16 of such petition, and if in the drain commissioner's opinion it
17 is to the best interest of all concerned that the name or number
18 be changed, he shall make his order amending the name or number,
19 and thereafter the drainage district shall be known by such name
20 or number. The drain commissioner shall forthwith post such
21 signs upon the drain as he may deem advisable for public notice
22 of the new name or number.~~

23 (1) IF THE BOARD OF DETERMINATION BY A MAJORITY VOTE FINDS
24 THE DRAIN IS NECESSARY AND CONDUCIVE TO THE PUBLIC HEALTH,
25 SAFETY, OR WELFARE OR FOR AGRICULTURE, EITHER AT THE FIRST HEAR-
26 ING OR FOLLOWING A RECONVENED HEARING PURSUANT TO SECTION 53A,
27 THE BOARD OF DETERMINATION SHALL:

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1 (A) RECEIVE TESTIMONY AND OTHER EVIDENCE ON THE EXTENT OF
2 THE LANDS PROPOSED TO BE SERVED BY THE DRAIN AND DETERMINE THE
3 BOUNDARIES OF THE DRAINAGE DISTRICT. IF THE BOARD OF DETERMINA-
4 TION AT ANY TIME FINDS THAT THE DRAIN WOULD SERVE LANDS IN MORE
5 THAN 1 COUNTY, THE BOARD OF DETERMINATION SHALL FILE AN ORDER TO
6 THAT EFFECT AND REFER THE PETITION TO THE DRAIN COMMISSIONER FOR
7 PROCEEDINGS UNDER CHAPTER 5.

8 (B) DESIGNATE A PRELIMINARY NAME FOR THE DRAIN AND DRAINAGE
9 DISTRICT.

10 (C) DETERMINE WHETHER A PORTION OF THE COSTS OF CONSTRUCTION
11 OF THE PROPOSED DRAIN IS NECESSARY FOR THE PUBLIC HEALTH, SAFETY,
12 OR WELFARE IN 1 OR MORE PUBLIC CORPORATIONS AND IDENTIFY THOSE
13 PUBLIC CORPORATIONS.

14 (2) IF IT APPEARS TO THE BOARD OF DETERMINATION AT ANY TIME
15 THAT THE DRAINAGE DISTRICT MAY INCLUDE LANDS WHOSE LANDOWNERS
16 WERE NOT SENT NOTICE OF THE HEARING IN THE MANNER PROVIDED IN
17 SECTION 8, THE BOARD OF DETERMINATION SHALL ENTER A FINDING TO
18 THAT EFFECT IDENTIFYING THE ADDITIONAL LANDS AND FILE THE FINDING
19 WITH THE DRAIN COMMISSIONER. THE BOARD OF DETERMINATION SHALL
20 RECESS THE HEARING. THE DRAIN COMMISSIONER SHALL PROMPTLY GIVE
21 NOTICE OF THE PENDING RECONVENED HEARING TO THE LANDOWNERS OF THE
22 ADDITIONAL LANDS AND ALL OTHER PERSONS ENTITLED TO NOTICE UNDER
23 SECTION 8 IN THE MANNER PROVIDED IN SECTION 8 AND SHALL CALL THE
24 BOARD OF DETERMINATION TO RECONVENE.

25 SEC. 55. (1) IF THE BOARD OF DETERMINATION BY A MAJORITY
26 VOTE FINDS THE DRAIN IS NECESSARY AND CONDUCIVE TO THE PUBLIC
27 HEALTH, SAFETY, OR WELFARE OR FOR AGRICULTURE, EITHER AT THE

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1 FIRST HEARING OR FOLLOWING A RECONVENED HEARING PURSUANT TO
2 SECTION 53A, THE BOARD OF DETERMINATION SHALL ENTER AN ORDER OF
3 NECESSITY AND FILE THE ORDER OF NECESSITY WITH THE COMMISSIONER.

4 (2) THE ORDER OF NECESSITY SHALL SPECIFY:

5 (A) THE FINDING OF NECESSITY.

6 (B) THE BOUNDARIES OF THE DRAINAGE DISTRICT.

7 (C) THE PUBLIC CORPORATIONS DETERMINED LIABLE FOR ASSESSMENT
8 AT-LARGE FOR A PORTION OF THE COSTS OF THE DRAIN FOR PUBLIC
9 HEALTH, SAFETY, OR WELFARE.

10 (3) THE BOARD OF DETERMINATION SHALL NOT DETERMINE THE SCOPE
11 OF THE PROJECT. THE SCOPE OF THE PROJECT IS WITHIN THE SOLE
12 AUTHORITY OF THE DRAIN COMMISSIONER IN CONSULTATION WITH HIS OR
13 HER ENGINEERS OR OTHER QUALIFIED PROFESSIONALS.

14 SEC. 56. WITHIN 7 DAYS AFTER THE ORDER OF NECESSITY IS
15 FILED, THE DRAIN COMMISSIONER SHALL NOTIFY BY FIRST-CLASS MAIL
16 EACH PUBLIC CORPORATION IDENTIFIED IN THE ORDER OF NECESSITY AS
17 RECEIVING BENEFITS AT LARGE FOR PUBLIC HEALTH, SAFETY, OR WELFARE
18 THAT IT IS LIABLE TO PAY A PERCENT OF THE COST OF CONSTRUCTION OF
19 THE DRAIN FOR BENEFITS FOR PUBLIC HEALTH, SAFETY, OR WELFARE.
20 THE GOVERNING BODY OF THE PUBLIC CORPORATION, WITHIN 21 DAYS
21 AFTER MAILING OF THE NOTIFICATION FROM THE DRAIN COMMISSIONER,
22 MAY APPEAL THE ORDER OF NECESSITY AS TO THE FINDING THAT ALL OR A
23 PORTION OF THE COSTS IS NECESSARY FOR PUBLIC HEALTH, SAFETY, OR
24 WELFARE. THE APPEAL SHALL BE FILED WITH THE CIRCUIT COURT IN THE
25 COUNTY IN WHICH THE TERRITORY OF THE PUBLIC CORPORATION IS
26 LOCATED.

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1 SEC. 57. IF THE BOARD OF DETERMINATION FINDS THAT THE DRAIN
2 IS NOT NECESSARY AND CONDUCIVE TO THE PUBLIC HEALTH, SAFETY, OR
3 WELFARE OR FOR AGRICULTURE, ALL OF THE FOLLOWING APPLY:

4 (A) THE BOARD OF DETERMINATION SHALL FILE WITH THE COMMIS-
5 SIONER AN ORDER OF NO NECESSITY REJECTING THE PETITION.

6 (B) COSTS SHALL BE PAID AS PROVIDED IN SECTION 51.

7 (C) A NEW PETITION FOR THE DRAIN SHALL NOT BE FILED WITHIN 1
8 YEAR AFTER THE FILING OF THE ORDER OF NO NECESSITY.

9 SEC. 58. AFTER THE BOARD OF DETERMINATION FILES AN ORDER OF
10 NO NECESSITY OR FILES AN ORDER OF NECESSITY, A PUBLIC CORPORATION
11 OR OTHER PERSON FEELING AGGRIEVED BY THE ORDER MAY INSTITUTE AN
12 ACTION IN THE CIRCUIT COURT FOR THE COUNTY IN WHICH THE DRAINAGE
13 DISTRICT IS LOCATED FOR A REVIEW OF THE ORDER. THE ACTION SHALL
14 BE FILED WITHIN 14 DAYS AFTER THE FILING OF THE ORDER. THE CIR-
15 CUIT COURT SHALL DETERMINE WHETHER THE ORDER WAS AUTHORIZED BY
16 LAW AND SUPPORTED BY SUBSTANTIAL, MATERIAL, AND COMPETENT EVI-
17 DENCE ON THE WHOLE RECORD. THE REVIEW SHALL BE MADE ON THE
18 RECORD PRESENTED TO THE BOARD OF DETERMINATION AND NO ADDITIONAL
19 TESTIMONY OR INFORMATION SHALL BE OFFERED EXCEPT FOR PURPOSES OF
20 CLAIM OF FRAUD OR ERROR OF LAW. AFTER THE REVIEW OF THE RECORD,
21 THE COURT MAY REMAND THE MATTER TO THE BOARD OF DETERMINATION AND
22 ORDER THE BOARD OF DETERMINATION TO RECONVENE FOR PURPOSES OF
23 SECURING ADDITIONAL TESTIMONY AND EVIDENCE ON ISSUES WHICH THE
24 COURT CONSIDERS NECESSARY TO RENDER ITS DECISION ON THE APPEAL.
25 FOLLOWING THE HEARING ON REMAND, THE RECORD SHALL BE TRANSMITTED
26 TO THE COURT FOR HEARING AND DECISION.

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1 SEC. 59. (1) AFTER THE ORDER OF NECESSITY IS FILED, THE
2 DRAIN COMMISSIONER, SUBJECT TO SUBSECTION (2), SHALL EXECUTE A
3 FIRST ORDER OF DETERMINATION AND FILE THE FIRST ORDER OF DETERMI-
4 NATION IN HIS OR HER OFFICE. THE FIRST ORDER OF DETERMINATION
5 SHALL DO ALL OF THE FOLLOWING CONSISTENT WITH THE ORDER OF
6 NECESSITY:

7 (A) ESTABLISH THE DRAINAGE DISTRICT AND GIVE IT A NAME OR
8 NUMBER.

9 (B) DESCRIBE THE DRAINAGE DISTRICT BY ITS BOUNDARIES OR BY A
10 DESCRIPTION OF ALL THE LAND THAT WOULD BE BENEFITED BY THE CON-
11 STRUCTION OF THE DRAIN AND WOULD BE LIABLE TO ASSESSMENT THERE-
12 FOR, INCLUDING THE COUNTIES, TOWNSHIPS, CITIES, AND VILLAGES;
13 ROADWAYS; AND PARCELS OF LAND IDENTIFIED BY LEGAL DESCRIPTION OR
14 TAX CODE PARCEL NUMBER.

15 (C) DESCRIBE THE BEGINNING, ROUTE, TERMINUS, TYPE OF THE
16 PROPOSED CONSTRUCTION, AND THE ESTIMATED COST OF SUCH PROPOSED
17 CONSTRUCTION.

18 (2) IF AN APPEAL IS NOT FILED, THE DRAIN COMMISSIONER SHALL
19 SATISFY THE REQUIREMENTS OF SUBSECTION (1) UPON THE EXPIRATION OF
20 THE APPEAL PERIODS UNDER SECTION 58 AND, IF APPLICABLE, SECTION
21 56. IF AN APPEAL IS FILED, THE DRAIN COMMISSIONER SHALL SATISFY
22 THE REQUIREMENTS OF SUBSECTION (1) AFTER THE APPEAL PROCEDURES
23 ARE TERMINATED.

24 SEC. 60. AFTER THE DRAIN COMMISSIONER FILES THE FIRST ORDER
25 OF DETERMINATION, THE COMMISSIONER SHALL SECURE THE SERVICES OF
26 AN ENGINEER AND ARRANGE FOR THE PREPARATION OF AN ENGINEERING
27 ANALYSIS. THE COMMISSIONER SHALL SELECT THE ENGINEER BASED ON

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1 THE ENGINEER'S QUALIFICATIONS. THE ENGINEERING ANALYSIS SHALL
2 DESCRIBE A DRAIN AND DRAINAGE DISTRICT TO ADDRESS THE REASONS FOR
3 A DRAIN AND DRAINAGE DISTRICT SET FORTH IN THE PETITION AND IN
4 THE EVIDENCE AND TESTIMONY RECEIVED AT THE HEARING OF THE BOARD
5 OF DETERMINATION. EXCEPT AS PROVIDED IN SUBDIVISIONS (E) AND
6 (J), THE ENGINEERING ANALYSIS SHALL BE PREPARED BY AN ENGINEER
7 AND SHALL INCLUDE ALL OF THE FOLLOWING:

8 (A) HYDROLOGIC AND HYDRAULIC REPORT THAT INCLUDES, BUT IS
9 NOT LIMITED TO, A DISCUSSION OF THE PRESENT DRAINAGE CHARACTERIS-
10 TICS AND THE IMPACTS OF THE PROPOSED PROJECT ON FLOODING CHARAC-
11 TERISTICS DOWNSTREAM OF THE DRAINAGE DISTRICT.

12 (B) RECOMMENDED ROUTE AND COURSE.

13 (C) AN EXISTING AND PROPOSED PROFILE OF THE RECOMMENDED
14 ROUTE AND COURSE.

15 (D) DESCRIPTION OF THE RECOMMENDED WORK INCLUDING CROSSINGS,
16 STRUCTURES, AND FACILITIES.

17 (E) A DESCRIPTION OF THE DRAINAGE DISTRICT BY ITS BOUNDARIES
18 OF STREETS OR HIGHWAYS OR TRACTS OR PARCELS OF LAND, OR BY A
19 DESCRIPTION OF ALL TRACTS OR ALL PARCELS OF LAND, INCLUDING ALL
20 HIGHWAYS, TOWNSHIPS, COUNTIES, CITIES, AND VILLAGES WHICH WOULD
21 BE BENEFITED BY THE CONSTRUCTION OF THE PROPOSED DRAIN. THE
22 DESCRIPTION OF THE DRAINAGE DISTRICT MAY BE PREPARED BY A
23 SURVEYOR.

24 (F) AN ESTIMATE OF THE COST OF CONSTRUCTION OF THE
25 ENGINEER'S RECOMMENDATION.

26 (G) A DESCRIPTION OF ALTERNATIVES CONSIDERED.

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1 (H) AN ANALYSIS OF THE EFFECTIVENESS OF THE PROPOSED PROJECT
2 TO ADDRESS THE CONDITIONS THAT IT IS INTENDED TO REMEDY, CREATE,
3 OR ENHANCE.

4 (I) A MAINTENANCE PLAN FOR THE DRAIN.

5 (J) AN EVALUATION OF THE IMPACTS OF THE PROJECT ON NATURAL
6 RESOURCES THAT IDENTIFIES APPROPRIATE PRACTICAL MEASURES TO MINI-
7 MIZE ADVERSE EFFECTS. THE EVALUATION NEED NOT BE PART OF THE
8 ENGINEERING ANALYSIS AND MAY INSTEAD BE PREPARED BY THE COMMIS-
9 SIONER OR ANOTHER QUALIFIED PROFESSIONAL.

10 (K) ANY OTHER INFORMATION REQUESTED BY THE COMMISSIONER.

11 SEC. 61. (1) THE ENGINEER SHALL PREPARE FINAL PLANS, SPECI-
12 FICATIONS, AND AN ESTIMATE OF COSTS OF THE PROPOSED DRAIN. THE
13 COMMISSIONER SHALL SECURE FROM THE ENGINEER OR A SURVEYOR A
14 DESCRIPTION OF THE LANDS OR RIGHTS-OF-WAY NEEDED FOR THE PROPOSED
15 DRAIN. IN APPROVING THE ROUTE OF THE DRAIN AS FURNISHED BY THE
16 ENGINEER, THE COMMISSIONER IS NOT LIMITED TO THAT DESCRIBED IN
17 THE PETITION OR IN THE FIRST ORDER OF DETERMINATION, IF THE NEW
18 ROUTE IS MORE EFFICIENT AND SERVICEABLE.

19 (2) IF THE BOARD OF DETERMINATION DETERMINES THAT THE DRAIN
20 IS NECESSARY AND CONDUCIVE TO THE PUBLIC HEALTH, SAFETY, OR WEL-
21 FARE OR FOR AGRICULTURE, THE DRAIN COMMISSIONER SHALL CONVENE A
22 MEETING UNDER SECTION 62 TO PROVIDE INFORMATION OR ELICIT INFOR-
23 MATION AND TESTIMONY WITH REGARDS TO THE ROUTE AND TYPE OF CON-
24 STRUCTION AND ESTIMATE OF COST OF THE DRAIN TO ASSIST THE DRAIN
25 COMMISSIONER IN DETERMINING THE SCOPE OF THE DRAIN PROJECT TO BE
26 UNDERTAKEN BY THE COMMISSIONER. THE MEETING IS FOR INFORMATIONAL
27 PURPOSES ONLY.

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1 (3) THE DRAIN COMMISSIONER SHALL OBTAIN ANY PERMITS REQUIRED
2 UNDER THE NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT,
3 1994 PA 451, MCL 324.101 TO 324.90106. ALL COSTS ASSOCIATED WITH
4 EVALUATING NATURAL RESOURCE IMPACTS AND IMPLEMENTING THE MEASURES
5 TO MINIMIZE THOSE IMPACTS SHALL BE THE RESPONSIBILITY OF THE
6 DRAINAGE DISTRICT.

7 (4) MEASURES THAT ARE INTENDED TO ENHANCE OR IMPROVE NATURAL
8 RESOURCE VALUES BUT THAT WILL NOT PROVIDE BENEFIT TO THE DESIGNED
9 FUNCTION, LONGEVITY, OR HYDRAULIC CAPACITY OF THE DRAIN MAY BE
10 INCLUDED AS PART OF THE DRAINAGE PROJECT IN THE DISCRETION OF THE
11 DRAIN COMMISSIONER. THE FUNDING FOR SUCH MEASURES MAY ONLY
12 INCLUDE GIFTS, DONATIONS, GRANTS, CONTRACTS PURSUANT TO
13 SECTION 431, SPECIAL ASSESSMENTS OTHER THAN SPECIAL ASSESSMENTS
14 UNDER THIS ACT, OR ANY COMBINATION THEREOF, AS CONSIDERED APPRO-
15 PRIATE BY THE DRAIN COMMISSIONER.

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22 [(5)] IF, AFTER THE RECEIPT OF THE PLANS, SPECIFICATIONS,
23 ESTIMATE OF COST, AND DESCRIPTIONS OF THE LANDS OR RIGHTS-OF-WAY
24 NEEDED FOR THE PROPOSED DRAIN, THE COMMISSIONER DETERMINES THAT
25 THE PROJECT IS NOT FEASIBLE, THE COMMISSIONER SHALL NOTIFY THE
26 LANDOWNERS AND PUBLIC CORPORATIONS IN THE DISTRICT BY FIRST-CLASS
27 MAIL OF THE INTENT TO REJECT THE PETITION. THE NOTICE SHALL

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1 SPECIFY THE REASONS FOR THE PROPOSED REJECTION. THE NOTICE SHALL
2 ALSO SPECIFY A TIME, DATE, AND PLACE FOR A PUBLIC HEARING TO HEAR
3 OBJECTIONS TO THE REJECTION OF THE PETITION. AT THE PUBLIC HEAR-
4 ING, THE COMMISSIONER SHALL ELICIT TESTIMONY AND EVIDENCE WITH
5 REGARDS TO THE PROPOSED REJECTION. FOLLOWING THE RECEIPT OF TES-
6 TIMONY, THE DRAIN COMMISSIONER SHALL DETERMINE WHETHER OR NOT THE
7 PETITION SHOULD BE REJECTED. IF, AFTER HEARING TESTIMONY, THE
8 DRAIN COMMISSIONER DETERMINES TO REJECT THE PETITION, THE COMMIS-
9 SIONER SHALL ENTER AN ORDER OF REJECTION AND APPORTION ALL COSTS
10 INCURRED TO THE DISTRICT AS IF THE PROJECT HAD BEEN BUILT AND THE
11 COSTS WILL BE SUBSEQUENTLY ASSESSED AND PAID AS PROVIDED IN
12 CHAPTER 7. AN ORDER OF REJECTION DOES NOT LIMIT THE RIGHT TO
13 FILE A SUBSEQUENT PETITION.

14 SEC. 62. (1) UPON COMPLETION OF THE ENGINEERING ANALYSIS,
15 PURSUANT TO SECTION 60 THE COMMISSIONER SHALL FILE A COPY OF THE
16 ENGINEERING ANALYSIS IN THE COMMISSIONER'S OFFICE AND SHALL CON-
17 VENE A HEARING TO PRESENT AND RECEIVE TESTIMONY AND OTHER EVI-
18 DENCE ON THE ENGINEERING ANALYSIS AND THE PROJECT PROPOSED TO BE
19 UNDERTAKEN. THE COMMISSIONER SHALL GIVE NOTICE OF FILING OF THE
20 ENGINEERING ANALYSIS AND OF THE HEARING IN THE MANNER PROVIDED IN
21 SECTION 8. THE NOTICE SHALL GIVE ALL OF THE FOLLOWING
22 INFORMATION:

23 (A) A GENERAL DESCRIPTION OF THE DRAINAGE DISTRICT.

24 (B) THE NAME OR NUMBER OF THE DRAINAGE DISTRICT.

25 (C) A GENERAL MAP OR DESCRIPTION OF THE DRAINAGE DISTRICT AS
26 DESCRIBED IN THE ENGINEERING ANALYSIS OR A GENERAL DESCRIPTION OF

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1 THE BOUNDARIES OF THAT DRAINAGE DISTRICT BY MUNICIPAL BOUNDARIES,
2 ROADWAYS, OR PARCELS OR TRACTS OF LAND.

3 (D) A GENERAL DESCRIPTION OF THE ROUTE AND TYPE OF CONSTRUC-
4 TION AND THE ESTIMATED COST OF THE ENGINEER'S RECOMMENDATION.

5 (2) THE DRAIN COMMISSIONER SHALL CONSIDER THE TESTIMONY AND
6 OTHER EVIDENCE OFFERED AT THE PUBLIC HEARING UNDER SUBSECTION (1)
7 AND DECIDE THE ROUTE AND COURSE, TYPE OF CONSTRUCTION, AND OTHER
8 FEATURES OF THE DRAIN.

9 SEC. 63. (1) UNLESS THE DRAIN COMMISSIONER DETERMINES TO
10 REJECT THE PETITION UNDER SECTION 61(6), THE DRAIN COMMISSIONER
11 SHALL PROCEED TO ACQUIRE PROPERTY FOR THE DRAIN UNDER SECTION 7.

12 (2) AFTER ACQUIRING PROPERTY NECESSARY FOR THE DRAIN, THE
13 DRAIN COMMISSIONER SHALL PREPARE AND PROMPTLY FILE IN HIS OR HER
14 OFFICE A FINAL ORDER OF DETERMINATION ESTABLISHING THE DRAIN.

15 (3) THE APPORTIONMENT AND REVIEW OF BENEFITS, THE LETTING OF
16 CONTRACTS, AND THE LEVY AND COLLECTION OF DRAIN SPECIAL ASSESS-
17 MENTS FOR THE DRAIN SHALL BE AS PROVIDED IN CHAPTERS 7, 9, AND
18 11.

19 CHAPTER 5 —

20 INTERCOUNTY DRAINAGE DISTRICTS — AND INTERCOUNTY DRAINS

21 Sec. 101. (1) ~~Before any action is taken on any petition~~
22 ~~to locate, establish and construct any drain, which proposed~~
23 ~~drain will traverse lands in more than 1 county, or affect more~~
24 ~~than 1 county, there shall first be filed with the commissioner~~
25 ~~having jurisdiction of any such lands an application to lay out~~
26 ~~and designate a drainage district with reference to a proposed~~
27 ~~drain therein; such application shall tentatively describe the~~

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~~1 location and route of such proposed drain. The application shall~~
~~2 be signed by a number of freeholders in said drainage district~~
~~3 whose lands would be liable to an assessment for benefits, equal~~
~~4 to 50% of any of the freeholders whose lands would be traversed~~
~~5 by the drain or drains applied for or abut on any highway or~~
~~6 street along the side of which such drain extends, between a~~
~~7 point where such drain enters such highway and the point where it~~
~~8 leaves such highway and which lands are within the drainage~~
~~9 district~~ TO INITIATE THE ESTABLISHMENT OF A DRAINAGE DISTRICT
10 AND THE ESTABLISHMENT AND CONSTRUCTION OF A DRAIN THAT WILL
11 TRAVERSE LANDS IN MORE THAN 1 COUNTY OR AFFECT MORE THAN 1
12 COUNTY, A PETITION SHALL BE FILED WITH THE DRAIN COMMISSIONER OF
13 1 OF THE COUNTIES. SUBJECT TO SUBSECTION (2), THE PETITION SHALL
14 BE SIGNED BY [10] LANDOWNERS IN THE INTERCOUNTY DRAINAGE DISTRICT
15 WHOSE LANDS WOULD BE LIABLE TO ASSESSMENT FOR BENEFITS OR AT
16 LEAST 50% OF THE LANDOWNERS IF THERE ARE LESS THAN [10] LANDOWNERS
17 WHOSE LANDS WOULD BE LIABLE TO ASSESSMENT OR MAY BE SIGNED BY
18 LANDOWNERS REPRESENTING 25% OF THE LAND AREA LIABLE TO
19 ASSESSMENT. The DRAIN COMMISSIONER SHALL DETERMINE THE eligibil-
20 ity of the signers to ~~such application shall be determined by~~
21 ~~their interest of record in the office of the register of deeds,~~
22 ~~in the probate court or in the circuit court of the county in~~
23 ~~which such lands are situated at the time such petition is filed~~
24 THE PETITION BASED ON THEIR STATUS AS LANDOWNERS WHEN THE PETI-
25 TION WAS FILED.

26 (2) INSTEAD OF LANDOWNERS, A PUBLIC CORPORATION MAY PETITION
27 FOR THE ESTABLISHMENT OF A DRAINAGE DISTRICT AND THE

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1 ESTABLISHMENT AND CONSTRUCTION OF A DRAIN WHEN DULY AUTHORIZED BY
2 ITS GOVERNING BODY, IF THE PROPOSED DRAIN IS NECESSARY FOR PUBLIC
3 HEALTH, SAFETY, OR WELFARE IN THE PUBLIC CORPORATION AND IF THE
4 PUBLIC CORPORATION WILL BE LIABLE FOR AN ASSESSMENT AT LARGE FOR
5 A PERCENTAGE OF THE COST OF THE PROPOSED DRAIN. THE ENTRY OF AN
6 ORDER OF NECESSITY UNDER SECTION 104 SHALL BE CONSIDERED A DETER-
7 MINATION OF THE SUFFICIENCY OF THE PETITION.

8 (3) THE PETITION SHALL REQUEST THE ESTABLISHMENT OF A DRAIN-
9 AGE DISTRICT AND THE ESTABLISHMENT AND CONSTRUCTION OF A DRAIN
10 AND SET FORTH THE REASONS FOR THE REQUEST. THE PETITION MAY
11 REQUEST THAT MEASURES BE UNDERTAKEN WHICH ARE INTENDED BOTH TO
12 ENHANCE OR IMPROVE THE NATURAL RESOURCE VALUES OF THE PROPOSED
13 DRAIN AND WHICH PROVIDE DIRECT BENEFIT TO THE DESIGNED FUNCTION,
14 LONGEVITY, OR HYDRAULIC CAPACITY OF THE PROPOSED DRAIN. THE
15 PETITION MAY PROPOSE A LOCATION AND ROUTE FOR THE DRAIN.

16 (4) THE PETITION SHALL BE ACCOMPANIED BY A DESCRIPTION OR
17 TAX PARCEL NUMBER OF THE LAND IN THE PROPOSED DISTRICT OWNED BY
18 EACH SIGNER AND BY A CERTIFICATE OF THE COUNTY TREASURER OF EACH
19 COUNTY WHERE SUCH LAND IS LOCATED AS TO PAYMENT OF TAXES AND SPE-
20 CIAL ASSESSMENTS AGAINST THE LAND IN THAT COUNTY. THE CERTIFI-
21 CATE SHALL BE IN SUBSTANTIALLY THE FOLLOWING FORM:

22 I HEREBY CERTIFY THAT THERE ARE NO TAXES OR SPECIAL ASSESS-
23 MENTS UNPAID AGAINST ANY OF THE LANDS DESCRIBED IN THE ANNEXED
24 LIST ACCORDING TO THE RECORDS OF THE COUNTY TREASURER'S OFFICE
25 FOR THE PRECEDING 3 YEARS, EXCEPT AS FOLLOWS:

26

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1 DESCRIPTION YEAR TAX OR ASSESSMENT AMOUNT

2

3 (5) THE NAME OF ANY SIGNER AS TO WHOSE LAND THE CERTIFICATE
4 SHOWS TAXES OR ASSESSMENTS UNPAID FOR THE PRECEDING 3 YEARS SHALL
5 NOT BE COUNTED. IF IT APPEARS FROM THE CERTIFICATE THAT 33-1/3%
6 OR MORE OF THE LANDS IN THE PROPOSED DRAINAGE DISTRICT HAVE BEEN
7 RETURNED AS TAX DELINQUENT AND STILL REMAIN DELINQUENT, THE COM-
8 MISSIONER SHALL NOT TAKE FURTHER ACTION ON THE PETITION.

9 (6) IF THE PETITION SHOWS, OR IT IS DETERMINED THEREAFTER,
10 THAT THE PROPOSED DRAIN WILL AFFECT LANDS IN ONLY 1 COUNTY, THE
11 COMMISSIONER SHALL PROCEED UNDER CHAPTER 3.

12 Sec. 102. (1) ~~Upon filing of such application~~ NOT MORE
13 THAN 21 DAYS AFTER A PETITION IS FILED, the commissioner shall
14 ~~within 20 days~~ send a copy of ~~such application~~ THE PETITION
15 by ~~registered~~ FIRST-CLASS mail to the ~~state~~ director of agri-
16 culture and ~~also~~ to the drain commissioner of each county in
17 which lie lands liable for assessment for benefits for the con-
18 struction of such proposed drain.

19 (2) The drain commissioners of such counties and the direc-
20 tor of agriculture ~~or any deputy designated by him shall be and~~
21 ~~constitute the drainage board~~ SHALL CONSTITUTE THE DRAINAGE
22 BOARD. IF AT ANY TIME THE DRAINAGE BOARD DETERMINES THAT LANDS
23 SHOULD BE ADDED TO THE DRAINAGE DISTRICT AND IF THOSE LANDS ARE
24 LOCATED IN A COUNTY WHOSE DRAIN COMMISSIONER IS NOT A MEMBER OF
25 THE DRAINAGE BOARD, THE DRAINAGE BOARD SHALL NOTIFY THAT DRAIN
26 COMMISSIONER AND HE OR SHE SHALL BECOME A MEMBER OF THE DRAINAGE
27 BOARD. IF AT ANY TIME THE DRAINAGE BOARD DETERMINES THAT ALL THE

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1 LANDS FROM A PARTICULAR COUNTY THAT ARE PART OF THE DRAINAGE
2 DISTRICT SHOULD BE DELETED FROM THE DRAINAGE DISTRICT, THE DRAIN
3 COMMISSIONER FROM THAT COUNTY SHALL NO LONGER BE A MEMBER OF THE
4 DRAINAGE BOARD.

5 (3) THE DIRECTOR OF AGRICULTURE SHALL SERVE AS CHAIRPERSON
6 OF THE DRAINAGE BOARD AND SHALL ONLY VOTE IF THERE IS A TIE. THE
7 DRAINAGE BOARD SHALL ACT BY MAJORITY VOTE OF THE DRAINAGE BOARD.

8 (4) The ~~state~~ director of agriculture shall call a meeting
9 of ~~such~~ THE drainage board ~~, which meeting shall be held not~~
10 ~~less than 15 and not more than 60 days from the receipt of such~~
11 ~~notice. Such meeting shall be held in the immediate locality of~~
12 ~~the proposed drainage district. Notices of such meeting shall be~~
13 ~~posted in 5 public places within the proposed drainage district~~
14 ~~within each county, and served on the county clerk of each county~~
15 ~~and the supervisor of each township within the proposed drainage~~
16 ~~district personally or by registered mail at least 10 days before~~
17 ~~such public meeting. A notice of such meeting shall be published~~
18 ~~in each county affected once a week for 2 consecutive weeks~~
19 ~~before such meeting in a newspaper of general circulation in such~~
20 ~~county, if there is one, the first publication to be at least 10~~
21 ~~days before the meeting~~ AS SOON AS PRACTICAL BUT NOT LATER THAN
22 63 DAYS AFTER THE FILING OF A PETITION.

23 (5) AT THE MEETING, THE DRAINAGE BOARD SHALL DETERMINE IF
24 THE PETITION FILED MEETS THE REQUIREMENTS OF SECTION 101. IF THE
25 DRAINAGE BOARD DETERMINES THAT THE PETITION MEETS THE REQUIRE-
26 MENTS OF SECTION 101, THE DRAINAGE BOARD SHALL PROMPTLY ARRANGE
27 FOR THE PREPARATION OF A PRELIMINARY ANALYSIS. EXCEPT AS

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1 PROVIDED IN SUBDIVISION (A), AN ENGINEER SHALL PREPARE THE
2 PRELIMINARY ANALYSIS. THE DRAINAGE BOARD SHALL SELECT THE ENGI-
3 NEER BASED ON THE ENGINEER'S QUALIFICATIONS. THE PRELIMINARY
4 ANALYSIS SHALL DESCRIBE A DRAIN AND DRAINAGE DISTRICT TO ADDRESS
5 THE REASONS FOR A DRAIN AND DRAINAGE DISTRICT SET FORTH IN THE
6 PETITION. THE PRELIMINARY ANALYSIS SHALL INCLUDE ALL OF THE
7 FOLLOWING:

8 (A) A DESCRIPTION OF THE DRAINAGE DISTRICT BY ITS BOUNDARIES
9 OF STREETS OR HIGHWAYS OR TRACTS OR PARCELS OF LAND, OR BY A
10 DESCRIPTION OF ALL TRACTS OR ALL PARCELS OF LAND, INCLUDING ALL
11 HIGHWAYS, TOWNSHIPS, COUNTIES, CITIES, AND VILLAGES WHICH WOULD
12 BE BENEFITED BY THE CONSTRUCTION OF THE PROPOSED DRAIN. THE
13 DESCRIPTION OF THE DRAINAGE DISTRICT MAY BE PREPARED BY A
14 SURVEYOR.

15 (B) A PROPOSED ROUTE AND COURSE FOR THE DRAIN.

16 (C) A PROPOSED TYPE OF CONSTRUCTION OF THE DRAIN.

17 (D) AN ESTIMATE OF THE COST OF THE PROPOSED DRAIN.

18 (6) UPON COMPLETION OF THE PRELIMINARY ANALYSIS, A COPY OF
19 THE PRELIMINARY ANALYSIS SHALL BE FILED IN THE OFFICE OF EACH
20 DRAIN COMMISSIONER ON THE DRAINAGE BOARD AND THE OFFICE OF THE
21 DIRECTOR OF AGRICULTURE AND MADE AVAILABLE FOR PUBLIC
22 INSPECTION. THE DRAINAGE BOARD SHALL ALSO FILE THE PRELIMINARY
23 ANALYSIS WITH THE DISTRICT OFFICE OF THE LAND AND WATER MANAGE-
24 MENT DIVISION, DEPARTMENT OF ENVIRONMENTAL QUALITY, FOR THE DIS-
25 TRICT WHERE THE PROJECT IS LOCATED.

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1 (7) AS SOON AS PRACTICAL BUT NOT LATER THAN 60 DAYS AFTER
2 THE FILING OF THE PRELIMINARY ANALYSIS, THE DIRECTOR OF
3 AGRICULTURE SHALL CALL A HEARING OF THE DRAINAGE BOARD.

4 (8) THE HEARING OF THE DRAINAGE BOARD SHALL BE CALLED WITHIN
5 THE DRAINAGE DISTRICT AT A CONVENIENT PLACE TO BE DESIGNATED BY
6 THE DIRECTOR OF AGRICULTURE. THE DRAINAGE BOARD HEARING ALSO MAY
7 BE HELD OUTSIDE THE DRAINAGE DISTRICT AT A SUITABLE PUBLIC BUILD-
8 ING ANYWHERE WITHIN THE CITY, VILLAGE, OR TOWNSHIP IN WHICH THE
9 DRAIN IS LOCATED OR, IF THERE IS NO SUCH BUILDING, AT ANY SUIT-
10 ABLE PUBLIC BUILDING NEAR THE DRAINAGE DISTRICT.

11 (9) NOTICE OF THE HEARING OF THE DRAINAGE BOARD SHALL BE
12 GIVEN IN THE MANNER PROVIDED IN SECTION 8. TO DETERMINE WHICH
13 LANDOWNERS MAY BE SUBJECT TO ASSESSMENT AND SHOULD BE GIVEN
14 NOTICE, THE DRAIN COMMISSIONER OF EACH AFFECTED COUNTY SHALL FOR-
15 WARD TO THE DIRECTOR OF AGRICULTURE A TENTATIVE DESCRIPTION OF
16 THE PROPOSED DRAINAGE DISTRICT WITHIN THAT COUNTY. THE DIRECTOR
17 OF AGRICULTURE SHALL PREPARE AND FILE IN HIS OR HER OFFICE AND
18 WITH THE DRAIN COMMISSIONER OF EACH AFFECTED COUNTY A COMPOSITE
19 DESCRIPTION OF THE LANDS IN THE DRAINAGE DISTRICT.

20 (10) THE DRAINAGE BOARD SHALL ARRANGE FOR A CERTIFIED COURT
21 REPORTER, STENOMASK REPORTER, OR COURT RECORDER TO ATTEND EACH
22 HEARING OF THE DRAINAGE BOARD AND TAKE A VERBATIM RECORD OF THE
23 PROCEEDINGS. IF PROCEEDINGS ARE INITIATED IN THE CIRCUIT COURT
24 UNDER SECTION 106 OR 108, THE DRAINAGE BOARD SHALL PROMPTLY
25 REQUEST THE REPORTER OR RECORDER TO FURNISH A TRANSCRIPT OF THE
26 PROCEEDINGS TO THE COURT. UPON REQUEST OF THE DRAINAGE BOARD,

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1 THE REPORTER OR RECORDER SHALL PROMPTLY FURNISH THE TRANSCRIPT TO
2 THE COURT.

3 (11) THE DRAINAGE BOARD SHALL MEET AT THE TIME AND PLACE
4 SPECIFIED IN THE NOTICE.

5 Sec. 103. —~~Upon convening said meeting the state director
6 of agriculture or any deputy selected by him shall act as
7 chairman. The said drainage board shall consider such applica-
8 tion, and determine the sufficiency of the signatures thereto,
9 and shall go over the route of said proposed drain and take tes-
10 timony to determine its practicability. All persons owning lands
11 liable to assessment for benefits or whose lands shall be crossed
12 by said drain or any municipality affected may appear for or
13 against said drain proceedings. If at said meeting or at any
14 subsequent time before the entry of the order designating a
15 drainage district, they shall determine that the drainage of the
16 proposed drain area is not practical, no further action shall be
17 taken thereon within 1 year. If said proposed drain is deter-
18 mined to be practical, then the drainage board shall cause a
19 survey thereof to be made by a competent surveyor or engineer to
20 ascertain the area which would be drained by the proposed drain,
21 and the route and type of construction of drain or drains most
22 serviceable for that purpose.~~

23 (1) THE DRAINAGE BOARD SHALL DO ALL OF THE FOLLOWING AT THE
24 HEARING:

25 (A) ELECT A SECRETARY.

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1 (B) RECEIVE TESTIMONY AND EVIDENCE ON WHETHER THE DRAIN IS
2 NECESSARY AND CONDUCTIVE TO THE PUBLIC HEALTH, SAFETY, OR WELFARE
3 OR FOR AGRICULTURE.

4 (C) CONSIDER THE PRELIMINARY ANALYSIS.

5 (2) FOLLOWING THE RECEIPT OF TESTIMONY AND EVIDENCE AND CON-
6 sideration of the preliminary analysis, the drainage board shall
7 determine 1 of the following:

8 (A) THAT THE PROPOSED DRAIN IS NECESSARY AND CONDUCTIVE TO
9 PUBLIC HEALTH, SAFETY, OR WELFARE OR FOR AGRICULTURE.

10 (B) THAT THE PROPOSED DRAIN IS NOT NECESSARY AND CONDUCTIVE
11 TO PUBLIC HEALTH, SAFETY, OR WELFARE OR FOR AGRICULTURE.

12 (C) THAT THE DRAIN IS PRACTICAL, BUT THAT ADDITIONAL INFOR-
13 MATION IS NEEDED TO DETERMINE WHETHER THE DRAIN IS NECESSARY AND
14 CONDUCTIVE TO THE PUBLIC HEALTH, SAFETY, OR WELFARE OR FOR AGRI-
15 CULTURE, OR TO DETERMINE THE BOUNDARIES OF THE DRAINAGE
16 DISTRICT. IF THE DRAINAGE BOARD FINDS THAT THE DRAIN IS PRACTI-
17 CAL, IT SHALL RECEIVE TESTIMONY AND EVIDENCE ON THE EXTENT OF THE
18 LANDS PROPOSED TO BE SERVED BY THE DRAIN AND DETERMINE THE BOUND-
19 ARIES OF THE TENTATIVE DRAINAGE DISTRICT, WHICH LANDS WILL BE
20 SUBJECT TO ASSESSMENT FOR COSTS INCURRED BY THE DRAINAGE BOARD IN
21 GATHERING THE REQUESTED ADDITIONAL INFORMATION, IF THE DRAIN IS
22 SUBSEQUENTLY DETERMINED NOT NECESSARY.

23 (D) PRELIMINARILY DETERMINE THE PERCENTAGES OF THE COST OF
24 ESTABLISHING THE DISTRICT AND CONSTRUCTING THE DRAIN THAT EACH
25 COUNTY WILL BEAR. THE COUNTIES AFFECTED SHALL PAY THE COSTS
26 DESCRIBED IN SECTION 302 AS PROVIDED IN THAT SECTION.

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1 SEC. 103A. (1) AFTER THE DRAINAGE BOARD DETERMINES THE
2 DRAIN PRACTICAL AND ESTABLISHES A TENTATIVE DRAINAGE DISTRICT, IT
3 SHALL RECESS TO ALLOW FOR THE GATHERING OF THE ADDITIONAL INFOR-
4 MATION AND SHALL ENTER AN ORDER OF PRACTICALITY, WHICH ORDER
5 SHALL SPECIFY:

6 (A) THE INFORMATION FROM WITHIN SECTION 110 WHICH IS NEEDED,
7 AND

8 (B) THE BOUNDARIES OF THE TENTATIVE DRAINAGE DISTRICT.

9 (2) IF DURING THE GATHERING OF THE ADDITIONAL INFORMATION
10 THE DRAINAGE BOARD DETERMINES THAT THE DRAIN IS NOT PRACTICAL, IT
11 SHALL RECONVENE. NOTICE OF THE RECONVENED DRAINAGE BOARD SHALL
12 BE PURSUANT TO SECTION 8 AND SHALL SPECIFY THE DETERMINATION BY
13 THE DRAINAGE BOARD AND THE REASONS THEREFOR.

14 (3) AT THE HEARING OF THE RECONVENED DRAINAGE BOARD UNDER
15 SUBSECTION (2), THE BOARD SHALL DO THE FOLLOWING:

16 (A) RECEIVE TESTIMONY AND EVIDENCE AS TO THE DRAINAGE
17 BOARD'S DETERMINATION.

18 (B) DETERMINE TO COMPLETE THE GATHERING OF THE ADDITIONAL
19 INFORMATION OR FIND THE DRAIN IS NOT NECESSARY AND CONDUCTIVE TO
20 THE PUBLIC HEALTH, SAFETY, OR WELFARE OR FOR AGRICULTURE AND
21 ORDER THE COSTS ASSESSED PURSUANT TO THE TENTATIVE DRAINAGE
22 DISTRICT.

23 (4) IF THE RECONVENED DRAINAGE BOARD DETERMINES TO COMPLETE
24 THE GATHERING OF THE ADDITIONAL INFORMATION, IT SHALL GATHER THE
25 ADDITIONAL INFORMATION.

26 (5) AFTER GATHERING THE ADDITIONAL INFORMATION, THE DRAINAGE
27 BOARD SHALL RECONVENE. THE DIRECTOR OF AGRICULTURE SHALL GIVE

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1 NOTICE OF THE RECONVENING OF THE DRAINAGE BOARD IN THE MANNER
2 PROVIDED IN SECTION 8. AT THE RECONVENED HEARING, THE DRAINAGE
3 BOARD SHALL DO ALL OF THE FOLLOWING:

4 (A) RECEIVE AND CONSIDER THE ADDITIONAL INFORMATION.

5 (B) RECEIVE TESTIMONY AND EVIDENCE ON WHETHER THE DRAIN IS
6 NECESSARY AND CONDUCIVE TO THE PUBLIC HEALTH, SAFETY, OR WELFARE
7 OR FOR AGRICULTURE.

8 (C) DETERMINE WHETHER OR NOT THE DRAIN IS NECESSARY AND CON-
9 DUCIVE TO THE PUBLIC HEALTH, SAFETY, OR WELFARE OR FOR
10 AGRICULTURE.

11 (6) IF THE RECONVENED DRAINAGE BOARD FINDS THE DRAIN IS NEC-
12 ESSARY AND CONDUCIVE TO THE PUBLIC HEALTH, SAFETY, OR WELFARE OR
13 FOR AGRICULTURE, IT SHALL PROCEED AND MAKE SUCH ORDERS AS SET
14 FORTH IN SECTION 105.

15 (7) IF THE RECONVENED DRAINAGE BOARD FINDS THE DRAIN IS NOT
16 NECESSARY AND CONDUCIVE TO THE PUBLIC HEALTH, SAFETY, OR WELFARE
17 OR FOR AGRICULTURE, IT SHALL ENTER AN ORDER TO THAT EFFECT AND
18 COSTS SHALL BE APPORTIONED TO THE TENTATIVE DRAINAGE DISTRICT AS
19 PROVIDED IN CHAPTER 7 AS IF THE DRAIN HAD BEEN CONSTRUCTED.

20 Sec. 104. ~~The surveyor or engineer authorized to make the~~
21 ~~survey shall ascertain the size and depth of the drains, and~~
22 ~~shall preserve all minutes with reference thereto. He shall pre-~~
23 ~~pare plans, drawings and profiles thereof, together with a compu-~~
24 ~~tation of the yards of earth to be excavated, and where practica-~~
25 ~~ble the leveling of the spoil banks or the amount of tile or pipe~~
26 ~~to be used and the necessary bridges and culverts or fords to be~~
27 ~~built in constructing the proposed drains, and his estimate of~~

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1 ~~the cost of such construction. He shall thereupon lay out a~~
2 ~~proposed drainage district, which district may be described by~~
3 ~~its boundaries of streets and highways or tracts or parcels of~~
4 ~~land or by a description of all tracts or parcels of land,~~
5 ~~including therein all highways, townships, counties, cities and~~
6 ~~villages which would be benefited by the construction of the pro-~~
7 ~~posed drain, all of which he shall deliver to the drainage~~
8 ~~board. The surveyor or engineer shall not be limited to the~~
9 ~~route described in the application, but may recommend a route and~~
10 ~~type of construction for the drains he considers most serviceable~~
11 ~~for draining the area involved.~~

12 (1) IF THE DRAINAGE BOARD BY MAJORITY VOTE FINDS THE DRAIN
13 IS NECESSARY AND CONDUCTIVE TO THE PUBLIC HEALTH, SAFETY, OR WEL-
14 FARE OR FOR AGRICULTURE, EITHER AT THE FIRST HEARING OR FOLLOWING
15 A RECONVENED HEARING PURSUANT TO SECTION 103A, THE DRAINAGE BOARD
16 SHALL:

17 (A) RECEIVE TESTIMONY AND OTHER EVIDENCE ON THE EXTENT OF
18 THE LANDS PROPOSED TO BE SERVED BY THE DRAIN AND DETERMINE THE
19 BOUNDARIES OF THE DRAINAGE DISTRICT. IF THE DRAINAGE BOARD AT
20 ANY TIME FINDS THAT THE DRAIN WOULD SERVE LANDS IN ONLY 1 COUNTY,
21 THE DRAINAGE BOARD SHALL FILE AN ORDER TO THAT EFFECT AND REFER
22 THE PETITION TO THE DRAIN COMMISSIONER OF THAT COUNTY FOR PRO-
23 CEEDINGS UNDER CHAPTER 3.

24 (B) DESIGNATE A PRELIMINARY NAME FOR THE DRAIN AND DRAINAGE
25 DISTRICT.

26 (C) DETERMINE WHETHER A PORTION OF THE COSTS OF CONSTRUCTION
27 OF THE PROPOSED DRAIN IS NECESSARY FOR THE PUBLIC HEALTH, SAFETY,

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1 OR WELFARE OR FOR AGRICULTURE IN 1 OR MORE PUBLIC CORPORATIONS
2 AND IDENTIFY THOSE PUBLIC CORPORATIONS.

3 (2) IF IT APPEARS TO THE DRAINAGE BOARD AT ANY TIME THAT THE
4 DRAINAGE DISTRICT MAY INCLUDE LANDS WHOSE LANDOWNERS WERE NOT
5 SENT NOTICE OF THE HEARING IN THE MANNER PROVIDED IN SECTION 8,
6 THE DRAINAGE BOARD SHALL ENTER A FINDING TO THAT EFFECT IDENTIFY-
7 ING THE ADDITIONAL LANDS AND FILE THE FINDING WITH THE DIRECTOR
8 OF AGRICULTURE. THE DRAINAGE BOARD SHALL RECESS THE HEARING.
9 THE DIRECTOR OF AGRICULTURE SHALL PROMPTLY GIVE NOTICE OF THE
10 PENDING RECONVENED HEARING TO THE LANDOWNERS OF THE ADDITIONAL
11 LANDS AND ALL OTHER PERSONS ENTITLED TO NOTICE UNDER SECTION 8,
12 IN THE MANNER PROVIDED IN SECTION 8 AND SHALL CALL THE DRAINAGE
13 BOARD TO RECONVENE.

14 Sec. 105. ~~The chairman of the drainage board shall there-~~
15 ~~upon prepare an order designating a drainage district, giving it~~
16 ~~a name or number and describe therein the drainage district by~~
17 ~~its boundaries of streets and highways or tracts or parcels of~~
18 ~~land or by a description of all tracts or parcels of land~~
19 ~~included therein and the counties, townships, cities, villages~~
20 ~~and state trunk line highways including therein all highways,~~
21 ~~townships, counties, cities and villages, which would be bene-~~
22 ~~fited by the construction of such drain and would be liable to an~~
23 ~~assessment therefor; also a description of the drain according to~~
24 ~~the plans and specifications prepared by the surveyor or engineer~~
25 ~~and determined by the drainage board, showing the beginning,~~
26 ~~route, terminus, type of construction and the estimated cost of~~
27 ~~the construction. Notice of filing of the order shall be given~~

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~~1 by the state director of agriculture by publishing a notice in a
2 newspaper in each county affected, once in each week for 2 suc-
3 cessive weeks, which notice shall give a general description of
4 the route of the drain and of the drainage district as shown by
5 the order. A copy of the order shall within 10 days be filed by
6 the state director of agriculture in the office of the county
7 drain commissioner of each county in which lie lands included in
8 the district.~~

~~9 At any time after the order designating an intercounty
10 drainage district, giving it a name or number, has been filed in
11 the offices of the county drain commissioners of the counties
12 within the district, the order may be amended as to the name or
13 number of the drain by a written request of a drain commissioner
14 of 1 of the counties traversed by the drain, which request shall
15 state the then present name or number of the drain and the change
16 to be made in the name or number. Upon filing of the request,
17 the drain commissioner shall mail a copy of the request, to the
18 state director of agriculture and also to the drain commissioner
19 of each county in which lie lands liable for assessments for the
20 drain. The state director of agriculture shall call a meeting of
21 the drainage board and if, in the opinion of the drainage board,
22 it is found advisable to change the name or number of the drain,
23 they shall file an order designating such change. The drainage
24 board shall also designate the number of signs to be posted upon
25 the drain as they may deem advisable for public notice of the new
26 name or number. Copies of the order changing the name or number
27 of the drain shall be filed with the drain commissioner and the~~

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~~1 county treasurer of each county liable for assessments of such
2 drain. If the commissioners of the counties affected cannot
3 agree as to the apportionment of costs for laying out a drainage
4 district, the director of agriculture or any deputy appointed by
5 him shall apportion the costs and the counties affected shall pay
6 the same as provided in section 302 of this act.~~

7 (1) IF THE DRAINAGE BOARD BY A MAJORITY VOTE FINDS THE DRAIN
8 IS NECESSARY AND CONDUCIVE TO THE PUBLIC HEALTH, SAFETY, OR WEL-
9 FARE OR FOR AGRICULTURE, EITHER AT THE FIRST HEARING OR FOLLOWING
10 A RECONVENED HEARING PURSUANT TO SECTION 103A, THE DRAINAGE BOARD
11 SHALL ENTER AN ORDER OF NECESSITY AND FILE THE ORDER OF NECESSITY
12 WITH THE DIRECTOR OF AGRICULTURE.

13 (2) THE ORDER OF NECESSITY SHALL SPECIFY:

14 (A) THE FINDING OF NECESSITY.

15 (B) THE BOUNDARIES OF THE DRAINAGE DISTRICT.

16 (C) THE PUBLIC CORPORATIONS DETERMINED LIABLE FOR ASSESSMENT
17 AT-LARGE FOR A PORTION OF THE COSTS OF THE DRAIN FOR PUBLIC
18 HEALTH, SAFETY, OR WELFARE.

19 (3) THE DRAINAGE BOARD SHALL NOT DETERMINE THE SCOPE OF THE
20 PROJECT IN THE ORDER OF NECESSITY OR AT THE HEARINGS PURSUANT TO
21 SECTIONS 102 AND 103A. THE SCOPE OF THE PROJECT IS WITHIN THE
22 SOLE AUTHORITY OF THE DRAINAGE BOARD IN CONSULTATION WITH ITS
23 ENGINEERS OR OTHER QUALIFIED PROFESSIONALS.

24 Sec. 106. ~~If the drain commissioner of a county involved
25 considers the apportionment between the counties to be unfair,
26 the commissioner shall have the right to have the apportionment
27 reviewed by an arbitration board to be composed of drain~~

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~~1 commissioners from unaffected counties in this state. Within 20
2 days after the order of apportionment provided in section 105,
3 the commissioner shall file with the department of agriculture a
4 claim for review by arbitration in which the commissioner shall
5 state briefly in what respect he or she considers the apportion-
6 ment unfair and request, over the commissioner's official signa-
7 ture, a review by arbitration. The commissioner shall nominate a
8 disinterested drain commissioner as his or her choice for the
9 arbitration board. Upon receipt of the claim for review by arbi-
10 tration, the director of the department of agriculture or the
11 director's deputy shall forward to each county drain commissioner
12 involved, except the claimant, within 10 days, a copy of the
13 claim for review by arbitration. The commissioners, within 10
14 days, shall notify the department of agriculture of their selec-
15 tion to the arbitration board. The director of the department of
16 agriculture, at the earliest date, consistent with Act No. 267
17 of the Public Acts of 1976, but not later than 30 days after the
18 notice, shall notify the chosen drain commissioners of a date and
19 time they shall meet in the commissioner's office in Lansing. At
20 the meeting they shall select 1 or 2 more unaffected drain com-
21 missioners in the state to complete the board of review. Only 1
22 shall be selected if the board members selected by the drain com-
23 missioners affected constitute an even number and 2 shall be
24 selected if the board members selected by the drain commissioners
25 affected constitute an odd number. Upon selection of the final
26 members of the board of review, those members present shall set a
27 date, time, and place in an affected county for a first full~~

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1 ~~meeting of the board of review. Notice of the meeting shall be~~
2 ~~posted in 5 public places in each county affected and be served~~
3 ~~personally or by registered mail at least 10 days before the~~
4 ~~meeting on the county clerk of the county and the supervisor of a~~
5 ~~township in each county traversed by the drain. A notice of the~~
6 ~~meeting shall be published once a week for 2 consecutive weeks~~
7 ~~before the meeting in a newspaper published and of general circu-~~
8 ~~lation in the counties affected. The first publication is to be~~
9 ~~at least 10 days before the meeting. The director of the depart-~~
10 ~~ment of agriculture shall notify the 1 or 2 drain commissioners~~
11 ~~selected of their appointment and of the date, time, and place of~~
12 ~~the next meeting of the full board. The board of arbitration~~
13 ~~shall convene at the time, date, and place specified, elect a~~
14 ~~chairperson and secretary, and review the fairness of the appor-~~
15 ~~tionment between the counties. The board may adjourn until their~~
16 ~~review is completed. The findings shall be made and signed by~~
17 ~~all the members attesting the determination of the majority of~~
18 ~~the board and the determination by the majority of the board~~
19 ~~shall be final and conclusive as to the fairness of the~~
20 ~~apportionment.~~ WITHIN 7 DAYS AFTER THE ORDER OF NECESSITY IS
21 FILED, THE DRAINAGE BOARD SHALL NOTIFY BY FIRST-CLASS MAIL EACH
22 PUBLIC CORPORATION IDENTIFIED IN THE ORDER OF NECESSITY AS
23 RECEIVING BENEFITS AT-LARGE FOR PUBLIC HEALTH, SAFETY, OR WELFARE
24 THAT IT IS LIABLE TO PAY A PERCENT OF THE COST OF CONSTRUCTION OF
25 THE DRAIN FOR BENEFITS FOR PUBLIC HEALTH, SAFETY, OR WELFARE.
26 THE GOVERNING BODY OF THE PUBLIC CORPORATION, WITHIN 21 DAYS
27 AFTER MAILING OF THE NOTIFICATION FROM THE DRAINAGE BOARD, MAY

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1 APPEAL THE ORDER OF NECESSITY AS TO THE FINDING THAT ALL OR A
2 PORTION OF THE COSTS IS NECESSARY FOR PUBLIC HEALTH, SAFETY, OR
3 WELFARE. THE APPEAL SHALL BE FILED WITH THE CIRCUIT COURT IN THE
4 COUNTY IN WHICH THE TERRITORY OF THE PUBLIC CORPORATION IS
5 LOCATED.

6 SEC. 107. IF THE DRAINAGE BOARD FINDS THAT THE DRAIN IS NOT
7 NECESSARY AND CONDUCIVE TO THE PUBLIC HEALTH, SAFETY, OR WELFARE
8 OR FOR AGRICULTURE, ALL OF THE FOLLOWING APPLY:

9 (A) THE DRAINAGE BOARD SHALL FILE WITH THE DIRECTOR OF AGRI-
10 CULTURE AN ORDER OF NO NECESSITY REJECTING THE PETITION.

11 (B) COSTS SHALL BE PAID AS APPORTIONED AMONGST THE COUNTIES
12 AS DETERMINED IN SECTION 103 AND PURSUANT TO CHAPTER 7 AS IF THE
13 DRAIN HAD BEEN CONSTRUCTED.

14 (C) A NEW PETITION FOR THE DRAIN SHALL NOT BE FILED WITHIN 1
15 YEAR AFTER THE FILING OF THE ORDER OF NO NECESSITY.

16 SEC. 108. AFTER THE DRAINAGE BOARD FILES AN ORDER OF NO
17 NECESSITY OR FILES AN ORDER OF NECESSITY, A PUBLIC CORPORATION OR
18 OTHER PERSON FEELING AGGRIEVED BY THE ORDER MAY INSTITUTE AN
19 ACTION IN A CIRCUIT COURT FOR ANY COUNTY IN WHICH THE DRAINAGE
20 DISTRICT IS LOCATED FOR A REVIEW OF THE ORDER. THE ACTION SHALL
21 BE FILED WITHIN 14 DAYS AFTER THE FILING OF THE ORDER. THE CIR-
22 CUIT COURT SHALL DETERMINE WHETHER THE ORDER WAS AUTHORIZED BY
23 LAW AND SUPPORTED BY SUBSTANTIAL, MATERIAL, AND COMPETENT EVI-
24 DENCE ON THE WHOLE RECORD. THE REVIEW SHALL BE MADE ON THE
25 RECORD PRESENTED TO THE DRAINAGE BOARD AND NO ADDITIONAL TESTI-
26 MONY OR INFORMATION SHALL BE OFFERED EXCEPT FOR PURPOSES OF CLAIM
27 OF FRAUD OR ERROR OF LAW. AFTER THE REVIEW OF THE RECORD, THE

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1 COURT MAY REMAND THE MATTER TO THE DRAINAGE BOARD AND ORDER THE
2 DRAINAGE BOARD TO RECONVENE FOR PURPOSES OF SECURING ADDITIONAL
3 TESTIMONY AND EVIDENCE ON ISSUES WHICH THE COURT CONSIDERS NECES-
4 SARY TO RENDER ITS DECISION ON THE APPEAL. FOLLOWING THE HEARING
5 ON REMAND, THE RECORD SHALL BE TRANSMITTED TO THE COURT FOR HEAR-
6 ING AND DECISION.

7 SEC. 109. (1) AFTER THE ORDER OF NECESSITY IS FILED, THE
8 DRAINAGE BOARD, SUBJECT TO SUBSECTION (2), SHALL EXECUTE A FIRST
9 ORDER OF DETERMINATION AND FILE THE FIRST ORDER OF DETERMINATION
10 WITH THE DIRECTOR OF AGRICULTURE. THE FIRST ORDER OF DETERMINA-
11 TION SHALL DO ALL OF THE FOLLOWING CONSISTENT WITH THE ORDER OF
12 NECESSITY:

13 (A) ESTABLISH THE DRAINAGE DISTRICT AND GIVE IT A NAME OR
14 NUMBER.

15 (B) DESCRIBE THE DRAINAGE DISTRICT BY ITS BOUNDARIES OR BY A
16 DESCRIPTION OF ALL THE LAND THAT WOULD BE BENEFITED BY THE CON-
17 STRUCTION OF THE DRAIN AND WOULD BE LIABLE TO ASSESSMENT THERE-
18 FOR, INCLUDING THE COUNTIES, TOWNSHIPS, CITIES, AND VILLAGES;
19 ROADWAYS; AND PARCELS OF LAND IDENTIFIED BY LEGAL DESCRIPTION OR
20 TAX CODE PARCEL NUMBER.

21 (C) DESCRIBE THE BEGINNING, ROUTE, TERMINUS, TYPE OF THE
22 PROPOSED CONSTRUCTION, AND THE ESTIMATED COST OF SUCH PROPOSED
23 CONSTRUCTION.

24 (D) REVIEW AND ESTABLISH THE PERCENTAGES OF THE WHOLE COST
25 OF CONSTRUCTION WHICH EACH COUNTY SHALL BEAR, AS PRELIMINARILY
26 DETERMINED UNDER SECTION 103, AND DETERMINE THE NUMBER OF

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1 INSTALLMENTS IN WHICH THE DRAIN SPECIAL ASSESSMENTS SHALL BE
2 COLLECTED.

3 (2) IF A DRAIN COMMISSIONER CONSIDERS THE APPORTIONMENT
4 BETWEEN THE COUNTIES TO BE UNFAIR, THE COMMISSIONER SHALL REQUEST
5 THE DIRECTOR OF AGRICULTURE TO REVIEW THE APPORTIONMENT AND MAKE
6 A RECOMMENDATION OF AN APPORTIONMENT BETWEEN THE COUNTIES. IF
7 THE RECOMMENDATION IS NOT ADOPTED BY MAJORITY VOTE, OR IF THE
8 RECOMMENDATION IS ADOPTED AND A DRAIN COMMISSIONER FINDS THAT THE
9 APPORTIONMENT IS UNFAIR, IT MAY BE REVIEWED PURSUANT TO SUBSEC-
10 TION (3).

11 (3) IF A DRAIN COMMISSIONER CONSIDERS THE APPORTIONMENT
12 BETWEEN THE COUNTIES TO BE UNFAIR, THE COMMISSIONER MAY HAVE THE
13 APPORTIONMENT REVIEWED BY AN ARBITRATION BOARD COMPOSED OF DISIN-
14 TERESTED DRAIN COMMISSIONERS. WITHIN 21 DAYS AFTER THE FILING OF
15 THE ORDER OF NECESSITY UNDER SECTION 105, THE COMMISSIONER SHALL
16 FILE WITH THE DIRECTOR OF AGRICULTURE A SIGNED CLAIM FOR REVIEW
17 BY ARBITRATION IN WHICH THE COMMISSIONER SHALL STATE BRIEFLY IN
18 WHAT RESPECT HE OR SHE CONSIDERS THE APPORTIONMENT UNFAIR AND
19 REQUEST A REVIEW BY ARBITRATION. THE COMMISSIONER SHALL SELECT A
20 DISINTERESTED DRAIN COMMISSIONER TO BE A MEMBER OF THE ARBITRA-
21 TION BOARD. NOT MORE THAN 14 DAYS AFTER RECEIPT OF THE CLAIM FOR
22 REVIEW BY ARBITRATION, THE DIRECTOR OF AGRICULTURE SHALL FORWARD
23 TO THE DRAIN COMMISSIONER OF EACH COUNTY TO WHICH A PERCENTAGE OF
24 BENEFITS HAS BEEN APPORTIONED, EXCEPT THE CLAIMANT, A COPY OF THE
25 CLAIM FOR REVIEW BY ARBITRATION. EACH SUCH COMMISSIONER SHALL
26 SELECT 1 DISINTERESTED DRAIN COMMISSIONER TO BE A MEMBER OF THE
27 ARBITRATION BOARD AND, WITHIN 14 DAYS, SHALL NOTIFY THE

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1 DEPARTMENT OF AGRICULTURE OF HIS OR HER SELECTION. THE DIRECTOR
2 OF AGRICULTURE, AT THE EARLIEST DATE CONSISTENT WITH THE OPEN
3 MEETINGS ACT, 1976 PA 267, MCL 15.261 TO 15.275, BUT NOT LATER
4 THAN 28 DAYS AFTER THE NOTICE, SHALL NOTIFY THE SELECTED DRAIN
5 COMMISSIONERS OF A DATE AND TIME THEY SHALL MEET IN THE OFFICE OF
6 THE DIRECTOR OF AGRICULTURE IN LANSING. AT THE MEETING, THEY
7 SHALL COMPLETE THE ARBITRATION BOARD BY SELECTING 1 OR 2 MORE
8 DISINTERESTED DRAIN COMMISSIONERS, AS APPROPRIATE SO THE ARBITRA-
9 TION BOARD HAS AN ODD NUMBER OF MEMBERS.

10 (4) UPON SELECTION OF THE FINAL MEMBERS OF THE ARBITRATION
11 BOARD, THOSE MEMBERS PRESENT SHALL SET A DATE, TIME, AND PLACE IN
12 AN AFFECTED COUNTY FOR A FIRST FULL MEETING OF THE ARBITRATION
13 BOARD. NOTICE OF THE MEETING SHALL BE SERVED PERSONALLY OR BY
14 FIRST-CLASS MAIL AT LEAST 14 DAYS BEFORE THE MEETING ON THE
15 COUNTY CLERK OF EACH AFFECTED COUNTY AND THE CLERK OF EACH TOWN-
16 SHIP IN EACH AFFECTED COUNTY. THE ARBITRATION BOARD SHALL PUB-
17 LISH A NOTICE OF THE MEETING ONCE A WEEK FOR 2 CONSECUTIVE WEEKS
18 BEFORE THE MEETING IN A NEWSPAPER PUBLISHED AND OF GENERAL CIRCUM-
19 LATION IN THE COUNTIES AFFECTED. THE FIRST PUBLICATION SHALL BE
20 AT LEAST 14 DAYS BEFORE THE MEETING. THE DIRECTOR OF AGRICULTURE
21 SHALL NOTIFY THE DRAIN COMMISSIONERS SELECTED OF THEIR APPOINT-
22 MENT AND OF THE DATE, TIME, AND PLACE OF THE NEXT MEETING OF THE
23 ARBITRATION BOARD.

24 (5) THE ARBITRATION BOARD SHALL CONVENE AT THE TIME, DATE,
25 AND PLACE SPECIFIED, TAKE TESTIMONY FROM THE AFFECTED PARTIES,
26 ELECT A CHAIRPERSON AND SECRETARY, AND REVIEW THE FAIRNESS OF THE
27 APPORTIONMENT BETWEEN THE COUNTIES. THE ARBITRATION BOARD MAY

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1 ADJOURN UNTIL THE REVIEW IS COMPLETED. THE FINDINGS SHALL BE
2 MADE AND SIGNED BY ALL THE MEMBERS ATTESTING THE DETERMINATION OF
3 THE MAJORITY OF THE ARBITRATION BOARD, AND THE DETERMINATION BY
4 THE MAJORITY OF THE ARBITRATION BOARD IS FINAL AND CONCLUSIVE AS
5 TO THE FAIRNESS OF THE APPORTIONMENT. COMMISSIONERS SO APPOINTED
6 SHALL BE COMPENSATED IN THE SAME AMOUNT AND MANNER AS MEMBERS OF
7 THE COUNTY BOARD OF COMMISSIONERS IN THEIR RESPECTIVE COUNTIES.
8 OTHER COSTS OF THE ARBITRATION BOARD SHALL BE BORNE BY THE
9 DISTRICT.

10 (6) IF AN APPEAL IS NOT FILED, THE DRAINAGE BOARD SHALL SAT-
11 ISFY THE REQUIREMENTS OF SUBSECTION (1) UPON THE EXPIRATION OF
12 THE APPEAL PERIODS UNDER SECTION 106 AND, IF APPLICABLE, 108. IF
13 AN APPEAL IS FILED, THE DRAINAGE BOARD SHALL SATISFY THE REQUIRE-
14 MENTS OF SUBSECTION (1) AFTER THE APPEAL PROCEDURES ARE
15 TERMINATED.

16 SEC. 110. AFTER THE DRAINAGE BOARD FILES THE FIRST ORDER OF
17 DETERMINATION, IT SHALL SECURE THE SERVICES OF AN ENGINEER AND
18 ARRANGE FOR THE PREPARATION OF AN ENGINEERING ANALYSIS. THE
19 DRAINAGE BOARD SHALL SELECT THE ENGINEER BASED ON THE ENGINEER'S
20 QUALIFICATIONS. THE ENGINEERING ANALYSIS SHALL DESCRIBE A DRAIN
21 AND DRAINAGE DISTRICT TO ADDRESS THE REASONS FOR A DRAIN AND
22 DRAINAGE DISTRICT SET FORTH IN THE PETITION AND IN THE EVIDENCE
23 AND TESTIMONY RECEIVED AT THE HEARING OF THE DRAINAGE BOARD.
24 EXCEPT AS PROVIDED IN SUBDIVISIONS (E) AND (J), THE ENGINEERING
25 ANALYSIS SHALL BE PREPARED BY AN ENGINEER AND SHALL INCLUDE ALL
26 OF THE FOLLOWING:

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1 (A) HYDROLOGIC AND HYDRAULIC REPORT THAT INCLUDES, BUT IS
2 NOT LIMITED TO, A DISCUSSION OF THE PRESENT DRAINAGE
3 CHARACTERISTICS AND THE IMPACTS OF THE PROPOSED PROJECT ON FLOOD-
4 ING CHARACTERISTICS DOWNSTREAM OF THE DRAINAGE DISTRICT.

5 (B) RECOMMENDED ROUTE AND COURSE.

6 (C) AN EXISTING AND PROPOSED PROFILE OF THE RECOMMENDED
7 ROUTE AND COURSE.

8 (D) DESCRIPTION OF THE RECOMMENDED WORK INCLUDING CROSSINGS,
9 STRUCTURES, AND FACILITIES.

10 (E) A DESCRIPTION OF THE DRAINAGE DISTRICT BY ITS BOUNDARIES
11 OF STREETS OR HIGHWAYS OR TRACTS OR PARCELS OF LAND, OR BY A
12 DESCRIPTION OF ALL TRACTS OR ALL PARCELS OF LAND, INCLUDING ALL
13 HIGHWAYS, TOWNSHIPS, COUNTIES, CITIES, AND VILLAGES WHICH WOULD
14 BE BENEFITED BY THE CONSTRUCTION OF THE PROPOSED DRAIN. THE
15 DESCRIPTION OF THE DRAINAGE DISTRICT MAY BE PREPARED BY A
16 SURVEYOR.

17 (F) AN ESTIMATE OF THE COST OF CONSTRUCTION OF THE
18 ENGINEER'S RECOMMENDATION.

19 (G) A DESCRIPTION OF ALTERNATIVES CONSIDERED.

20 (H) AN ANALYSIS OF THE EFFECTIVENESS OF THE PROPOSED PROJECT
21 TO ADDRESS THE CONDITIONS THAT IT IS INTENDED TO REMEDY, CREATE,
22 OR ENHANCE.

23 (I) A MAINTENANCE PLAN FOR THE DRAIN.

24 (J) AN EVALUATION OF THE IMPACTS OF THE PROJECT ON NATURAL
25 RESOURCES THAT IDENTIFIES APPROPRIATE PRACTICAL MEASURES TO MINI-
26 MIZE ADVERSE EFFECTS. THE EVALUATION NEED NOT BE PART OF THE

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1 ENGINEERING ANALYSIS AND MAY INSTEAD BE PREPARED BY A
2 COMMISSIONER OR ANOTHER QUALIFIED PROFESSIONAL.

3 (K) ANY OTHER INFORMATION REQUESTED BY THE DRAINAGE BOARD.

4 SEC. 111. (1) THE ENGINEER SHALL PREPARE FINAL PLANS, SPEC-
5 IFICATIONS, AND AN ESTIMATE OF COSTS OF THE PROPOSED DRAIN. THE
6 COMMISSIONER SHALL SECURE FROM THE ENGINEER OR A SURVEYOR A
7 DESCRIPTION OF THE LANDS OR RIGHTS-OF-WAY NEEDED FOR THE PROPOSED
8 DRAIN. IN APPROVING THE ROUTE OF THE DRAIN AS FURNISHED BY THE
9 ENGINEER, THE DRAINAGE BOARD IS NOT LIMITED TO THAT DESCRIBED IN
10 THE PETITION OR IN THE FIRST ORDER OF DETERMINATION, IF THE NEW
11 ROUTE IS MORE EFFICIENT AND SERVICEABLE.

12 (2) IF THE DRAINAGE BOARD DETERMINES THAT THE DRAIN IS NEC-
13 ESSARY AND CONDUCIVE TO THE PUBLIC HEALTH, SAFETY, OR WELFARE OR
14 FOR AGRICULTURE, THE DRAINAGE BOARD SHALL CONVENE A MEETING UNDER
15 SECTION 112 TO PROVIDE INFORMATION OR ELICIT INFORMATION AND TES-
16 TIMONY WITH REGARDS TO THE ROUTE AND TYPE OF CONSTRUCTION AND
17 ESTIMATE OF COST OF THE DRAIN TO ASSIST THE DRAINAGE BOARD IN
18 DETERMINING THE SCOPE OF THE DRAIN PROJECT TO BE UNDERTAKEN BY
19 THE BOARD. THE MEETING IS FOR INFORMATIONAL PURPOSES ONLY.

20 (3) THE DRAINAGE BOARD SHALL OBTAIN ANY PERMITS REQUIRED
21 UNDER THE NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT,
22 1994 PA 451, MCL 324.101 TO 324.90106. ALL COSTS ASSOCIATED WITH
23 EVALUATING NATURAL RESOURCE IMPACTS AND IMPLEMENTING THE MEASURES
24 TO MINIMIZE THOSE IMPACTS SHALL BE THE RESPONSIBILITY OF THE
25 DRAINAGE DISTRICT.

26 (4) MEASURES THAT ARE INTENDED TO ENHANCE OR IMPROVE NATURAL
27 RESOURCE VALUES BUT THAT WILL NOT PROVIDE BENEFIT TO THE DESIGNED

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1 FUNCTION, LONGEVITY, OR HYDRAULIC CAPACITY OF THE DRAIN MAY BE
2 INCLUDED AS PART OF THE DRAINAGE PROJECT IN THE DISCRETION OF THE
3 DRAINAGE BOARD. THE FUNDING FOR SUCH MEASURES MAY ONLY INCLUDE
4 GIFTS, DONATIONS, GRANTS, CONTRACTS PURSUANT TO SECTION 431, SPE-
5 CIAL ASSESSMENTS OTHER THAN SPECIAL ASSESSMENTS UNDER THIS ACT,
6 OR ANY COMBINATION THEREOF, AS CONSIDERED APPROPRIATE BY THE
7 DRAINAGE BOARD.

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14 [(5)] IF, AFTER THE RECEIPT OF THE PLANS, SPECIFICATIONS,
15 ESTIMATE OF COST, AND DESCRIPTIONS OF THE LANDS OR RIGHTS-OF-WAY
16 NEEDED FOR THE PROPOSED DRAIN, THE DRAINAGE BOARD DETERMINES THAT
17 THE PROJECT IS NOT FEASIBLE, IT SHALL NOTIFY THE LANDOWNERS AND
18 PUBLIC CORPORATIONS IN THE DISTRICT BY FIRST-CLASS MAIL OF THE
19 INTENT TO REJECT THE PETITION. THE NOTICE SHALL SPECIFY THE REA-
20 SONS FOR THE PROPOSED REJECTION. THE NOTICE SHALL ALSO SPECIFY A
21 TIME, DATE, AND PLACE FOR A PUBLIC HEARING TO HEAR OBJECTIONS TO
22 THE REJECTION OF THE PETITION. AT THE PUBLIC HEARING, THE DRAIN-
23 AGE BOARD SHALL ELICIT TESTIMONY AND EVIDENCE WITH REGARDS TO THE
24 PROPOSED REJECTION. FOLLOWING THE RECEIPT OF TESTIMONY, THE
25 DRAINAGE BOARD SHALL DETERMINE WHETHER OR NOT THE PETITION SHOULD
26 BE REJECTED. IF, AFTER HEARING TESTIMONY, THE DRAINAGE BOARD
27 DETERMINES TO REJECT THE PETITION, IT SHALL ENTER AN ORDER OF

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1 REJECTION AND APPORTION ALL COSTS INCURRED TO THE DISTRICT AS IF
2 THE PROJECT HAD BEEN BUILT AND THE COSTS WILL BE SUBSEQUENTLY
3 ASSESSED AND PAID AS PROVIDED IN CHAPTER 7. AN ORDER OF REJEC-
4 TION DOES NOT LIMIT THE RIGHT TO FILE A SUBSEQUENT PETITION.

5 SEC. 112. (1) UPON COMPLETION OF THE ENGINEERING ANALYSIS,
6 PURSUANT TO SECTION 110 THE DRAINAGE BOARD SHALL FILE A COPY OF
7 THE ENGINEERING ANALYSIS IN THE OFFICE OF THE DIRECTOR OF AGRI-
8 CULTURE AND THE OFFICE OF EACH DRAIN COMMISSIONER ON THE DRAINAGE
9 BOARD AND SHALL CONVENE A HEARING TO PRESENT AND RECEIVE TESTI-
10 MONY AND OTHER EVIDENCE ON THE ENGINEERING ANALYSIS AND THE
11 PROJECT PROPOSED TO BE UNDERTAKEN. THE DRAINAGE BOARD SHALL GIVE
12 NOTICE OF FILING OF THE ENGINEERING ANALYSIS AND OF THE HEARING
13 IN THE MANNER PROVIDED IN SECTION 8. THE NOTICE SHALL GIVE ALL
14 OF THE FOLLOWING INFORMATION:

15 (A) A GENERAL DESCRIPTION OF THE DRAINAGE DISTRICT.

16 (B) THE NAME OR NUMBER OF THE DRAINAGE DISTRICT.

17 (C) A GENERAL MAP OR DESCRIPTION OF THE DRAINAGE DISTRICT AS
18 DESCRIBED IN THE ENGINEERING ANALYSIS OR A GENERAL DESCRIPTION OF
19 THE BOUNDARIES OF THAT DRAINAGE DISTRICT BY MUNICIPAL BOUNDARIES,
20 ROADWAYS, OR PARCELS OR TRACTS OF LAND.

21 (D) A GENERAL DESCRIPTION OF THE ROUTE AND TYPE OF CONSTRUC-
22 TION AND THE ESTIMATED COST OF THE ENGINEER'S RECOMMENDATION.

23 (2) THE DRAINAGE BOARD SHALL CONSIDER THE TESTIMONY AND
24 OTHER EVIDENCE OFFERED AT THE PUBLIC HEARING UNDER SUBSECTION (1)
25 AND DECIDE THE ROUTE AND COURSE, TYPE OF CONSTRUCTION, AND OTHER
26 FEATURES OF THE DRAIN.

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1 SEC. 113. (1) UNLESS THE DRAINAGE BOARD DETERMINES TO
2 REJECT THE PETITION UNDER SECTION 111(6), THE DRAINAGE BOARD
3 SHALL PROCEED TO ACQUIRE PROPERTY FOR THE DRAIN UNDER SECTION 7.

4 (2) AFTER ACQUIRING PROPERTY NECESSARY FOR THE DRAIN, THE
5 DRAINAGE BOARD SHALL PREPARE AND PROMPTLY FILE IN THE OFFICE OF
6 THE DIRECTOR OF AGRICULTURE A FINAL ORDER OF DETERMINATION ESTAB-
7 LISHING THE DRAIN.

8 (3) THE APPORTIONMENT AND REVIEW OF BENEFITS, THE LETTING OF
9 CONTRACTS, AND THE LEVY AND COLLECTION OF DRAIN SPECIAL ASSESS-
10 MENTS FOR THE DRAIN SHALL BE AS PROVIDED IN CHAPTERS 7, 9, AND
11 11.

12 SEC. 114. A FULL RECORD OF THE DRAIN SHALL BE MADE AND
13 ENTERED BY THE DIRECTOR OF AGRICULTURE AND SEVERAL COMMISSIONERS
14 IN THE DRAIN RECORDS OF THEIR RESPECTIVE COUNTIES, AND A COPY OF
15 ALL THE RECORDS RELATIVE TO THE ESTABLISHMENT AND CONSTRUCTION OF
16 THE DRAIN SHALL BE DELIVERED TO THE OTHER COMMISSIONERS AND THE
17 DIRECTOR OF AGRICULTURE BY THE COMMISSIONER HAVING THE ORIGINAL
18 APPLICATION OR PETITION, WHICH COPIES SHALL BE FILED IN THE
19 OFFICE OF THE DIRECTOR OF AGRICULTURE AND THE COUNTY DRAIN COM-
20 MISSIONER OF THE RESPECTIVE COUNTIES AS ORIGINAL RECORDS ARE
21 REQUIRED TO BE FILED AND WITH THE SAME FORCE AND EFFECT.

22 SEC. 115. THE DRAINAGE BOARD, ACTING ON BEHALF OF THE
23 DRAINAGE DISTRICT, MAY BORROW MONEY AND MAY ISSUE BONDS OR NOTES
24 THEREFOR AS PROVIDED FOR DRAINS LYING WHOLLY WITHIN 1 COUNTY.
25 THE BONDS OR NOTES SHALL BE SIGNED BY THE MEMBERS OF THE DRAINAGE
26 BOARD AND SHALL BE COUNTERSIGNED BY THE CLERKS OF THE COUNTIES
27 AFFECTED. BONDS OR NOTES ISSUED UNDER THIS CHAPTER ARE PAYABLE

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1 AT THE OFFICE OF THE COUNTY TREASURER SELECTED BY THE DRAINAGE
2 BOARD TO SERVE AS THE TREASURER OF THE DRAINAGE DISTRICT. THE
3 BONDS OR NOTES SHALL BE DEPOSITED AND SAFELY KEPT BY THE TREA-
4 SURER UNTIL SOLD AND DELIVERED. ALL INSTALLMENTS, WITH INTEREST
5 THEREON, OF THE SPECIAL ASSESSMENTS SHALL BE TRANSMITTED AS COL-
6 LECTED BY THE TREASURER OR TREASURERS OF THE OTHER COUNTY OR
7 COUNTIES CONCERNED TO THE TREASURER OF THE DRAINAGE DISTRICT, WHO
8 SHALL ISSUE A RECEIPT THEREFOR AND SHALL PLACE THE MONEY IN THE
9 FUND OF THE DRAIN TO BE DISBURSED SOLELY FOR THE RETIREMENT OF
10 THE BONDS OR NOTES AT MATURITY AND THE PAYMENT OF INTEREST
11 THEREON.

12 SEC. 116. IF A PROPOSED DRAIN LIES WHOLLY OR PARTLY IN AN
13 ADJOINING STATE, OR THE LANDS TO BE DRAINED THEREBY LIE PARTLY IN
14 AN ADJOINING STATE, A PETITION TO ESTABLISH A DRAINAGE DISTRICT
15 AND ESTABLISH AND CONSTRUCT A DRAIN AS SPECIFIED IN THIS ACT MAY
16 BE MADE TO ANY COMMISSIONER REPRESENTING ANY COUNTY IN THIS STATE
17 IN WHICH ANY PORTION OF THE PROPOSED DRAIN OR LANDS TO BE
18 AFFECTED THEREBY LIE, AND THE SAME PROCEEDINGS SHALL BE HAD
19 REGARDING THE PORTION OF THE DRAIN OR THE LANDS TO BE DRAINED OR
20 AFFECTED THEREBY LYING WITHIN THIS STATE AS ARE PROVIDED IN THIS
21 ACT FOR DRAINS AND LANDS LYING WHOLLY WITHIN THIS STATE.
22 HOWEVER, BEFORE ANY EXPENSE IS INCURRED IN RELATION TO THE PRO-
23 POSED DRAIN, A VOLUNTARY RELEASE OF THE RIGHT-OF-WAY TO CONSTRUCT
24 THE DRAIN OR PORTION OF THE DRAIN THAT LIES WITHOUT THIS STATE
25 AND AN AGREEMENT TO KEEP IT OR PERMIT IT TO BE KEPT, CLEAR FROM
26 OBSTRUCTION SHALL FIRST BE OBTAINED FROM THE PARTIES OWNING LANDS
27 OUTSIDE OF THIS STATE THROUGH WHICH THE DRAIN OR PORTION THEREOF

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1 IS TO PASS, AND SUCH RELEASE AND AGREEMENT SHALL BE FILED WITH
2 THE SAID DRAIN COMMISSIONER AND SHALL FORM A PART OF THE RECORD
3 OF HIS OR HER PROCEEDINGS IN THE PREMISES.

4 SEC. 117. AN ACTION INVOLVING AN INTERCOUNTY DRAIN MAY BE
5 BROUGHT IN THE CIRCUIT COURT OF A COUNTY IN WHICH A PART OF THE
6 INTERCOUNTY DRAINAGE DISTRICT IS ESTABLISHED, SUBJECT TO THE
7 MICHIGAN RULES OF COURT.

8 CHAPTER 7 —

9 APPORTIONMENT AND REVIEW —

10 Sec. 151. (1) ~~Upon the release of the right-of-way and~~
11 ~~damages, or upon the determination and return of the special~~
12 ~~commissioners~~ AFTER THE DRAIN COMMISSIONER, FOR A COUNTY DRAIN,
13 OR DRAINAGE BOARD, FOR AN INTERCOUNTY DRAIN, ACQUIRES
14 RIGHTS-OF-WAY OR EASEMENTS, the commissioner OR DRAINAGE BOARD
15 shall make ~~his~~ THE final order of determination establishing
16 the drain. ~~, which~~ THE drain ~~shall~~ PROJECT MAY be divided
17 ~~into convenient sections for the letting of contracts:~~
18 ~~Provided, That the commissioner may let the drain in sections or~~
19 ~~as a whole. Said~~ FOR THE PURPOSE OF LETTING CONTRACTS. THE
20 order of determination shall be filed with the county drain com-
21 missioner ~~within 5~~ NOT MORE THAN 7 days after ~~such~~ THE order
22 is made. ~~He shall, before~~

23 (2) THE DRAIN COMMISSIONER, FOR A COUNTY DRAIN, OR DRAINAGE
24 BOARD, FOR AN INTERCOUNTY DRAIN, MAY AMEND A FINAL ORDER OF
25 DETERMINATION BY CHANGING THE NAME OR NUMBER OF THE DRAIN OR THE
26 BOUNDARIES OF THE DISTRICT IF THERE IS FILED WITH THE DRAIN
27 COMMISSIONER OR DRAINAGE BOARD A PETITION SIGNED BY NOT LESS THAN

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1 5 LANDOWNERS WHOSE LAND IS TRAVERSED BY THE DRAIN, STATING THE
2 THEN PRESENT NAME OR NUMBER OF THE DRAIN AND THE CHANGE OR
3 CHANGES TO BE MADE IN THE NAME OR NUMBER OF THE DRAIN OR THE
4 BOUNDARIES OF THE DISTRICT. A PETITION TO CHANGE THE BOUNDARIES
5 OF THE DRAINAGE DISTRICT SHALL BE ACCOMPANIED BY A CERTIFICATION
6 FROM AN ENGINEER OR SURVEYOR. IF IN THE DRAIN COMMISSIONER'S OR
7 DRAINAGE BOARD'S OPINION IT IS TO THE BEST INTEREST OF ALL CON-
8 CERNED THAT THE NAME OR NUMBER OF THE DRAIN OR THE LANDS BE
9 CHANGED, THE DRAIN COMMISSIONER OR DRAINAGE BOARD SHALL MAKE AN
10 ORDER AMENDING THE NAME, NUMBER, OR DISTRICT BOUNDARIES, AND
11 THEREAFTER THE DRAINAGE DISTRICT SHALL BE KNOWN BY THE NAME OR
12 NUMBER AND THE BOUNDARY SHALL BE AS SET FORTH IN THE AMENDED
13 ORDER. IF SUCH AN ORDER IS MADE, THE DRAIN COMMISSIONER OR
14 DRAINAGE BOARD SHALL PROVIDE NOTICE OF SUCH A CHANGE IN THE
15 MANNER PROVIDED IN SECTION 8 TO THE DRAINAGE DISTRICT AND CONVENE
16 A DAY OF REVIEW OF APPORTIONMENTS.

17 (3) BEFORE the day of ~~letting and~~ review OF
18 APPORTIONMENTS, THE DRAIN COMMISSIONER OR DRAINAGE BOARD SHALL
19 fix the number of installments for the collection of drainage
20 ~~taxes~~ ASSESSMENTS and apportion the ~~per cent~~ PERCENT of the
21 cost of construction of ~~such drain which any township, city or~~
22 ~~village traversed or benefited thereby shall be~~ THE DRAIN THAT
23 ANY CITY, VILLAGE, OR TOWNSHIP IS liable to pay by reason of the
24 benefit to the public health, ~~convenience~~ SAFETY, or welfare,
25 or ~~as the means of improving any highway under the control of~~
26 ~~such township, city or village. He shall apportion the per cent~~
27 ~~of the cost of construction of such drain which any highway then~~

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1 ~~under the control of the county or district road commissioners,~~
2 ~~shall be liable to pay by reason of benefits therefor, and as the~~
3 ~~means of improving such highway. He shall also apportion the per~~
4 ~~cent of the cost of construction of such drain which any state~~
5 ~~trunk line highway, under the control of the state highway com-~~
6 ~~missioner, shall be liable to pay by reason of benefits therefor~~
7 ~~and as the means of improving said highway. He~~ THAT ANY MUNICI-
8 PALITY OR THE STATE TRANSPORTATION DEPARTMENT IS LIABLE TO PAY BY
9 REASON OF BENEFITS TO OR CONTRIBUTIONS FROM A ROADWAY.

10 (4) FOR A COUNTY DRAIN, THE DRAIN COMMISSIONER shall also
11 apportion the ~~per cent~~ PERCENT of benefits to accrue to any
12 piece or parcel of land INCLUDING LANDS OWNED BY ANY PUBLIC
13 CORPORATION by reason of the construction, MAINTENANCE, OR
14 IMPROVEMENT of ~~such~~ THE drain over and above the ~~per cent~~
15 PERCENT apportioned to any ~~township, city or village at large~~
16 PUBLIC CORPORATION or to any ~~highway~~ ROADWAY as above
17 provided. ~~Such per cent~~ FOR AN INTERCOUNTY DRAIN, THE DRAIN
18 COMMISSIONER FOR EACH COUNTY IN WHICH LANDS SUBJECT TO ASSESSMENT
19 FOR THE DRAIN ARE LOCATED SHALL SO APPORTION THE PERCENT OF BENE-
20 FITS TO ACCRUE TO THOSE LANDS. THE PERCENT so apportioned when
21 finally approved shall be assessed ~~against such townships,~~
22 ~~cities and villages and against the county at large by reason of~~
23 ~~the improvement of the highways within the drainage district, and~~
24 ~~against the state by reason of the improvement of the state trunk~~
25 ~~line highways within such drainage district, and against all par-~~
26 ~~cels of land therein~~ according to ~~such~~ THE apportionment of
27 benefits. ~~as herein provided.~~ The apportionment of benefits ~~so~~

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1 ~~made shall be~~ AND ADDITION OF LANDS TO THE DRAINAGE DISTRICT ARE
2 subject to review and correction and may be appealed from as
3 PROVIDED in this act. ~~provided.~~ The board of ~~supervisors~~
4 COMMISSIONERS at its October meeting each year shall make provi-
5 sion by proper assessment of the amounts apportioned against any
6 ~~highway under the control of the county and district highway~~
7 ~~commissioners~~ COUNTY ROAD.

8 Sec. 152. (1) ~~All apportionments of benefits under the~~
9 ~~provisions of this act shall be upon the principle of~~ EACH
10 APPORTIONMENT SHALL BE BASED UPON benefits derived [AS SPECIFICALLY
DESCRIBED IN A WRITTEN DOCUMENT THAT SHALL BE AVAILABLE FOR
INSPECTION ON THE DAY OF REVIEW]. ~~All~~

11 ~~descriptions~~

12 (2) IF THE ACT OR OMISSION OF A PERSON INCREASES OR REDUCES
13 THE NEED FOR MAINTENANCE OR IMPROVEMENT OF THE DRAIN, THE DRAIN
14 COMMISSIONER MAY CONSIDER THE ACT OR OMISSION IN MAKING THE
15 APPORTIONMENT.

16 (3) A DESCRIPTION of land under ~~the provisions of~~ this act
17 shall be made by giving the legal subdivision thereof, whenever
18 practicable, and when the tract of land which is to be benefited
19 or affected by ~~such~~ A drain is less than ~~such~~ A legal
20 subdivision, it may be described by designation of the lot or A
21 PART OF A LOT OR other boundaries, or in some way. ~~by which it~~
22 ~~may be known.~~ IF THE DRAIN COMMISSIONER RETAINS IN HIS OR HER
23 OFFICE A DETAILED DESCRIPTION, MAP, OR OTHER SPECIFICATION THAT
24 DESIGNATES A PARCEL OR PORTION OF A PARCEL TO BE BENEFITED BY THE
25 DRAIN, THE COMMISSIONER, INSTEAD OF PROVIDING A SPECIFIC DESCRIP-
26 TION OF THE PARCEL, MAY DESIGNATE THE PARCEL BY USE OF THE
27 PARCEL'S TAX PARCEL IDENTIFICATION NUMBER.

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1 (4) THE APPORTIONMENT OF BENEFITS FOR STATE TRUNKLINE
2 HIGHWAYS [, AND THE PORTION PAID BY COUNTY ROAD COMMISSIONS, THE
3 COUNTY EXECUTIVE, OR OTHER AGENCY ACTING AS THE COUNTY ROAD
4 COMMISSION FOR BENEFIT TO COUNTY ROADS] MUST BE PAID PURSUANT TO
5 SECTION 14A OF 1951 PA 51, MCL

6 247.664A.

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

17 Sec. 154. (1) ~~The commissioner~~ A COMMISSIONER RESPONSIBLE
18 FOR APPORTIONMENT OF BENEFITS FOR A COUNTY OR INTERCOUNTY DRAIN
19 shall give notice UNDER SECTION 8 OF A TIME AND PLACE FOR THE
20 MEETING FOR THE REVIEW OF THE APPORTIONMENTS MADE BY THAT
21 COMMISSIONER. THE MEETING SHALL BE HELD NOT LESS THAN 7 OR MORE
22 THAN 28 DAYS AFTER THE DATE SET for ~~the~~ receiving ~~of~~ bids for
23 ~~the~~ construction of the drain. ~~and for the holding of a public~~
24 ~~meeting. At the meeting a review shall be made of the apportion-~~
25 ~~ment of benefits. The notice shall specify the time and place of~~
26 ~~receiving bids, and the time and place of the meeting for review~~
27 ~~of apportionment. The meeting shall be not less than 5 nor more~~
28 ~~than 30 days after the date set for receiving bids. The notice~~
29 ~~shall be given by publication of at least 2 insertions in a~~
30 ~~newspaper published and of general circulation in the county.~~

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1 ~~The first publication shall be at least 10 days before the date~~
2 ~~set for receiving bids. The drain commissioner shall send notice~~
3 ~~by first class mail of the time, date, and place of the meeting,~~
4 ~~at least 10 days before the date of the meeting, to each person~~
5 ~~whose name appears upon the last city or township tax assessment~~
6 ~~roll as owning land within the special assessment district, at~~
7 ~~the address shown on the roll. If an address does not appear on~~
8 ~~the roll, then notice need not be mailed to the person. The~~
9 ~~drain commissioner shall make an affidavit of the mailing and~~
10 ~~shall recite in the affidavit that the persons to whom the notice~~
11 ~~was mailed, constitute all of the persons whose names and~~
12 ~~addresses appear upon the tax rolls as owning land within the~~
13 ~~particular special assessment district. The affidavit shall be~~
14 ~~conclusive proof that notice was mailed to each person to whom~~
15 ~~notice is required to be mailed. If notice has been sent by~~
16 ~~first class mail as provided in this section, the failure to~~
17 ~~receive notice by mail shall not constitute a jurisdictional~~
18 ~~defect invalidating a drain proceeding or tax. If the board of~~
19 ~~determination determines that the drain is necessary for the pro-~~
20 ~~tection of the public health, SAFETY, OR WELFARE and that the~~
21 ~~whole cost of the drain, except that part which may be appor-~~
22 ~~tioned TO ROADWAY AUTHORITIES for benefits to highways, shall be~~
23 ~~apportioned to ~~municipalities~~ PUBLIC CORPORATIONS, then mailing~~
24 ~~of individual notices to persons owning land within the special~~
25 ~~assessment district as provided in this section ~~shall not be~~ IS~~
26 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~~ A DAY OF
25 REVIEW SHALL BE HELD FOR ALL PROJECTS UNDERTAKEN AS A RESULT OF A
26 PETITION AND AN ORDER OF NECESSITY OR AS A RESULT OF AN ORDER OF
27 DETERMINATION UNDER SECTION 423. BEFORE THE review of the

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1 apportionment, ~~and~~ the DRAIN COMMISSIONER, FOR A COUNTY DRAIN,
2 OR DRAINAGE BOARD, FOR AN INTERCOUNTY DRAIN, SHALL PREPARE A COM-
3 PUTATION OF THE TOTAL COST OF THE DRAIN PROJECT INCLUDING THE
4 ITEMS LISTED IN SECTION 261. THE computation shall be open to
5 inspection. If the computation is not completed before the day
6 of review, the review may be adjourned from time to time, not
7 more than ~~20~~ 21 days in all, for the completion of the computa-
8 tion, or a new hearing may be called with similar notice, by pub-
9 lication and service at least ~~10~~ 14 days before the hearing.
10 If the contracts on which the computation was based are not exe-
11 cuted and new contracts ~~shall~~ WILL be let at a higher price, a
12 corrected computation shall be made and a new review held with a
13 similar notice. At the time and place fixed in the notice, or at
14 another time and place to which the county drain commissioner may
15 adjourn the hearing, the apportionment of benefits and the lands
16 comprised within the special assessment district shall be subject
17 to review for at least 1 day. The review shall be held open from
18 9 a.m. until 5 p.m. On the DAY OF review, the county clerk or
19 the county road commission may appear on behalf of the county or
20 a road district; the supervisor ~~or commissioner of highways~~ of
21 a township may appear on behalf of a township; the mayor or an
22 officer of the city designated by the mayor may appear for a
23 city; the president may appear on behalf of a village; AND A DES-
24 IGNATED OFFICIAL MAY APPEAR ON BEHALF OF ANY OTHER PUBLIC
25 CORPORATION. At the review, the county drain commissioner shall
26 hear the proofs and allegations and shall carefully reconsider
27 and review the description of land comprised within the special

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1 assessment district, the several descriptions and apportionment
2 of benefits, and define and equalize the land as is just and
3 equitable.

4 (3) ~~(4) when~~ IF an apportionment of benefits is made
5 against a state trunk line highway, unless the ~~state highway~~
6 director OF TRANSPORTATION consents in writing to the apporportion-
7 ment, the drain commissioner, at least ~~20~~ 21 days before the
8 ~~review on the trunk line~~ DAY OF REVIEW, shall notify THE DIREC-
9 TOR OF TRANSPORTATION by ~~registered~~ CERTIFIED mail ~~the state~~
10 ~~highway director~~ of the percentage apportioned against the STATE
11 TRUNK LINE highway and the date, time, and place fixed for a
12 review of apportionment of benefits. If the ~~state highway~~
13 director OF TRANSPORTATION desires to have the apportionment of
14 benefits reviewed by the director of ~~the department of~~ agricul-
15 ture, the ~~state highway~~ director ~~, within 10~~ OF TRANSPORTA-
16 TION, THEN, NOT MORE THAN 14 days ~~from~~ AFTER the receipt of the
17 notice, THE DIRECTOR OF TRANSPORTATION shall file with the drain
18 commissioner an objection to the apportionment. The drain com-
19 missioner shall notify the director ~~of the department~~ of agri-
20 culture of the date, time, and place fixed for the review of
21 apportionments. ~~, and at~~ AT the meeting, the director of ~~the~~
22 ~~department of~~ agriculture ~~, or a deputy of the director,~~ shall
23 review the apportionment made against the state trunk line high-
24 way, listen to the proofs and allegations of the parties, and may
25 view the STATE TRUNK LINE highway benefited. The action and
26 decision on the apportionment SHALL BE reduced to writing ~~shall~~
27 ~~be~~ IS final.

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1 (4) THE DIRECTOR OF TRANSPORTATION SHALL NOTIFY THE DRAIN
2 COMMISSIONER IN WRITING WHETHER THE WILL PAY ANY ASSESSMENT
3 AGAINST STATE TRUNK LINE HIGHWAYS IN A SINGLE PAYMENT OR IN
4 INSTALLMENTS. IF THE DIRECTOR OF TRANSPORTATION DOES NOT SPECIFY
5 BEFORE THE ADVERTISEMENT OF THE SALE OF BONDS OR NOTES WHETHER
6 THE DEPARTMENT WILL PAY THE ASSESSMENT IN FULL OR IN INSTALL-
7 MENTS, THE DEPARTMENT IS LIABLE FOR THE INTEREST CHARGES INCURRED
8 AS A RESULT OF THE SALE OF BONDS OR NOTES.

9 (5) ASSESSMENTS RELATED TO DRAINAGE OF STATE TRUNK LINE
10 HIGHWAYS SHALL BE PAID FROM FUNDS APPROPRIATED TO THE STATE
11 TRANSPORTATION DEPARTMENT.

12 Sec. 155. The owner of any land in the drainage district or
13 any ~~city, township, village, district or county having control~~
14 ~~of any highway which may feel~~ PUBLIC CORPORATION THAT IS
15 aggrieved by the apportionment of benefits ~~so~~ OR ADDITION OF
16 LANDS TO THE DRAINAGE DISTRICT made by the commissioner, ~~may,~~
17 ~~within 10~~ NOT MORE THAN 14 days after the day of review of ~~such~~
18 ~~apportionments, appeal therefrom and for such purpose make an~~
19 ~~application to the probate court of the proper county for the~~
20 ~~appointment of a board of review,~~ THE APPORTIONMENT, MAY APPEAL
21 THE APPORTIONMENT by filing with ~~said probate court~~ THE CIRCUIT
22 COURT FOR THE COUNTY WHERE THE LAND OR PUBLIC CORPORATION IS
23 LOCATED a notice of appeal REQUESTING THE APPOINTMENT OF A BOARD
24 OF REVIEW and ~~at the same time filing with said court~~ a bond.
25 THE BOND SHALL BE in such sum as the CIRCUIT judge ~~of probate~~
26 may require, with 1 or more sureties to be approved by the
27 CIRCUIT judge, ~~of probate,~~ conditioned upon the payment of all

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1 costs ~~in case~~ OF THE APPEAL, INCLUDING ENGINEERING EXPENSES,
2 ATTORNEY FEES, AND WITNESS FEES, ALLOWED UNDER THE MICHIGAN COURT
3 RULES, IF the apportionment OR AMENDMENT TO THE DRAINAGE DISTRICT
4 made by the commissioner ~~shall be~~ IS sustained. ~~Such~~ THE
5 appeal may be taken by the CHAIRPERSON OF THE county ~~or district~~
6 ~~road~~ BOARD OF commissioners in behalf of the county, THE CHAIR-
7 PERSON OF THE COUNTY BOARD OF ROAD COMMISSIONERS IN BEHALF OF THE
8 ROAD COMMISSION, the mayor of any city in behalf of the city,
9 ~~by~~ the supervisor in behalf of ~~any~~ A township, or ~~by~~ the
10 president of ~~any~~ A village in behalf of the village when autho-
11 rized by the COUNTY BOARD OF COMMISSIONERS, THE BOARD OF COUNTY
12 ROAD COMMISSIONERS, THE village or city council, OR THE township
13 board, ~~or road commission,~~ respectively. Only 1 board shall be
14 appointed by ~~such probate~~ THE court.

15 Sec. 156. (1) ~~The probate court upon~~ UPON THE CIRCUIT
16 COURT'S receipt of ~~any such application as hereinbefore provided~~
17 ~~for shall forthwith~~ A NOTICE OF APPEAL UNDER SECTION 155, THE
18 CHIEF OR ONLY JUDGE OF THE CIRCUIT COURT SHALL IMMEDIATELY notify
19 the commissioner in writing of ~~such~~ THE appeal, and shall
20 ~~thereupon~~ THEN make an order appointing 3 disinterested and
21 competent ~~freeholders~~ LANDOWNERS of ~~such~~ THE county, not res-
22 idents of the township or townships affected by said drain, as
23 members of a board of review. ~~The persons so appointed shall~~
24 ~~constitute the board of review.~~ The IMMEDIATELY AFTER MAKING
25 THE APPOINTMENTS, THE court shall, ~~thereupon,~~ with the concur-
26 rence of the commissioner, ~~immediately~~ fix the time and place
27 ~~when and where said~~ FOR A MEETING OF THE board of review ~~shall~~

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1 ~~meet~~ to review ~~said~~ THE apportionments. ~~, which time shall~~
2 ~~not be~~ THE MEETING SHALL BE HELD NOT less than ~~10 nor~~ 14 OR
3 more than ~~15~~ 21 days ~~from~~ AFTER the date of filing ~~such~~ THE
4 NOTICE OF appeal. The ~~commissioner~~ COURT shall ~~thereupon give~~
5 ~~notice to~~ THEN NOTIFY the persons so appointed of their appoint-
6 ment and of the time and place of meeting. ~~, and shall give~~
7 ~~notice of such meeting by posting notices in at least 5 public~~
8 ~~places in each township forming a part of the drainage district,~~
9 ~~and shall serve a like notice upon the appellant if he be a resi-~~
10 ~~dent of any township affected. Such notice shall be made not~~
11 ~~less than 5 days before the day of hearing and shall be made by~~
12 ~~personal service.~~ CONSISTENT WITH SECTION 8, THE COURT SHALL
13 ALSO NOTIFY EACH LANDOWNER AND PUBLIC CORPORATION LIABLE FOR AN
14 ASSESSMENT. Proof of service of ~~notice of appeal~~ THE NOTICES
15 UNDER THIS SUBSECTION shall be made by the person serving ~~said~~
16 ~~notice~~ THE NOTICES and be filed in the office of the ~~judge of~~
17 ~~probate~~ CLERK OF THE CIRCUIT COURT. ~~At such hearing the board~~
18 ~~of review shall have the right, and it shall be their duty, to~~
19 ~~review all apportionments for benefits made by the commissioner~~
20 ~~on such drain. The persons so appointed~~

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

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

26 Sec. 157. (1) The board of review shall ~~proceed~~ at the
27 time, date, and place specified in the notice ~~to~~ hear the

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1 proofs and allegations of the parties in respect to an appeal,
2 ~~shall~~ proceed to view the lands benefited by the drain OR
3 PROJECT, and ~~shall~~ review ALL OF the apportionments made by the
4 commissioner on the drain OR PROJECT. If in ~~their~~ THE judgment
5 OF THE BOARD OF REVIEW there is a manifest error or inequality in
6 the apportionments OR AMENDMENTS TO THE DRAINAGE DISTRICT, ~~they~~
7 THE BOARD OF REVIEW shall order and make the changes in the
8 apportionment as ~~they~~ THE BOARD OF REVIEW may consider just and
9 equitable. If the board of review upon personal examination
10 finds that a land liable to be assessed for the construction of
11 the drain OR PROJECT is not included in the drainage district
12 made by the commissioner, ~~they~~ THE BOARD OF REVIEW shall ~~add~~
13 ~~the land to the drainage district of the drain and shall adjourn~~
14 ~~the review to another time or place as they consider proper, but~~
15 ~~not in all more than 20 days from and after the time of review~~
16 ~~first advertised. The notice of the adjournment shall contain a~~
17 ~~description of lands added to the drainage district. The notice~~
18 ~~shall be given at least 10 days before the adjourned day of~~
19 ~~review. Should the owners of land liable to an assessment be~~
20 ~~nonresidents of the county, personal notice shall be served on~~
21 ~~the owners, or a notice shall be published in a weekly newspaper~~
22 ~~published in the county, of at least 2 insertions, giving the~~
23 ~~description of the land added to the assessment district and~~
24 ~~giving the time, date, and place where the board shall meet. The~~
25 ~~action and decision of the board shall be final. PREPARE A PRO-~~
26 ~~POSED DECISION MAKING THE CHANGES IN THE APPORTIONMENT THAT THE~~
27 ~~BOARD OF REVIEW CONSIDERS JUST AND EQUITABLE AND SHALL ADJOURN~~

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1 THE REVIEW FOR NOT MORE THAN 21 DAYS FROM THE DATE OF THE MEETING
2 SPECIFIED IN THE FIRST NOTICE. THE BOARD OF REVIEW SHALL GIVE
3 NOTICE OF THE ADJOURNMENT IN THE MANNER PROVIDED IN SECTION 8(2)
4 AND (3), AND BY POSTING NOTICE IN THE OFFICE OF THE DRAIN COMMIS-
5 SIONER BY THE DATE BY WHICH MAILING OF THE NOTICE IS REQUIRED
6 UNDER SECTION 8(2). HOWEVER, THE BOARD OF REVIEW NEED ONLY PRO-
7 VIDE NOTICE TO PERSONS THAT THE BOARD OF REVIEW BELIEVES MAY BE
8 AFFECTED BY ITS FINAL DECISION.

9 (2) UPON RECONVENING, THE BOARD OF REVIEW SHALL HEAR ANY
10 FURTHER PROOFS AND ALLEGATIONS RELEVANT TO THE PROPOSED DECISION
11 OF THE BOARD OF REVIEW. THE BOARD OF REVIEW MAY VIEW LANDS AND
12 SHALL REVIEW APPORTIONMENTS THAT ARE THE SUBJECT OF THE FURTHER
13 PROOFS AND ALLEGATIONS.

14 (3) THE BOARD SHALL MAKE ITS FINAL DECISION, WHICH SHALL NOT
15 AFFECT ANY PERSON TO WHOM NOTICE WAS NOT PROVIDED UNDER SUBSEC-
16 TION (1). The ~~action and~~ decision OF THE BOARD OF REVIEW shall
17 be ~~reduced to~~ IN writing and signed by ~~a majority of~~ the
18 board ~~making~~ MEMBERS AGREEING WITH the decision, and shall be
19 delivered to the commissioner WITHIN 14 DAYS OF THE CLOSE OF THE
20 MEETING together with other ~~papers~~ RECORDS relating to the
21 decision.

22 (4) IF THE BOARD OF REVIEW MAKES CHANGES IN THE APPORTION-
23 MENT, THE CHANGES SHALL BE MADE BY THE COMMISSIONER WITHOUT
24 NECESSITY FOR A NEW DAY OF REVIEW OR NOTICE TO THE DISTRICT OF
25 THE CHANGES MADE BY THE BOARD OF REVIEW AND PERSONS AGGRIEVED BY
26 THE CHANGES MADE BY THE BOARD OF REVIEW ARE NOT ENTITLED TO
27 ADDITIONAL JUDICIAL REVIEW.

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1 Sec. 158. (1) ~~In case the apportionment of the~~
2 ~~commissioner shall be sustained by such board of review the~~
3 ~~appellant shall pay the whole costs and expenses of such appeal.~~
4 ~~Such~~ FOLLOWING THE DETERMINATION BY THE BOARD OF REVIEW, THE
5 CIRCUIT COURT MAY AWARD COSTS, INCLUDING ENGINEERING EXPENSES,
6 ATTORNEY FEES, AND WITNESS FEES, ALLOWED UNDER THE MICHIGAN COURT
7 RULES. IF COSTS ARE AWARDED TO THE DRAINAGE DISTRICT AND THERE
8 ARE MULTIPLE APPELLANTS, THE CIRCUIT COURT SHALL AWARD FROM EACH
9 APPELLANT A PRO RATA SHARE OF THE COSTS BASED ON THE NUMBER OF
10 APPELLANTS. THE costs and expenses shall be ascertained and
11 determined by the CIRCUIT judge. ~~of probate, and if not paid the~~
12 ~~appellant shall be liable on his bond for the full amount of such~~
13 ~~costs in an action at law, to be brought by the commissioner on~~
14 ~~the bond before any court having competent jurisdiction.~~

15 (2) IF THE BOND OF AN APPELLANT IS NOT SUFFICIENT TO COVER
16 THE COMPENSATION, MILEAGE, AND EXPENSES FOR WHICH THE APPELLANT
17 IS LIABLE, THE DRAIN COMMISSIONER MAY RECOVER THE EXCESS AMOUNT
18 BY ANY MEANS AUTHORIZED BY LAW.

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

22 Sec. 161. (1) The proceedings ~~in establishing any drain~~
23 ~~and levying taxes therefor shall be~~ TO ESTABLISH A DRAIN AND
24 LEVY ASSESSMENTS ARE subject to review on ~~certiorari as herein~~
25 ~~provided~~ SUPERINTENDING CONTROL. A COMPLAINT SEEKING A writ of
26 ~~certiorari~~ SUPERINTENDING CONTROL for any error IN PROCEEDINGS
27 occurring before or in the final order of determination shall be

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1 ~~issued within 10~~ FILED NOT MORE THAN 14 days after a copy of
2 ~~such~~ THE final order is filed in the office of the drain com-
3 missioner as required by section 151, ~~of this act,~~ and for any
4 error IN PROCEEDINGS occurring after ~~such~~ THE final order of
5 determination, ~~within 10~~ NOT MORE THAN 14 days after the day of
6 review, or if an appeal has been taken, ~~within 10~~ NOT MORE THAN
7 14 days after the filing of the report of the board of review.

8 ~~Notice of such certiorari shall be~~

9 (2) THE COURT SHALL NOT HEAR THE ACTION UNLESS A COPY OF THE
10 COMPLAINT FOR SUPERINTENDING CONTROL WAS served upon the commis-
11 sioner ~~within 10~~ NOT MORE THAN 14 days after the day ~~of issue~~
12 ~~in the same manner as notice is required to be given of certio-~~
13 ~~rari for reviewing judgments rendered by justices of the peace~~
14 ~~and the writ shall be issued and served, and bond given and~~
15 ~~approved and the subject matter brought to issue in the same time~~
16 ~~and manner, as near as may be, as in such cases provided, except~~
17 ~~that such certiorari may be heard by the court during term, or at~~
18 ~~chambers, upon 5~~ THE COMPLAINT WAS FILED AND 7 days' notice OF
19 THE HEARING IS given to the opposite party. ~~and the circuit~~
20 ~~court of the county~~ THE COURT shall hear and determine the
21 ~~same~~ ACTION without unnecessary delay, and if any material
22 defect ~~be~~ IS found in the proceedings for establishing the
23 drain ~~, such~~ AND LEVYING ASSESSMENTS, SHALL SET ASIDE THE
24 proceedings. ~~shall be set aside.~~ If issues of fact are raised
25 by the ~~petition for such~~ writ ~~and the return thereto, such~~
26 COMPLAINT OR ANSWER, THE issues shall, on application of either

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1 party, be framed and testimony thereon taken under the direction
2 of the court.

3 (3) If the proceedings ~~be~~ FOR ESTABLISHING THE DRAIN AND
4 LEVYING ASSESSMENTS ARE sustained, the party ~~bringing the cer-~~
5 ~~tiorari shall be~~ SEEKING SUPERINTENDING CONTROL IS liable for
6 the costs ~~thereof, and if they be~~ OF THE SUPERINTENDING CONTROL
7 PROCEEDINGS. IF THE PROCEEDINGS FOR ESTABLISHING THE DRAIN AND
8 LEVYING ASSESSMENTS ARE not sustained, the parties making appli-
9 cation for the drain ~~shall be~~ ARE liable for the costs OF THE
10 SUPERINTENDING CONTROL PROCEEDINGS. If ~~no certiorari be~~
11 ~~brought~~ A COMPLAINT FOR SUPERINTENDING CONTROL IS NOT FILED
12 within the time ~~herein~~ prescribed, the drain shall be ~~deemed~~
13 CONSIDERED to have been legally established, and the ~~taxes~~
14 ~~therefor~~ DRAIN ASSESSMENTS legally levied, and the legality of
15 ~~said~~ THE drain and the ~~taxes therefor~~ ASSESSMENTS shall not
16 thereafter be questioned in ~~any suit at law or equity:~~
17 ~~Provided, No court shall allow any certiorari questioning the~~
18 ~~legality of any drain by any person unless notice has been given~~
19 ~~to the commissioner in accordance with the provisions of this~~
20 ~~chapter: Provided further, That when such proceedings are~~
21 ~~brought~~ COURT. IF A COMPLAINT FOR SUPERINTENDING CONTROL IS
22 FILED, the commissioner shall postpone the letting of contracts
23 and all other proceedings until after the determination of the
24 court. ~~And if any error be found in the proceedings~~ IF THE
25 COURT FINDS AN ERROR IN THE PROCEEDINGS TO ESTABLISH THE DRAIN
26 AND LEVY ASSESSMENTS, the court shall direct the commissioner to

1 correct ~~such~~ THE error ~~or errors~~ and then proceed ~~the same~~
2 as though no error had been made.

3 CHAPTER 8 ~~—~~

4 ~~CLEANING, WIDENING, DEEPENING, STRAIGHTENING AND EXTENDING~~
5 ~~DRAINS.—~~ MAINTAINING, IMPROVING, AND CONSOLIDATING DRAINS

6 Sec. 191. (1) ~~When a drain or portion thereof, which~~
7 ~~traverses lands wholly in 1 county, and lands only in 1 county~~
8 ~~which is subject to assessment, needs cleaning out, relocating,~~
9 ~~widening, deepening, straightening, tiling, extending, or relo-~~
10 ~~cating along a highway, or requires structures or mechanical~~
11 ~~devices that will properly purify or improve the flow of the~~
12 ~~drain or pumping equipment necessary to assist or relieve the~~
13 ~~flow of the drain, or needs supplementing by the construction of~~
14 ~~1 or more relief drains which may consist of new drains or exten-~~
15 ~~sions, enlargements, or connections to existing drains, or needs~~
16 ~~1 or more branches added thereto, any 5 or at least 50% of the~~
17 ~~freeholders if there are less than 5 freeholders whose lands~~
18 ~~shall be liable to an assessment for benefits of such work, may~~
19 ~~make petition in writing to the commissioner setting forth the~~
20 ~~necessity of the proposed work and the commissioner shall proceed~~
21 ~~in the same manner provided for the location, establishment, and~~
22 ~~construction of a drain. If the project includes a tiled relief~~
23 ~~drain, or the tiling of an existing open drain or any portion~~
24 ~~thereof, with a conduit a part of which has an inside diameter in~~
25 ~~excess of 36 inches or the retiling of an existing drain with a~~
26 ~~conduit, a part of which has an inside diameter in excess of 36~~
27 ~~inches, then the petition shall comply with section 71. The~~

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1 ~~preceding sentence shall not be applicable to the construction of~~
2 ~~bridges, culverts, and passageways. The word tiling as used in~~
3 ~~this and other sections of this act, means the laying of a con-~~
4 ~~duit composed of tile, brick, concrete, or other material. When~~
5 ~~it is necessary for the public health of 1 or more cities, vil-~~
6 ~~lages, and townships, the petition may be signed solely by a~~
7 ~~city, village, or township when authorized by its governing body~~
8 ~~or by a combination of the municipalities, if the municipality or~~
9 ~~municipalities are liable to assessments at large for a percen-~~
10 ~~tage of the total amount assessed for the cost of the proposed~~
11 ~~work. After the board of determination determines the necessity~~
12 ~~for the work, as provided in section 72, the commissioner shall,~~
13 ~~as soon as practicable after the final order of determination~~
14 ~~prescribed in section 151 has been filed by him, proceed as pro-~~
15 ~~vided in sections 151 to 161. If the apportionment is the same~~
16 ~~as the last recorded apportionments, no day of review is neces-~~
17 ~~sary, but in other cases the commissioner shall proceed as pro-~~
18 ~~vided in sections 151 to 161, including the notice of and the~~
19 ~~holding of a day of review. FOR A COUNTY DRAIN, 1 OR MORE OF THE~~
20 ~~FOLLOWING MAY BE DONE, BY PETITION FILED PURSUANT TO THIS~~
21 ~~SECTION:~~

22 (A) THE DRAIN OR PORTION OF THE DRAIN MAY BE MAINTAINED.

23 (B) THE DRAIN OR PORTION OF THE DRAIN MAY BE IMPROVED

24 SUBJECT TO ANY PERMIT REQUIRED UNDER THE NATURAL RESOURCES AND
25 ENVIRONMENTAL PROTECTION ACT, 1994 PA 451, MCL 324.101 TO
26 324.90106.

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1 (C) MEASURES MAY BE UNDERTAKEN THAT ARE INTENDED BOTH TO
2 ENHANCE OR IMPROVE NATURAL RESOURCE VALUES OF THE DRAIN AND TO
3 PROVIDE BENEFIT TO THE DESIGNED FUNCTION, LONGEVITY, OR HYDRAULIC
4 CAPACITY OF THE DRAIN.

5 (D) CONSISTENT WITH PART 315 OF THE NATURAL RESOURCES AND
6 ENVIRONMENTAL PROTECTION ACT, 1994 PA 451, MCL 324.31501 TO
7 324.31529, A DAM OR STRUCTURE IN OR ADJACENT TO THE DRAIN MAY BE
8 CONSTRUCTED, OPERATED, AND MAINTAINED TO CONTROL THE RATE OF FLOW
9 THROUGH OR INTO THE DRAIN, OR THE LEVEL OF WATER, OR THE AMOUNT
10 OF SEEPAGE, OR TO PROVIDE FOR REMOVAL OF DRAINAGE BY PUMPING AND
11 OTHER MECHANICAL OPERATIONS. A PETITION FOR SUCH A DAM OR STRUC-
12 TURE SHALL STATE THAT THE IMPROVEMENT IS NECESSARY TO DRAIN, PRO-
13 TECT, OR IRRIGATE LAND. THE PETITION MAY STATE THE DESIRED LOCA-
14 TION OF THE DAM OR STRUCTURE, THE PROPOSED METHOD OF OPERATION
15 AND OUTLET, AND HOW HISTORICAL DRAINAGE IS TO BE MAINTAINED.

16 (E) A DRAINAGE DISTRICT MAY BE CONSOLIDATED WITH ANY ESTAB-
17 LISHED DRAINAGE DISTRICT OR HAVE LANDS ADDED OR DELETED. THE
18 CONSOLIDATION, ADDITION, OR DELETION SHALL OTHERWISE COMPLY WITH
19 SECTION 277A RELATIVE TO DISPOSITION OF FUNDS AND PAYMENT OF OUT-
20 STANDING DEBT.

21 (2) IT IS NOT NECESSARY FOR THE PETITIONERS TO DESCRIBE THE
22 DRAIN OTHER THAN BY ITS NAME OR BY ITS COMMENCEMENT, GENERAL
23 ROUTE, AND TERMINUS. ONLY 1 PETITION AND PROCEEDING IS NECESSARY
24 FOR ANY OF THE MEASURES DESCRIBED IN SUBSECTION (1).

25 (3) THE PETITION SHALL BE FILED WITH THE COUNTY DRAIN
26 COMMISSIONER. THE PETITION SHALL BE SIGNED BY AT LEAST 5
27 LANDOWNERS IN THE DRAINAGE DISTRICT WHOSE LANDS WOULD BE LIABLE

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1 TO ASSESSMENT FOR BENEFITS OR AT LEAST 50% OF THE LANDOWNERS IF
2 THERE ARE LESS THAN 5 LANDOWNERS WHOSE LANDS WOULD BE LIABLE FOR
3 ASSESSMENT OR SHALL BE SIGNED BY LANDOWNERS REPRESENTING 25% OF
4 THE LAND AREA LIABLE FOR ASSESSMENT. THE PETITION SHALL BE
5 ACCOMPANIED BY A DESCRIPTION OR TAX PARCEL CODE OF THE LAND IN
6 THE DISTRICT OWNED BY EACH SIGNER AND BY A CERTIFICATE OF THE
7 COUNTY TREASURER AS TO PAYMENT OF TAXES AND SPECIAL ASSESSMENTS
8 AGAINST THE LANDS IN A FORM AS DESCRIBED IN SECTION 51. THE NAME
9 OF ANY SIGNER AS TO WHOSE LAND THE CERTIFICATE SHOWS TAXES OR
10 ASSESSMENTS UNPAID FOR 3 YEARS SHALL NOT BE COUNTED. THE DRAIN
11 COMMISSIONER SHALL DETERMINE THE ELIGIBILITY OF THE SIGNERS TO
12 THE PETITION BASED ON THEIR STATUS AS LANDOWNERS WHEN THE PETI-
13 TION WAS FILED. INSTEAD OF BEING SIGNED BY LANDOWNERS, A PETI-
14 TION MAY BE SIGNED AS PROVIDED IN SECTION 14 ON BEHALF OF AT
15 LEAST 1 PUBLIC CORPORATION, IF THE DRAIN PROJECT IS NECESSARY FOR
16 THE PUBLIC HEALTH, SAFETY, OR WELFARE IN THE PUBLIC CORPORATION,
17 AND IF THE PUBLIC CORPORATION WILL BE LIABLE FOR AN ASSESSMENT AT
18 LARGE AGAINST IT FOR A PERCENTAGE OF THE COST OF THE PROPOSED
19 DRAIN.

20 (4) FOR PURPOSES OF NOTICE UNDER SECTION 8, THE DRAIN COM-
21 MISSIONER SHALL EVALUATE THE DRAINAGE DISTRICT BOUNDARIES AND
22 IDENTIFY ANY ADDITIONAL LANDOWNERS WHO MAY BE SUBJECT TO ASSESS-
23 MENTS FOR THE DRAIN PROJECT. THE LANDOWNERS OF ANY LANDS BEING
24 PETITIONED FOR CONSOLIDATION, ADDITION, OR DELETION AND THE
25 PUBLIC CORPORATIONS IN WHICH THOSE LANDS ARE LOCATED SHALL BE
26 GIVEN NOTICE UNDER SECTION 8 OF THE PROPOSED CONSOLIDATION,
27 ADDITION, OR DELETION. PROCEEDINGS SHALL OTHERWISE BE CONDUCTED

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1 IN THE SAME MANNER AS PROVIDED IN SECTIONS 52 TO 57. THE
2 DETERMINATIONS OF PRACTICABILITY AND NECESSITY SHALL BE FOR THE
3 ACTIVITIES PETITIONED UNDER THIS SECTION, NOT FOR THE DRAIN OR
4 DRAINAGE DISTRICT IN GENERAL. THE APPORTIONMENT OF BENEFITS IS
5 SUBJECT TO SECTION 201.

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11 Sec. 192. (1) ~~Whenever a drain or portion thereof, which~~
12 ~~traverses lands in more than 1 county, and lands in more than 1~~
13 ~~county shall be subject to assessments, needs cleaning out, relo-~~
14 ~~cating, widening, deepening, straightening, tiling, extending or~~
15 ~~relocating along a highway, or requires structures or mechanical~~
16 ~~devices that will properly purify or improve the flow of the~~
17 ~~drain or pumping equipment necessary to assist or relieve the~~
18 ~~flow of the drain, or needs supplementing by the construction of~~
19 ~~1 or more relief drains which may consist of new drains or exten-~~
20 ~~sions, enlargements or connections to existing drains, or needs 1~~
21 ~~or more branches added thereto, freeholders within the drainage~~
22 ~~district equal to 50% of the number of freeholders whose lands~~
23 ~~are traversed by said drain or drains in said petition or abut on~~
24 ~~any highway or street along either side of which such drain~~
25 ~~extends, between the point where said drain enters such highway~~
26 ~~and the point where it leaves such highway or street and which~~
27 ~~lands are within the drainage district, may make a petition in~~

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1 ~~writing to the commissioner of any county having lands in such~~
2 ~~district setting forth the necessity of such proposed work.~~
3 ~~Whenever it is necessary for the public health of 1 or more~~
4 ~~cities, villages or townships, the petition may be signed solely~~
5 ~~by a city, village or township when duly authorized by its gov-~~
6 ~~erning body or by any combination of such municipalities if the~~
7 ~~municipality or municipalities will be liable to assessments at~~
8 ~~large for a percentage of the total amount to be assessed for the~~
9 ~~cost of the proposed work. The percentage of cost apportioned to~~
10 ~~the municipality or municipalities shall be based upon the bene-~~
11 ~~fits to accrue to such municipality or municipalities and also~~
12 ~~the extent to which they contribute to the conditions which makes~~
13 ~~the drain necessary. Upon receipt of such petition, the commis-~~
14 ~~sioner shall notify the state director of agriculture and the~~
15 ~~commissioners of each county embracing any lands in the drainage~~
16 ~~district, and the director of agriculture shall call a meeting~~
17 ~~within the time and in the manner prescribed in section 122. The~~
18 ~~persons so named shall constitute a drainage board and if such~~
19 ~~work is then determined to be practicable, they may thereupon~~
20 ~~appoint a competent surveyor or engineer to make a survey of said~~
21 ~~drain, and lay out a drainage district according to section 104.~~
22 ~~After the surveyor or engineer has filed all data with the drain-~~
23 ~~age board, the director of agriculture shall call a meeting as~~
24 ~~provided in section 122, and thereafter take all steps and per-~~
25 ~~form all acts which are required to be done by said board upon a~~
26 ~~petition for the location, establishment and construction of~~
27 ~~drains as provided in sections 121 to 135. Such board and the~~

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1 ~~commissioners shall exercise such power and be subject to such~~
2 ~~limitations as are provided in sections 121 to 135.~~ FOR AN
3 INTERCOUNTY DRAIN, 1 OR MORE OF THE FOLLOWING MAY BE DONE, BY
4 PETITION FILED PURSUANT TO THIS SECTION:

5 (A) THE DRAIN OR PORTION OF THE DRAIN MAY BE MAINTAINED.

6 (B) THE DRAIN OR PORTION OF THE DRAIN MAY BE IMPROVED
7 SUBJECT TO ANY PERMIT REQUIRED UNDER THE NATURAL RESOURCES AND
8 ENVIRONMENTAL PROTECTION ACT, 1994 PA 451, MCL 324.101 TO
9 324.90106.

10 (C) MEASURES MAY BE UNDERTAKEN THAT ARE INTENDED BOTH TO
11 ENHANCE OR IMPROVE NATURAL RESOURCE VALUES OF THE DRAIN AND TO
12 PROVIDE BENEFIT TO THE DESIGNED FUNCTION, LONGEVITY, OR HYDRAULIC
13 CAPACITY OF THE DRAIN.

14 (D) CONSISTENT WITH PART 315 OF THE NATURAL RESOURCES AND
15 ENVIRONMENTAL PROTECTION ACT, 1994 PA 451, MCL 324.31501 TO
16 324.31529, A DAM OR STRUCTURE IN OR ADJACENT TO THE DRAIN MAY BE
17 CONSTRUCTED, OPERATED, AND MAINTAINED TO CONTROL THE RATE OF FLOW
18 THROUGH OR INTO THE DRAIN, OR THE LEVEL OF WATER, OR THE AMOUNT
19 OF SEEPAGE, OR TO PROVIDE FOR REMOVAL OF DRAINAGE BY PUMPING AND
20 OTHER MECHANICAL OPERATIONS. A PETITION FOR SUCH A DAM OR STRUC-
21 TURE SHALL STATE THAT THE IMPROVEMENT IS NECESSARY TO DRAIN, PRO-
22 TECT, OR IRRIGATE LAND. THE PETITION MAY STATE THE DESIRED LOCA-
23 TION OF THE DAM OR STRUCTURE, THE PROPOSED METHOD OF OPERATION
24 AND OUTLET, AND HOW HISTORICAL DRAINAGE IS TO BE MAINTAINED.

25 (E) A DRAINAGE DISTRICT MAY BE CONSOLIDATED WITH ANY ESTAB-
26 LISHED DRAINAGE DISTRICT OR HAVE LANDS ADDED OR DELETED. THE
27 CONSOLIDATION, ADDITION, OR DELETION SHALL OTHERWISE COMPLY WITH

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1 SECTION 277A RELATIVE TO DISPOSITION OF FUNDS AND PAYMENT OF
2 OUTSTANDING DEBT. THE LANDOWNERS OF ANY LANDS BEING PETITIONED
3 FOR CONSOLIDATION, ADDITION, OR DELETION AND THE PUBLIC CORPORA-
4 TIONS IN WHICH THOSE LANDS ARE LOCATED SHALL BE GIVEN NOTICE OF
5 THE PROPOSED CONSOLIDATION, ADDITION, OR DELETION.

6 (2) IT IS NOT NECESSARY FOR THE PETITIONERS TO DESCRIBE THE
7 DRAIN OTHER THAN BY ITS NAME OR BY ITS COMMENCEMENT, GENERAL
8 ROUTE, AND TERMINUS. ONLY 1 PETITION AND PROCEEDING IS NECESSARY
9 FOR ANY OF THE MEASURES DESCRIBED IN SUBSECTION (1).

10 (3) THE PETITION SHALL BE SIGNED BY 5 LANDOWNERS IN THE
11 DRAINAGE DISTRICT WHOSE LANDS WOULD BE LIABLE TO ASSESSMENT FOR
12 BENEFITS OR AT LEAST 50% OF THE LANDOWNERS IF THERE ARE LESS THAN
13 5 LANDOWNERS WHOSE LANDS WOULD BE LIABLE FOR ASSESSMENT OR SHALL
14 BE SIGNED BY LANDOWNERS REPRESENTING 25% OF THE LAND AREA LIABLE
15 FOR ASSESSMENT. THE PETITION SHALL BE ACCOMPANIED BY A DESCRIP-
16 TION OR TAX PARCEL CODE OF THE LAND IN THE DISTRICT OWNED BY EACH
17 SIGNER AND BY A CERTIFICATE OF THE COUNTY TREASURER OF THE COUNTY
18 WHERE THAT LAND IS LOCATED AS TO PAYMENT OF TAXES AND SPECIAL
19 ASSESSMENTS AGAINST THE LAND IN A FORM DESCRIBED IN SECTION 101.
20 THE NAME OF ANY SIGNER AS TO WHOSE LAND A CERTIFICATE SHOWS TAXES
21 OR ASSESSMENTS UNPAID FOR 3 YEARS SHALL NOT BE COUNTED. THE
22 DRAIN COMMISSIONER SHALL DETERMINE THE ELIGIBILITY OF THE SIGNERS
23 TO THE PETITION BASED ON THEIR STATUS AS LANDOWNERS WHEN THE
24 PETITION WAS FILED. INSTEAD OF BEING SIGNED BY LANDOWNERS, A
25 PETITION MAY BE SIGNED AS PROVIDED IN SECTION 14 ON BEHALF OF AT
26 LEAST 1 PUBLIC CORPORATION, IF THE DRAIN PROJECT IS NECESSARY FOR
27 THE PUBLIC HEALTH, SAFETY, OR WELFARE IN THE PUBLIC CORPORATION,

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1 AND IF THE PUBLIC CORPORATION WILL BE LIABLE FOR AN ASSESSMENT AT
2 LARGE AGAINST IT FOR A PERCENTAGE OF THE COST OF THE PROPOSED
3 DRAIN.

4 (4) FOR PURPOSES OF NOTICE UNDER SECTION 8, THE DRAINAGE
5 BOARD SHALL EVALUATE THE DRAINAGE DISTRICT BOUNDARIES AND IDEN-
6 TIFY ANY ADDITIONAL LANDOWNERS WHO MAY BE SUBJECT TO ASSESSMENTS
7 FOR THE DRAIN PROJECT. PROCEEDINGS SHALL OTHERWISE BE CONDUCTED
8 IN THE SAME MANNER AS PROVIDED IN SECTIONS 102 TO 113. THE
9 DETERMINATION OF NECESSITY SHALL BE FOR THE ACTIVITIES PETITIONED
10 UNDER THIS SECTION, NOT FOR THE DRAIN OR DRAINAGE DISTRICT IN
11 GENERAL. THE APPORTIONMENT OF BENEFITS IS SUBJECT TO SECTION
12 201. AFTER THE DRAINAGE BOARD DETERMINES THE NECESSITY FOR THE
13 WORK, THE COMMISSIONER SHALL, AS SOON AS PRACTICABLE AFTER THE
14 FINAL ORDER OF DETERMINATION PRESCRIBED IN SECTION 151 IS FILED,
15 PROCEED AS PROVIDED IN SECTIONS 151 TO 161. [
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25 Sec. 199. (1) ~~In case the necessity for cleaning out any~~
26 ~~drain arises from the act or neglect of any land owner, said act~~
27 ~~or neglect shall be taken into consideration by the commissioner~~

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~~1 in making the apportionment. In case the cost of cleaning out
2 shall be lessened by the tiling of the source of the drain under
3 section 425 of this act, the commissioner may take that into con-
4 sideration in making the apportionment of benefits against the
5 land so tiled, but in no case shall said benefits be considered
6 to be less than 50% of the benefits to such land if it were not
7 tiled. Should there be a surplus in any drain fund, the commis-
8 sioner or drainage board, as the case may be, may, in their dis-
9 cretion, without application or notice, pay out of such funds a
10 reasonable compensation for cleaning out any obstruction that may
11 accumulate in the particular drain for which the fund was
12 raised. AN ANNUAL INSPECTION MAY BE MADE OF A DRAIN ESTABLISHED
13 UNDER THIS ACT. INSPECTION SHALL BE MADE ON A DRAIN LAID OUT AND
14 CONSTRUCTED UNDER THIS ACT UPON THE REQUEST OF THE GOVERNING BODY
15 OF A PUBLIC CORPORATION SERVED IN WHOLE OR IN PART BY THE DRAIN
16 TO BE INSPECTED. FOR A DRAIN CONSTRUCTED, IMPROVED, OR RESTORED
17 TO THE LAST ESTABLISHED DEPTH BOTTOM WIDTH AND GRADE AFTER THE
18 EFFECTIVE DATE OF THE 2000 AMENDATORY ACT THAT AMENDED THIS SEC-
19 TION, AN INSPECTION AND REPORT SHALL BE MADE AT LEAST EVERY 3
20 YEARS FROM THE DATE OF THE COMPLETION OF THE CONSTRUCTION.~~

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4 [(2)] FOR COUNTY DRAINS, THE INSPECTION SHALL BE MADE BY THE
5 DRAIN COMMISSIONER, OR A COMPETENT PERSON APPOINTED BY THE DRAIN
6 COMMISSIONER. FOR INTERCOUNTY DRAINS, THE INSPECTION SHALL BE
7 CAUSED TO BE MADE BY THE DRAINAGE BOARD. THE FAILURE TO INSPECT
8 AS REQUIRED BY THIS SECTION DOES NOT CREATE A DEFECT INVALIDATING
9 THE DRAIN OR AN ASSESSMENT.

10 [(3)] IF THE DRAIN COMMISSIONER OR DRAINAGE BOARD DETERMINES
11 BASED ON THE INSPECTION REPORT THAT MAINTENANCE IS NECESSARY ON
12 THE DRAIN, THE DRAIN COMMISSIONER OR DRAINAGE BOARD SHALL PERFORM
13 MAINTENANCE IN A TIMELY MANNER. IF THE DRAIN COMMISSIONER OR
14 DRAINAGE BOARD DETERMINES BASED ON THE INSPECTION REPORT THAT
15 DETERIORATED STRUCTURES MAY HAVE DIMINISHED THE CAPACITY OF THE
16 DRAIN OR BECOME UNSTABLE OR UNSAFE, THE DRAIN COMMISSIONER OR
17 DRAINAGE BOARD SHALL RETAIN A COMPETENT ENGINEER TO EVALUATE THE
18 DETERIORATION AND MAKE RECOMMENDATIONS CONCERNING MAINTENANCE OR
19 REPLACEMENT OF THE STRUCTURES.

 [(4) AT THE DISCRETION OF THE DRAIN COMMISSIONER OR DRAINAGE
BOARD, PERIODIC HYDROLOGIC AND HYDRAULIC EVALUATIONS OF THE ADEQUACY
OF A DRAIN TO ACCOMMODATE STORM WATER FLOWS MAY BE CONDUCTED.]

20 [(5)] IF AT ANY TIME THE DRAIN FUND OF A DRAINAGE DISTRICT
21 CONTAINS LESS THAN \$5,000.00 PER MILE OR FRACTION OF A MILE OF A
22 DRAIN, THE DRAIN COMMISSIONER OR DRAINAGE BOARD MAY ASSESS THE
23 DRAINAGE DISTRICT FOR AN AMOUNT NOT TO EXCEED \$2,500.00 PER MILE
24 OR FRACTION OF A MILE IN ANY 1 YEAR BASED ON APPORTIONMENTS AS
25 DESCRIBED IN SECTION 201. THE AMOUNT COLLECTED UNDER AN ASSESS-
26 MENT SHALL BE DEPOSITED IN THE DRAIN FUND OF A DRAINAGE DISTRICT
27 FOR NECESSARY INSPECTION, REPAIR, AND MAINTENANCE OF THE DRAIN.

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1 [(6)] IF AN INSPECTION DISCLOSES THE NECESSITY OF EXPENDING
2 MONEY FOR THE MAINTENANCE AND REPAIR OF A DRAIN IN ORDER TO KEEP
3 IT IN WORKING ORDER, THE DRAIN COMMISSIONER FOR A COUNTY DRAIN,
4 OR THE DRAINAGE BOARD FOR AN INTERCOUNTY DRAIN, MAY WITHOUT PETI-
5 TION EXPEND AN AMOUNT NOT TO EXCEED IN ANY 1 YEAR \$5,000.00 PER
6 MILE OR FRACTION OF A MILE FOR MAINTENANCE OR REPAIR OF A DRAIN.
7 THE DETERMINATION OF THE MAXIMUM EXPENDITURE ALLOWED WITHOUT
8 PETITION OR RESOLUTION SHALL BE BASED ON THE TOTAL NUMBER OF
9 MILES OF THE DRAIN AND NOT ON THE ACTUAL NUMBER OF MILES OR LOCA-
10 TION OF THE MAINTENANCE OR REPAIR. THE MONETARY AMOUNTS ESTAB-
11 LISHED IN THIS SUBSECTION SHALL BE ADJUSTED EACH JANUARY 1 BEGIN-
12 NING JANUARY 1, 2002 PURSUANT TO THE ANNUAL AVERAGE PERCENTAGE
13 INCREASE OR DECREASE IN THE DETROIT CONSUMER PRICE INDEX-ALL
14 ITEMS. THE ADJUSTMENT FOR EACH YEAR SHALL BE MADE BY COMPARING
15 THE PERCENTAGE INCREASE OR DECREASE IN THE DETROIT CONSUMER PRICE
16 INDEX FOR THE PRECEDING AUGUST BY THE CORRESPONDING DETROIT CON-
17 SUMER PRICE INDEX-ALL ITEMS 1 YEAR EARLIER. THE RESULTANT PER-
18 CENTAGE CHANGE SHALL THEN BE MULTIPLIED BY THE AFFECTED MONETARY
19 AMOUNTS. THESE RESULTS SHALL BE ROUNDED UP TO THE NEAREST \$25.00
20 AND ADDED TO OR SUBTRACTED FROM THE CURRENT MONETARY AMOUNTS AS
21 PREVIOUSLY ADJUSTED BY THIS SECTION TO OBTAIN THE NEW AMOUNTS FOR
22 THAT YEAR. THE ADJUSTMENTS SHALL APPLY ONLY TO EXPENDITURES
23 OCCURRING AFTER THE DATE OF THE ADJUSTING OF THE AMOUNTS. THE
24 DIRECTOR OF AGRICULTURE SHALL CALCULATE THE ADJUSTED MONETARY
25 AMOUNTS AND MAKE THEM AVAILABLE UPON REQUEST. IF THE INDEX IS
26 UNAVAILABLE, THE DIRECTOR OF AGRICULTURE SHALL MAKE A REASONABLE
27 APPROXIMATION.

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1 [(7)] IF THE DRAIN COMMISSIONER OR THE DRAINAGE BOARD FINDS IT
2 NECESSARY TO EXPEND FUNDS IN EXCESS OF THOSE PRESCRIBED IN SUB-
3 SECTION (6) IN ANY 1 YEAR FOR THE MAINTENANCE OR REPAIR OF A
4 DRAIN, THE ADDITIONAL AMOUNTS SHALL NOT BE EXPENDED UNTIL 1 OF
5 THE FOLLOWING IS SATISFIED:

6 (A) IF A PUBLIC CORPORATION IS AFFECTED BY MORE THAN 20% OF
7 THE COST OF THE MAINTENANCE, THE GOVERNING BODY OF EACH SUCH
8 PUBLIC CORPORATION APPROVES THE EXPENDITURE.

9 (B) IF NO PUBLIC CORPORATION IS AFFECTED BY MORE THAN 20% OF
10 THE COST OF THE MAINTENANCE, THE DRAIN COMMISSIONER OR DRAINAGE
11 BOARD GIVES NOTICE OF THE MAINTENANCE TO BE PERFORMED AND THE
12 ESTIMATED COST TO THE PERSONS LIABLE FOR ASSESSMENTS FOR THE
13 DRAIN.

14 (C) IF THE MAINTENANCE OR REPAIR IS REQUESTED BY AND THE
15 ENTIRE ADDITIONAL COST IS PAID FOR BY A PUBLIC CORPORATION, PRI-
16 VATE CORPORATION, OR OTHER PERSON.

17 [(8)] IN DETERMINING WHETHER OR NOT A PUBLIC CORPORATION IS
18 AFFECTED BY MORE THAN 20% OF THE COST, THE DRAIN COMMISSIONER OR
19 DRAINAGE BOARD SHALL CONSIDER THE TOTAL OF THE AT LARGE PERCENT-
20 TAGES OF THE APPORTIONMENT TOGETHER WITH THE TOTAL PERCENTAGE OF
21 LAND APPORTIONED.

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

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1 ROLLS WITHIN 3 YEARS AFTER THE COMPLETION OF THE INSPECTION,
2 REPAIR, AND MAINTENANCE. IF THE TOTAL ESTIMATED EXPENDITURE WILL
3 EXCEED \$5,000.00 PER MILE OR A FRACTION OF A MILE, ALL LANDOWNERS
4 AND PUBLIC CORPORATIONS WITHIN THE DISTRICT OR ABUTTING THE DRAIN
5 SHALL RECEIVE NOTICE FOR THE NATURE AND TYPE OF MAINTENANCE TO BE
6 CONDUCTED BEFORE THE COMMENCEMENT OF WORK BY FIRST-CLASS MAIL AND
7 BY PUBLICATION IN A NEWSPAPER OF GENERAL CIRCULATION. AN AFFIDA-
8 VIT OF MAILING SHALL BE MADE BY THE DRAIN COMMISSIONER OR DRAIN-
9 AGE BOARD. THE AFFIDAVIT IS CONCLUSIVE PROOF THAT THE NOTICES
10 REQUIRED BY THIS SUBSECTION WERE MAILED. THE FAILURE TO RECEIVE
11 NOTICES BY MAIL SHALL NOT CONSTITUTE A JURISDICTIONAL DEFECT
12 INVALIDATING A SPECIAL ASSESSMENT IF NOTICE BY PUBLICATION WAS
13 GIVEN AS REQUIRED BY THIS SUBSECTION.

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

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

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1 [(12)] IN COMPUTING AMOUNTS UNDER THIS SECTION, THE COST OF
2 WORK TO BE PERFORMED BY A FEDERAL AGENCY OR PUBLIC CORPORATION
3 THAT IS NOT CHARGEABLE TO THE COUNTY OR INTERCOUNTY DRAINAGE DIS-
4 TRICT SHALL NOT BE INCLUDED, NOR SHALL IT BE NECESSARY FOR THE
5 DRAIN COMMISSIONER OR THE DRAINAGE BOARD TO ADVERTISE FOR BIDS
6 FOR THAT PORTION OF THE WORK TO BE DONE BY THE FEDERAL AGENCY OR
7 PUBLIC CORPORATION. INSPECTION, ENGINEERING, LEGAL, OR CONSUL-
8 TANT FEES SHALL NOT BE INCLUDED IN AMOUNTS COMPUTED UNDER THIS
9 SECTION.

10 [(13)] FOR PURPOSES OF THIS ACT, THE COSTS OF MAINTENANCE
11 ASSESSABLE AGAINST A DRAINAGE DISTRICT INCLUDE ALL OF THE
12 FOLLOWING:

13 (A) THE COSTS INCURRED BY THE DRAIN COMMISSIONER OR DRAINAGE
14 BOARD FOR INSPECTION OR PROFESSIONAL CONSULTATION FEES AND CON-
15 TRACTUAL SERVICES.

16 (B) CONTRACTUAL EXPENSES RELATED TO THE LEVYING AND COLLEC-
17 TION OF SPECIAL ASSESSMENTS FOR THE WORK PERFORMED.

18 (C) ALL OTHER COSTS ASSOCIATED WITH MAINTENANCE OF THE
19 DRAIN.

20 (D) PREPARATION AND UPDATING OF MAPS AND RECORDS USED
21 DIRECTLY IN THE DEVELOPMENT OF SPECIAL ASSESSMENT ROLLS.

22 [(14)] IF THE COST OF MAINTENANCE AND REPAIR OF A DRAIN
23 INCLUDES UTILITY CHARGES OR COSTS TO SERVICE PUMPING STATIONS,
24 SEWAGE TREATMENT FACILITIES, OR RETENTION BASINS, THE LIMITATION
25 ON THE AMOUNT OF EXPENDITURES IN SUBSECTIONS (6) TO (9) DOES NOT
26 APPLY EXCEPT THAT THE DRAIN COMMISSIONER OR DRAINAGE BOARD MAY
27 LEVY SUFFICIENT SPECIAL ASSESSMENTS TO PAY THE CHARGES OR COSTS

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1 BUT NOT MORE THAN THE AMOUNT SUFFICIENT TO PAY THOSE CHARGES OR
2 COSTS.

3 [(15)] THE SALARIES, EXPENSES, AND FRINGE BENEFITS OF CLERI-
4 CAL, ADMINISTRATIVE, AND ENGINEERING EMPLOYEES OF THE DRAIN COM-
5 MISSIONER OR DRAINAGE BOARD WORKING INCIDENTAL TO THE OPERATION,
6 REPAIR, OR MAINTENANCE OF A DRAIN SHALL BE CHARGEABLE TO AND PAID
7 AS BUDGETED FROM THE COUNTY GENERAL FUND AND NOT CHARGEABLE TO OR
8 BY THE DRAIN FUND OF A DRAINAGE DISTRICT.

9 Sec. 200. (1) ~~In lieu of assessing the cost of the mainte-~~
10 ~~nance and repair of any drain to parcels of land in the drainage~~
11 ~~district within any city, village, township, charter township or~~
12 ~~county, the commissioner or drainage board may contract relative~~
13 ~~to such cost with any city, village, township, charter township~~
14 ~~or county in which the drain, or any part thereof, is located, or~~
15 ~~whose residents use the drain for drainage or for the transporta-~~
16 ~~tion of sewage. In the contract any city, village, township,~~
17 ~~charter township or county may agree (1) to pay annually to the~~
18 ~~commissioner or the drainage board certain sums for the cost of~~
19 ~~maintenance and repair of any drain and for the creation of a~~
20 ~~reserve fund therefor, or (2) to provide such sums periodically~~
21 ~~as needed, or (3) to reimburse the commissioner or drainage board~~
22 ~~for all sums expended for maintenance and repair, or (4) for any~~
23 ~~combination of the foregoing. The contract shall be approved and~~
24 ~~its execution authorized by a resolution adopted by the legisla-~~
25 ~~tive body of the city, village, township, charter township or~~
26 ~~county and shall be executed by the commissioner or drainage~~
27 ~~board on behalf of the drainage district. The city, village,~~

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1 ~~township, charter township or county may fulfill its obligation~~
2 ~~to pay in accordance with the terms of the contract out of its~~
3 ~~general funds, service charges to its residents, or any other~~
4 ~~legally available funds. The contract shall specify the manner~~
5 ~~in which the obligation to pay shall be fulfilled.~~ IF A NEW DIS-
6 TRICT IS LAID OUT AND INCLUDES ADDED LANDS, INCLUDING LANDS IN A
7 COUNTY WHICH WAS NOT A PART OF AN ORIGINAL INTERCOUNTY DRAINAGE
8 DISTRICT, THE DRAIN COMMISSIONER FOR A COUNTY DRAIN, OR THE
9 CHAIRPERSON OF THE DRAINAGE BOARD, SHALL NOTIFY THE BOARD OF
10 DETERMINATION OR DRAINAGE BOARD THAT ALLOWED THE PETITION, THAT
11 THE LAND SHOULD BE ADDED TO THE DISTRICT. THE DRAIN COMMISSIONER
12 OR CHAIRPERSON OF THE DRAINAGE BOARD SHALL CALL A MEETING OF THE
13 BOARD OF DETERMINATION. IF A MEMBER OF THE BOARD OF DETERMINA-
14 TION IS DISQUALIFIED OR UNABLE TO ACT, THEN THE MEMBER'S PLACE
15 SHALL BE FILLED BY APPOINTMENT AS IN THE FIRST INSTANCE. THE
16 NOTICE SHALL COMPLY WITH SECTION 8, AND BE FORWARDED TO THE LAND-
17 OWNERS AND PUBLIC CORPORATIONS IN THE DISTRICT AS IF LANDS WERE
18 ADDED. ALL EXPENSE OF NOTIFICATION SHALL BE PAID BY THE DRAINAGE
19 DISTRICT.

20 (2) AT THE TIME, DATE, AND PLACE DESIGNATED BY THE DRAIN
21 COMMISSIONER OR THE CHAIRPERSON OF THE DRAINAGE BOARD, THE BOARD
22 OF DETERMINATION OR DRAINAGE BOARD SHALL RECONVENE. UPON RECON-
23 VENING, IF THE BOARD OF DETERMINATION OR DRAINAGE BOARD BY A
24 MAJORITY VOTE OF MEMBERS FINDS THE PROPOSED ADDITION OF THE LAND
25 TO THE DRAINAGE DISTRICT NECESSARY OR CONDUCIVE TO THE PUBLIC
26 HEALTH, SAFETY, OR WELFARE OR FOR AGRICULTURE, THE BOARD OF

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1 DETERMINATION SHALL MAKE AN ORDER TO THAT EFFECT AND FILE THE
2 ORDER WITH THE DRAIN COMMISSIONER OR DRAINAGE BOARD.

3 SEC. 201. ALL APPORTIONMENTS UNDER THIS CHAPTER SHALL BE
4 MADE ACCORDING TO THE BENEFITS DERIVED AND SHALL BE SUBJECT TO
5 APPEAL IN THE SAME MANNER AS PROVIDED IN CHAPTER 7. [FOR A PROJECT
6 UNDER SECTION 199,] IF THE
7 APPORTIONMENT IS THE SAME AS THE LAST RECORDED APPORTIONMENT, NO
8 DAY OF REVIEW IS NECESSARY. [FOR A PROJECT UNDER SECTION 199,] IF
9 THE APPORTIONMENT IS CHANGED, OR
10 IF AN APPORTIONMENT IS MADE IN A CONSOLIDATED DISTRICT WHICH
11 APPORTIONS BENEFITS BETWEEN LANDS THAT WERE NOT PREVIOUSLY
12 ASSESSED BY THE CONSOLIDATED DISTRICT, THE PROCEDURE SHALL BE AS
13 PROVIDED UNDER CHAPTER 7, INCLUDING THE NOTICE OF AND THE HOLDING
14 OF A DAY OF REVIEW [AND THE PROCEDURE FOR APPEAL].

13 CHAPTER 9 —

14 LETTING OF CONTRACTS —

15 Sec. 221. (1) ~~At the time and place fixed in the notice~~
16 ~~therefor, the commissioner shall receive bids for the construc-~~
17 ~~tion of the drain.~~ THE COMMISSIONER OR DRAINAGE BOARD SHALL GIVE
18 NOTICE UNDER SECTION 8 FOR THE RECEIVING OF BIDS FOR THE CON-
19 STRUCTION, MAINTENANCE, OR IMPROVEMENT OF THE DRAIN. THE NOTICE
20 SHALL SPECIFY THE TIME AND PLACE OF RECEIVING BIDS. THE NOTICE
21 SHALL ALSO PROVIDE A BRIEF DESCRIPTION OF THE PROJECT INCLUDING
22 ITS GENERAL LOCATION, TYPE OF CONSTRUCTION, AND ESTIMATE OF THE
23 AMOUNT AND TYPE OF TILE OR PIPE REQUIRED FOR THE DRAIN. THE
24 NOTICE SHALL ALSO INCLUDE INFORMATION CONCERNING PREQUALIFICA-
25 TIONS REQUIRED BY SUBSECTION (2). The commissioner OR THE DRAIN-
26 AGE BOARD may in any case, and shall for all ~~drains~~ PROJECTS
27 having an estimated cost exceeding ~~\$5,000.00~~ \$10,000.00,

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1 advertise for sealed proposals, to be opened on the day of
2 letting. IF THE DRAIN COMMISSIONER OR DRAINAGE BOARD DOES NOT
3 ADVERTISE FOR PROPOSALS, THE DRAIN COMMISSIONER OR DRAINAGE BOARD
4 SHALL SOLICIT 2 OR MORE ESTIMATES FOR THE COST OF THE CONSTRUC-
5 TION, MAINTENANCE, OR IMPROVEMENT FROM QUALIFIED CONTRACTORS.
6 HOWEVER, IF THE LANDOWNER OR DEVELOPER IS PAYING THE ENTIRE COST
7 OF THE CONSTRUCTION, MAINTENANCE, OR IMPROVEMENT AND THE CONTRAC-
8 TOR CHOSEN BY THE LANDOWNER OR DEVELOPER IS ACCEPTABLE TO THE
9 DRAIN COMMISSIONER OR DRAINAGE BOARD, THE DRAIN COMMISSIONER OR
10 DRAINAGE BOARD IS NOT REQUIRED TO ADVERTISE FOR SEALED PROPOSALS
11 OR TO SOLICIT ESTIMATES. A CONTRACTOR SO ACCEPTED SHALL ENTER
12 INTO A CONTRACT WITH THE COMMISSIONER OR DRAINAGE BOARD, AND THE
13 CONTRACT SHALL BE ADMINISTERED BY THE COMMISSIONER OR DRAINAGE
14 BOARD.

15 (2) All sealed proposals received by the commissioner OR
16 DRAINAGE BOARD shall be publicly opened by ~~him~~ THE COMMISSIONER
17 OR THE DRAINAGE BOARD in the meeting and may be there examined by
18 any person interested. As soon as practical after the opening of
19 bids for the construction of any drain, the commissioner shall
20 determine the lowest responsible bidder and award contracts, or
21 ~~he may~~ reject all proposals and readvertise as in the first
22 instance. ~~, and in cases where the commissioner determined that~~
23 ~~the taxes assessed for benefits shall be collected in more than 1~~
24 ~~installment, he shall, subject to the provisions set forth in~~
25 ~~section 275 of this act, determine the amount, form, maturity and~~
26 ~~rate of interest of bonds to be issued. In counties having a~~
27 ~~board of county auditors no drain bonds shall be sold and no~~

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1 ~~drain contracts let without the written consent and approval of~~
2 ~~the board of county auditors, but the approval of said board~~
3 ~~shall not be required in proceedings relative to intercounty~~
4 ~~drains.~~

5 (3) IF A DRAIN COMMISSIONER'S OFFICE HAS THE AVAILABLE
6 EQUIPMENT AND MANPOWER TO PERFORM THE NECESSARY MAINTENANCE PRO-
7 VIDED PURSUANT TO SECTION 199, THE MAINTENANCE MAY BE PERFORMED
8 BY THE DRAIN COMMISSIONER WITHOUT THE ADVERTISING FOR SEALED BIDS
9 AS SET FORTH IN SUBSECTION (1).

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

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

25 (6) If ~~no~~ A contract ~~shall be~~ IS NOT let within ~~5~~ 2
26 years after the date of filing the petition to ~~locate, establish~~
27 ~~and construct, or deepen, widen, straighten, title, extend or~~

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1 ~~clean out~~ ESTABLISH A DRAINAGE DISTRICT AND ESTABLISH AND
2 CONSTRUCT A DRAIN OR TO MAINTAIN OR IMPROVE a drain, the drain
3 commissioner may determine that the petition shall be ~~deemed~~
4 CONSIDERED abandoned and ~~no~~ ISSUE AN ORDER TO THAT EFFECT. NO
5 further action shall be taken to construct the drain. Time
6 during which ~~any~~ litigation ~~shall be~~ IS pending to contest
7 the validity of such proceedings shall not be counted as a part
8 of ~~such 5-year~~ THE 2-YEAR period. ~~If the drain commissioner~~
9 ~~determines the petition shall be abandoned, he shall issue his~~
10 ~~order to that effect; provided, that such determination of aban-~~
11 ~~donment shall not be issued within the 5-year period.~~ Notice of
12 the order shall be given by publishing a notice in a newspaper of
13 general circulation in the county. ~~The provisions of this~~ THIS
14 section ~~shall apply~~ APPLIES to all petitions which are in full
15 force and effect on the ~~date of January 1, 1973, or thereafter~~
16 EFFECTIVE DATE OF THE 2000 AMENDATORY ACT THAT AMENDED THIS
17 SECTION.

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

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

4 Sec. 222. ~~The commissioner shall first let the section at~~
5 ~~the outlet of the drain and shall let each remaining section in~~
6 ~~its order up stream: Provided, That the~~ THE commissioner OR
7 DRAINAGE BOARD may ~~let~~ RECEIVE BIDS FOR the drain in sections
8 or as a whole, whichever appears to ~~him~~ BE the most practical.
9 ~~: Provided further, That the~~ THE commissioner OR DRAINAGE
10 BOARD shall reserve the right to reject any and all bids or pro-
11 posals FOR A SECTION OF THE DRAIN and proceed to ~~let said~~
12 RECEIVE BID PROPOSALS FOR THE drain in its entirety. ~~, and~~ THE
13 COMMISSIONER OR DRAINAGE BOARD may adjourn ~~such~~ THE letting in
14 ~~the~~ whole or in part ~~, from time to time, to such other time~~
15 ~~or place to be by him at the time of such adjournment publicly~~
16 ~~announced as shall to him seem proper, but not in all more than~~
17 ~~40-90 days from and after the time of letting as first~~
18 ~~advertised.~~ TO ANOTHER PLACE OR TIME NOT MORE THAN 91 DAYS AFTER
19 THE DAY OF LETTING BIDS AS FIRST ADVERTISED. NOTICE OF THE
20 ADJOURNED MEETING SHALL BE GIVEN AS PROVIDED IN SECTION 8.

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

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1 successful bidder FAILS to execute the necessary contracts or to
2 furnish the required security or indemnity insurance. A BID BOND
3 OF THE SUCCESSFUL BIDDER, OTHER THAN A BID BOND FROM A SURETY,
4 SHALL BE DEPOSITED WITH THE TREASURER OF THE DRAINAGE DISTRICT.
5 IF THE BID BONDS ARE HELD MORE THAN 63 DAYS, THE TREASURER OF THE
6 DRAINAGE DISTRICT SHALL PAY TO THE BIDDER INTEREST ACTUALLY
7 EARNED FROM THE DATE OF DEPOSIT ON A BID BOND, OTHER THAN A BID
8 BOND FROM A SURETY. If the successful bidder does not execute the
9 proper contracts or furnish the security or indemnity insurance
10 required of him or her ~~within 10~~ NOT MORE THAN 14 days after
11 the acceptance of his or her bid, then the commissioner OR DRAIN-
12 AGE BOARD may retain the deposit as stipulated damages for the
13 nonexecution of the contract and proceed to advertise for and let
14 the job anew. If the successful bidder furnishes the security or
15 indemnity insurance required and executes the required contracts,
16 then the deposit shall be returned to him or her. All money for-
17 feited to the commissioner OR DRAINAGE BOARD under this subsec-
18 tion shall be deposited with the ~~county~~ treasurer OF THE DRAIN-
19 AGE DISTRICT to the credit of the drainage district fund.

20 (2) The successful bidder shall, ~~within the time stated in~~
21 ~~subsection (1)~~ NOT MORE THAN 14 DAYS AFTER THE ACCEPTANCE OF HIS
22 OR HER BID, file with the commissioner security considered neces-
23 sary by the commissioner guaranteeing that the contract will be
24 completed in accordance with the terms specified in the
25 contract. The security shall be in a sum fixed by the commis-
26 sioner, but shall not be less than the contract price. At the

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1 option of the commissioner, the security shall consist of 1 or
2 more of the following:

3 (a) Cash.

4 (b) Certified check.

5 (c) Performance bond executed by a surety company authorized
6 to do business in this state.

7 (d) Escrow agreement acceptable to the commissioner.

8 (e) Irrevocable letter of credit issued by a state or feder-
9 ally regulated financial institution.

10 (f) Personal surety acceptable to the commissioner.

11 (3) If a personal surety is used as security, the commis-
12 sioner shall require all of the following: ~~conditions and~~
13 ~~limitations:~~

14 (a) That the personal surety be a contractor with the
15 experience and ability to perform and complete, in a timely
16 manner, the contract ~~in the event of a default by~~ IF the suc-
17 cessful bidder DEFAULTS.

18 (b) That the personal surety not act as the personal surety
19 for more than 1 other principal during the term of the contract
20 upon which he or she is giving security.

21 (c) That no more than 2 personal sureties be utilized as
22 security on any 1 contract.

23 (d) That, the personal surety provide financial information
24 requested by the commissioner and that, after a review of this
25 information, the commissioner be satisfied with the surety's
26 ability to perform the contract upon which he or she is giving
27 security.

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1 (e) That the personal surety provide to the commissioner a
2 list of contracts upon which the surety is required to perform,
3 naming the parties to each contract, the amount of each contract,
4 the work to be performed under each contract and the time during
5 which each contract is to be performed, and that the personal
6 surety revise this listing during the term of the contract upon
7 which he or she is giving security, adding or deleting informa-
8 tion as contracts are entered or completed.

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

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

19 (5) In addition to the security required in subsection (2),
20 the commissioner OR DRAINAGE BOARD shall require the successful
21 bidder to furnish ~~a bond or~~ indemnity insurance AND MOTOR VEHI-
22 CLE INSURANCE in the sum required by the commissioner OR DRAINAGE
23 BOARD. This ~~bond or indemnity~~ insurance shall run to the
24 people of ~~the state of Michigan~~ THIS STATE and shall be main-
25 tained in full force and effect until the contract is terminated
26 to indemnify the commissioner AND DRAINAGE BOARD, the drainage
27 district, and the county or other ~~municipality~~ PUBLIC

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1 CORPORATION against loss or damage resulting from injury to a
2 worker on the drain, or the negligence or carelessness of the
3 contractor in the construction of the drain. Indemnity insurance
4 that terminates by expiration or cancellation shall be replaced
5 ~~prior to~~ BEFORE termination in the sum then required by the
6 commissioner OR DRAINAGE BOARD. THE COMMISSIONER OR DRAINAGE
7 BOARD SHALL ALSO REQUIRE THE SUCCESSFUL BIDDER TO FURNISH
8 WORKER'S COMPENSATION INSURANCE.

9 (6) The provisions of this section apply to contracts in
10 excess of \$100,000.00. For all contracts equal to or less than
11 \$100,000.00, the commissioner OR DRAINAGE BOARD may require
12 security that ~~he or she~~ THE COMMISSIONER OR DRAINAGE BOARD con-
13 sidered adequate and necessary, consistent with the provisions of
14 this section.

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

17 CHAPTER 10 —

18 INSPECTION AND APPROVAL OF CONSTRUCTION AND PAYMENT FOR THE DRAIN

19

20 Sec. 241. ~~No~~ A warrant, ~~or~~ drain order, VOUCHER, OR
21 OTHER ORDER for ~~the~~ payment of any part of ~~such~~ A drain con-
22 tract shall NOT be drawn until the work has been inspected and
23 approved as herein provided. The commissioner ~~may~~ OR DRAINAGE
24 BOARD SHALL inspect and approve any tile or open drain, or he OR
25 SHE may designate any competent surveyor or engineer to make
26 ~~such~~ THE inspection. ~~, but where the~~ HOWEVER, IF THE COST OF
27 construction exceeds ~~\$3,000.00~~ \$10,000.00, the commissioner OR

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1 DRAINAGE BOARD shall designate a competent surveyor or engineer
2 to make the inspection. ~~Any~~ THE person making ~~such~~ THE
3 inspection shall see that the specifications in the contract are
4 fully complied with, and if the work is not in accordance with
5 the contract, the commissioner OR DRAINAGE BOARD shall immedi-
6 ately notify the contractor. ~~thereof.~~ If the work ~~so inspected~~
7 ~~shall conform~~ CONFORMS to the contract, the person making the
8 inspection shall certify in writing to that fact and an order of
9 approval shall ~~thereupon~~ be entered by the commissioner OR
10 DRAINAGE BOARD in his OR HER drain record, and notice of the
11 approval be given TO the contractor. ~~The commissioner may issue~~
12 ~~warrants or orders on the fund of any drain not exceeding 90% of~~
13 ~~the amount earned on any contract after the certificate of~~
14 ~~inspection and the order of approval is entered as herein~~
15 ~~provided. The payment of the final 10% or any portion thereof on~~
16 ~~any contract may be made after the certificate of inspection is~~
17 ~~made attesting to the completion and is filed in the office of~~
18 ~~the commissioner.~~ PROGRESS PAYMENTS SHALL BE MADE CONSISTENT
19 WITH 1980 PA 524, MCL 125.1561 TO 125.1566.

20 Sec. 242. The commissioner ~~shall have power to~~ OR DRAIN-
21 AGE BOARD MAY grant a reasonable extension of time for the com-
22 pletion of ~~any~~ A contract. ~~When any~~ IF A contract ~~shall not~~
23 ~~be~~ IS NOT finished within the time specified, or to which it may
24 be extended, the commissioner OR DRAINAGE BOARD shall declare
25 ~~such~~ THE contract forfeited and shall, within a reasonable time
26 thereafter, relet the unfinished portion ~~thereof~~ to the lowest
27 responsible bidder, by public letting, after not less than ~~5~~ 7

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1 days' notice ~~thereof, by posting only,~~ IN THE SAME MANNER as
2 provided for the letting in the first instance, or by private
3 letting, ~~when such can be done, at a price per rod for the~~
4 ~~uncompleted portion thereof not exceeding the price per rod at~~
5 ~~which the job was first let; and he~~ IF PERMITTED BY LAW, AND THE
6 DRAIN COMMISSIONER OR DRAINAGE BOARD shall make contract and take
7 security in each case as herein provided. The cost of completing
8 such part over and above the contract price, if any, and the
9 expense of notice and reletting shall be collected by the commis-
10 sioner ~~of~~ OR DRAINAGE BOARD FROM the parties first contracting
11 or ~~of~~ their bondsman. ~~, which moneys, when so~~ THE MONEY col-
12 lected ~~,~~ shall be deposited with the county treasurer, and
13 placed to the credit of such drain.

14 Sec. 243. ~~Whenever~~ IF the amount assessed for the con-
15 struction of ~~any~~ A drain ~~shall not be~~ IS NOT sufficient to
16 complete the ~~same,~~ DRAIN and to pay all the costs and inciden-
17 tal expenses or to pay the principal and interest on ANY bonds
18 ~~if such are~~ issued, a further assessment shall be made to meet
19 the deficit or additional expense. ~~Such~~ THE further assessment
20 shall be apportioned, assessed, levied and collected as provided
21 in the first instance, and on the same percentage, and shall be
22 collected in 1 year, but there shall be no review of ~~nor~~ OR
23 appeal from ~~such~~ THE further assessment. ~~∴ Provided, That~~
24 ~~whenever by reason of the~~ HOWEVER, IF THE DEFICIENCY IS THE
25 RESULT OF embezzlement, FRAUD, or other wrongful act ~~of~~ BY any
26 county official or ~~by reason of the conspiracy of any county~~
27 ~~official with any other person or persons to defraud any drainage~~

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1 ~~district, township or county, there shall be any deficiency as~~
2 ~~aforsaid, the board of supervisors~~ THE COUNTY BOARD OF
3 COMMISSIONERS of any county traversed by the drain may provide
4 for the payment, out of the general fund of the county, of all or
5 any part of ~~such~~ THE additional assessment as may be appor-
6 tioned to that part of the drainage district within such county,
7 or for the refunding to ~~taxpayers~~ THE PERSONS ASSESSED of any
8 such assessment which may have been paid.

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

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1 (2) DRAIN orders shall be drawn payable not sooner than the
2 fifteenth day of April nor later than the first day of August of
3 the year in which the drain ~~taxes for the payment thereof~~
4 SPECIAL ASSESSMENTS are required to be paid. If the drain fund
5 is insufficient for ~~such~~ THIS purpose because of delinquency in
6 the payment of drain ~~taxes~~ SPECIAL ASSESSMENTS after the lands
7 on which the ~~said taxes shall have become~~ SPECIAL ASSESSMENTS
8 ARE delinquent have been offered for sale ~~, in any such case~~
9 ~~where~~ AND payment is made by the county treasurer out of the
10 general fund, ~~and all~~ delinquent drain ~~taxes~~ SPECIAL ASSESS-
11 MENTS SUBSEQUENTLY received by ~~said~~ THE treasurer ~~thereafter~~
12 shall be credited to the general fund until the ~~same~~ GENERAL
13 FUND is reimbursed. ~~In all cases where~~ IF bonds are issued and
14 sold ~~as herein provided~~ and the proceeds ~~thereof~~ are depos-
15 ited in the county treasury to the credit of the fund of the
16 ~~particular~~ drain, orders presented on ~~such~~ THE fund shall be
17 paid out of the proceeds ~~aforsaid,~~ or out of the first annual
18 installment of the ~~taxes~~ SPECIAL ASSESSMENTS. ~~In no case~~
19 ~~where~~ IF there are outstanding bonds, ~~shall~~ an order SHALL NOT
20 be paid out of ~~any~~ AN installment of ~~taxes~~ SPECIAL
21 ASSESSMENTS collected other than the first.

22 Sec. 245. (1) ~~All drain~~ DRAIN orders OR VOUCHERS made by
23 the commissioner OR DRAINAGE BOARD shall state the services
24 rendered in brief form ~~,~~ AND shall be numbered and recorded and
25 signed by the commissioner OR DRAINAGE BOARD. ~~Such~~ AN order,
26 when due, shall be presented to the county ~~clerk and he~~
27 TREASURER. THE COUNTY TREASURER shall immediately ascertain

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1 ~~from the county treasurer~~ if the particular fund on which
2 ~~said~~ THE order is drawn is sufficient to pay ~~said~~ THE order.
3 If ~~such~~ THE fund is sufficient, the county treasurer shall so
4 certify on the back of ~~said~~ THE drain order and the county
5 clerk OR OTHER AUTHORIZED COUNTY OFFICER shall thereupon issue
6 the usual county warrant upon the county treasurer for the pay-
7 ment of ~~said~~ THE order, taking ~~said~~ THE order so certified as
8 his OR HER voucher. If ~~such~~ THE particular fund is insuffi-
9 cient when ~~such~~ THE order is presented for payment, the county
10 treasurer shall so certify upon ~~such~~ THE order and ~~such~~ THE
11 order shall then draw interest at the rate ~~of 6% per annum~~ PAID
12 ON 91-DAY UNITED STATES TREASURY NOTES from the date of presenta-
13 tion until ~~such~~ THE particular fund is sufficient to pay the
14 ~~same, said interest to~~ ORDER. THE INTEREST SHALL be computed
15 and paid with the principal out of the proper fund on which it
16 was drawn, when there are sufficient funds to pay the ~~same~~
17 PRINCIPAL AND INTEREST.

18 (2) The county treasurer shall keep a record in which he OR
19 SHE shall note each drain order presented for payment on a drain
20 account ~~which~~ THAT was insufficient to pay ~~such~~ THE order on
21 the date of presentation. He OR SHE shall note in such record
22 the amount, number, drain account, and the date of original pre-
23 sentation for payment. When there ~~are~~ IS sufficient ~~moneys~~
24 MONEY in the particular drain account to pay the order, plus
25 interest, the county treasurer shall note the date of ~~such~~ THE
26 sufficiency on ~~such~~ THE record and shall transfer sufficient
27 ~~moneys~~ MONEY to pay ~~such~~ THE order and interest then due from

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1 the particular drain account and drain fund to a drain order
2 redemption fund and the drain order shall cease to earn interest
3 as of that date. Transfers to the drain order redemption fund
4 shall be made in the order of priority in which the drain orders
5 were originally presented for payment. Payment of ~~such~~ THE
6 orders, including interest, ~~earned as provided herein,~~ shall
7 thereafter be made by the county treasurer from the drain order
8 redemption fund. Drain orders at any time during the year in
9 which such drain order becomes due and payable and for a period
10 of ~~30~~ 28 days prior to such year shall be accepted for the pay-
11 ment of drainage ~~taxes~~ SPECIAL ASSESSMENTS.

12 (3) The county treasurer shall report to the commissioner OR
13 DRAINAGE BOARD the amount paid as interest on ~~any and all such~~
14 drain orders. The county treasurer shall at the first of each
15 month furnish the drain commissioner OR DRAINAGE BOARD with a
16 report of ~~all~~ drain orders cashed during the preceding month,
17 including the name of the drain upon which the order was drawn,
18 the amount, the number of the order, and the date of payment.

19 Sec. 247. The county drain commissioner OR DRAINAGE BOARD
20 acting under the provisions of this act may employ an attorney
21 when ~~he deems the same~~ CONSIDERED necessary and any legal
22 expense shall be charged to the ~~several drain districts in~~
23 ~~behalf of which he shall be employed. All such expenses~~
24 DRAINAGE DISTRICT. THE EXPENSE shall be paid out of the revolv-
25 ing drain fund which shall be reimbursed out of the first
26 ~~moneys~~ MONEY available. ~~∴ Provided, That~~ HOWEVER, the board
27 of ~~supervisors~~ COMMISSIONERS by resolution may ~~cause~~ REQUEST

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1 the prosecuting attorney to give such legal assistance as part of
2 ~~his~~ THE duties OF THE PROSECUTING ATTORNEY.

3 CHAPTER 11 ~~—~~

4 LEVY AND COLLECTION OF ~~DRAIN TAXES.~~ SPECIAL ASSESSMENTS

5 Sec. 261. Within ~~10~~ 14 days after the letting of con-
6 tracts, or in case of an appeal, ~~then forthwith~~ IMMEDIATELY
7 after ~~such~~ THE appeal ~~shall have been~~ IS decided, the commis-
8 sioner OR DRAINAGE BOARD shall make a computation of the entire
9 cost of ~~such~~ THE drain, ~~which shall include (1) all the~~
10 INCLUDING, BUT NOT LIMITED TO, ALL OF THE FOLLOWING:

11 (A) THE expense of ~~laying out and designating the drainage~~
12 ~~district, which item of expense shall include the entire~~
13 ESTABLISHING THE DRAINAGE DISTRICT AND ESTABLISHING AND CON-
14 STRUCTING THE DRAIN, INCLUDING, BUT NOT LIMITED TO, THE cost of
15 the survey. ~~;~~ ~~(2) the~~

16 (B) THE expense of ~~locating,~~ establishing and
17 constructing, MAINTAINING, OR IMPROVING the drain. ~~;~~ ~~(3) the~~
18 ~~fees and expenses of special commissioners;~~ ~~(4) the compensation~~
19 ~~to be paid the board of review;~~ ~~(5) the~~

20 (C) THE COSTS OF ACQUIRING PROPERTY UNDER SECTION 7.

21 (D) THE PER DIEM COMPENSATION, MILEAGE, AND EXPENSES TO BE
22 PAID TO MEMBERS OF BOARDS UNDER THIS ACT.

23 (E) THE COST ASSOCIATED WITH EVALUATION OF NATURAL RESOURCE
24 IMPACTS AND THE COSTS TO MINIMIZE THOSE IMPACTS.

25 (F) THE cost of construction of bridges and culverts. ~~;~~
26 ~~(6) the~~

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1 (G) THE COSTS FOR ENGINEERS, SURVEYORS, AND OTHER
2 PROFESSIONALS.

3 (H) THE contracts for the construction of the drain, or
4 other work to be done on ~~said~~ THE drain. ~~;(7) the~~

5 (I) THE estimated cost of an appeal in case the apportion-
6 ment made by the commissioner ~~shall not be~~ OR DRAINAGE BOARD IS
7 NOT sustained. ~~;(8) the~~

8 (J) THE estimated cost of inspection. ~~;(9) the~~

9 (K) THE cost of publishing all notices required. ~~;(10)~~
10 ~~all fees~~

11 (L) FEES of the probate judge, ~~;(11) attorney~~ IF
12 APPLICABLE.

13 (M) ATTORNEY fees for legal services in connection with the
14 drain ~~;(12) interest~~ PROJECT.

15 (N) INTEREST on bonds OR NOTES for the first year, if bonds
16 OR NOTES are to be issued. ~~;(13) and he shall add the whole into a~~
17 ~~gross sum and add thereto not~~

18 (O) NOT less than 10% ~~;(14) nor~~ OR more than 15%, at the discre-
19 tion of the drain commissioner OR DRAINAGE BOARD, of ~~said gross~~
20 ~~sum~~ THE SUM OF THE COSTS UNDER SUBDIVISIONS (A) TO (N), to cover
21 contingent expenses. ~~;(15) and the entire sum so ascertained shall~~
22 ~~be deemed to be the cost of construction of such drain.~~

23 Sec. 262. (1) ~~The commissioner shall thereupon make a spe-~~
24 ~~cial assessment roll for the drain for each county, township,~~
25 ~~city, or village and each state trunk line highway affected~~
26 ~~thereby, which roll shall be designated~~ AFTER THE COST OF A
27 COUNTY DRAIN IS COMPUTED UNDER SECTION 261, THE DRAIN

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1 COMMISSIONER SHALL MAKE A SPECIAL ASSESSMENT ROLL FOR THE DRAIN
2 FOR EACH MUNICIPALITY AND ROADWAY AFFECTED BY THE DRAIN. AFTER
3 THE COST OF AN INTERCOUNTY DRAIN IS COMPUTED UNDER SECTION 261,
4 THE DRAIN COMMISSIONER OF EACH COUNTY IN WHICH LANDS SUBJECT TO
5 ASSESSMENT FOR THE DRAIN ARE LOCATED SHALL MAKE A SPECIAL ASSESS-
6 MENT ROLL FOR THE DRAIN FOR EACH MUNICIPALITY AND ROADWAY
7 AFFECTED BY THE DRAIN IN THAT DRAIN COMMISSIONER'S COUNTY. THE
8 DRAIN COMMISSIONER MAKING THE ROLL SHALL DESIGNATE THE ROLL,
9 giving name or number, "drain special assessment roll". The com-
10 missioner shall enter on the roll a correct description of the
11 tracts, parcels, or subdivisions of land benefited by the drain
12 WHICH DESCRIPTION MAY BE MADE BY TAX PARCEL IDENTIFICATION NUMBER
13 IN COMPLIANCE WITH SECTION 152 and place opposite each descrip-
14 tion the amount of the percent heretofore determined upon by
15 ~~him~~ THE COMMISSIONER or by the board of review. The commis-
16 sioner shall also enter on the roll the amount of the percent
17 apportioned to ~~the county, for benefits to any county road, and~~
18 ~~to the township, city, or village and the state highway commis-~~
19 ~~sion, for benefits to any state trunk line highway~~ A ROAD
20 AUTHORITY FOR BENEFITS TO A ROADWAY, and ~~in case~~ IF the amount
21 ~~be~~ IS payable in installments, ~~he shall also enter thereon~~ a
22 memorandum of the installments and of the year or years when the
23 installments shall be spread. The commissioner shall add a cer-
24 tificate in writing of the determination whether the ~~taxes~~
25 SPECIAL ASSESSMENTS assessed for benefits shall be paid in 1 or
26 more years. The rolls shall be dated and signed by the

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1 commissioner and filed on or before the last Wednesday in
2 September in each year, in the office of the county clerk.
3 (2) The commissioner shall prepare a ~~tax~~ SPECIAL assess-
4 ment roll in each year for the collection of ~~taxes~~ SPECIAL
5 ASSESSMENTS for the current year, and shall certify the ~~same~~
6 ROLL to the county clerk on or before the first day of the annual
7 meeting of the county board of commissioners. In each roll, the
8 commissioner shall add to the amount to be collected ~~,~~ interest
9 on all unpaid installments to the date of ~~tax~~ collection, and
10 shall deduct from the amount to be collected by the county, vil-
11 lage, city, or township all amounts received from the proceeds or
12 income of property or an interest in property located in the
13 county, village, city, or township and acquired ~~through condem-~~
14 ~~nation or the payment of damages~~ under this act. To the roll
15 for the last year, the commissioner shall add a further amount,
16 if any, as may be necessary together with outstanding uncollected
17 ~~taxes~~ SPECIAL ASSESSMENTS, to pay all outstanding bonds and
18 interest thereon to maturity. If the roll is made payable in
19 more than 1 installment, a permanent assessment roll may be main-
20 tained in the office of the county treasurer, subject to the
21 direction of the ~~board of county auditors, in counties having~~
22 ~~such a board, and of the county board of commissioners in other~~
23 ~~counties~~ COUNTY BOARD OF COMMISSIONERS, showing the total cost,
24 the number of installments, and the amount of each annual assess-
25 ment, together with interest charges thereon, which shall be car-
26 ried in a separate column.

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

9 Sec. 263. ~~It shall be the duty of the~~ THE supervisor ~~,~~
10 OR village or city assessor ~~, to~~ SHALL spread on ~~his~~ THE roll
11 the total amount of all drain ~~taxes~~ SPECIAL ASSESSMENTS deter-
12 mined ~~upon~~ by the county drain commissioner to be assessed upon
13 the county, township, city, or village at large by adding to the
14 county, township, city, or village tax for the year in which the
15 ~~same~~ DRAIN ASSESSMENT was assessed and extending ~~said tax~~ THE
16 DRAIN ASSESSMENT in the same column with the general county,
17 township, city, or village tax. ~~Provided, That in such~~ IN
18 villages or cities, ~~of this state,~~ where the municipal taxes
19 ~~therefor~~ are assessed and collected ~~prior to~~ BEFORE the
20 October meeting of the COUNTY board of ~~supervisors, all taxes~~
21 COMMISSIONERS, DRAIN ASSESSMENTS ordered to be spread against
22 such municipalities shall be spread during the calendar year fol-
23 lowing ~~such~~ THE action by the COUNTY board of ~~supervisors~~
24 ~~Provided further, That in~~ COMMISSIONERS. IN lieu of the addi-
25 tion of ~~such tax~~ THE DRAIN ASSESSMENT to the county, township,
26 city, or village tax, the ~~legislative body thereof~~ GOVERNING
27 BODY OF THE MUNICIPALITY may in any year provide for the payment

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1 thereof from the general or contingent fund of such county,
2 township, city, or village. ~~Such~~ THE supervisor or assessor
3 shall also spread upon ~~said~~ THE roll, separately, and immedi-
4 ately following the other descriptions, all tracts or parcels of
5 land specified by the commissioner to be assessed for benefits,
6 and shall place opposite each description, in a column marked,
7 "(giving the name or number) drain
8 ~~taxes~~ SPECIAL ASSESSMENTS," the amount of ~~taxes~~ ASSESSMENTS
9 apportioned thereon, as certified ~~to him~~ by the county clerk.

10 Sec. 265. ~~All drain taxes~~ DRAIN SPECIAL ASSESSMENTS
11 assessed under ~~the provisions of~~ this act ~~shall be~~ ARE
12 subject to the same interest and charges, and shall be collected
13 in the same manner as state and other general taxes are col-
14 lected, and collecting officers are hereby vested with the same
15 power and authority in the collection of ~~such taxes~~ THE SPECIAL
16 ASSESSMENTS as are or may be conferred by law for collecting gen-
17 eral taxes. Drain ~~taxes~~ SPECIAL ASSESSMENTS, when collected,
18 shall be returned to the county treasurer to be disbursed ~~by~~
19 him. ~~In all cases where~~ WITHIN 14 DAYS OF RECEIPT UNLESS WAIVED
20 BY THE DRAIN COMMISSIONER TO SOME OTHER SPECIFIED TIME. ANY
21 INTEREST EARNED FROM THE TIME OF COLLECTION AND ACCOUNTING TO THE
22 DAY OF DELIVERY SHALL BE RETURNED TO EACH DRAIN FUND ON A PRO
23 RATA BASIS. IF suit is brought against the collector arising out
24 of the collection of ~~any drain tax~~ A DRAIN SPECIAL ASSESSMENT,
25 the county shall defend ~~such~~ THE officer in the same manner
26 ~~that he has now the right to be defended in~~ AS IF THE SUIT
27 AROSE OUT OF the collection of general taxes. ~~No~~ A suit shall

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1 NOT be instituted to recover any drain ~~tax~~ SPECIAL ASSESSMENT
2 or money paid or property sold ~~therefor~~ FOR A DRAIN SPECIAL
3 ASSESSMENT, or for damages on account ~~thereof~~ OF A DRAIN SPE-
4 CIAL ASSESSMENT, unless brought within ~~30~~ 28 days from the time
5 of payment of ~~such~~ THE money to, or sale of such property by,
6 the collecting officer. ~~; and if such tax shall be~~ IF THE SPE-
7 CIAL ASSESSMENT IS paid under protest, the reasons ~~therefor~~ FOR
8 THE PROTEST shall be specified, and the same procedure observed
9 as is or may be required by the general ~~tax law.~~ ~~All taxes~~
10 PROPERTY TAX ACT, 1893 PA 206, MCL 211.1 TO 211.157. SPECIAL
11 ASSESSMENTS levied under ~~the provisions of~~ this act, with all
12 lawful costs, interest, and charges, ~~shall be and remain a~~
13 ~~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~~ SPECIAL ASSESSMENTS levied for the
17 construction, ~~cleaning out, widening, deepening, straightening~~
18 ~~or extending~~ MAINTENANCE, OR IMPROVEMENT of ~~any~~ A drain are
19 not collected by the township, city, or village treasurer, they
20 shall ~~by him~~ be returned BY THAT TREASURER, together with the
21 lands upon which they were levied, to the county treasurer in the
22 same return, at the same time, and in the same manner, in every
23 respect (naming in each case the particular drain), as lands are
24 returned for state, county, and township taxes. ~~, and such~~
25 ~~taxes~~ DRAIN SPECIAL ASSESSMENTS shall follow ~~such~~ THE lands,
26 the same as ~~all such other~~ DO PROPERTY taxes, and ~~all~~ MAY BE
27 COLLECTED IN THE SAME MANNER AS PROVIDED BY the general

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

10 Sec. 267. After any ~~taxes~~ SPECIAL ASSESSMENTS have been
11 assessed for the ~~construction, location or establishment~~
12 ESTABLISHMENT, CONSTRUCTION, MAINTENANCE, OR IMPROVEMENT of any
13 drain, ~~no injunction shall issue to restrain~~ the spreading of
14 the ~~same~~ ASSESSMENTS upon the tax roll ~~nor to restrain~~ OR the
15 collection ~~thereof, nor shall the same be in any manner~~ OF THE
16 ASSESSMENTS SHALL NOT BE ENJOINED OR stayed, unless the amount of
17 ~~such~~ THE assessment ~~shall first be~~ HAS BEEN paid into the
18 township treasury to be applied ~~upon such tax, in case the court~~
19 ~~in which the suit upon which injunction is tried shall so order~~
20 TO THE ASSESSMENT UPON ORDER OF THE COURT.

21 Sec. 269. (1) THE COLLECTION OF A SPECIAL ASSESSMENT LEVIED
22 OR ORDERED TO BE LEVIED FOR THE PAYMENT OF THE ESTABLISHMENT,
23 CONSTRUCTION, MAINTENANCE, OR IMPROVEMENT OF A DRAIN UNDER THIS
24 ACT SHALL NOT BE PERPETUALLY ENJOINED OR DECLARED ABSOLUTELY VOID
25 FOR ANY REASON. THE COURT IN WHICH AN ACTION IS BROUGHT TO
26 RECOVER A SPECIAL ASSESSMENT PAID, OR TO DECLARE VOID THE
27 PROCEEDINGS TO ESTABLISH AND CONSTRUCT ANY DRAIN, OR TO ENJOIN

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1 ANY SPECIAL ASSESSMENT LEVIED OR ORDERED TO BE LEVIED FOR THE
2 PAYMENT OF THE LABOR AND EXPENSE THEREOF, MAY, IF THERE BE MANI-
3 FEST ERROR IN THE PROCEEDINGS, ALLOW THE PLAINTIFF IN ACTION TO
4 SHOW THAT HE OR SHE HAS BEEN INJURED THEREBY. ANY SUCH ACTION IS
5 SUBJECT TO SECTION 161.

6 (2) The court in which such proceedings are begun shall
7 allow proof that the drain was necessary and conducive to the
8 public health, ~~convenience~~ SAFETY, or welfare OR FOR
9 AGRICULTURE, and that all the steps required by law have been
10 substantially complied with, notwithstanding the record required
11 to be kept by the commissioner OR DRAINAGE BOARD. ~~In case~~ IF
12 substantial error is found AFTER HEARING PROOF OF BOTH SIDES, the
13 court may correct any gross injustice in the award of damages, or
14 assessment of benefits. ~~as may appear after hearing the proofs~~
15 ~~and allegations of both sides and~~ THE COURT shall make such AN
16 order ~~in the premises as shall be~~ just and equitable, and may
17 order ~~that such tax or~~ ANY OF THE FOLLOWING:

18 (A) THAT THE SPECIAL assessment remain on the tax roll for
19 collection. ~~, or order~~

20 (B) THAT the ~~same to~~ SPECIAL ASSESSMENT be relieved. ~~, or~~
21 ~~or may perpetually enjoin the same or any part thereof, or if the~~
22 ~~same~~

23 (C) IF THE SPECIAL ASSESSMENT has been paid under protest,
24 ~~may order the whole~~ THAT THE SPECIAL ASSESSMENT, or such part
25 thereof as is just and equitable, ~~to~~ be refunded. ~~In all~~
26 ~~cases where assessments shall be set aside~~

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1 (3) IF THE COURT SETS ASIDE ASSESSMENTS after contracts have
2 been let or bonds OR NOTES sold, the decree shall make full
3 provision for payment of work done and materials furnished under
4 ~~said~~ THE contracts before the commencement of suit, and for
5 payment of ~~such~~ THE bonds OR NOTES and interest thereon, by
6 reassessment according to benefits, or otherwise as equity may
7 require. ~~The cost of such proceedings, if error or injustice be~~
8 ~~shown, shall be apportioned among the parties, or if~~

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

12 Sec. 270. ~~Whenever any~~ IF A drain ~~has been located and~~
13 ~~established,~~ IS ESTABLISHED and contracts let for its construc-
14 tion, MAINTENANCE, OR IMPROVEMENT and the work ~~of construction~~
15 ~~has been~~ IS completed, or partly completed, and the commissioner
16 OR DRAINAGE BOARD has made ~~his~~ AN order establishing the drain,
17 ~~his~~ THE apportionment of benefits, and special assessment roll
18 and filed the ~~same~~ ORDER in the office of the county drain com-
19 missioner, as provided by this act, ~~and such taxes remain a~~
20 ~~perpetual~~ THE SPECIAL ASSESSMENTS ARE A lien upon the lands
21 assessed. ~~, and filed all of said papers in the office of the~~
22 ~~county drain commissioner, and no person or municipality affected~~
23 ~~by the proceedings has taken any action by virtue of section 161~~
24 ~~of this act to test the validity of the proceedings, or to set~~
25 ~~the same aside, and it shall further appear that the tax~~ IF THE
26 SPECIAL ASSESSMENT has not been spread on the tax roll of the
27 municipalities affected and the lien of ~~said tax~~ THE SPECIAL

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1 ASSESSMENT still remains against ~~such~~ THE lands, on the
2 application in writing of any person or corporation who is ~~now~~
3 ~~or were owners~~ AN OWNER of the land assessed at the time of the
4 apportionment of benefits ~~by the commissioner~~ or any person or
5 corporation who were the owners of land at ~~said~~ THE time OF
6 APPORTIONMENT OF BENEFITS and who were assessed therefor, and who
7 sold such land with covenants of warranty, may make an applica-
8 tion in writing to the county drain commissioner OR DRAINAGE
9 BOARD setting forth such facts. ~~, and upon~~ UPON the filing of
10 ~~such~~ THE application, ~~it shall be the duty of~~ the county
11 drain commissioner ~~to~~ OR DRAINAGE BOARD SHALL make a certified
12 copy of the assessment roll filed in ~~his~~ THE office by the com-
13 missioner and present ~~to and lay~~ it ~~before~~ TO the COUNTY
14 board of ~~supervisors~~ COMMISSIONERS at ~~the~~ ITS first October
15 session. ~~, thereafter of said board, and thereupon it shall be~~
16 ~~the duty of said board at said~~ AT THAT session, ~~to~~ THE COUNTY
17 BOARD OF COMMISSIONERS SHALL order and direct ~~such taxes~~ THE
18 SPECIAL ASSESSMENTS TO BE spread upon the tax roll of the munici-
19 palities affected thereby, according to the ~~said~~ assessment
20 filed ~~as aforesaid, and as appears by such special assessment~~
21 roll, ~~so certified to said board~~ AND CERTIFIED. ~~The provisions~~
22 of this section shall also apply to drains laid out and estab-
23 lished and wholly or partly constructed under the provisions of
24 all drain laws in force prior to the passage of this act, where
25 such laws have made such drain tax a perpetual lien upon the
26 lands upon which they are assessed.

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1 Sec. 273. ~~In case any drain tax heretofore or to be~~
2 ~~hereafter assessed shall be~~ IF A DRAIN SPECIAL ASSESSMENT IS set
3 aside, except for causes that would deprive the commissioner of
4 jurisdiction to construct the drain, the commissioner may begin
5 proceedings anew at the stage where ~~they shall be correct.~~ In
6 ~~case~~ THE DEFECT OCCURRED. IF a drain ~~tax~~ SPECIAL ASSESSMENT
7 can or may be set aside for error in description or other defect
8 in the commissioner's or township treasurer's roll, UPON DISCOV-
9 ERY OF THE DEFECT, the commissioner shall report the ~~same~~
10 DEFECT to the COUNTY board of ~~supervisors at their October ses-~~
11 ~~sion, who~~ COMMISSIONERS, WHICH shall order the ~~same~~ SPECIAL
12 ASSESSMENT TO BE reassessed upon the proper description. ~~Such~~
13 THE report may be made at any time before the sale of the land
14 for ~~such tax~~ THE SPECIAL ASSESSMENT.

15 Sec. 274. In any ~~suit~~ ACTION brought to set aside any
16 drain ~~tax~~ ASSESSMENT, or in any way attacking the legality of
17 any drain proceedings, the commissioner shall be made a party to
18 ~~said suit~~ THE ACTION.

19 Sec. 275. (1) ~~In cases where the issuing of bonds shall~~
20 ~~have been determined upon, as herein provided, and subject to the~~
21 ~~provisions of~~ SUBJECT TO section 221, ~~of this act,~~ the commis-
22 sioner OR DRAINAGE BOARD may borrow money in anticipation of the
23 collection of ~~such~~ SPECIAL ASSESSMENT installments and may
24 issue as evidence thereof the bonds of the drainage district.
25 ~~as herein defined.~~ ~~Such obligations~~ THE BONDS shall specify on
26 their face that they are payable out of the installments of drain
27 ~~taxes~~ SPECIAL ASSESSMENTS to be ~~thereafter~~ collected, and the

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1 amount ~~thereof~~ OF THE BONDS shall not exceed the aggregate of
2 the installments levied. Bonds ~~issued hereunder~~ shall be
3 signed by the commissioner OR CHAIRPERSON OF THE DRAINAGE BOARD
4 on behalf of the drainage district, shall be countersigned by the
5 county clerk ~~and~~ OF EACH COUNTY IN THE DRAINAGE DISTRICT, shall
6 be payable in annual installments equal in number to the install-
7 ments of ~~taxes,~~ SPECIAL ASSESSMENTS, AND shall mature not ear-
8 lier than March first nor later than June first of the year fol-
9 lowing the due dates of the respective installments of ~~taxes~~
10 SPECIAL ASSESSMENTS. The number of installments shall not exceed
11 30. ~~20: Provided, however, That in any drainage district con-~~
12 ~~taining a closed drain, any part of whose cross-section has an~~
13 ~~area exceeding 60 square feet, the number of installments may be,~~
14 ~~but shall not exceed, 30, and the~~ THE amount of each installment
15 shall be fixed to correspond as near as may be to the drain
16 commissioner's OR DRAINAGE BOARD'S estimate of the amount of
17 ~~taxes~~ SPECIAL ASSESSMENTS actually collectible each year. ~~—~~
18 ~~and in no case shall bonds mature~~ BONDS SHALL MATURE NOT more
19 than 2-1/2 years after the corresponding installment of ~~taxes~~
20 SPECIAL ASSESSMENTS. ~~The~~ IN THE BONDS, THE commissioner OR
21 DRAINAGE BOARD shall ~~therein~~ pledge the credit of the drainage
22 district, including the lands embraced within ~~such~~ THE district
23 and the townships, cities, villages, counties, and ~~state trunk~~
24 ~~line highways~~ ROADWAYS assessed at large, in the proportion that
25 they are ~~taxed~~ SPECIALLY ASSESSED for the benefits received
26 thereby. ~~Such~~

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

24 SEC. 275A. (1) A DRAINAGE DISTRICT MAY BORROW MONEY OR
25 ACCEPT THE ADVANCE OF WORK, MATERIAL, OR MONEY FROM A PUBLIC OR
26 PRIVATE CORPORATION, PARTNERSHIP, ASSOCIATION, INDIVIDUAL, OR THE

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1 FEDERAL OR STATE GOVERNMENT OR ANY AGENCY OF THE FEDERAL OR STATE
2 GOVERNMENT FOR ANY OF THE FOLLOWING:

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

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

8 (C) THE COSTS OF ACQUIRING PROPERTY UNDER SECTION 7.

9 (D) ENGINEERING AND LEGAL FEES.

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

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

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

22 (2) IF A DRAINAGE PROJECT LIES ENTIRELY WITHIN THE LIMITS OF
23 A MUNICIPALITY, OTHER THAN A COUNTY, THE GOVERNING BODY OF THE
24 MUNICIPALITY MAY PLEDGE THE FULL FAITH AND CREDIT OF THE MUNICI-
25 PALITY FOR THE PAYMENT OF BONDS OR DRAIN ORDERS ISSUED IN CONNEC-
26 TION WITH THE PROJECT. IF A DEFICIENCY EXISTS IN THE DRAIN FUND
27 OR SINKING FUND FOR THE DRAIN 1 YEAR AFTER THE LAST INSTALLMENT

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1 OF THE DEFICIENCY ASSESSMENT PROVIDED FOR IN SECTION 280 BECOMES
2 DELINQUENT, THE MUNICIPALITY SHALL IMMEDIATELY ADVANCE TO THE
3 COUNTY DRAIN FUND THE AMOUNT OF THE DEFICIENCY. AFTER THE MUNIC-
4 IPALITY MAKES THE ADVANCE, ALL RECEIPTS OF THE DRAIN FUND FROM
5 THE SALE OF DELINQUENT TAX LANDS, WHICH HAD BEEN ASSESSED FOR THE
6 DRAIN, SHALL BE PAID TO THE MUNICIPALITY WITHIN 91 DAYS AFTER
7 RECEIPT BY THE COUNTY TREASURER.

8 Sec. 277. ~~Whenever lands in any city, village or township~~
9 ~~or combination thereof shall be assessed for all or any part of~~
10 ~~the cost of a drain, the~~ THE governing body of each ~~such~~
11 ~~cities, villages or townships~~ CITY, VILLAGE, OR TOWNSHIP IN
12 WHICH ARE LOCATED LANDS ASSESSED FOR ALL OR PART OF THE COST OF A
13 DRAIN, by resolution adopted prior to the issuance of drain
14 orders ~~and/or~~ OR bonds, OR BOTH, in anticipation of the payment
15 of the assessments for ~~such~~ THE drain, may agree that in the
16 event of any delinquency in the collection of the assessments
17 against lands in ~~such~~ THE cities, villages, or townships, the
18 cities, villages, or townships shall advance the amount of ~~such~~
19 THE delinquency from unobligated funds in the general fund to the
20 extent necessary to pay principal and interest on ~~such~~ THE
21 drain orders ~~and/or~~ OR bonds as ~~the same~~ THEY mature. ~~In~~
22 ~~the event that moneys are~~ IF MONEY IS so advanced, then the
23 cities, villages, or townships shall be reimbursed from the col-
24 lection of the said delinquent assessments against lands within
25 its boundaries. If the collections from special assessments
26 ~~shall~~ ARE not ~~be~~ sufficient to reimburse the cities,
27 villages, or townships, the drain commissioner of ~~such~~ THE

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1 county OR DRAINAGE BOARD shall, within a 5-year period from the
2 date of advancement, reassess the drainage district as in the
3 first instance in order to provide for the repayment of the sums
4 so advanced. ~~: Provided, That this~~ THIS act shall not vali-
5 date any drain orders or bonds issued ~~prior to the effective~~
6 ~~date of this act~~ BEFORE MARCH 28, 1956.

7 SEC. 277A. (1) IF DRAINAGE DISTRICTS ARE CONSOLIDATED AS
8 PROVIDED FOR IN THIS ACT, THE CONSOLIDATED DISTRICT SHALL, EXCEPT
9 AS OTHERWISE PROVIDED IN THIS ACT, HAVE ALL THE RIGHTS AND POWERS
10 AND BE SUBJECT TO ALL LAWS APPLICABLE TO COUNTY OR INTERCOUNTY
11 DRAINAGE DISTRICTS, AS APPLICABLE.

12 (2) THE MERGING OF A DRAINAGE DISTRICT INTO A CONSOLIDATED
13 DISTRICT DOES NOT AFFECT THE OBLIGATION OF ANY BONDS ISSUED OR
14 CONTRACTS ENTERED INTO BY THE DISTRICT OR INVALIDATE THE LEVY,
15 EXTENSION, OR COLLECTION OF ANY TAXES OR SPECIAL ASSESSMENTS UPON
16 PROPERTY IN THE DEBTOR DISTRICT. THE BONDS AND CONTRACTS SHALL
17 BE TAKEN OVER AND ASSUMED BY THE CONSOLIDATED DISTRICT, AND ALL
18 OUTSTANDING SPECIAL ASSESSMENTS SHALL BE COLLECTED AND PAID OVER
19 TO THE CONSOLIDATED DISTRICT FOR THE PAYMENT OF THE OBLIGATIONS
20 PREVIOUSLY ISSUED OR CONTRACTS PREVIOUSLY ENTERED INTO BY THE
21 DEBTOR DISTRICT. IF FURTHER FUNDS ARE NECESSARY FOR THE PAYMENT
22 OF OBLIGATIONS PREVIOUSLY ISSUED OR CONTRACTS PREVIOUSLY ENTERED
23 INTO BY THE DEBTOR DISTRICT, THE DRAIN COMMISSIONER OR DRAINAGE
24 BOARD OF THE CONSOLIDATED DISTRICT SHALL CONTINUE TO LEVY A SPE-
25 CIAL ASSESSMENT BASED ON THE SPECIAL ASSESSMENT ROLL CREATED TO
26 FINANCE THE OBLIGATIONS OR CONTRACTS. THE PROCEEDS OF THE

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1 SPECIAL ASSESSMENT SHALL BE USED ONLY FOR THE PURPOSE OF PAYING
2 THE INDEBTEDNESS, AND THE INTEREST THEREON.

3 (3) IF THERE ARE FUNDS IN THE DRAIN ACCOUNT OF ANY OF THE
4 DISTRICTS TO BE CONSOLIDATED, THE FUNDS SHALL BE PLACED IN A SEP-
5 ARATE ACCOUNT FOR THE CONSOLIDATED DISTRICT AND SHALL BE USED TO
6 PAY EXPENSES INCURRED BY THE COMMISSIONER OR DRAINAGE BOARD FOR
7 THE CONSOLIDATED DISTRICT, EXCEPT AS FOLLOWS:

8 (A) IF LANDS ARE ADDED WHICH WERE NOT PREVIOUSLY LOCATED IN
9 A PETITIONING DISTRICT, FUNDS FROM EACH ACCOUNT WHERE THERE IS A
10 SURPLUS SHALL BE PAID OUT OR PRORATED IN THE SAME MANNER AS PRO-
11 VIDED FOR ABANDONED OR VACATED DRAINS AFTER THAT DISTRICT'S
12 INDEBTEDNESS FOR THE COST OF CONSOLIDATION HAS BEEN 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. 278. If bonds or notes are issued and sold by the com-
20 missioner OR DRAINAGE BOARD, installments of the drain ~~taxes~~
21 SPECIAL ASSESSMENTS shall bear interest not to exceed a rate
22 which is not greater than 1% per annum more than the average rate
23 of interest on the bonds or notes from the date of the prepara-
24 tion of the assessment roll until due. The bonds or notes may
25 provide, if the commissioner OR DRAINAGE BOARD so determines, for
26 the payment of interest semiannually. The installments and the
27 interest thereon shall, as collected, be paid into the county

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1 treasury and placed to the credit of the fund of the drain, to be
2 used solely for the payment of bonds or notes as they mature.
3 Money collected in anticipation of the maturity of the bonds or
4 notes shall be deposited by the county treasurer in a bank or
5 banks to be designated by the COUNTY board of commissioners. ~~of~~
6 ~~the county and the~~ THE interest received ~~shall belong~~ BELONGS
7 to the fund. Bonds or notes issued and sold by the commissioner
8 OR DRAINAGE BOARD shall bear interest at not to exceed the rate
9 specified in section 2 of chapter 3 of ~~Act No. 202 of the Public~~
10 ~~Acts of 1943, as amended, being section 133.2 of the Michigan~~
11 ~~Compiled Laws~~ THE MUNICIPAL FINANCE ACT, 1943 PA 202, MCL
12 133.2.

13 Sec. 279. Any person liable ~~to~~ FOR the payment of special
14 assessments ~~for benefits received from the construction of a~~
15 ~~drain hereunder~~ may pay the ~~same~~ ASSESSMENT in full with
16 interest to date at any time, subject to the right of reassess-
17 ment in case of A deficiency as ~~herein~~ provided. HOWEVER, A
18 PREPAYMENT MADE FOLLOWING THE ISSUANCE OF BONDS OR NOTES IS
19 SUBJECT TO THE FIRST-YEAR INTEREST ON THE BONDS OR NOTES. The
20 ~~foregoing~~ right of prepayment ~~shall extend to the~~ EXTENDS TO
21 THIS state or any political subdivision thereof, assessed at
22 large for a portion of the cost of ~~a~~ THE drain. Such payment
23 may be made to the ~~township treasurer~~ DRAIN COMMISSIONER, who
24 shall give his OR HER receipt therefor and who shall transmit the
25 ~~same~~ RECEIPT to the county treasurer. The ~~latter official~~
26 ~~shall, on receipt of the same, give notice to the commissioner,~~

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1 ~~who~~ COMMISSIONER shall make the necessary changes in the rolls
2 covering subsequent installments.

3 Sec. 280. (1) If, FOR ANY REASON, there is not sufficient
4 money in the fund in a particular drain at the time of the matu-
5 rity of the bonds last to mature, or any drain orders, to pay all
6 outstanding bonds or drain orders with interest, or to reimburse
7 the county for money which it has been obliged to advance pursu-
8 ant to section 275, ~~whether such insufficiency is due to the~~
9 ~~anticipation of installments as provided in section 279, or to~~
10 ~~failure to sell any lands for delinquent taxes, or to any other~~
11 ~~cause, it shall be the duty of~~ the commissioner ~~to~~ OR DRAINAGE
12 BOARD SHALL at once levy an additional assessment. ~~as hereinbe-~~
13 ~~fore provided in such~~ THE ADDITIONAL ASSESSMENT SHALL BE IN an
14 amount as will make up the deficiency ~~which~~ AND shall be spread
15 in not to exceed 7 annual installments. ~~and if the commis-~~
16 ~~sioner determines that the entire amount, if spread in 1 year,~~
17 ~~would be an undue burden or create unnecessary hardship, he or~~
18 ~~she may order it spread over any number of years up to but not~~
19 ~~exceeding 7.~~ If bonds or other evidences of indebtedness are
20 issued pursuant to the municipal finance act, ~~Act No. 202 of the~~
21 ~~Public Acts of 1943, as amended, being sections 131.1 to 139.3 of~~
22 ~~the Michigan Compiled Laws~~ 1943 PA 202, MCL 131.1 TO 139.3, to
23 refund the outstanding indebtedness of a drain district, the gov-
24 erning body of ~~such~~ THE drain district shall provide, subject
25 to the directions of the department of treasury or to the
26 requirements of ~~Act No. 202 of the Public Acts of 1943~~ THE
27 MUNICIPAL FINANCE ACT, 1943 PA 202, MCL 131.1 TO 139.3, for

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1 ~~such~~ additional levies of assessments ~~prior to~~ BEFORE the
2 maturity of ~~such~~ THE refunding obligations ~~as~~ necessary to
3 prevent default in payment of interest on such obligations, and
4 FOR the maintenance of a ~~sinking~~ fund for ~~their~~ THE retire-
5 ment OF THE OBLIGATIONS. Every officer charged with the determi-
6 nation of the amount of ~~taxes~~ SPECIAL ASSESSMENTS to be raised,
7 or the levying of ~~such taxes~~ THE SPECIAL ASSESSMENTS, shall
8 make or cause to be made the additional levies as provided. Any
9 surplus remaining after the payment of the bonds and interest
10 shall remain in the DRAIN FUND OF THE county treasury and be used
11 for the maintenance of the drain.

12 (2) ~~Such~~ THE additional assessments shall ~~only apply to~~
13 ~~drain orders or bonds issued after March 28, 1956 and shall be~~
14 ~~apportioned, assessed, levied, and collected as provided in the~~
15 ~~first instance. As to deficiency assessments levied for drain~~
16 ~~orders or bonds issued after March 28, 1956, there shall be no~~
17 ~~lands exempted therefrom, except those which at the time of such~~
18 ~~additional assessments are owned or used as follows:~~

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

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

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

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

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

4 (3) An additional assessment shall not be levied or col-
5 lected for the purpose of paying the principal or interest upon
6 any bonds or obligations ~~which have heretofore been~~ THAT WERE
7 held to be invalid ~~, and any such~~ BEFORE MARCH 28, 1956. AN
8 additional assessment shall not be apportioned, assessed, levied,
9 or collected for the purpose of paying any bonds, interest, or
10 obligations for the payment of which assessments have heretofore
11 been made.

12 Sec. 282. (1) The drain commissioner or drainage board may
13 direct the treasurer of any drainage district to invest any sur-
14 plus funds belonging to and under the control of the drain com-
15 missioner or drainage board as provided in section 1 of ~~Act~~
16 ~~No. 20 of the Public Acts of 1943, being section 129.91 of the~~
17 ~~Michigan Compiled Laws~~ 1943 PA 20, MCL 129.91. OTHERWISE, THE
18 FUNDS SHALL BE INVESTED IN SECURE INTEREST BEARING ACCOUNTS. THE
19 TREASURER OF THE DRAINAGE DISTRICT SHALL CREDIT EARNINGS FROM
20 INVESTMENTS UNDER THIS SECTION TO THE DRAINAGE DISTRICT FUND.

21 (2) If 2 or more drainage district funds ~~which are~~ under
22 control of the drain commissioner or drainage board have balances
23 of less than \$1,000.00, those drainage district funds ~~may~~ SHALL
24 be consolidated into 1 account for short-term investment. ~~as~~
25 ~~directed by the drain commissioner.~~ A drainage district fund
26 shall not be consolidated if there is an immediate and apparent

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1 need for expending that fund on the specific drain to which the
2 fund belongs.

3 (3) The interest earned by a fund consolidated under subsec-
4 tion (2) may be deposited in a segregated revolving maintenance
5 fund which the drain commissioner or drainage board may use for
6 temporarily financing necessary maintenance expenses on ~~an~~
7 ~~intracounty~~ A COUNTY or intercounty drain within that drain
8 commissioner's or drainage board's jurisdiction. The revolving
9 maintenance fund shall be a fund separate from the revolving
10 drain fund provided for in chapter 12. The revolving maintenance
11 fund shall be accounted for, administered, and reimbursed in the
12 same manner as the revolving drain fund under section 303.

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

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

24 Sec. 283. (1) The drain commissioner or drainage board
25 shall ~~use~~ DEPOSIT IN THE DRAIN FUND OF THE DRAINAGE DISTRICT
26 any surplus construction funds remaining in the construction fund
27 after completion of the project for the inspection, repair, and

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1 maintenance of the drain ~~as provided in section 196~~ or shall
2 authorize the transfer of the funds to the bond and interest
3 account, if bonds were issued, in the amounts the drain commis-
4 sioner or drainage board considers proper.

5 (2) The drainage board or drain commissioner ~~shall~~ MAY
6 contract with a public corporation if that public corporation has
7 been assessed for all or part of the cost of the drain or if land
8 in a ~~city, village, township, or combination thereof~~ PUBLIC
9 CORPORATION has been assessed for all or any part of the cost of
10 a drain. The contract shall provide that after all outstanding
11 drain orders or bonds are paid on a drainage district project,
12 the drain commissioner or drainage board ~~shall~~ MAY authorize
13 the ~~respective county treasurers~~ DISTRICT TREASURER to pay
14 ~~over~~ any portion of the surplus THAT THE DRAIN COMMISSIONER OR
15 DRAINAGE BOARD CONSIDERS not needed for ~~more than~~ the cost of
16 inspection, repair, and maintenance of the drain as provided in
17 section ~~196~~ 199 to ~~the county, township, city, or village in~~
18 ~~which the drain was located or in which assessments for benefits~~
19 ~~have been assessed and collected~~ SUCH PUBLIC CORPORATIONS. The
20 payments shall be on a pro rata basis in direct proportion to the
21 amounts assessed and collected from each ~~county, city, village,~~
22 ~~or township~~ PUBLIC CORPORATION. The contract shall also provide
23 that upon receipt of the surplus funds the ~~county, city, vil-~~
24 ~~lage, or township~~ PUBLIC CORPORATION shall utilize those surplus
25 funds to alleviate drainage problems in ~~their respective~~
26 ~~jurisdictions~~ ITS JURISDICTION.

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1 (3) If state TRUNK LINE highway funds are involved in a
2 project, the drain commissioner or drainage board, upon
3 completion of a ~~construction~~ project, ~~shall~~ AND AFTER PAYMENT
4 OF ALL OUTSTANDING BONDS OR NOTES SHALL return TO THE STATE
5 TRANSPORTATION DEPARTMENT, on a pro rata basis, surplus construc-
6 tion funds in excess of the amount CONSIDERED necessary BY THE
7 DRAIN COMMISSIONER OR DRAINAGE BOARD to pay for inspection,
8 repair, and maintenance of the drain as provided in section 199.
9 ~~196 to the state transportation department for the construction,~~
10 ~~maintenance, and administration of state highways.~~

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

13 CHAPTER 12 ~~—~~

14 REVOLVING FUNDS FOR DRAINS ~~—~~

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

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

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

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

3 (C) OTHER LEGAL, ENGINEERING, NATURAL RESOURCE IMPACT
4 ASSESSMENT, OR CONSULTING services to the date of letting the
5 drain contract. ~~for paying members~~

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

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

10 (F) DRAIN orders that are due not in excess of ~~-\$2,000.00-~~
11 \$5,000.00 if authorized by the COUNTY board of ~~supervisors~~
12 COMMISSIONERS.

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

25 Sec. 303. The county treasurers shall carry as a separate
26 account upon the books of their office a revolving fund and all
27 accounts and items pertaining thereto. A record shall be kept of

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1 the amount of money paid from the revolving fund for the use and
2 benefit of any particular drainage district and upon payment to
3 the county treasurer of the ~~taxes assessed~~ ASSESSMENTS LEVIED
4 in the particular drainage district, the county treasurer, out of
5 the moneys received, shall transfer to the revolving fund pro
6 rata according to the number of installments of taxes the sum
7 expended.

8 Sec. 304. The ~~said~~ revolving fund shall be deposited in
9 ~~the bank of the county offering the highest rate of interest on~~
10 ~~daily balances, final determination to be made by the board of~~
11 ~~supervisors of the particular county, the~~ AN AUTHORIZED DEPOSI-
12 TORY FOR COUNTY FUNDS. THE interest ~~so received to~~ EARNED ON
13 THE FUND SHALL be paid into and become a part of ~~said~~ THE
14 fund.

15 Sec. 306. ~~Whenever~~ IF revolving fund ~~moneys have~~ MONEY
16 HAS been expended or a drainage district has become obligated to
17 pay expenses for engineering, legal, ~~and~~ OR administrative
18 services, by action of the drain commissioner or drainage board
19 and ~~no~~ AN improvement has NOT been completed ~~subsequent to~~
20 AFTER the DRAIN commissioner's order designating a drainage dis-
21 trict or entry of the first order of determination ~~as prescribed~~
22 in UNDER section 72 ~~where~~ FOR an intracounty drain, ~~is~~
23 ~~involved,~~ the drain commissioner of ~~such~~ THE county which has
24 expended such revolving fund ~~moneys~~ MONEY may report ~~such~~
25 THAT fact to the board of ~~supervisors~~ COMMISSIONERS. If ~~no~~
26 AN improvement ~~has been~~ IS NOT completed within ~~a period of 5~~
27 ~~years subsequent to the commissioner's order designating a~~

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1 ~~drainage district or~~ 2 YEARS AFTER entry of the first order of
2 determination ~~as prescribed in~~ UNDER section ~~72~~ 55, the drain
3 commissioner of such county shall report ~~such~~ THAT fact to the
4 COUNTY board of ~~supervisors~~ COMMISSIONERS. If the sum involved
5 is too small to justify spreading the ~~same~~ SUM over the desig-
6 nated DRAINAGE district, ~~above referred to, such~~ THE COUNTY
7 board of ~~supervisors~~ COMMISSIONERS may order the sum to be
8 spread against the property of the original petitioners according
9 to ~~such percentage as the commissioners shall deem~~ THE PERCENT-
10 TAGE THAT THE DRAIN COMMISSIONER CONSIDERS just and equitable,
11 based on the same benefit theory as if the improvement had been
12 completed. If the sum involved is large enough to, in the opin-
13 ion of the COUNTY board of ~~supervisors~~ COMMISSIONERS, create
14 undue hardship on the original petitioners, the COUNTY board of
15 ~~supervisors~~ COMMISSIONERS may order the ~~same~~ SUM spread over
16 ~~such~~ THE designated district and the DRAIN commissioner shall
17 apportion the ~~cost thereof~~ SUM to the parties benefited in the
18 district as provided in chapter 7 for the purpose of permitting a
19 review of the roll as to fairness of the apportionment only.

20 Sec. 307. ~~Whenever~~ IF revolving fund ~~moneys have~~ MONEY
21 HAS been expended and ~~no improvement has been completed subse-~~
22 ~~quent to the order designating a drainage district as prescribed~~
23 ~~in~~ AN IMPROVEMENT IS NOT COMPLETED WITHIN 2 YEARS AFTER ENTRY OF
24 THE FIRST ORDER OF DETERMINATION UNDER section 105 ~~of this act~~
25 where an intercounty drain is involved, ~~within a period of 5~~
26 ~~years,~~ the drainage board created in section 102 ~~of this act~~
27 shall apportion the cost as between counties. Any drain

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1 commissioner feeling aggrieved by ~~such~~ THE apportionment may
2 request review by the board of review provided in section ~~106~~ of
3 ~~this act, and such board shall proceed to review the same~~ 104,
4 AND THE BOARD OF REVIEW SHALL REVIEW THE APPORTIONMENT as pro-
5 vided in this act. The decisions of the board of review ~~shall~~
6 ~~be~~ ARE final. Thereafter, the amount apportioned to each county
7 shall be recovered by ~~each~~ THAT county as ~~above outlined~~
8 PROVIDED for the recovery of revolving fund ~~moneys~~ MONEY
9 expended for an intracounty drain in section 306. ~~of this act.~~

10 CHAPTER 13 ~~.~~

11 ~~HIGHWAYS~~ ROADWAYS, RAILROADS, UTILITIES, AND OTHER STRUCTURES

12 Sec. 322. (1) ~~When any~~ IF A drain crosses a ~~highway~~
13 ROADWAY, the necessary bridge or culvert shall be constructed on
14 the center line of the ~~highway~~ ROADWAY as located by survey,
15 and in accordance with plans and specifications which shall be
16 approved by the ~~county road commission having jurisdiction, or~~
17 ~~by the state highway commissioner if such highway is a state~~
18 ~~trunk line~~ ROADWAY AUTHORITY UNDER A PERMIT UNDER SECTION 7.
19 The cost of constructing the necessary bridge or culvert shall be
20 charged in the first instance as part of the cost of construction
21 of ~~such~~ THE drain. The ~~board of county road commissioners or~~
22 ~~the state highway commissioner~~ ROADWAY AUTHORITY 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

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1 consent of the ~~state highway commissioner or the board of county~~
2 ~~road commissioners. Thereafter such~~ ROADWAY AUTHORITY.

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. Any such~~
6 ROADWAY AUTHORITY.

7 (3) AN expense charged to the state ~~highway commissioner~~
8 TRANSPORTATION DEPARTMENT 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 ~~in the county road fund not otherwise~~ PURSUANT TO
SECTION 14A OF 1951 PA 51, MCL 247.664A.]

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~~ ROADWAY WITH EACH FARM ENTRANCE, UNLESS THE
18 ROADWAY IS A limited access ~~highways~~ HIGHWAY established under
19 ~~Act No. 205 of the Public Acts of 1941, as amended, being sec-~~
20 ~~tions 252.51 to 252.64 of the Compiled Laws of 1948), with each~~
21 ~~farm 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 AND MAINTENANCE OF THE
3 bridge, culvert, or ford shall also be charged ~~in the first~~
4 ~~instance~~ as a part of the construction AND MAINTENANCE,
5 RESPECTIVELY, of ~~such~~ THE drain. ~~, after which such bridge,~~
6 ~~culvert or ford shall be maintained by the owner of the land.~~

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

14 (6) THE COMMISSIONER'S OR DRAINAGE BOARD'S ENGINEER SHALL
15 RECOMMEND METHODS TO REDUCE SOIL EROSION AND SEDIMENTATION. THE
16 ENGINEER, WHEN NECESSARY, SHALL ALSO RECOMMEND THE SIZE AND TYPE
17 OF CONSTRUCTION FOR NECESSARY BRIDGES, CULVERTS, AND FORDS.

18 Sec. 322b. If any person desires during construction or
19 reconstruction of a ~~highway~~ ROADWAY to install a drain for
20 agricultural benefits in lands adjacent to any ~~highway~~ ROADWAY,
21 and if a satisfactory outlet cannot be secured on the upper side
22 of the ~~highway~~ ROADWAY right-of-way and the drain must be
23 projected across the right-of-way to reach an outlet which may be
24 legally utilized as an outlet and is suitable for such purpose,
25 the expense of both material and labor used in installing the
26 drain across the right-of-way shall be paid from funds available
27 for the ~~highway~~ ROADWAY affected if the ~~highway~~ ROADWAY

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1 authority is notified of the necessity of the drain sufficiently
2 in advance of the construction or reconstruction of the ~~highway~~
3 ROADWAY so that the drain may be installed and the ~~highway~~
4 ROADWAY constructed or reconstructed in the same operation.

5 Sec. 323. Before a NEW drain ~~shall be~~ IS constructed
6 along a ~~public highway, the highway authorities having jurisdic-~~
7 ~~tion over the highway shall be consulted and their consent shall~~
8 ~~be obtained in writing, as~~ ROADWAY, THE DRAIN COMMISSIONER SHALL
9 CONSULT THE ROADWAY AUTHORITY AND OBTAIN ITS WRITTEN CONSENT to
10 the proposed location OF THE DRAIN and ~~what~~ THE disposition
11 ~~shall~~ TO be made of all material excavated. ~~Whenever~~ THE
12 REVIEW AND WRITTEN APPROVAL FOR THE CONSTRUCTION SHALL BE MADE BY
13 THE ROADWAY AUTHORITY WITHIN 42 DAYS OF THEIR RECEIPT OF PLANS
14 FOR THE CONSTRUCTION. IN THE EVENT THAT WRITTEN CONSENT IS NOT
15 PROVIDED BY THE ROADWAY AUTHORITY WITHIN THE 42-DAY PERIOD, THE
16 CONSTRUCTION PLANS SHALL BE APPROVED. IF MODIFICATIONS ARE
17 REQUIRED BY THE ROADWAY AUTHORITY, FINAL PLANS WILL BE PROVIDED
18 TO THE ROADWAY AUTHORITY PRIOR TO ANY CONSTRUCTION ACTIVITY. IF
19 an apportionment is made against a state trunk line highway, the
20 amount of the assessment based on such apportionment shall be
21 paid out of any state ~~trunk line highway~~ TRANSPORTATION funds
22 on hand. ~~in the state treasury. On or before December 1 of the~~
23 ~~year when such assessment is made, the drain commissioner shall~~
24 ~~certify to the auditor general the amount due from the state to~~
25 ~~such drainage district by reason of the assessment of benefits,~~
26 ~~and the auditor general shall, if satisfied of the correctness of~~

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1 ~~such certificate, cause the same to be paid within 30 days~~
2 ~~thereafter.~~

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

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

25 (2) The county road commission, THE COUNTY EXECUTIVE, OR
26 OTHER AGENCY ACTING AS THE COUNTY ROAD COMMISSION shall secure
27 the right-of-way for ~~any such~~ THE drain by gift or purchase

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

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

21 Sec. 326. On the completion by the county road commission
22 of ~~any~~ A drain, ~~constructed under the provisions of this act,~~
23 ~~it shall be the duty of said~~ THE county road commission ~~to~~
24 SHALL file in the office of the drain commissioner a detailed
25 report of the construction of ~~such~~ THE drain, giving the date
26 of construction, the termini and general course ~~thereof,~~
27 ~~together with~~ OF THE DRAIN, AND a copy of the deed by which the

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1 right-of-way therefor was secured. ~~Nothing in the provisions of~~
2 ~~the preceding sections shall be construed as giving to~~ THIS
3 CHAPTER DOES NOT GIVE the county road commission power to ~~lay~~
4 ~~out and~~ construct drains having any other purpose than the
5 drainage of ~~highways~~ COUNTY ROADS.

6 Sec. 327. (1) ~~In case it becomes~~ IF IT IS necessary for
7 the construction or maintenance of ~~any highway~~ A ROADWAY to
8 take the surplus water across adjacent lands, the ~~state, county~~
9 ~~or township highway commissioner or county road commissioners~~ may
10 ~~make under his or their name of office an application or petition~~
11 ~~to the drain commissioner of the county in which such highway is~~
12 ~~situated to lay out and designate a drainage district, locate and~~
13 ~~establish a drain, clean out, widen, deepen, straighten or extend~~
14 ~~an established drain. Such application or petition shall conform~~
15 ~~to the law regulating applications or petitions for the laying~~
16 ~~out and designating a drainage district, locating and establish-~~
17 ~~ing of drains, and cleaning out, widening, deepening, straighten-~~
18 ~~ing and extending established drains, and shall require no other~~
19 ~~signature than his own as highway commissioner or county road~~
20 ~~commissioners. Such application or petition shall have the same~~
21 ~~force and effect, and be subject in other respects to the same~~
22 ~~laws and regulations that govern other such applications or peti-~~
23 ~~tions and shall confer the same jurisdiction and authority on the~~
24 ~~county drain commissioner to lay out and designate a drainage~~
25 ~~district, locate and establish a drain, or clean out, widen,~~
26 ~~deepen, straighten or extend an established drain: Provided,~~
27 ~~That in cases where the state highway commissioner makes such~~

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~~1 application or petition he shall serve a copy of such application
2 or petition on the director of agriculture, who shall within 30
3 days hold a meeting at some place in the drainage district for
4 the purpose of determining the practicability or necessity of
5 such drain, and no board of determination shall be necessary to
6 pass on those questions. Said meeting shall be held, notice
7 given and all persons interested may be heard in the same manner
8 as provided in section 102 or section 122 of this act. The
9 determination of the director of agriculture shall be filed with
10 the drain commissioner.~~ ROADWAY AUTHORITY MAY FILE A PETITION
11 WITH THE DRAIN COMMISSIONER OF THE COUNTY IN WHICH THE ROADWAY IS
12 SITUATED TO ESTABLISH A DRAINAGE DISTRICT AND A COUNTY OR INTER-
13 COUNTY DRAIN OR TO MAINTAIN OR IMPROVE A DRAIN. EXCEPT AS PRO-
14 VIDED IN SUBSECTIONS (2) AND (3), THE PETITION AND PROCEEDINGS
15 ARE SUBJECT TO CHAPTER 3, 5, OR 8, AS APPLICABLE, AND OTHER PRO-
16 VISIONS OF THIS ACT.

17 (2) THE ROADWAY AUTHORITY IS THE ONLY PETITIONER REQUIRED ON
18 A PETITION UNDER THIS SECTION.

19 (3) IF THE PETITIONING ROADWAY AUTHORITY IS THE DIRECTOR OF
20 TRANSPORTATION, ALL OF THE FOLLOWING APPLY:

21 (A) IN ADDITION TO FILING THE PETITION WITH THE DRAIN COM-
22 MISSIONER OF THE COUNTY IN WHICH THE ROADWAY IS LOCATED, THE
23 DIRECTOR OF TRANSPORTATION SHALL PROMPTLY SERVE A COPY OF THE
24 PETITION ON THE DIRECTOR OF AGRICULTURE.

25 (B) THE DIRECTOR OF AGRICULTURE SHALL EXERCISE THE POWERS
26 AND DUTIES OF THE BOARD OF DETERMINATION, FOR A COUNTY DRAIN, OR
27 THE DRAINAGE BOARD, FOR AN INTERCOUNTY DRAIN, UP TO AND INCLUDING

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1 THE FILING OF THE ORDER OF NECESSITY. THE DIRECTOR OF
2 AGRICULTURE SHALL CONDUCT THE FIRST HEARING UNDER CHAPTER 3, 5,
3 OR 8, AS APPLICABLE, NOT LATER THAN 63 DAYS AFTER THE DIRECTOR OF
4 TRANSPORTATION SERVES THE COPY OF THE PETITION ON THE DIRECTOR OF
5 AGRICULTURE.

6 Sec. 328. ~~Before the department of state highways may com-~~
7 ~~mence the construction of a state highway, the engineering plans~~
8 ~~of the state highway relative to county drains shall be forwarded~~
9 ~~to the drain commissioner of each county where the state highway~~
10 ~~is to be constructed.~~ BEFORE A PERSON LAYS OR CONSTRUCTS A
11 CABLE, PIPELINE, SEWER, CONDUIT, ROADWAY, CULVERT, BRIDGE, OR
12 OTHER STRUCTURE ACROSS A COUNTY OR INTERCOUNTY DRAIN, THE PERSON
13 SHALL FORWARD RELEVANT ENGINEERING PLANS TO THE DRAIN COMMIS-
14 SIONER OR DRAINAGE BOARD, RESPECTIVELY, FOR REVIEW AND WRITTEN
15 APPROVAL UPON TERMS AND CONDITIONS THAT ARE REASONABLE AND PROPER
16 TO PREVENT INTERFERENCE. THE REVIEW AND WRITTEN APPROVAL FOR THE
17 CONSTRUCTION SHALL BE MADE BY THE DRAIN COMMISSIONER WITHIN 42
18 DAYS OF HIS OR HER RECEIPT OF PLANS FOR THE CONSTRUCTION. IN THE
19 EVENT THAT APPROVAL IS NOT PROVIDED BY THE DRAIN COMMISSIONER
20 WITHIN THE 42-DAY PERIOD, THE CONSTRUCTION PLANS SHALL BE
21 APPROVED. IF MODIFICATIONS ARE REQUIRED BY THE DRAIN COMMISSION-
22 ER, FINAL PLANS WILL BE PROVIDED TO THE DRAIN COMMISSIONER PRIOR
23 TO ANY CONSTRUCTION ACTIVITY.

24 SEC. 329. IF THE ROADWAY AUTHORITY REQUESTS OR ORDERS THAT
25 AN EXISTING LEGALLY ESTABLISHED DRAIN WITHIN THE RIGHT-OF-WAY OF
26 THE ROADWAY BE RELOCATED OUTSIDE THE ROADWAY RIGHT-OF-WAY, THE

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1 COST OF RELOCATING THE DRAIN SHALL BE BORNE BY THE ROADWAY
2 AUTHORITY.

3 SEC. 330. (1) IF IT IS NECESSARY TO ESTABLISH, CONSTRUCT,
4 MAINTAIN, OR IMPROVE A DRAIN ACROSS THE RIGHT-OF-WAY OR ROADBED
5 OF ANY RAILROAD OR RAILWAY COMPANY, TELEPHONE OR TELEGRAPH COM-
6 PANY, OR DAM, ELECTRIC, CABLE, WATER, OIL, GAS, PIPELINE, OR
7 OTHER UTILITY COMPANY, THE DRAIN COMMISSIONER OR DRAINAGE BOARD
8 SHALL GIVE NOTICE OF THE NECESSITY TO CROSS THE RIGHT-OF-WAY OR
9 ROADBED. NOTICE SHALL BE PROVIDED BY FIRST-CLASS MAIL TO THE
10 GENERAL OFFICE OF THE COMPANY OR THE OFFICE OF THE REGISTERED
11 AGENT OF THE COMPANY. THE NOTICE SHALL INCLUDE THE LOCATION OF
12 THE PROPOSED CROSSING, THE NAME OF THE DRAIN, THE PLANS AND SPEC-
13 IFICATIONS FOR THE CROSSING AND FOR THE METHOD OF CONSTRUCTING
14 THE CROSSING, AND A SCHEDULE FOR CONSTRUCTING THE CROSSING. THE
15 CROSSING AND PLANS FOR THE CROSSING SHALL INCLUDE ANY INFRASTRUC-
16 TURE OR OTHER PROVISION NECESSARY TO MAINTAIN THE COMPANY'S
17 ACCESS TO ITS FACILITIES AND EQUIPMENT. THE NOTICE SHALL ALSO
18 INCLUDE A STATEMENT THAT THE COMPANY HAS 42 DAYS WITHIN WHICH TO
19 OBJECT TO THE PROPOSED PLAN AND FAILURE TO DO SO MAY RESULT IN A
20 WAIVER OF ANY OBJECTIONS.

21 (2) WITHIN 42 DAYS AFTER RECEIPT OF THE NOTICE, THE COMPANY
22 SHALL DELIVER TO THE DRAIN COMMISSIONER OR DRAINAGE BOARD BY
23 FIRST-CLASS MAIL NOTICE WHETHER IT APPROVES OR OBJECTS TO THE
24 LOCATION OF THE CROSSING AND THE PLANS AND SPECIFICATIONS FOR THE
25 CROSSING AND FOR THE METHOD OF CONSTRUCTING THE CROSSING. THE
26 NOTICE SHALL STATE THE REASONS FOR ANY OBJECTION. IF THE COMPANY
27 APPROVES OF OR FAILS TO OBJECT TO THE CROSSING, THE DRAIN

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1 COMMISSIONER OR DRAINAGE BOARD MAY PROCEED WITH THE CROSSING. IF
2 THE COMPANY OBJECTS TO THE CROSSING, THE DRAIN COMMISSIONER OR
3 DRAINAGE BOARD MAY DO 1 OF THE FOLLOWING:

4 (A) THE DRAIN COMMISSIONER OR DRAINAGE BOARD MAY GIVE A
5 REVISED NOTICE OF CROSSING UNDER SUBSECTION (1). THE REVISED
6 NOTICE OF CROSSING SHALL BE DESIGNED TO RESOLVE 1 OR MORE OF THE
7 REASONS FOR OBJECTION OF THE ORIGINAL NOTICE OF CROSSING. THE
8 REVISED NOTICE OF CROSSING IS SUBJECT TO THE SAME REQUIREMENTS
9 AND PROCEDURES AS THE ORIGINAL NOTICE OF CROSSING UNDER THIS
10 SECTION.

11 (B) THE DRAIN COMMISSIONER OR DRAINAGE BOARD MAY PETITION
12 THE CIRCUIT COURT OF THE COUNTY IN WHICH THE CROSSING IS PROPOSED
13 TO BE LOCATED TO ORDER THE COMPANY TO ALLOW THE DRAIN COMMIS-
14 SIONER OR DRAINAGE BOARD TO CONSTRUCT THE CROSSING. THE CIRCUIT
15 COURT SHALL, IF IT FINDS THAT THERE IS A LEGAL RIGHT TO THE
16 CROSSING AND ALSO FINDS THAT THE OBJECTIONS OF THE COMPANY TO THE
17 PLANS WERE NOT WELL FOUNDED OR MATERIAL TO THE SAFE OPERATIONS OF
18 THE COMPANY, ISSUE A WRIT OF MANDAMUS ORDERING THE COMPANY TO
19 ALLOW THE DRAIN COMMISSIONER OR DRAINAGE BOARD TO CONSTRUCT THE
20 CROSSING. THE DRAIN COMMISSIONER OR DRAINAGE BOARD SHALL GIVE
21 THE COMPANY AT LEAST 14 DAYS' NOTICE OF THE PETITION TO THE CIR-
22 CUIT COURT AND THE PROCEEDINGS SHALL FOLLOW THE PRACTICE OF CIR-
23 CUIT COURTS IN MANDAMUS PROCEEDINGS. THE MATTER SHALL BE HEARD
24 AND DETERMINED AS SPEEDILY AS PRACTICABLE. THE COURT MAY AWARD
25 COSTS AND ATTORNEY FEES TO THE PREVAILING PARTY.

26 (C) IN LIEU OF PROCEEDING TO CIRCUIT COURT AS PROVIDED IN
27 SUBDIVISION (B), THE DRAIN COMMISSIONER OR DRAINAGE BOARD AND THE

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1 COMPANY MAY AGREE TO AN ALTERNATIVE FORM OF DISPUTE RESOLUTION,
2 INCLUDING, BUT NOT LIMITED TO, MEDIATION OR ARBITRATION BY A
3 MEMBER OF THE AMERICAN ARBITRATION ASSOCIATION OR ITS SUCCESSOR
4 UNDER THE COMMERCIAL ARBITRATION RULES OF THE AMERICAN ARBITRA-
5 TION ASSOCIATION OR ITS SUCCESSOR. AN ARBITRATOR MAY AWARD
6 ATTORNEY FEES OR ARBITRATION FEES TO THE PREVAILING PARTY. AT
7 THE REQUEST OF EITHER PARTY, THE DECISION OF AN ARBITRATOR MAY BE
8 ENTERED IN AND ENFORCED BY THE CIRCUIT COURT OF THE COUNTY IN
9 WHICH THE CROSSING IS PROPOSED.

10 (3) IF IT IS NECESSARY TO CONSTRUCT, MAINTAIN, OR IMPROVE A
11 DRAIN ACROSS THE RIGHT-OF-WAY OF ANY RAILROAD OR RAILWAY COMPANY,
12 TELEPHONE OR TELEGRAPH COMPANY, OR DAM, ELECTRIC CABLE, WATER,
13 OIL, GAS, PIPELINE, OR OTHER UTILITY COMPANY, THE DRAIN COMMIS-
14 SIONER OR DRAINAGE BOARD MAY ACQUIRE PROPERTY OR INTERESTS IN
15 PROPERTY FOR THAT PURPOSE UNDER SECTION 7.

16 CHAPTER 17 ~~—~~

17 ABANDONED AND VACATED DRAINS--DISPOSAL OF FUNDS ~~—~~

18 Sec. 391. (1) Any drain or part thereof ~~which has ceased~~
19 ~~to be of public utility and~~ THAT is no longer necessary or con-
20 ducive to the public health, ~~convenience and~~ SAFETY, OR welfare
21 OR FOR AGRICULTURE may be declared to be abandoned and vacated in
22 the manner ~~herein~~ provided IN THIS SECTION.

23 (2) Any 5 ~~freeholders of lands~~ OWNERS OF LAND in a drain-
24 age district or the governing body of any public corporation in
25 whose limits a drain or part thereof is located may petition for
26 the abandonment and vacation of ~~a~~ THE drain or part thereof.
27 The petition shall be addressed to and filed with the DRAIN

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1 commissioner or drainage board having jurisdiction of ~~such~~ THE
2 drain. The commissioner or drainage board shall hold a meeting
3 to hear objections to the petition and to the abandonment and
4 vacation of ~~a~~ THE drain or part thereof ~~therein~~ requested IN
5 THE PETITION, and shall give notice of ~~such~~ THE meeting ~~by~~
6 ~~posting in 5 public places in the drainage district and by publi-~~
7 ~~cation in a newspaper of general circulation in the drainage dis-~~
8 ~~trict which posting and publication shall occur at least 10 days~~
9 ~~before the date of such meeting~~ UNDER SECTION 8.

10 (3) Private rights of persons acquired by reason of the
11 establishment and construction of ~~such~~ THE drain or part
12 thereof shall not be interfered with ~~,~~ or ~~in any way be~~
13 impaired by ~~such~~ THE abandonment and vacation. If ~~it is~~
14 ~~determined at such~~ THE COMMISSIONER OR DRAINAGE BOARD DETERMINES
15 AT THE meeting that the drain or part thereof should be abandoned
16 and vacated, the commissioner or drainage board shall issue an
17 order to that effect. ~~and file the same with the commissioner of~~
18 ~~the county or counties involved. Easements~~ AN ORDER OF ABANDON-
19 MENT SHALL NOT BE MADE UNDER THIS SECTION OR MONEY DISBURSED
20 UNDER SECTION 392 UNLESS ALL DEBTS OF THE DRAIN ARE SATISFIED.
21 THE DRAIN COMMISSIONER OR DRAINAGE BOARD MAY LEVY A SPECIAL
22 ASSESSMENT TO SATISFY ANY SUCH DEBT, INCLUDING REIMBURSEMENT TO
23 THE DRAIN REVOLVING FUND, BEFORE AN ORDER IS ENTERED OR DISBURSE-
24 MENTS ARE MADE. SUBJECT TO SUBSECTION (4), EASEMENTS or
25 rights-of-way for the drain or part thereof abandoned and vacated
26 or easements or portions thereof no longer necessary for drainage
27 purposes shall be conveyed or released by the commissioner or

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1 drainage board on behalf of the drainage district. ~~If it be~~
2 ~~contemplated to construct a new drain or part thereof on or near~~
3 ~~the line of an existing drain or part thereof this may be accom-~~
4 ~~plished without abandonment and vacation of the~~

5 (4) THE existing drain or part thereof ~~and the~~ NEED NOT BE
6 ABANDONED OR VACATED IF IT IS ANTICIPATED THAT A DRAIN OR PART
7 THEREOF WILL BE CONSTRUCTED OR RELOCATED ON OR NEAR THE LINE OF
8 THE EXISTING DRAIN. THE easements or rights-of-way of the exist-
9 ing drain or part thereof may be used for this purpose. ~~→~~
10 ~~Provided, however, That~~ HOWEVER, if the contemplated project
11 materially damages the property owner beyond the existing ease-
12 ment, or if it materially burdens the existing easement, then the
13 commissioner or drainage board shall secure an additional ease-
14 ment for the contemplated project. ~~It shall not be necessary to~~
15 ~~abandon and vacate an~~ AN existing drain or part thereof made
16 unnecessary by a new drain or part thereof NEED NOT BE ABANDONED
17 OR VACATED until the new drain is constructed and ready for
18 service.

19 Sec. 392. (1) ~~Whenever any~~ IF A drain ~~shall have been~~
20 IS declared vacated and abandoned IN ITS ENTIRETY, as provided in
21 section 391, ~~it shall be the duty of~~ the DRAIN commissioner
22 ~~to~~ SHALL serve notice thereof forthwith upon the county trea-
23 surer of the county or counties in which the drainage district,
24 or any portion thereof, is situated. If there be any money cred-
25 ited to or belonging to the fund of such vacated and abandoned
26 drain, ~~it shall be the duty of~~ THE DRAIN COMMISSIONER OR
27 DRAINAGE BOARD MAY IN ITS DISCRETION PREPARE A REVISED ROLL TO

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1 ALLOCATE A PROPORTIONATE REFUND AMOUNT OF ANY SUCH FUND TO ALL
2 THE LANDS THAT WERE ASSESSED FOR THE COSTS OF THE VACATED AND
3 ABANDONED DRAIN. IF THE DRAIN COMMISSIONER OR DRAINAGE BOARD
4 PREPARES SUCH A REVISED ROLL, the county treasurer or treasurers
5 ~~to transfer and pay over the same~~ SHALL PAY THE REFUND AMOUNT
6 to the treasurer or treasurers of the township or townships in
7 which the drain was located or in which assessments for benefits
8 to be received from such drain have been assessed and collected.
9 ~~: Provided, That in all cases where~~

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

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1 from the different townships entitled to share in the
2 disbursement thereof.

3 Sec. 393. Upon receiving such money, and the accompanying
4 statement, if required to be furnished hereby, the township trea-
5 surer shall give his OR HER receipt therefor to the county
6 treasurer. ~~He~~ THE TOWNSHIP TREASURER shall also serve notice
7 upon each person, firm or corporation who, as shown by the
8 records of his OR HER office, shall have paid a special ~~tax~~
9 ASSESSMENT for benefits received or to be received from the con-
10 struction of such drain, that ~~such~~ THE drain has been declared
11 vacated and abandoned and that the payment ~~as aforesaid~~ has
12 been made to ~~him~~ THE TOWNSHIP TREASURER by the county
13 treasurer. Similar notice shall also be served upon the township
14 board and shall be published for 2 successive weeks in ~~some~~ A
15 newspaper published and circulating in ~~said~~ THE county.

16 ~~Thereupon, every~~ UPON DEMAND, THE TOWNSHIP TREASURER SHALL
17 REIMBURSE such person, firm, or corporation ~~shall be entitled to~~
18 ~~demand and receive from said township treasurer~~ FOR the amount
19 of the special assessment that ~~such~~ THE person, firm, or corpo-
20 ration ~~may have so~~ paid. The amount of the special ~~tax~~
21 ASSESSMENT for the construction of ~~such~~ THE drain that may have
22 been assessed and collected from the township at large shall be
23 credited to and paid into the contingency fund in the township
24 treasury. ~~∴ Provided, however, That~~ HOWEVER, if the amount of
25 money paid over to the township treasurer by the county treasurer
26 ~~in the manner aforesaid~~ is less than the aggregate amount of
27 special assessments levied and collected in such township for the

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1 construction of such drain and the ~~tax~~ ASSESSMENT levied and
2 collected upon and from the township at large, then the township
3 treasurer shall prorate ~~the payments~~ to each such person, firm,
4 or corporation and the amount to be paid into the general fund in
5 the township treasury ~~;~~ and each such person, firm or corpora-
6 tion and the contingency fund in the township treasury shall be
7 entitled to receive such proportion of the amount of the
8 ~~special~~ assessment ~~or tax~~ paid thereby as the amount of money
9 paid to the township treasurer by the county treasurer ~~shall~~
10 ~~bear~~ BEARS to the total amount of special assessments and taxes
11 levied and collected in said township and paid into the fund for
12 the construction of said drain.

13 Sec. 395. (1) ~~The county drain commissioner may relinquish~~
14 ~~jurisdiction and control to a township, city or village of any~~
15 ~~county drainage district upon which there is no outstanding~~
16 ~~indebtedness or contract liability and which is wholly located~~
17 ~~within the boundaries of a township, city or village, and there-~~
18 ~~after the county drain commissioner shall be relieved of, and the~~
19 ~~township, city or village shall assume, the maintenance, juris-~~
20 ~~diction, control and operation thereof and its future operation~~
21 ~~shall be financed in the same manner as is provided for special~~
22 ~~assessment districts within such township, city or village:~~
23 ~~Provided, That such proceeding shall have first been approved by~~
24 ~~a majority of the members elect of the county board of supervi-~~
25 ~~sors and by the resolution of the governing body of the township,~~
26 ~~city or village in which such drain is located. Any money which~~
27 ~~shall be in the drain fund of any such~~ THE COUNTY DRAIN

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1 COMMISSIONER, FOR A COUNTY DRAIN, OR THE DRAINAGE BOARD, FOR AN
2 INTERCOUNTY DRAIN, MAY RELINQUISH JURISDICTION OVER ALL OR PART
3 OF A DRAIN TO A COUNTY, TOWNSHIP, CITY, OR VILLAGE IF ALL OF THE
4 FOLLOWING REQUIREMENTS ARE MET:

5 (A) THE COUNTY, TOWNSHIP, CITY, OR VILLAGE REQUESTS OR CON-
6 SENDS TO THE RELINQUISHMENT BY RESOLUTION OF ITS GOVERNING BODY.
7 IF THE RELINQUISHMENT IS TO A COUNTY, THE RESOLUTION OF THE
8 COUNTY BOARD OF COMMISSIONERS SHALL SPECIFY THE COUNTY AGENCY,
9 SUCH AS THE BOARD OF PUBLIC WORKS, DRAIN COMMISSIONER, BOARD OF
10 COUNTY ROAD COMMISSIONERS, THE COUNTY EXECUTIVE, OR OTHER AGENCY
11 ACTING AS THE COUNTY ROAD COMMISSION OR PARKS AND RECREATION COM-
12 MISSION, THAT WILL EXERCISE JURISDICTION OVER THE DRAIN OR PART
13 OF THE DRAIN.

14 (B) IF THE RELINQUISHMENT IS TO A TOWNSHIP, CITY, OR VIL-
15 LAGE, THE RELINQUISHMENT IS APPROVED BY RESOLUTION OF A MAJORITY
16 OF THE MEMBERS OF THE COUNTY BOARD OF COMMISSIONERS.

17 (C) THE DRAIN OR PART OF THE DRAIN IS LOCATED WHOLLY WITHIN
18 THE BOUNDARIES OF THE COUNTY, TOWNSHIP, CITY, OR VILLAGE TO WHICH
19 IT IS TO BE RELINQUISHED.

20 (D) THE DRAINAGE DISTRICT HAS NO OUTSTANDING INDEBTEDNESS OR
21 CONTRACT LIABILITY. INDEBTEDNESS OR CONTRACT LIABILITY THAT WILL
22 BE PAID IN FULL AT THE TIME OF THE RELINQUISHMENT IS NOT CONSID-
23 ERED TO BE OUTSTANDING FOR THE PURPOSES OF THIS SUBDIVISION.

24 (2) UPON RELINQUISHMENT OF JURISDICTION OVER THE DRAIN OR
25 PART OF THE DRAIN, THE DRAIN COMMISSIONER OR DRAINAGE BOARD IS
26 RELIEVED OF, AND THE COUNTY, TOWNSHIP, CITY, OR VILLAGE SHALL
27 ASSUME, JURISDICTION OVER THE DRAIN OR PART OF THE DRAIN,

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1 INCLUDING RESPONSIBILITY FOR THE MAINTENANCE, CONTROL, AND
2 OPERATION OF THE DRAIN OR PART OF THE DRAIN. EASEMENTS AND
3 RIGHTS OF WAY FOR THE DRAIN OR PART OF THE DRAIN ARE TRANSFERRED
4 TO THE COUNTY, TOWNSHIP, CITY, OR VILLAGE TO WHICH THE DRAIN OR
5 PART OF THE DRAIN IS RELINQUISHED. IF JURISDICTION OVER THE
6 ENTIRE DRAIN IS RELINQUISHED, THE DRAINAGE DISTRICT IS
7 DISSOLVED.

8 (3) IF JURISDICTION IS BEING RELINQUISHED OVER ALL OR PART
9 OF A DRAIN ESTABLISHED UNDER CHAPTER 3 OR 5, ANY MONEY IN THE
10 DRAIN FUND OF THE drainage district at the time jurisdiction
11 ~~over it is transferred~~ RELINQUISHED as provided in this sec-
12 tion shall be distributed in the ~~same~~ manner ~~as is~~ provided
13 in sections ~~391~~ 392 to 394 ~~, inclusive, of this act~~ in the
14 case of abandoned or vacated drains.

15 (4) IF JURISDICTION IS BEING RELINQUISHED OVER ALL OR PART
16 OF A DRAIN ESTABLISHED UNDER CHAPTER 20 OR 21, ANY MONEY IN THE
17 DRAIN FUND SHALL BE USED TO PAY ANY INDEBTEDNESS OR CONTRACT
18 LIABILITY OF THE DRAINAGE DISTRICT. IF JURISDICTION OVER THE
19 ENTIRE DRAIN IS RELINQUISHED, THE BALANCE SHALL BE TURNED OVER TO
20 THE COUNTY, TOWNSHIP, CITY, OR VILLAGE ASSUMING JURISDICTION. IF
21 JURISDICTION OVER PART OF THE DRAIN IS BEING RELINQUISHED, THERE
22 SHALL BE TURNED OVER TO THE COUNTY, TOWNSHIP, CITY, OR VILLAGE
23 ASSUMING JURISDICTION THAT PORTION OF THE BALANCE EQUAL TO THE
24 RATIO OF THE COSTS OF OPERATION AND MAINTENANCE OF THAT PART OF
25 THE DRAIN TO THE COSTS OF OPERATION AND MAINTENANCE OF THE ENTIRE
26 DRAIN. THE BALANCE TURNED OVER TO A COUNTY, TOWNSHIP, CITY, OR

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1 VILLAGE SHALL BE USED SOLELY WITH RESPECT TO THE DRAIN OR PART OF
2 THE DRAIN OVER WHICH JURISDICTION IS ASSUMED.

3 CHAPTER 18 —

4 OBSTRUCTIONS IN DRAINS; SEWAGE; MISCELLANEOUS PROVISIONS —

5 Sec. 421. (1) ~~Whenever any person shall obstruct any~~
6 ~~established drain, it shall be the duty of the commissioner to~~
7 ~~cause such obstruction to be removed. Any lessening of the area~~
8 ~~of a drain, which area shall be a cross section of the drain,~~
9 ~~shall be deemed to be an obstruction. The person causing such~~
10 ~~obstruction shall be liable for the expense attendant upon the~~
11 ~~removal thereof, together with the charges of the commissioner,~~
12 ~~and the same shall be a lien upon the lands of the party causing~~
13 ~~or permitting such obstruction, and all of the expense shall by~~
14 ~~the commissioner be reported to the board of supervisors,~~
15 ~~together with the report of his doings in the premises, and by~~
16 ~~said board ordered spread upon the land of the offending party,~~
17 ~~should the same remain unpaid: Provided, That the offending~~
18 ~~party causing such obstruction shall be given a notice in writing~~
19 ~~of at least 5 days to remove such obstruction.~~ IF A PERSON
20 OBSTRUCTS OR PERMITS THE OBSTRUCTION OF A DRAIN, THE DRAIN COM-
21 MISSIONER OR DRAINAGE BOARD SHALL PROCEED UNDER SUBSECTION (2),
22 (3), OR (4). AN OBSTRUCTION IS ANY LESSENING OF THE
23 CROSS-SECTION OF A DRAIN INCLUDING, BUT NOT LIMITED TO, THAT
24 RESULTING FROM ANY RAILROAD, BRIDGE, CABLE, PIPELINE, SEWER, CON-
25 DUIT, ROADWAY, CULVERT, OR OTHER STRUCTURE. OBSTRUCTION DOES NOT
26 INCLUDE CONSTRUCTION OF A STRUCTURE AS APPROVED UNDER SECTION
27 328.

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1 (2) BY FIRST-CLASS MAIL OR PERSONAL SERVICE, THE DRAIN
2 COMMISSIONER OR DRAINAGE BOARD SHALL GIVE THE PERSON CAUSING OR
3 PERMITTING THE OBSTRUCTION A WRITTEN NOTICE TO REMOVE OR MODIFY
4 THE OBSTRUCTION. BEGINNING 14 DAYS AFTER THE NOTICE IS DELIVERED
5 TO THE PERSON, IF THE PERSON HAS NOT SO REMOVED OR MODIFIED THE
6 OBSTRUCTION OR MADE ARRANGEMENTS SATISFACTORY TO THE DRAIN COM-
7 MISSIONER OR DRAINAGE BOARD FOR REMOVAL OR MODIFICATION OF THE
8 OBSTRUCTION, THE DRAIN COMMISSIONER OR DRAINAGE BOARD MAY CAUSE
9 THE OBSTRUCTION TO BE REMOVED OR MODIFIED.

10 (3) THE DRAIN COMMISSIONER OR DRAINAGE BOARD MAY BRING AN
11 ACTION IN THE CIRCUIT COURT OF THE COUNTY IN WHICH THE OBSTRUC-
12 TION IS LOCATED TO COMPEL THE PERSON TO REMOVE OR MODIFY THE
13 OBSTRUCTION.

14 (4) IF, IN THE OPINION OF THE DRAIN COMMISSIONER OR DRAINAGE
15 BOARD, THE OBSTRUCTION CREATES AN EMERGENCY CONDITION THAT ENDAN-
16 GERS THE PUBLIC HEALTH, SAFETY, CONVENIENCE, OR WELFARE OR CROPS
17 OR OTHER PROPERTY, THE DRAIN COMMISSIONER OR DRAINAGE BOARD,
18 AFTER GIVING REASONABLE NOTICE TO THE PERSON CAUSING OR PERMIT-
19 TING THE OBSTRUCTION, MAY REMOVE OR MODIFY THE OBSTRUCTION. THE
20 NOTICE SHALL SPECIFY THE REASONS FOR FURTHER ACTION.

21 (5) THE PERSON CAUSING OR PERMITTING THE OBSTRUCTION IS
22 LIABLE TO THE DRAIN COMMISSIONER OR DRAINAGE BOARD FOR THE
23 EXPENSE OF REMOVAL OR MODIFICATION OF THE OBSTRUCTION UNDER SUB-
24 SECTION (2) OR (4). IF THE PERSON DOES NOT PAY THE DRAIN COMMIS-
25 SIONER OR DRAINAGE BOARD THE FULL AMOUNT OF THE EXPENSE WITHIN 30
26 DAYS AFTER BEING BILLED FOR THE AMOUNT, THE DRAIN COMMISSIONER OR
27 DRAINAGE BOARD SHALL REPORT THE UNPAID PORTION OF THE EXPENSE TO

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1 THE COUNTY BOARD OF COMMISSIONERS, TOGETHER WITH A REPORT OF THE
2 WORK PERFORMED. THE COUNTY BOARD OF COMMISSIONERS MAY CERTIFY
3 THE UNPAID AMOUNT OF THE EXPENSE TO THE PROPER TAX COLLECTING
4 OFFICER TO BE ENTERED IN A SEPARATE COLUMN ON THE NEXT TAX ROLL
5 AGAINST THOSE PARCELS OF LAND OF THE PERSON CAUSING OR PERMITTING
6 THE OBSTRUCTION THAT ARE LOCATED IN WHOLE OR PART WITHIN THE
7 DRAINAGE DISTRICT OR ARE TRAVERSED BY THE DRAIN. IF THE COUNTY
8 BOARD OF COMMISSIONERS SO CERTIFIES THE UNPAID AMOUNT OF THE
9 EXPENSE, ALL OF THE FOLLOWING APPLY:

10 (A) THE UNPAID AMOUNT SHALL ACCRUE SIMPLE INTEREST AT THE
11 SAME RATE AS CHARGED BY THE DEPARTMENT OF TREASURY ON DELINQUENT
12 STATE TAXES.

13 (B) THERE IS A LIEN UPON THOSE PARCELS FOR THE TOTAL UNPAID
14 AMOUNT OF THE EXPENSE.

15 (C) THE TOTAL UNPAID AMOUNT OF THE EXPENSE MAY BE COLLECTED
16 IN THE SAME MANNER AS AD VALOREM PROPERTY TAXES UNDER THE GENERAL
17 PROPERTY TAX ACT, 1893 PA 206, MCL 211.1 TO 211.157. HOWEVER, A
18 PARCEL IS NOT SUBJECT TO SALE UNDER SECTION 60 OF THE GENERAL
19 PROPERTY TAX ACT, 1893 PA 206, MCL 211.60, FOR NONPAYMENT OF THE
20 EXPENSE UNLESS THE PARCEL IS ALSO SUBJECT TO SALE FOR DELINQUENT
21 PROPERTY TAXES.

22 (D) UPON PAYMENT OF THE TOTAL AMOUNT DUE, THE LIEN IS DIS-
23 CHARGED AND, IF THE DRAIN COMMISSIONER OR DRAINAGE BOARD HAS
24 RECORDED THE LIEN, THE DRAIN COMMISSIONER OR DRAINAGE BOARD SHALL
25 FILE A CERTIFICATE OF DISCHARGE OF THE LIEN.

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1 (6) THE REMOVAL OR MODIFICATION OF THE OBSTRUCTION SHALL NOT
2 BE CONSIDERED AN ELEMENT OF DAMAGES IN PROCEEDINGS TO MAINTAIN OR
3 IMPROVE A DRAIN.

4 (7) This ~~provision as to obstruction of any drain shall~~
5 SECTION DOES not apply ~~where~~ IF the obstruction was caused by
6 natural causes. ~~, but~~ HOWEVER, the owner of ~~the stock who~~
7 ~~shall permit his horses, cattle, pigs and other stock~~ LIVESTOCK
8 PERMITTED to obstruct any drain ~~by tramping in it shall be~~
9 ~~deemed~~ IS CONSIDERED to be the party causing such obstruction.
10 ~~Nothing contained in this section shall in any way impede or bar~~
11 ~~the right of any person to make criminal complaint under any~~
12 ~~existing law for any obstruction of a drain.~~

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

17 Sec. 422. (1) ~~Railroad or railway companies, telephone,~~
18 ~~telegraph, or pipeline companies and other utilities shall not~~
19 ~~obstruct established drains, nor shall they lessen the area of~~
20 ~~any drain through their track bed or right of way. The area~~
21 ~~herein referred to is a cross section of the drain. In case any~~
22 ~~such company or utility, without legal right, has constructed or~~
23 ~~shall construct any bridge, culvert, pipeline or conduit over any~~
24 ~~established drain whereby the area aforesaid is decreased, the~~
25 ~~removal of such bridge, culvert, pipeline or conduit shall not be~~
26 ~~deemed an element of damage in proceedings to deepen and widen~~
27 ~~such drain through such track bed or right of way. In case it is~~

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~~1 proposed to construct a pipeline, sewer or conduit within, over
2 or across any county, such construction shall be of a nature and
3 laid at such a depth at the point of crossing of any established
4 public drain as will not interfere with said established public
5 drain. The consent of the county drain commissioner or board of
6 public works of any municipality shall be obtained before the
7 work of such construction is commenced and such drain commis-
8 sioner is hereby authorized to grant such consent upon such terms
9 and conditions as may be reasonable and proper under the circum-
10 stances then existing. In case any railroad or railway company,
11 telephone, telegraph or pipeline company or other utilities shall
12 obstruct any established drain, or has constructed or shall con-
13 struct any bridge, culvert, pipeline or conduit, sewer or other
14 structure over, under or through any established drain, leaving
15 less capacity to the drain than such drain is legally entitled
16 to, in accordance with the rights for such drain as established
17 by proper drain proceedings or as established by other legal
18 methods prior to the date of construction of any such obstruc-
19 tion, the county drain commissioner or the board of public works,
20 as the case may be, may, by mandamus proceedings in the circuit
21 court of the county in which such obstruction shall occur, compel
22 the removal of such obstruction. If necessary, issues of fact
23 may be framed in such proceedings. In case the court shall find
24 such drain to have been obstructed, it shall issue a preemptory
25 mandamus compelling such company to remove such obstruction. The
26 court may award costs in its discretion as in other mandamus
27 proceedings. The practice herein shall be the same as in other~~

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1 ~~motions for mandamus.~~ THE DRAIN COMMISSIONER OR DRAINAGE BOARD,
2 INCLUDING AN AGENT OR EMPLOYEE OF THE DRAIN COMMISSIONER OR
3 DRAINAGE BOARD, MAY ENTER UPON PROPERTY NOT WITHIN A DRAINAGE
4 DISTRICT TO REMOVE OR MODIFY AN OBSTRUCTION IN A NATURAL WATER-
5 COURSE THAT SERVES AS AN OUTLET FOR A COUNTY OR INTERCOUNTY DRAIN
6 BUT THAT IS NOT ITSELF A DRAIN. THE ENTRY SHALL BE MADE PURSUANT
7 TO A WRITTEN AGREEMENT WITH THE LANDOWNER. THE AGREEMENT SHALL
8 SPECIFY THAT THE DRAIN COMMISSIONER OR DRAINAGE BOARD SHALL
9 RESTORE THE PROPERTY TO SUBSTANTIALLY THE SAME CONDITION AS
10 BEFORE THE ENTRY OR SHALL SPECIFY THAT THE DRAIN COMMISSIONER OR
11 DRAINAGE BOARD SHALL MAKE RESTITUTION FOR ACTUAL DAMAGE RESULTING
12 FROM THE ENTRY. THE ENTRY SHALL BE MADE UPON REASONABLE NOTICE
13 TO THE LANDOWNER AND AT A REASONABLE HOUR. THE LANDOWNER OR HIS
14 OR HER REPRESENTATIVE SHALL BE GIVEN A REASONABLE OPPORTUNITY TO
15 ACCOMPANY THE DRAIN COMMISSIONER OR DRAINAGE BOARD OR THEIR
16 AGENTS OR EMPLOYEES DURING THE ENTRY UPON THE PROPERTY. THE
17 COSTS ATTENDANT TO THE ACCESS OF THE PROPERTY, REMOVAL OF THE
18 OBSTRUCTION, AND RESTORATION OF THE PROPERTY MAY BE ASSESSED
19 AGAINST THE DRAINAGE DISTRICT.

20 (2) IF ENTRY UNDER SUBSECTION (1) HAS BEEN DENIED, THE DRAIN
21 COMMISSIONER OR DRAINAGE BOARD MAY COMMENCE A CIVIL ACTION IN THE
22 CIRCUIT COURT IN THE COUNTY IN WHICH THE PROPERTY OR ANY PART OF
23 THE PROPERTY IS LOCATED FOR AN ORDER PERMITTING ENTRY. THE COM-
24 PLAINTEE SHALL STATE THE FACTS MAKING THE ENTRY NECESSARY, THE DATE
25 ON WHICH ENTRY IS SOUGHT, AND THE DURATION AND THE METHOD PRO-
26 POSED FOR PROTECTING THE DEFENDANT AGAINST DAMAGE. THE COURT MAY

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1 GRANT A LIMITED LICENSE FOR ENTRY UPON SUCH TERMS AS JUSTICE AND
2 EQUITY REQUIRE, INCLUDING THE FOLLOWING:

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

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

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

7 (3) AN ENTRY MADE PURSUANT TO THIS SECTION SHALL BE MADE IN
8 A MANNER THAT MINIMIZES ANY DAMAGE TO THE PROPERTY AND ANY HARD-
9 SHIP, BURDEN, OR DAMAGE TO A PERSON IN LAWFUL POSSESSION OF THE
10 PROPERTY.

11 (4) THE REMOVAL OR MODIFICATION OF AN OBSTRUCTION UNDER THIS
12 SECTION IS SUBJECT TO THE EXPENDITURE LIMITS AND OTHER PROCEDURES
13 REQUIRED FOR NECESSARY MAINTENANCE OR REPAIR OF A DRAIN UNDER
14 SECTION 199. IN ADDITION, THE DRAIN COMMISSIONER OR DRAINAGE
15 BOARD SHALL OBTAIN ANY PERMITS FOR THE REMOVAL OR MODIFICATION
16 REQUIRED UNDER STATE OR FEDERAL LAW.

17 Sec. 423. (1) A person shall not continue to discharge or
18 permit to be discharged into any county drain or intercounty
19 drain of ~~the~~ THIS state any sewage or waste matter capable of
20 producing in the drain detrimental deposits, objectionable odor
21 nuisance, injury to drainage conduits or OTHER structures, or
22 capable of producing such pollution of the waters of the state
23 receiving the flow from the ~~drains~~ DRAIN as to injure live-
24 stock, destroy fish life OR AQUATIC HABITAT, or be injurious to
25 public health. This section does not prohibit the conveyance of
26 sewage or other waste through drains or sewers that will not
27 produce these injuries and that comply with section 3112 ~~of part~~

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1 ~~31 (water resources protection)~~ of the natural resources and
2 environmental protection act, ~~Act No. 451 of the Public Acts of~~
3 ~~1994, being section 324.3112 of the Michigan Compiled Laws~~ 1994
4 PA 451, MCL 324.3112.

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

22 (3) If the department of environmental quality determines
23 that sewage or wastes carried by any county or intercounty drain
24 constitutes unlawful discharge as prescribed by section 3109 or
25 3112 ~~of part 31 of Act No. 451 of the Public Acts of 1994,~~
26 ~~being sections 324.3109 and 324.3112 of the Michigan Compiled~~
27 ~~Laws~~ THE NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT,

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1 1994 PA 451, MCL 324.3109 AND 324.3112, that 1 or more users of
2 the drain are responsible for the discharge of sewage or other
3 wastes into the drain, and that the cleaning out of the drain or
4 the construction of disposal plants, filtration beds, or other
5 mechanical devices to purify the flow of the drain is necessary,
6 the department of environmental quality may issue to the drain
7 commissioner, FOR A COUNTY DRAIN, OR DRAINAGE BOARD, FOR AN
8 INTERCOUNTY DRAIN, an order of determination identifying such
9 users and pollutants, under section 3112 of ~~Act No. 451 of the~~
10 ~~Public Acts of 1994, being section 324.3112 of the Michigan~~
11 ~~Compiled Laws~~ THE NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION
12 ACT, 1994 PA 451, MCL 324.3112. The order of determination con-
13 stitutes a petition ~~calling~~ for the construction of ~~disposal~~
14 PURIFICATION facilities or other appropriate measures by which
15 the unlawful discharge may be abated or purified. The order of
16 determination serving as a petition is in lieu of the
17 ~~determination~~ ORDER of necessity by a drainage board pursuant
18 to chapter 20 or 21 or section ~~122~~ 104 or 192 or ~~a~~
19 ~~determination~~ AN ORDER of necessity by a board of determination
20 pursuant to section ~~72~~ 54 or 191, whichever is applicable. A
21 copy of the findings of the department shall be attached to the
22 order of determination. ~~which~~ THE ORDER OF DETERMINATION shall
23 require ~~no other~~ THE signature ~~than that~~ of the director of
24 the department of environmental quality ONLY.

25 (4) Upon receipt of the order of determination, the drain
26 commissioner or the drainage board shall proceed as provided in
27 this act to ~~locate, establish,~~ ESTABLISH and construct a

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1 drain. If the responsible users of the drain are determined to
2 be public corporations in the drainage district, the drain com-
3 missioner or the drainage board shall proceed as provided in
4 chapters 20 and 21, as may be appropriate, using the order of
5 determination as the final order of determination of the drainage
6 board. If the responsible users are determined to be private
7 persons, the drain commissioner OR DRAINAGE BOARD shall proceed
8 as provided in ~~chapters 8 and 9~~ CHAPTER 8, using the order of
9 determination as the first order of determination.

10 (5) ~~(4)~~ Plans and specifications for the construction OF
11 PURIFICATION FACILITIES as part of a drain ~~of any disposal~~
12 ~~plant, filtration bed, or other mechanical device to properly~~
13 ~~purify the flow of the drain~~ shall be prepared by the drain com-
14 missioner or the drainage board. Contracts for construction
15 shall be let in the manner provided in this act. ~~To meet~~ THE
16 DRAIN COMMISSIONER OR DRAINAGE BOARD SHALL APPORTION the cost of
17 any preliminary engineering studies for the construction of
18 ~~abatement or~~ purification facilities ~~, the drain commissioner~~
19 ~~or the drainage board shall apportion the cost among the several~~
20 ~~parcels of land, highways, and municipalities benefited thereby~~
21 ~~in the same manner as provided in chapter 7 or against the public~~
22 ~~corporations affected by the order of determination in the same~~
23 ~~manner as provided in chapters 20 and 21~~ IN THE SAME MANNER AS
24 PROVIDED IN CHAPTER 7, 20, OR 21, AS APPLICABLE. The costs and
25 charges for maintenance shall be apportioned and assessed each
26 year. ~~[If the apportionment is the same as the last recorded~~
27 ~~apportionment, a day of review or a hearing on apportionments is~~

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1 ~~not necessary, but if the apportionment is changed, notice of a~~
2 ~~day of review or a hearing on apportionments shall be given to~~
3 ~~each person whose percentage is raised.]~~

4 (6) ~~-(5)-~~ Land may be acquired as a site for the construc-
5 tion of such ~~plants, beds, and devices, and releases of land may~~
6 ~~be obtained in the same manner as provided in this act for other~~
7 ~~lands acquired for right of way~~ PURIFICATION FACILITIES UNDER
8 SECTION 7.

9 (7) ~~-(6)-~~ A person shall not connect sewage or other waste
10 to a county or intercounty drain except with the written approval
11 of the appropriate commissioner or the drainage board ~~indorsed~~
12 ENDORSED upon a written application for such service and the pay-
13 ment of a service fee of not to exceed \$50.00 for each connection
14 to a covered drain. The application shall include information
15 showing that all other local, state, and federal approvals
16 related to the sewage or waste have been obtained.

17 (8) ~~-(7)-~~ The fee provided for in subsection ~~-(6)-~~ (7) shall
18 be set and collected by the drain commissioner, as approved by
19 the county board of commissioners or the drainage board, and
20 deposited with the county treasurer, to be credited to the drain
21 fund set up for the maintenance or construction of the drain.
22 The commissioner or the drainage board shall keep a record of
23 applications made and the action on the applications. The com-
24 missioner or the drainage board may reject applications for or
25 require such modification in requested applications for sewer
26 connections to county drains as necessary to attain the
27 objectives set forth in this section.

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1 (9) ~~(8) Subject to the review and approval of the~~
2 ~~department of environmental quality, the~~ THE drain commissioner
3 or drainage board may study the ~~requirements of persons~~ NEED
4 for flood control or ~~drainage~~ POLLUTION CONTROL projects
5 ~~including~~ FOR THE PROTECTION OF THE PUBLIC HEALTH, SAFETY, AND
6 WELFARE. SUCH PROJECTS MAY INCLUDE sewage disposal systems,
7 storm sewers, sanitary sewers, combined sanitary and storm
8 sewers, sewage treatment plants, ~~and all~~ OR other plants,
9 works, instrumentalities, and properties useful ~~in connection~~
10 ~~with~~ FOR the collection, treatment, ~~and~~ OR disposal of sewage
11 and industrial wastes or agricultural wastes or run-off. ~~, to~~
12 ~~abate pollution or decrease the danger of flooding. The objec-~~
13 ~~tive of such studies shall be that sewers, drains, and sewage~~
14 ~~disposal facilities are made available to persons situated within~~
15 ~~the territorial limits of any drainage district or proposed~~
16 ~~drainage district as necessary for the protection of public~~
17 ~~health and the promotion of the general welfare.~~

18 (10) ~~(9) The drainage board or drain commissioner may~~
19 ~~cooperate, negotiate, and enter into contracts with other gov-~~
20 ~~ernmental units and agencies or with any public or private corpo-~~
21 ~~ration including the United States of America, and to take such~~
22 ~~steps and perform such acts and execute such documents as may be~~
23 ~~necessary to take advantage of any act of the congress of the~~
24 ~~United States which may make available funds~~ A PRIVATE CORPORA-
25 TION, PUBLIC CORPORATION, THE FEDERAL GOVERNMENT, OR AN AGENCY
26 AND MAY DO WHAT IS NECESSARY TO OBTAIN FUNDS AVAILABLE UNDER
27 FEDERAL LAW for any of the purposes described in this section.

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1 (11) ~~(10)~~ Failure to comply with any of the provisions of
2 this section subjects the offender to the penalties described in
3 section ~~602~~ 616. However, for each offense, a person who vio-
4 lates subsection ~~(6)~~ (7) is guilty of a misdemeanor punishable
5 by a fine of not more than \$25,000.00 or imprisonment for not
6 more than ~~90~~ 93 days, or both. In addition, the person may be
7 required to pay the costs of prosecution and the costs of any
8 emergency abatement measures taken to protect public health or
9 the environment. Payment of a fine or costs under this subsec-
10 tion does not relieve a person of liability for damage to natural
11 resources or for response activity costs under the natural
12 resources and environmental protection act, ~~Act No. 451 of the~~
13 ~~Public Acts of 1994, being sections 324.101 to 324.90106 of the~~
14 ~~Michigan Compiled Laws~~ 1994 PA 451, MCL 324.101 TO 324.90106.

15 ~~(11) As used in this section, "person" means an individual,~~
16 ~~partnership, public or private corporation, association, govern-~~
17 ~~mental entity, or other legal entity.~~

18 Sec. 425. (1) ~~A landowner in the~~ ONE OR MORE LANDOWNERS
19 IN A drainage district whose land requires additional drainage
20 may petition the DRAIN commissioner OR DRAINAGE BOARD for permis-
21 sion to construct an open or closed drain, or a combination
22 thereof, to a regularly established drain, and permission shall
23 be granted by the commissioner or drainage board ~~when~~ IF, in
24 ~~their opinion~~ THE OPINION OF THE COMMISSIONER OR THE DRAINAGE
25 BOARD, ~~the nature of~~ the ground to be crossed ~~will admit~~
26 ~~thereof~~ IS SUITABLE FOR A DRAIN and the surface of the land can
27 be restored. ~~and for~~ FOR that purpose the drain may traverse

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1 the lands of other ~~freeholders~~ LANDOWNERS in the district.
2 Before permission may be granted by the DRAIN commissioner OR
3 DRAINAGE BOARD, consent in writing by the owner or owners of the
4 lands to be traversed by the proposed drain shall be obtained.
5 THE LANDOWNER OR LANDOWNERS GRANTED PERMISSION TO CONSTRUCT THE
6 DRAIN SHALL OBTAIN ANY PERMITS REQUIRED UNDER THE NATURAL
7 RESOURCES AND ENVIRONMENTAL PROTECTION ACT, 1994 PA 451, MCL
8 324.101 TO 324.90106, OR ANY OTHER STATE OR FEDERAL LAW.

9 (2) If permission TO CONSTRUCT THE DRAIN ACROSS ADJOINING
10 PROPERTIES is refused by the owner or owners, ~~of the lands to be~~
11 ~~traversed by the proposed drain,~~ the drain may be established
12 ~~by following the provisions of this act governing the location,~~
13 ~~establishment, and construction of county or intercounty drainage~~
14 ~~districts and drains therein.~~ AS OTHERWISE PROVIDED IN THIS ACT,
15 SUBJECT TO ALL OF THE FOLLOWING:

16 (A) A PETITION TO ESTABLISH A DRAINAGE DISTRICT AND ESTAB-
17 LISH AND CONSTRUCT A DRAIN UNDER THIS SECTION NEED ONLY BE SIGNED
18 BY THE PETITIONING LANDOWNER OR OWNERS.

19 (B) The entire expense ~~thereof~~ TO DESIGN AND CONSTRUCT A
20 DRAIN UNDER THIS SECTION shall be borne by the ~~petitioner,~~ and
21 ~~the construction of an open or closed drain or combination~~
22 ~~thereof shall be done at a time and in a manner as the commis-~~
23 ~~sioner or drainage board shall prescribe. When drains are con-~~
24 ~~structed, the drain entrance shall be substantially protected~~
25 ~~from driftwood and debris. An application to lay out and desig-~~
26 ~~nate a drainage district or petition to locate, establish, and~~
27 ~~construct a drain under the foregoing provisions of this section~~

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1 ~~shall only require the signature of the petitioning landowner or~~
2 ~~owners, other provisions of this act notwithstanding. If permis-~~
3 ~~sion is granted to tile the source of a drain, the commissioner~~
4 ~~shall further prescribe the amount and part of the drain to be~~
5 ~~tiled and the manner of tiling. PETITIONERS.~~

6 (C) THE DRAIN COMMISSIONER OR DRAINAGE BOARD SHALL PRESCRIBE
7 THE NATURE AND TYPE OF CONSTRUCTION OF THE DRAIN AND THE TIME AT
8 WHICH THE DRAIN SHALL BE CONSTRUCTED BY THE PETITIONERS.

9 (3) A person through whose land an open drain has been
10 ~~established and~~ constructed UNDER THIS ACT may make a written
11 request to the county drain commissioner OR DRAINAGE BOARD to be
12 permitted, at ~~his own expense, to tile and cover with earth the~~
13 ~~whole or a part thereof that may traverse his land, and the~~ NO
14 EXPENSE TO THE DISTRICT, TO ENCLOSE THAT PART OF THE DRAIN THAT
15 TRAVERSES HIS OR HER LAND. THE commissioner may grant the
16 request SUBJECT TO RECEIPT OF A NEW EASEMENT, but in doing so
17 ~~he~~ shall prescribe the size of ~~the~~ tile AND TYPE OF
18 CONSTRUCTION to be used. A DEPOSIT OR BOND TO GUARANTEE CON-
19 STRUCTION MAY BE REQUIRED AND ADMINISTERED AS PROVIDED IN SECTION
20 433. A permit shall not be issued to ~~tile or crock an estab-~~
21 ~~lished drain that~~ ENCLOSE ANY PORTION OF A COUNTY OR INTERCOUNTY
22 DRAIN IF THE ENCLOSURE will decrease the ~~area~~ DESIGN CAPACITY
23 of the drain as LAST established.

24 Sec. 429. ~~Subject~~ A COUNTY DRAIN COMMISSIONER, SUBJECT to
25 the ~~consent and~~ approval of the ~~several boards of supervisors~~
26 ~~of this state and the~~ COUNTY BOARD OF COMMISSIONERS, OR THE
27 DRAINAGE BOARD OF AN INTERCOUNTY DRAINAGE DISTRICT, SUBJECT TO

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1 THE APPROVAL OF THE COUNTY boards of ~~supervisors~~ COMMISSIONERS
2 of the counties comprising THE intercounty drainage ~~districts,~~
3 ~~the several county drain commissioners and the drainage boards of~~
4 ~~intercounty drainage districts are hereby authorized to grant~~
5 ~~unto~~ DISTRICT, MAY GRANT TO the United States ~~of America~~ the
6 right to use all the easements and rights-of-way conveyed to
7 ~~their respective drainage districts~~ THE DRAINAGE DISTRICT or to
8 any county or counties lying wholly or in part in ~~such~~
9 ~~districts~~ THE DRAINAGE DISTRICT, for the construction and main-
10 tenance of ~~any~~ A county or intercounty drain by the United
11 States in connection with any flood control project undertaken by
12 the United States, ~~acting through its war department or any~~
13 ~~other federal department or agency~~ INCLUDING ANY AGENCY OF THE
14 UNITED STATES. ~~In such cases in which~~ IF the work is to be
15 performed at the expense of the United States, it ~~shall not be~~
16 IS NOT necessary for the drain commissioner or drainage board to
17 advertise for bids or to let contracts for the construction or
18 maintenance of ~~any such~~ THE flood control project.

19 Sec. 430. (1) ~~Whenever any~~ IF A county or intercounty
20 drain is used for the transportation of sanitary sewage, the
21 county or counties within whose boundaries the drainage district
22 lies may contract under ~~the provisions of Act No. 129 of the~~
23 ~~Public Acts of 1943, as amended, being sections 123.231 to~~
24 ~~123.235 of the Compiled Laws of 1948,~~ 1943 PA 129, MCL 123.231
25 TO 123.236, or any other applicable act, for the disposal of
26 sewage therefrom, including any storm water necessarily mixed
27 therewith. ~~In such case~~ IF SUCH A CONTRACT IS ENTERED INTO,

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1 the drain commissioner or the drainage board may fix and collect
2 charges to cover the cost of the treatment and disposal of sani-
3 tary sewage. ~~Such~~ THE charges shall be approved by the major-
4 ity vote of the members-elect of the COUNTY board of
5 ~~supervisors~~ COMMISSIONERS. The charges may be made to each
6 user of the services or may be made to public corporations.
7 Contracts for periods not exceeding 50 years may be made between
8 the county and public corporations to be so served, in respect to
9 sewage disposal services, when approved by the governing bodies
10 of the several parties thereto.

11 (2) Charges for sewage disposal services furnished to ~~any~~
12 A premises shall be a lien ~~thereon~~ ON THE PREMISES from the
13 date ~~such~~ THE charges are due. ~~and any charges~~ CHARGES delin-
14 quent for 6 months or more shall be certified annually to the
15 proper tax assessing officer or agency who shall enter the ~~same~~
16 CHARGES upon the next tax roll against the premises to which
17 ~~such~~ THE services ~~shall have been rendered, and the~~ WERE
18 RENDERED. THE charges shall be collected and the lien shall be
19 enforced in the same manner as provided for the collection of
20 taxes assessed upon ~~such~~ THE roll and the enforcement of the
21 TAX lien. ~~therefor.~~ The time and manner of certification and
22 the other details in respect to the collection of ~~such~~ THE
23 charges and the enforcement of ~~such~~ THE lien shall be pre-
24 scribed by the governing body of the public corporation in which
25 the lands are located. The payment of charges for sewage dis-
26 posal services to any premises may be enforced by discontinuing

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1 either the water service or the sewage disposal service to ~~such~~
2 THE premises, or both.

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

7 Sec. 431. (1) ~~The drain commissioner or drainage board may~~
8 ~~contract or make agreements with the federal government, includ-~~
9 ~~ing any agency thereof, whereby the federal government will pay~~
10 ~~the whole or any part of the cost of the project or will perform~~
11 ~~the whole or any part of the work connected therewith, which con-~~
12 ~~tract or agreement~~ THE DRAIN COMMISSIONER OR DRAINAGE BOARD MAY
13 CONTRACT WITH THE FEDERAL GOVERNMENT OR ANY OTHER PERSON WITH
14 RESPECT TO THE ESTABLISHMENT, CONSTRUCTION, OPERATION, IMPROVE-
15 MENT, MAINTENANCE, USE, OR SERVICES OF ANY DRAIN, OR THE PAYMENT
16 OF THE COST FOR ANY DRAIN. A CONTRACT OR AGREEMENT WITH THE FED-
17 ERAL GOVERNMENT may include any specific terms required by act of
18 congress or federal regulation, not in conflict with state law,
19 as a condition for participation on the part of the federal
20 government. ~~The drain commissioner or drainage board may con-~~
21 ~~tract or make agreements with any private corporation or with any~~
22 ~~public corporation, including any agency thereof, in respect to~~
23 ~~any matter connected with the construction, operation or mainte-~~
24 ~~nance of any flood control or drainage project or combination~~
25 ~~thereof.~~ The contract or agreement may provide that any payments
26 made or work done by ~~the~~ A public corporation shall relieve it

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1 in whole or in part from assessment for the cost of the project.

2 ~~No construction~~

3 (2) CONSTRUCTION work shall NOT be undertaken by the drain
4 commissioner or drainage board until bids have been advertised
5 for and received for the performance of ~~such~~ THE work, but this
6 ~~provision shall~~ REQUIREMENT DOES not apply to work to be per-
7 formed solely by the federal government or a public corporation
8 at its expense.

9 (3) The drain commissioner or drainage board may ~~contract~~
10 ~~or make agreements with private and public corporations and with~~
11 ~~the federal government including any agency thereof~~ COOPERATE,
12 CONTRACT, OR MAKE AGREEMENTS WITH THE FEDERAL GOVERNMENT OR ANY
13 OTHER PERSON for the purpose of expanding any flood control or
14 drainage project or combination thereof to include the conserva-
15 tion and utilization of soil and water for recreation and other
16 beneficial purposes. The contracts or agreements shall provide
17 for an equitable sharing of the costs of the expanded flood con-
18 trol or drainage project or combination thereof and the cost
19 borne by a drainage district shall not be in excess of the amount
20 which can be attributed solely to drainage and flood control.
21 ~~The drain commissioner or drainage board, may acquire by gift or~~
22 ~~purchase the necessary lands, and rights of way for the purposes~~
23 ~~of any expanded flood control or drainage project or combination~~
24 ~~thereof. The drain commissioner or drainage board may acquire by~~
25 ~~condemnation proceedings similar to those provided in chapter 4~~
26 ~~and chapter 6 of this act, the necessary lands and rights of way~~
27 ~~for any expanded flood control or drainage project or combination~~

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1 ~~thereof which shall be undertaken jointly with a public~~
2 ~~corporation or the federal government.~~ The drain commissioner or
3 drainage board may pay for the costs of ~~lands taken by~~
4 ~~condemnation~~ ACQUIRING PROPERTY for an expanded flood control or
5 drainage project or combination thereof, undertaken jointly with
6 a public corporation or the federal government, but the public
7 corporation or federal government shall promptly reimburse the
8 drainage district for all costs of acquisition in excess of those
9 costs directly attributable to drainage and flood control.

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

13 Sec. 433. (1) ~~An existing intracounty~~ A COUNTY or inter-
14 county drainage district may be enlarged and ~~the~~ AN ESTABLISHED
15 drain ~~located in the district~~ may be extended or have branches
16 added to provide ~~drainage~~ service to ~~lands not originally~~
17 LAND within the EXISTING boundaries of ~~the~~ A drainage district
18 OR TO PROVIDE SERVICE TO LAND CONTIGUOUS TO A DRAINAGE DISTRICT,
19 by agreement between the drain commissioner or the drainage board
20 and the owner of the ~~lands;~~ LAND, or if there is a developer of
21 the lands who is not the owner, between the drain commissioner or
22 the intercounty drainage board and the owner and the developer of
23 the ~~lands~~ LAND. The agreement shall obligate the owner and the
24 developer, if any, of the ~~lands to be added to the drainage~~
25 ~~district~~ LAND to construct, in accordance with plans and speci-
26 fications prepared by or approved by the drain commissioner or
27 drainage board, the necessary and adequate drainage facilities

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1 ~~on the lands to be added and in the existing drainage district~~
2 ~~to connect the lands to the existing drain in the drainage~~
3 ~~district~~ and to pay the cost ~~of~~ TO CONSTRUCT the drainage
4 facilities, including right-of-way, EASEMENTS, engineering,
5 inspection, administration, and legal expenses incurred by the
6 drain commissioner or the drainage board. ~~, or to deposit with~~
7 ~~the drain commissioner or drainage board, upon execution of the~~
8 ~~agreement,~~ THE DRAIN COMMISSIONER OR DRAINAGE BOARD MAY REQUIRE
9 A GOOD FAITH DEPOSIT OR BOND EQUAL TO the estimated cost of the
10 construction and expenses. THE AMOUNT OF THE DEPOSIT OR BOND
11 SHALL BE REFUNDED TO THE OWNER, OR THE BOND RETURNED, UPON FINAL
12 ACCEPTANCE OF THE WORK BY THE DRAIN COMMISSIONER OR DRAINAGE
13 BOARD.

14 (2) Before ~~any~~ AN agreement is approved and executed on
15 behalf of a drainage district by the drain commissioner or drain-
16 age board, there shall be obtained, at the expense of the owner
17 or developer of the ~~lands to be added~~ LAND, a certificate ~~,~~
18 from a ~~registered~~ LICENSED professional engineer AND satisfac-
19 tory to the drain commissioner or ~~the~~ drainage board. ~~, to the~~
20 ~~effect that~~ THE CERTIFICATE SHALL CERTIFY BOTH OF THE
21 FOLLOWING:

22 (A) THAT the lands to be added naturally drain into the area
23 served by the existing drain or that the existing drain is the
24 only reasonably available outlet for the drainage from the lands
25 to be added. ~~and that~~

26 (B) THAT there is ~~existing~~ capacity in the existing drain
27 to serve the ~~lands to be~~ added LANDS OR TO ACCOMMODATE

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1 ADDITIONAL DRAINAGE PROVIDED without detriment to or diminution
2 of the drainage service provided or to be provided ~~—,~~ in the
3 foreseeable future, to the area in the existing drainage
4 district.

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

20 (4) ~~(3) Lands~~ LAND added to ~~any~~ A drainage district by
21 agreement shall be liable from and after the date of THE agree-
22 ment for all assessments levied ~~after the date of the agreement~~
23 for operation and maintenance of the drain, including the exten-
24 sion of the drain pursuant to the agreement, and the ~~lands~~ LAND
25 shall THEREAFTER be a part of the drainage district for all other
26 purposes and procedures set forth in this act. All drain
27 facilities, ~~and all~~ rights-of-way, easements, or property in

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1 which the facilities are located, acquired, or constructed
2 pursuant to the agreement ~~to add lands~~ shall be dedicated to
3 public use or conveyed or transferred to the drainage district.
4 ~~and the~~ THE drain facilities shall be a part of the drain the
5 same as if originally ~~located, established,~~ ESTABLISHED and
6 constructed ~~by procedures set forth in~~ UNDER this act. ~~as a~~
7 ~~part of the original drain.~~

8 (5) ~~(4) An existing intracounty or intercounty drain may be~~
9 ~~extended or have branches added to provide additional service to~~
10 ~~lands within the drainage district by agreement between the drain~~
11 ~~commissioner or the drainage board and the owner of the lands; or~~
12 ~~if there is a developer of the lands who is not the owner,~~
13 ~~between the drain commissioner or the drainage board and the~~
14 ~~owner and the developer of the lands, pursuant to the procedures~~
15 ~~and conditions set forth in this section. The affected public-~~
16 ~~PUBLIC corporations or municipalities in which the proposed~~
17 ~~lands are to be added will~~ AFFECTED BY AN AGREEMENT PROVIDED FOR
18 IN THIS SECTION SHALL be apprised of the agreement by the drain
19 commissioner or drainage board ~~and who shall also publish~~
20 ~~notice~~ BY FIRST-CLASS MAIL OR PERSONAL SERVICE. NOTICE of the
21 agreement SHALL ALSO BE PUBLISHED in a newspaper of general cir-
22 culation in the drainage district. ~~in question.~~

23 (6) ~~(5)~~ By agreement with a landowner, and the developer,
24 if any, the drain commissioner or ~~intercounty~~ drainage board
25 may establish an existing private drain ~~which~~ THAT IS WITHIN A
26 DRAINAGE DISTRICT AND THAT was constructed by the landowner or
27 developer to service an area on his or her own land. ~~as a county~~

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1 ~~or intercounty drain.~~ THE LANDOWNER SHALL PROVIDE PLANS AND
2 EASEMENTS IN FORM ACCEPTABLE TO THE DRAIN COMMISSIONER OR DRAIN-
3 AGE BOARD.

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

8 (8) ~~-(7)-~~ If a drain established pursuant to subsection
9 ~~-(5)-~~ (6) is independent from an existing drainage district, a
10 certificate shall be obtained ~~,~~ AS PROVIDED IN SUBSECTION (2)
11 AND at the expense of the landowner or developer of the ~~lands~~
12 LAND served by the proposed drain. ~~,~~ ~~from a registered profes-~~
13 ~~sional engineer satisfactory to the drain commissioner or the~~
14 ~~intercounty drainage board to the effect that the outlet for the~~
15 ~~existing drain is the only reasonably available outlet for the~~
16 ~~drain and that there is sufficient capacity in the existing~~
17 ~~outlet for the proposed drain to serve as an adequate outlet~~
18 ~~without detriment to or diminution of the drainage service which~~
19 ~~the outlet presently provides.~~ All drain facilities, ~~and all~~
20 rights-of-way, easements, or property in which the facilities are
21 located, acquired, or constructed pursuant to the agreement to
22 establish the drain shall be dedicated to public use or conveyed
23 or transferred to the drainage district. ~~and the~~ THE drain
24 facilities and drainage district shall be an established drain
25 and drainage district the same as if originally ~~laid out and~~
26 ~~designated, located, established,~~ ESTABLISHED and constructed
27 ~~by procedures set forth in~~ UNDER this act. ~~All plans~~ PLANS

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1 and specifications, including a map and a description of the
2 drainage district, ~~pertaining to the private drain as may be~~
3 ~~required by the drain commissioner or intercounty drainage board~~
4 shall be furnished to the drain commissioner or ~~intercounty~~
5 drainage board.

6 (9) ~~(8)~~ The landowner or developer who transfers a drain
7 pursuant to ~~subsection (5)~~ THIS SECTION shall deposit with the
8 drain commissioner or drainage board FUNDS IN THE AMOUNT OF 5% of
9 the cost of the drain but not more than ~~\$2,500.00~~ \$5,000.00.
10 The money received by the drain commissioner or intercounty
11 drainage board pursuant to this subsection shall be deposited in
12 ~~a special~~ THE drain fund ~~which shall be used for the future~~
13 ~~maintenance of the transferred drain~~ FOR THE DRAIN AND USED AS
14 PROVIDED IN SECTION 196.

15 (10) BEFORE UNDERTAKING CONSTRUCTION ACTIVITY UNDER THIS
16 SECTION, A LANDOWNER OR DEVELOPER SHALL OBTAIN ANY PERMITS
17 REQUIRED UNDER THE NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION
18 ACT, 1994 PA 451, MCL 324.101 TO 324.90106, OR ANY OTHER STATE OR
19 FEDERAL LAW.

20 CHAPTER 20 ~~—~~

21 ~~—INTERCOUNTY—~~ COUNTY DRAINS; PUBLIC CORPORATIONS ~~—~~

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

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1 ~~petition under this section, the legislative body shall proceed~~
2 ~~as provided in section 489a.~~

3 (1) ~~(2) If it is necessary for the public health to locate,~~
4 ~~establish, and construct a county drain, a petition for that pur-~~
5 ~~pose may be filed with the county drain commissioner signed by 2~~
6 ~~or more public corporations which will be subject to assessments~~
7 ~~to pay the cost of the drain~~ TO INITIATE THE ESTABLISHMENT OF A
8 DRAINAGE DISTRICT AND THE ESTABLISHMENT AND CONSTRUCTION OF A
9 COUNTY DRAIN THAT IS NECESSARY FOR THE PUBLIC HEALTH OR THE MAIN-
10 TENANCE AND IMPROVEMENT OF SUCH A DRAIN, 1 OR MORE CITIES, VIL-
11 LAGES, AND TOWNSHIPS THAT WILL BE SUBJECT TO ASSESSMENT TO PAY
12 THE COST OF THE DRAIN MAY, AFTER COMPLYING WITH SECTION 489A, IF
13 APPLICABLE, FILE A PETITION WITH THE COUNTY DRAIN COMMISSIONER AS
14 PROVIDED IN SECTION 14. The petition shall state that it is
15 filed pursuant to this chapter, ~~and shall describe the location~~
16 ~~and route of the proposed drain sufficiently to determine with~~
17 ~~reasonable certainty the areas to be serviced by the drain.~~
18 REQUEST THE ESTABLISHMENT OF A DRAINAGE DISTRICT AND THE ESTAB-
19 LISHMENT AND CONSTRUCTION OF A DRAIN, AND SET FORTH THE REASONS
20 FOR THE REQUEST. THE PETITION MAY PROPOSE A LOCATION AND ROUTE
21 FOR THE DRAIN.

22 ~~(3) Not more than 20 days after the petition is filed, the~~
23 ~~county drain commissioner shall notify each public corporation~~
24 ~~which may be subject to an assessment or in which is located any~~
25 ~~of the areas to be drained, as described in the petition, that a~~
26 ~~petition was filed.~~

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1 (2) ~~(4) A certified copy of the resolution of the governing~~
2 ~~body of each signer authorizing the affixing of the signature of~~
3 ~~the governing body to the petition shall be attached to the~~
4 ~~petition. The petition may be filed in more than 1 counterpart.~~
5 ~~For a petition filed by a county, the county board of commission-~~
6 ~~ers shall authorize the execution of the petition, and for a~~
7 ~~petition filed by the state, the state transportation commission~~
8 ~~shall authorize the execution of the petition. THE PETITION MAY~~
9 ~~BE FILED IN MORE THAN 1 COUNTERPART. As provided in section 423,~~
10 ~~an order of determination of the ~~water resources commission~~~~
11 ~~DEPARTMENT OF ENVIRONMENTAL QUALITY shall also serve as a peti-~~
12 ~~tion made pursuant to this chapter.~~

13 (3) NOT MORE THAN 28 DAYS AFTER THE PETITION IS FILED, THE
14 COUNTY DRAIN COMMISSIONER SHALL NOTIFY EACH PUBLIC CORPORATION
15 WHICH MAY BE SUBJECT TO AN ASSESSMENT OR IN WHICH IS LOCATED ANY
16 OF THE AREAS TO BE DRAINED, AS DESCRIBED IN THE PETITION, THAT A
17 PETITION WAS FILED.

18 Sec. 464. (1) ~~There~~ A DRAINAGE BOARD is created for each
19 project petitioned for under this chapter. ~~, a drainage board~~
20 ~~that, except~~ EXCEPT as otherwise provided in subsection (2), THE
21 DRAINAGE BOARD shall consist of the drain commissioner of the
22 county, the chairperson of the county board of commissioners OR A
23 MEMBER OF THE COUNTY BOARD OF COMMISSIONERS DESIGNATED BY THAT
24 CHAIRPERSON, and the chairperson of the board of county
25 auditors. If there is no board of county auditors in the county,
26 then the chairperson of the finance committee of the county board
27 of commissioners ~~shall act as a member of the drainage board,~~

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1 ~~and if~~ OR A MEMBER OF THE COUNTY BOARD OF COMMISSIONERS
2 DESIGNATED BY THAT CHAIRPERSON SHALL BE A MEMBER OF THE DRAINAGE
3 BOARD. IF there is neither a board of county auditors nor A
4 finance committee, then the chairperson of the county board of
5 commissioners shall select from time to time 1 member of the
6 county board of commissioners to act as a member of the drainage
7 board. ~~If a member of the drainage board who is a commissioner,~~
8 ~~as provided in this section or section 487, is interested in a~~
9 ~~project petitioned for under this chapter, by reason of his or~~
10 ~~her holding an elected or appointed office in a public corpora-~~
11 ~~tion to be assessed for the cost of the project, he or she is~~
12 ~~disqualified to act as a member of the drainage board with~~
13 ~~respect to the project. In such case the vice-chairperson or~~
14 ~~chairperson pro tempore of the county board of commissioners or~~
15 ~~of the finance committee of the county board of commissioners, if~~
16 ~~not also disqualified, shall act as the member. If the~~
17 ~~vice-chairperson or chairperson pro tempore is disqualified, the~~
18 ~~drain commissioner of the county shall designate a member of the~~
19 ~~county board of commissioners who is not disqualified to act as a~~
20 ~~member of the drainage board for the project. The chairperson of~~
21 ~~the county board of commissioners and any member of a county~~
22 ~~board of commissioners serving on~~ A MEMBER OF the drainage board
23 shall receive ~~the~~ compensation, mileage, and expenses ~~as pro-~~
24 ~~vided by the drainage board. However, compensation paid to a~~
25 ~~member shall not exceed \$25.00 per diem, exclusive of mileage and~~
26 ~~expenses, for attendance at drainage board meetings~~ WHICH SHALL
27 BE DETERMINED AS PROVIDED IN SECTION 52 FOR MEMBERS OF A BOARD OF

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1 DETERMINATION. The county drain commissioner shall be
2 chairperson of the drainage board. The chairperson shall keep
3 minutes of the proceedings of the drainage board and all records
4 and files of the board shall be kept in his or her office. ~~In~~
5 ~~counties of less than 500,000 population, the commissioner shall~~
6 ~~be paid the same compensation as other members of the drainage~~
7 ~~board.~~

8 (2) In a county organized under a charter adopted under ~~Act~~
9 ~~No. 293 of the Public Acts of 1966, being sections 45.501 to~~
10 ~~45.521 of the Michigan Compiled Laws 1966 PA 293, MCL 45.501 TO~~
11 ~~45.521, that has a population of more than 2,000,000 at the time~~
12 ~~the charter is adopted and whose charter prescribes an elected~~
13 ~~county executive, the drainage board shall consist of the follow-~~
14 ~~ing members:~~

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

19 (b) The county commissioner whose district will be assessed
20 for the greatest portion of the cost of the project, or that
21 county commissioner's designee. The determination of which
22 county commissioner is qualified to sit under this subdivision
23 shall initially be made by the chairperson of the drainage board
24 ~~at the time~~ WHEN the petition for the project is filed. After
25 the final order of apportionment is issued under section 469, the
26 county commissioner who qualifies under this section shall become
27 the county commissioner member and serve until another

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1 apportionment is established requiring the seating of another
2 commissioner.

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

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

11 Sec. 465. (1) A meeting of the drainage board may be called
12 by the chairperson or 2 members of the board. ~~, on notice sent~~
13 ~~by registered mail to each member, setting forth the time, date,~~
14 ~~and place of the meeting. The notice shall be mailed not less~~
15 ~~than 5 days before the time of the meeting. The affidavit of~~
16 ~~the chairman as to such mailing shall be conclusive proof~~
17 ~~thereof.~~ NOTICE OF THE MEETING SHALL BE GIVEN AS PROVIDED IN
18 SECTION 8.

19 (2) A majority of the members of the board ~~shall~~ consti-
20 tute a quorum for the transaction of business, but a lesser
21 number may adjourn from time to time. ~~A meeting may be~~
22 ~~adjourned from time to time.~~ Unless otherwise provided in this
23 act, an action shall not be taken by the board except by a major-
24 ity vote of its members. ~~In the event of the adjournment of a~~
25 ~~hearing, it shall not be necessary to advertise~~ IF A HEARING IS
26 ADJOURNED, IT IS NOT NECESSARY TO GIVE NOTICE OF the adjournment
27 of the hearing.

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1 (3) All orders issued by the drainage board shall be signed
2 by the chairperson.

3 Sec. 466. Upon receipt of a petition ~~as hereinbefore~~
4 ~~provided~~ UNDER THIS CHAPTER, the county drain commissioner shall
5 call the first meeting of the drainage board BY GIVING NOTICE OF
6 THE MEETING AS DESCRIBED IN SECTION 465. ~~In the event there be~~
7 ~~no board of county auditors or~~ HOWEVER, IF THERE IS NEITHER A
8 BOARD OF COUNTY AUDITORS NOR A finance committee in the county,
9 then notice to the ~~chairman~~ CHAIRPERSON of the COUNTY board of
10 ~~supervisors~~ COMMISSIONERS of ~~such~~ THE county shall ~~be deemed~~
11 ~~to be~~ SERVE AS notice to the member of the COUNTY board of
12 ~~supervisors~~ COMMISSIONERS to be selected by ~~him~~ THE CHAIR-
13 PERSON UNDER SECTION 464.

14 Sec. 467. (1) The drainage board, at its first meeting,
15 shall consider the petition for the project UNDER THIS CHAPTER
16 and make a tentative determination as to the sufficiency of the
17 petition and the practicability of the proposed ~~drain~~ PROJECT,
18 and shall further make a tentative determination of the public
19 corporations to be assessed. The drainage board shall give a
20 name to the drain and to the drainage district. The district
21 shall be composed of the public corporations to be assessed for
22 the cost of the project.

23 (2) After the drainage board ~~has made~~ MAKES the
24 determination, it shall fix a time, date, and place it will meet
25 to hear objections to the proposed drain and the petition for the
26 drain, and to the matter of assessing the cost of the drain to
27 the designated public corporations. Notice of the hearing shall

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1 be ~~published twice in the county by inserting the notice in at~~
2 ~~least 1 newspaper published in the county, designated by the~~
3 ~~drainage board, with the first publication to be not less than 20~~
4 ~~days before the time of the hearing. The notice shall also be~~
5 ~~sent by registered mail to the clerk or secretary of each public~~
6 ~~corporation proposed to be assessed, except that a notice to the~~
7 ~~state shall be sent to the state highway director and a notice to~~
8 ~~a county shall be sent to both the county clerk and the county~~
9 ~~road commission. The mailing shall be made not less than 20 days~~
10 ~~before the time of the hearing. The notice shall be signed by~~
11 ~~the chairperson and proof of the publication and mailing of the~~
12 ~~notice shall be filed in his or her office. The drainage board~~
13 ~~may provide a form to be substantially followed in the giving of~~
14 ~~the notice.~~ GIVEN AS PROVIDED IN SECTION 8.

15 (3) After the hearing, the drainage board shall make a
16 determination as to the sufficiency of the petition, the practi-
17 cability of the ~~drain, whether the drain should be constructed~~
18 PROJECT, WHETHER THE PROJECT IS NECESSARY AND CONDUCIVE TO PUBLIC
19 HEALTH, and if so, the public corporations to be assessed, and
20 shall issue its order accordingly. The order shall be known as
21 the final order of determination. A public corporation shall not
22 be eliminated from, or added to, those tentatively determined to
23 be assessed without a rehearing after notice AS PROVIDED IN
24 SUBSECTION (2).

25 SEC. 467A. (1) AFTER THE DRAINAGE BOARD ENTERS THE FINAL
26 ORDER OF DETERMINATION, THE DRAINAGE BOARD SHALL SECURE THE
27 SERVICE OF AN ENGINEER. THE DRAINAGE BOARD SHALL SELECT THE

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1 ENGINEER BASED ON HIS OR HER QUALIFICATIONS. THE ENGINEER SHALL
2 PREPARE PLANS, SPECIFICATIONS, AND AN ESTIMATE OF COSTS OF THE
3 PROPOSED DRAIN. THE DRAINAGE BOARD SHALL SECURE FROM THE ENGI-
4 NEER OR A SURVEYOR A DESCRIPTION OF THE LANDS OR RIGHTS-OF-WAY
5 NEEDED FOR THE PROPOSED DRAIN. THE DRAINAGE BOARD SHALL SECURE
6 FROM AN ENGINEER OR OTHER QUALIFIED PROFESSIONAL AN EVALUATION OF
7 THE EFFECTS OF THE PROPOSED DRAIN ON NATURAL RESOURCES THAT IDEN-
8 TIFIES APPROPRIATE PRACTICAL MEASURES TO MINIMIZE ADVERSE
9 EFFECTS. IN APPROVING THE ROUTE OF THE DRAIN AS FURNISHED BY THE
10 ENGINEER, THE DRAINAGE BOARD IS NOT LIMITED TO THAT DESCRIBED IN
11 THE PETITION OR IN THE FINAL ORDER OF DETERMINATION, IF THE NEW
12 ROUTE IS MORE EFFICIENT AND SERVICEABLE.

13 (2) THE DRAINAGE BOARD SHALL OBTAIN ANY PERMITS REQUIRED
14 UNDER THE NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT,
15 1994 PA 451, MCL 324.101 TO 324.90106. ALL COSTS ASSOCIATED WITH
16 EVALUATING NATURAL RESOURCE IMPACTS AND IMPLEMENTING THE MEASURES
17 TO MINIMIZE THOSE IMPACTS SHALL BE THE RESPONSIBILITY OF THE
18 DRAINAGE DISTRICT.

19 (3) [] MEASURES THAT ARE INTENDED TO
20 IMPROVE OR ENHANCE NATURAL RESOURCES VALUES MAY BE INCLUDED AS
21 PART OF THE DRAINAGE PROJECT IN THE DISCRETION OF THE DRAINAGE
22 BOARD. THE FUNDING FOR THE COSTS OF SUCH MEASURES MAY INCLUDE
23 GIFTS, DONATIONS, GRANTS, AND CONTRACTS PURSUANT TO SECTION 431,
24 SPECIAL ASSESSMENTS OR ANY COMBINATION THEREOF AS CONSIDERED
25 APPROPRIATE BY THE DRAIN COMMISSIONER.

26 []
27

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5]

6 SEC. 467B. IF, AFTER THE RECEIPT OF THE PLANS, SPECIFICA-
7 TIONS, ESTIMATE OF COST, AND DESCRIPTIONS OF THE LANDS OR
8 RIGHTS-OF-WAY NEEDED FOR THE PROPOSED DRAIN, THE DRAINAGE BOARD
9 DETERMINES THAT THE PROJECT IS NOT PRACTICAL, THE DRAINAGE BOARD
10 SHALL NOTIFY THE PUBLIC CORPORATIONS IN THE DISTRICT BY
11 FIRST-CLASS MAIL OF THE INTENT TO REJECT THE PETITION. THE
12 NOTICE SHALL SPECIFY THE REASONS FOR THE PROPOSED REJECTION. THE
13 NOTICE SHALL ALSO SPECIFY A TIME, DATE, AND PLACE FOR A PUBLIC
14 HEARING TO HEAR OBJECTIONS TO THE REJECTION OF THE PETITION. AT
15 THE PUBLIC HEARING, THE DRAINAGE BOARD SHALL ELICIT TESTIMONY AND
16 EVIDENCE WITH REGARDS TO THE PROPOSED REJECTION. FOLLOWING THE
17 RECEIPT OF TESTIMONY, THE DRAINAGE BOARD SHALL DETERMINE WHETHER
18 OR NOT THE PETITION SHOULD BE REJECTED. IF THE REJECTION IS
19 DETERMINED TO BE PRACTICAL, THE DRAINAGE BOARD SHALL ENTER AN
20 ORDER OF REJECTION AND APPORTION ALL COSTS INCURRED TO THE DIS-
21 TRICT AS IF THE PROJECT HAD BEEN BUILT AND THE COSTS SHALL BE
22 SUBSEQUENTLY ASSESSED AND PAID AS PROVIDED IN THIS CHAPTER. A
23 DETERMINATION TO REJECT A PETITION DOES NOT LIMIT THE RIGHT TO
24 FILE ANOTHER PETITION.

25 Sec. 468. (1) ~~The drainage board shall secure from a com-~~
26 ~~petent engineer, plans, specifications, and an estimate of cost~~
27 ~~of the proposed drain, which, when approved and adopted by the~~

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1 board, shall be filed with the chairman thereof. In approving
2 the plans and specifications, the drainage board shall not be
3 limited to the route of the drain described in the petition or
4 the final order of determination. The drainage board shall ten-
5 tatively establish the percentage of the cost of the drain or of
6 the several sections or parts thereof which is to be borne by
7 each public corporation. In making the apportionments
8 hereunder, there shall be taken into consideration the benefits
9 to accrue to each public corporation and also the extent to which
10 each public corporation contributes to the conditions which make
11 the drain necessary. Apportionments against the state shall be
12 based upon the benefits and contributions as related solely to
13 the drainage of state highways, and those against the county
14 shall be based as related solely to the drainage of its county
15 highways. TO CITIES, VILLAGES, AND TOWNSHIPS, THE DRAINAGE BOARD
16 SHALL CONSIDER THE BENEFITS TO ACCRUE TO EACH CITY, VILLAGE, OR
17 TOWNSHIP AND ALSO THE EXTENT TO WHICH EACH CITY, VILLAGE, OR
18 TOWNSHIP CONTRIBUTES TO THE CONDITIONS THAT MAKE THE DRAIN NECES-
19 SARY, SUBJECT TO SECTION 500. APPORTIONMENTS AGAINST THIS STATE
20 OR A COUNTY SHALL RELATE SOLELY TO STATE TRUNK LINE HIGHWAYS OR
21 COUNTY ROADS, RESPECTIVELY. THE APPORTIONMENT OF BENEFITS FOR
22 STATE TRUNK LINE HIGHWAYS AND THE PORTION PAID BY COUNTY ROAD
23 COMMISSIONS FOR BENEFIT TO COUNTY ROADS MUST BE PAID PURSUANT TO
24 SECTION 14A OF 1951 PA 51, MCL 247.664A. Before a tentative
25 apportionment ~~shall be~~ IS made, the drainage board shall desig-
26 nate the area to be served by the drain project, which may or may
27 not include all of the area in a ~~public corporation~~ CITY,

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1 VILLAGE, OR TOWNSHIP to be assessed and may divide the drain into
2 sections or parts for purposes of apportionment or construction.
3 ~~Nothing herein contained shall prohibit the county from assuming~~
4 ~~any~~ THE COUNTY MAY ASSUME AN additional cost of the drain ~~if~~
5 BY THE VOTE OF 2/3 of the members elect of the county board of
6 commissioners. ~~vote in favor thereof.~~

7 (2) The apportionment shall ~~only~~ apply to the proposed
8 drain CONSTRUCTION OR IMPROVEMENT PROJECT AND SEPARATE MAINTENANCE
9 APPORTIONMENTS FOR THE DRAIN MAY BE ESTABLISHED. The appor-
10 tionments for any extensions or other work subsequently performed
11 under section ~~482~~ 463 shall be reestablished by the board.
12 ~~When chapter 25 is employed in the apportionment of costs, the~~
13 ~~above~~

14 (3) THE proceedings ~~shall~~ IN THIS CHAPTER MAY be altered
15 and supplemented as provided in chapter 25.

16 Sec. 469. (1) After the tentative apportionments of cost
17 have been made, the drainage board shall set a time, date, and
18 place it will meet and hear objections to the apportionments.
19 Notice of the hearing shall be ~~published twice in the county by~~
20 ~~inserting the notice in at least 1 newspaper published in the~~
21 ~~county, designated by the drainage board, the first publication~~
22 ~~to be not less than 20 days before the time of the hearing. The~~
23 ~~notice shall also be sent by registered mail to the clerk or sec-~~
24 ~~retary of each public corporation proposed to be assessed, except~~
25 ~~that a notice to the state shall be sent to the state highway~~
26 ~~director and a notice to the county shall be sent both to the~~
27 ~~county clerk and the county road commission. The mailing shall~~

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1 ~~be made not less than 20 days before the time of hearing. The~~
2 ~~notice shall be signed by the chairperson and proof of the publi-~~
3 ~~cation and mailing of the notice shall be filed in his or her~~
4 ~~office. The drainage board may provide a form to be substan-~~
5 ~~tially followed in the giving of the notice~~ GIVEN AS PROVIDED IN
6 SECTION 8. The notice shall include tentative apportionments to
7 the several public corporations.

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

22 (3) AFTER ISSUING THE FINAL ORDER OF APPORTIONMENT, THE
23 DRAINAGE BOARD SHALL ACQUIRE UNDER SECTION 7 PROPERTY NECESSARY
24 FOR THE DRAIN.

25 Sec. 472. The county treasurer shall be the custodian of
26 the funds of the drainage district. ~~He~~ THE COUNTY TREASURER
27 may designate 1 or more of his OR HER deputies ~~who may~~ TO act

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1 for ~~him~~ THE COUNTY TREASURER in the performance of any of his
2 OR HER duties under this section. The drainage board may require
3 the county treasurer and any deputy county treasurer so desig-
4 nated to furnish a bond payable to the drainage district, in
5 addition to any bond payable to the county, conditioned upon the
6 faithful discharge of his OR HER duties in respect to ~~moneys~~
7 MONEY belonging to the drainage district. ~~, the~~ THE premium
8 ~~thereon to~~ ON THE BOND SHALL be paid by the drainage district.
9 ~~Moneys~~ MONEY held by ~~said~~ THE treasurer shall be paid out
10 only upon order of the drainage board, except that ~~no such order~~
11 ~~shall be~~ AN ORDER IS NOT required for the payment of principal
12 and interest on bonds.

13 Sec. 473. (1) AFTER THE CONFIRMATION OF THE APPORTIONMENTS
14 BY THE DRAINAGE BOARD, THE CHAIRPERSON OF THE BOARD SHALL PREPARE
15 A COMPUTATION OF THE ESTIMATED COST OF THE DRAIN PROJECT OR, IF
16 THE ACTUAL COST HAS BEEN ASCERTAINED, THE ACTUAL COST, INCLUDING
17 THE ITEMS LISTED IN SECTION 261 AND INTEREST ON ANY MONEY
18 ADVANCED PURSUANT TO SECTION 479.

19 (2) After the ~~confirmation of the apportionments by the~~
20 ~~drainage board, the chairman~~ PREPARATION OF THE COMPUTATION OF
21 COSTS BY THE CHAIRPERSON OF THE DRAINAGE BOARD, THE CHAIRPERSON
22 of the board shall prepare a special assessment ~~roll~~ SCHEDULE
23 assessing the estimated cost of the drain, or if the actual cost
24 has been ascertained, then the actual cost AND ANY INTEREST ON
25 BONDS OR OTHER EVIDENCES OF INDEBTEDNESS, against the several
26 public corporations in accordance with the confirmed
27 apportionments. The drainage board may provide for the payment

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1 of the special assessments in any number of annual installments,
2 not exceeding 30, but an installment shall not be less than 1/4
3 of any subsequent installment. THE DRAINAGE BOARD SHALL FIX A
4 DATE, NOT LATER THAN 4 YEARS AFTER CONFIRMATION, FOR THE PAYMENT
5 OF THE FIRST INSTALLMENT SO THAT EACH PUBLIC CORPORATION CAN MAKE
6 A TAX LEVY FOR THE PAYMENT OF THE INSTALLMENT. SUBSEQUENT
7 INSTALLMENTS SHALL BECOME DUE ANNUALLY ON THE SAME DAY AND MONTH
8 OF SUBSEQUENT YEARS. A CITY OR VILLAGE MAY ELECT TO SPREAD THE
9 TAX LEVY UPON THE COUNTY TAX ROLL INSTEAD OF THE CITY OR VILLAGE
10 TAX ROLL.

11 (3) INSTALLMENTS OF ASSESSMENTS AGAINST THE STATE AND
12 AGAINST PUBLIC CORPORATIONS WHICH COLLECT THEIR TAXES BEGINNING
13 APPROXIMATELY DECEMBER 1 IN EACH YEAR SHALL BECOME DUE AND PAY-
14 ABLE ON OR BEFORE APRIL 1 OF EACH YEAR. INSTALLMENTS OF ASSESS-
15 MENTS AGAINST OTHER PUBLIC CORPORATIONS SHALL BECOME DUE AND PAY-
16 ABLE ON OR BEFORE THE DATES FIXED BY THE DRAINAGE BOARD, DEPEND-
17 ING UPON THE TIMES OF THE COLLECTION OF TAXES BY THE PUBLIC
18 CORPORATIONS. The drainage board shall fix the commencement date
19 of interest to be paid upon unpaid installments, not to exceed an
20 amount sufficient to pay interest on bonds or other evidences of
21 indebtedness issued or to be issued by the drainage district. ~~—~~
22 ~~which~~ THE interest shall become due annually on the day and
23 month upon which the annual installments become due but may
24 become due in years before the due date of the first
25 installment. The drainage board may provide for the payment of
26 installments in advance of their respective due dates and may
27 prescribe the terms and conditions ~~thereof.~~ ~~The drainage board~~

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1 ~~shall fix the date, not later than 4 years after confirmation on~~
2 ~~which the first installment of special assessments shall become~~
3 ~~due and payable so that each public corporation can make a tax~~
4 ~~levy for the payment, and subsequent installments shall become~~
5 ~~due annually on the same day and month of subsequent years. When~~
6 ~~chapter 25 is employed in the apportionment of costs, the above~~
7 ~~proceedings shall be altered and supplemented as provided in~~
8 ~~chapter 25~~ FOR ADVANCE PAYMENTS.

9 (4) THE SPECIAL ASSESSMENT SCHEDULE SHALL CONTAIN ALL OF THE
10 FOLLOWING:

11 (A) THE NAME OF EACH PUBLIC CORPORATION ASSESSED.

12 (B) THE TOTAL ESTIMATED COST OF THE PROJECT, OR THE ACTUAL
13 COST IF THE SAME ACTUAL COST HAS BEEN ASCERTAINED BY THE TIME OF
14 THE PREPARATION OF THE SCHEDULE.

15 (C) THE PERCENTAGE APPORTIONED TO EACH PUBLIC CORPORATION.

16 (D) THE PRINCIPAL AMOUNT OF THE ASSESSMENT AGAINST EACH
17 PUBLIC CORPORATION BASED ON THE PERCENTAGE OF APPORTIONMENT.

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

21 (F) THE AMOUNT OF EACH INSTALLMENT IF THE ASSESSMENT IS
22 DIVIDED INTO ANNUAL INSTALLMENTS.

23 (G) THE DUE DATE OF EACH INSTALLMENT.

24 Sec. 474. (1) ~~The special assessment roll shall contain~~
25 ~~the name of each public corporation assessed, the total estimated~~
26 ~~cost of the project, or actual cost if the same has been~~
27 ~~ascertained at the time of the preparation of the roll, the~~

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1 ~~percentage apportioned to each public corporation, the amount of~~
2 ~~the assessment against each public corporation based upon the~~
3 ~~percentage of apportionment, and the amount of each installment~~
4 ~~if the assessment is divided into annual installments. After the~~
5 ~~special assessment roll has been prepared, it shall be presented~~
6 ~~to the drainage board for approval. When the roll has been~~
7 ~~approved, then a statement to that effect, signed by the chairman~~
8 ~~of the drainage board, shall be affixed to the roll~~ CHAIRPERSON
9 OF THE DRAINAGE BOARD PREPARES THE SPECIAL ASSESSMENT SCHEDULE,
10 THE CHAIRPERSON SHALL PRESENT THE SCHEDULE TO THE DRAINAGE BOARD
11 FOR APPROVAL. IF THE DRAINAGE BOARD APPROVES THE SPECIAL ASSESS-
12 MENT SCHEDULE, THE CHAIRPERSON OF THE DRAINAGE BOARD SHALL AFFIX
13 TO THE SCHEDULE A SIGNED STATEMENT TO THAT EFFECT setting forth
14 the date of approval. The ~~chairman~~ CHAIRPERSON of the drainage
15 board shall then certify to each public corporation assessed the
16 ~~amount of the total assessment against it, the amount of the~~
17 ~~various installments if the assessment is divided into install-~~
18 ~~ments, the due date of each installment, and the rate of interest~~
19 ~~upon installments from time to time unpaid. The chairman each~~
20 ASSESSMENT INFORMATION IN THE ASSESSMENT SCHEDULE.

21 (2) EACH year, at least ~~30~~ 28 days before the time of the
22 levying of taxes by each public corporation, THE CHAIRPERSON OF
23 THE DRAINAGE BOARD shall notify ~~it~~ THE PUBLIC CORPORATION of
24 the amount of the installment and interest next becoming due, but
25 the failure to notify a public corporation shall not excuse it
26 from making payment of the installment and interest.

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1 (3) On or before the due date of an installment, each public
2 corporation shall pay to the county treasurer the full amount
3 thereof, together with interest accruing to the due date. ~~If a~~
4 ~~public corporation fails or neglects to account to the county~~
5 ~~treasurer for the amount of an installment and interest, then the~~
6 ~~county treasurer shall advance the amount thereof from county~~
7 ~~funds if bonds or other evidences of indebtedness have been~~
8 ~~issued to finance the project, in anticipation of the collection~~
9 ~~of the installment and interest pursuant to this chapter and the~~
10 ~~county board of commissioners has previously acted, by a resolu-~~
11 ~~tion adopted by a 2/3 vote of its members elect, to pledge the~~
12 ~~full faith and credit of the county for the prompt payment of the~~
13 ~~principal of and interest on the bonds or evidences of~~
14 ~~indebtedness.~~

15 ~~The county treasurer shall immediately notify the public~~
16 ~~corporation of the amount advanced by the county on account of~~
17 ~~the default by the public corporation in paying the installment~~
18 ~~and interest assessed against it. The county treasurer shall~~
19 ~~also notify the state treasurer, or other appropriate disbursing~~
20 ~~official, who shall deduct the amount from moneys in his posses-~~
21 ~~sion belonging to the public corporation which are not pledged to~~
22 ~~the payment of debts, but the state treasurer or other official~~
23 ~~shall not withhold in any 1 year a sum greater than 25% of the~~
24 ~~total amount owed by the delinquent public corporation as stated~~
25 ~~in the notice from the county treasurer. Nothing in this section~~
26 ~~shall permit the deduction of moneys in contravention of the~~
27 ~~state constitution of 1963.~~

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1 ~~The county board of commissioners of a county which has~~
2 ~~advanced money for a public corporation and which has not been~~
3 ~~reimbursed therefor, may order the public corporation and its~~
4 ~~officers to levy upon its next tax roll an amount sufficient to~~
5 ~~make the reimbursement on or before the date when its taxes~~
6 ~~become delinquent; and the public corporation and its tax levying~~
7 ~~and collecting officials shall levy and collect those taxes and~~
8 ~~reimburse the county. The foregoing shall not prevent the county~~
9 ~~from obtaining reimbursement by any other legal method.~~
10 ~~Assessments against the state shall be certified to the state~~
11 ~~highway commission and paid from state highway funds. The tax~~
12 ~~levying officials of each of the other public corporations~~
13 ~~assessed shall levy sufficient taxes to pay assessment install-~~
14 ~~ments and interest as the same become due unless there has been~~
15 ~~set aside moneys sufficient therefor. A city or village may~~
16 ~~elect to spread the tax levy upon the county tax roll instead of~~
17 ~~the city or village tax roll. If a special assessment roll is~~
18 ~~prepared upon the basis of the estimated cost of the project,~~
19 ~~then after the actual cost has been ascertained and determined by~~
20 ~~the drainage board, the special assessments and the installments~~
21 ~~thereof shall be corrected by adding any deficiency or deducting~~
22 ~~any excess. The drainage board may order the corrections to be~~
23 ~~made upon the original roll or may order that a new corrected~~
24 ~~roll or a supplemental roll be prepared and submitted for~~
25 ~~approval by the drainage board. When chapter 25 is employed in~~
26 ~~the apportionment of costs, the above proceedings shall be~~
27 ~~altered and supplemented as provided in chapter 25.~~

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1 SEC. 474A. (1) IF A PUBLIC CORPORATION FAILS OR NEGLECTS TO
2 ACCOUNT TO THE COUNTY TREASURER FOR THE AMOUNT OF AN INSTALLMENT
3 AND INTEREST, THEN THE COUNTY TREASURER SHALL ADVANCE THE AMOUNT
4 THEREOF FROM COUNTY FUNDS IF BONDS OR OTHER EVIDENCES OF INDEBT-
5 EDNESS HAVE BEEN ISSUED TO FINANCE THE PROJECT IN ANTICIPATION OF
6 THE COLLECTION OF THE INSTALLMENT AND INTEREST PURSUANT TO THIS
7 CHAPTER AND IF THE COUNTY BOARD OF COMMISSIONERS HAS PREVIOUSLY
8 ACTED, BY A RESOLUTION ADOPTED BY A 2/3 VOTE OF ITS MEMBERS
9 ELECT, TO PLEDGE THE FULL FAITH AND CREDIT OF THE COUNTY FOR THE
10 PROMPT PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE BONDS OR
11 EVIDENCES OF INDEBTEDNESS.

12 (2) THE COUNTY TREASURER SHALL IMMEDIATELY NOTIFY THE COUNTY
13 BOARD OF COMMISSIONERS AND PUBLIC CORPORATION OF THE AMOUNT
14 ADVANCED BY THE COUNTY ON ACCOUNT OF THE DEFAULT BY THE PUBLIC
15 CORPORATION IN PAYING THE INSTALLMENT AND INTEREST ASSESSED
16 AGAINST IT. THE COUNTY MAY USE ANY LEGAL MEANS TO OBTAIN REIM-
17 BURSEMENT OF THE AMOUNT ADVANCED.

18 (3) THE TAX LEVYING OFFICIALS OF EACH OF THE OTHER PUBLIC
19 CORPORATIONS ASSESSED SHALL LEVY SUFFICIENT TAXES TO PAY ASSESS-
20 MENT INSTALLMENTS AND INTEREST AS THE SAME BECOME DUE UNLESS
21 THERE HAS BEEN SET ASIDE MONEY SUFFICIENT THEREFOR. A CITY OR
22 VILLAGE MAY ELECT TO SPREAD THE SPECIAL ASSESSMENT LEVY UPON THE
23 COUNTY TAX ROLL INSTEAD OF THE CITY OR VILLAGE TAX ROLL. IF A
24 SPECIAL ASSESSMENT SCHEDULE IS PREPARED UPON THE BASIS OF THE
25 ESTIMATED COST OF THE PROJECT, THEN AFTER THE ACTUAL COST HAS
26 BEEN ASCERTAINED AND DETERMINED BY THE DRAINAGE BOARD, THE
27 SPECIAL ASSESSMENTS AND THE INSTALLMENTS THEREOF SHALL BE

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1 CORRECTED BY ADDING ANY DEFICIENCY OR DEDUCTING ANY EXCESS. THE
2 DRAINAGE BOARD MAY ORDER THE CORRECTIONS TO BE MADE UPON THE
3 ORIGINAL SPECIAL ASSESSMENT SCHEDULE OR MAY ORDER THAT A NEW COR-
4 RECTED SCHEDULE OR A SUPPLEMENTAL SCHEDULE BE PREPARED AND SUB-
5 MITTED FOR APPROVAL BY THE DRAINAGE BOARD. THE PROCEEDINGS IN
6 THIS SECTION MAY BE ALTERED AND SUPPLEMENTED AS PROVIDED IN
7 CHAPTER 25.

8 Sec. 476. (1) The drainage board may issue 1 or more series
9 of bonds for ~~and on behalf of~~ the drainage district, in antici-
10 pation of the collection of ~~any or all~~ installments of
11 assessments, ~~or any part thereof,~~ and pledge the full faith and
12 credit of the drainage district for the prompt payment of the
13 principal thereof and the interest thereon. The bonds shall
14 mature serially with the last maturity not later than 2-1/2 years
15 after the due date of the last installment of the assessments.
16 ~~and there may be~~ THE BONDS MAY HAVE more than 1 principal matu-
17 rity date during any 12-month period. The bonds shall be signed
18 by the ~~chairman and at least 1 other member~~ CHAIRPERSON AND
19 SECRETARY of the drainage board ~~and the facsimile signature of~~
20 ~~the chairman shall~~ WHO SHALL CAUSE THEIR FACSIMILE SIGNATURES TO
21 be affixed to the interest coupons attached thereto.

22 (2) Collections of both principal and interest on all
23 installments of assessments in anticipation of which bonds ~~shall~~
24 ~~have been~~ ARE issued shall be kept in a separate bank account by
25 the county treasurer and, ~~used for no other purpose than~~ UNTIL
26 THE BONDS ARE FULLY PAID, SHALL BE USED SOLELY FOR the payment of

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1 principal and interest on ~~such~~ THE bonds. ~~until the full~~
2 ~~payment thereof.~~

3 Sec. 478. (1) The drainage board for each project shall
4 continue in existence with such changes in personnel as shall
5 result from changes in the officers constituting the board
6 membership. It shall be responsible for the operation and main-
7 tenance of the drain. Any necessary expenses incurred in admin-
8 istration and in the operation and maintenance of the drain and
9 not covered by contract shall be paid by the several public cor-
10 porations assessed for the cost of the drain. The assessments
11 shall be in the same proportion as the cost of the drain was
12 assessed unless the drainage board establishes a different pro-
13 portion for the assessments after notice and hearing as provided
14 in section 469.

15 (2) The drainage board ~~, by resolution duly adopted by it,~~
16 ~~may relinquish jurisdiction and control over all or any part of a~~
17 ~~drain or drain project at any time when there is no outstanding~~
18 ~~indebtedness or contract liability of its drainage district, to~~
19 ~~the county, township, city or village in which all or the part of~~
20 ~~the drain or drain project is wholly located, if the county,~~
21 ~~township, city or village requests or consents to the relinquish-~~
22 ~~ment of jurisdiction and control by resolution duly adopted by~~
23 ~~its governing body. Indebtedness or contract liability of any~~
24 ~~drainage district which will be paid in full at the time of con-~~
25 ~~summation of relinquishment of jurisdiction and control shall not~~
26 ~~be deemed to be outstanding. If relinquishment of jurisdiction~~
27 ~~and control is to a county, the resolution of the governing body~~

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~~1 of the county shall specify the county agency, such as board of
2 public works, drain commissioner, board of county road commis-
3 sioners, or parks and recreation commission, which shall be
4 thereafter responsible for exercise of such jurisdiction and
5 control. Any moneys in the drain fund of any drain, over all or
6 any part of which jurisdiction and control is relinquished, shall
7 be used to pay any indebtedness or contract liability of its
8 drainage district, and the balance shall be turned over to the
9 county, township, city or village to be used solely with respect
10 to the drain, all or part thereof, over which jurisdiction and
11 control is assumed. If the relinquishment of jurisdiction and
12 control and the turnover of drain fund relates to a part of a
13 drain or drain project, such relinquishment and turnover shall
14 not become effective until consented to by resolution of the gov-
15 erning body of each public corporation which has paid a part of
16 the cost of the drain or drain project, and for this purpose the
17 board of county road commissioners and the state highway commis-
18 sion shall be deemed to be the governing body for the county and
19 the state. MAY RELINQUISH JURISDICTION OVER ALL OR PART OF A
20 DRAIN AS PROVIDED IN SECTION 395.~~

~~21 Sec. 483. Neither the final order of determination nor the
22 final order of apportionment shall be subject to attack in any
23 court, except by proceedings in certiorari brought within 20 days
24 after the filing of such order in the office of the chairman of
25 the board issuing the same. If no such proceeding shall be
26 brought within the time above prescribed, the drain shall be
27 deemed to have been legally established and the legality of the~~

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1 ~~drain and the assessments therefor shall not thereafter be~~
2 ~~questioned in any suit at law or in equity, either on jurisdic-~~
3 ~~tional or nonjurisdictional grounds.~~ THE PROCEEDINGS TO ESTAB-
4 LISH A DRAIN AND LEVY ASSESSMENTS ARE SUBJECT TO REVIEW ON SUPER-
5 INTENDING CONTROL. A COMPLAINT SEEKING A WRIT OF SUPERINTENDING
6 CONTROL FOR ANY ERROR IN PROCEEDINGS OCCURRING BEFORE OR IN THE
7 FINAL ORDER OF DETERMINATION SHALL BE FILED NOT MORE THAN 14 DAYS
8 AFTER THE FINAL ORDER IS ISSUED AND FOR ANY ERROR IN PROCEEDINGS
9 OCCURRING AFTER THE FINAL ORDER OF DETERMINATION, NOT MORE THAN
10 10 DAYS AFTER THE HEARING ON OBJECTIONS TO APPORTIONMENTS. THE
11 PROCEEDINGS SHALL BE AS PROVIDED IN SECTION 161(2) AND (3).

12 Sec. 490. (1) Subject to the requirements of section 489a,
13 if the ~~legislative~~ GOVERNING body of a ~~public corporation~~
14 CITY, VILLAGE, OR TOWNSHIP, which has been assessed under this
15 chapter, determines that a part of the lands in the public corpo-
16 ration will be especially benefited by the drain project to the
17 extent of a portion of the amount assessed under this chapter,
18 the ~~legislative~~ GOVERNING body may cause that portion of the
19 assessment under this chapter to be specially assessed, according
20 to benefits, against the especially benefited lands, if the spe-
21 cial assessment method of financing is not inconsistent with
22 local financing policy for similar drains and sewers. The spe-
23 cial assessment shall be made under the statutory or charter pro-
24 visions governing special assessments in the ~~public corporation~~
25 CITY, VILLAGE, OR TOWNSHIP to the extent applicable. However, if
26 there is not another drain assessment in the district on this
27 particular drain, the special assessment proceedings may be

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1 initiated by resolution of the ~~legislative~~ GOVERNING body of
2 the ~~public corporation~~ CITY, VILLAGE, OR TOWNSHIP without peti-
3 tion, after compliance with section 489a, and a petition or writ-
4 ten objection in opposition to the levying of special assessments
5 shall be advisory only and shall not require a petition for the
6 project, except as otherwise provided in section 489a.

7 (2) After determining by resolution to proceed, the
8 ~~legislative~~ GOVERNING body shall cause a special assessment
9 roll to be prepared. After the special assessment roll is pre-
10 pared, the proceedings with respect to the special assessment
11 roll and the making and collection of the special assessments
12 shall be conducted pursuant to the statute or charter governing
13 special assessments in the ~~public corporation~~ CITY, VILLAGE, OR
14 TOWNSHIP. However, the total assessment may be divided into not
15 more than 30 installments, and a person assessed, at the hearing
16 upon the special assessment roll prepared by the ~~public~~
17 ~~corporation~~ CITY, VILLAGE, OR TOWNSHIP, may object to the spe-
18 cial assessment district previously established by the ~~public~~
19 ~~corporation~~ CITY, VILLAGE, OR TOWNSHIP. Due consideration shall
20 be given to the objections. A hearing held under this section
21 shall not take the place of a meeting required under section
22 489a, unless notice OF THE HEARING is prepared and mailed in the
23 manner prescribed by section 489a.

24 (3) If a special assessment is levied under this section,
25 all collections from the special assessment shall be used towards
26 the payment of the assessment at large against the ~~public~~
27 ~~corporation~~ CITY, VILLAGE, OR TOWNSHIP. Each annual levy made

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1 for the payment of the assessment at large shall be reduced by
2 the amount of money then on hand from special assessment collec-
3 tions available for this use.

4 (4) This section ~~shall not be construed to~~ DOES NOT pre-
5 vent the assessment of ~~public corporations~~ A CITY, VILLAGE, OR
6 TOWNSHIP at large under this chapter. In place of or in addition
7 to levying special assessments, the public corporation, under the
8 same conditions and for the same purpose, may exact connection,
9 readiness to serve, availability, or service charges to be paid
10 by owners of land directly or indirectly connected with the drain
11 project, or a combination of projects. ~~, subject to section~~
12 ~~489a.~~

13 Sec. 491. (1) A petition OTHERWISE meeting the requirements
14 of this chapter ~~as to petitioners, execution and filing~~ may
15 request, for reasons of public health, that jurisdiction be
16 assumed over all or a specified part of the bed, tributaries,
17 banks, and ~~flood plains~~ FLOODPLAINS of a river, creek, or
18 watercourse, not part of an established drain. The petition
19 shall describe the existing or threatened conditions which cause
20 or increase the danger of flooding, pollution, ~~desecration~~
21 DAMAGE, or obstruction of ~~such~~ THE river, creek, or water-
22 course, and shall specify, in general terms, the works, property
23 acquisition, actions, or procedures ~~deemed~~ CONSIDERED necessary
24 to remove or lessen such danger.

25 (2) THE PETITIONERS NAMED IN A PETITION UNDER SUBSECTION (1)
26 SHALL INCLUDE IN THE PETITION AN AGREEMENT TO PAY, OR ACCOMPANY
27 THE PETITION WITH A DEPOSIT IN THE AMOUNT OF, THE ESTIMATED COST

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1 OF THE PLANNING AND ENGINEERING REQUIRED TO DESCRIBE ALL OF THE
2 FOLLOWING:

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

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

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

8 (3) UPON THE FILING OF THE PETITION WITH THE AGREEMENT OR
9 DEPOSIT TO PAY COSTS, THE DRAIN COMMISSIONER AND DRAINAGE BOARD
10 SHALL PROCEED UNDER SECTIONS 466 AND 467. THE DRAINAGE BOARD
11 SHALL HOLD A HEARING TO HEAR OBJECTIONS TO THE ASSUMPTION OF SUCH
12 JURISDICTION, TO THE PETITION AND TO THE PROPOSED WORK OR PROP-
13 ERTY AS PROVIDED FOR OTHER DRAIN PROJECTS UNDER THIS CHAPTER.
14 NOTICE OF THE HEARING SHALL CONTAIN THE DESCRIPTION AS APPROVED
15 AND ADOPTED BY THE DRAINAGE BOARD.

16 (4) AFTER THE HEARING, THE DRAINAGE BOARD SHALL ISSUE ITS
17 FINAL ORDER OF DETERMINATION UNDER SECTION 467. THE FINAL ORDER
18 OF DETERMINATION SHALL STATE WHETHER OR NOT THE DRAINAGE BOARD
19 WILL ASSUME JURISDICTION AND PERFORM THE WORK PROPOSED, IF ANY.
20 THE FINAL ORDER OF DETERMINATION SHALL CONTAIN THE DESCRIPTION OF
21 THE BED, TRIBUTARIES, BANKS, AND FLOODPLAINS OF THE RIVER, CREEK,
22 OR WATERCOURSE OVER WHICH JURISDICTION HAS BEEN ASSUMED AND SHALL
23 BE RECORDED IN THE COUNTY RECORDS IN THE COUNTY IN WHICH ANY PART
24 THEREOF IS LOCATED. AFTER THE FINAL ORDER OF DETERMINATION IS
25 RECORDED, NO CONSTRUCTING, EXCAVATING, LAND FILLING, REMOVING OF
26 STRUCTURES OR VEGETATION, DUMPING, OR DISCHARGING OF SEWERS OR
27 DRAINS SHALL BE PERMITTED OR CONTINUED IN THE BED, TRIBUTARIES,

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1 BANKS, OR FLOODPLAINS OF THE RIVER, CREEK, OR WATERCOURSE WITHIN
2 THE RECORDED DESCRIPTION THEREOF, EXCEPT UPON WRITTEN ORDER OR
3 PERMIT ISSUED BY THE DRAINAGE BOARD.

4 (5) THE RECORDING OF THE DESCRIPTION DOES NOT APPROPRIATE,
5 TERMINATE, OR LESSEN ANY PRIVATE RIGHTS IN PROPERTY, REAL OR PER-
6 SONAL, EXCEPT PROPERTY ACQUIRED UNDER SECTION 7. THE RECORDING
7 OF THE DESCRIPTION CONSTITUTES A REGULATION AND LIMITATION, FOR
8 REASONS OF PUBLIC HEALTH, OF THE USE OF THE PUBLIC AND PRIVATE
9 PROPERTY THEREIN DESCRIBED TO REMOVE OR LESSEN THE DANGER OF
10 FLOODING, POLLUTION, DAMAGE, OR OBSTRUCTION OF THE RIVER, CREEK,
11 OR WATERCOURSE, OR PART THEREOF, INVOLVED.

12 (6) BEFORE ANY WORK, OTHER THAN PREPARATION OF THE DESCRIP-
13 TION AND THE APPROVAL, ADOPTION, AND RECORDING OF THE DESCRIP-
14 TION, IS DONE OR RIGHTS IN PROPERTY ARE ACQUIRED BY THE DRAINAGE
15 BOARD, PURSUANT TO A PETITION UNDER SUBSECTION (1), THE DRAINAGE
16 BOARD SHALL MAKE A DETERMINATION, FOLLOWING NOTICE AND A HEARING
17 AS PROVIDED IN THIS CHAPTER, AS TO THE PUBLIC CORPORATIONS TO BE
18 ASSESSED FOR THE COST OF THE WORK OR ACQUISITION. THE HEARING
19 MAY BE THE SAME HEARING PROVIDED FOR IN SUBSECTION (2).

20 (7) AFTER THE HEARING AND THE DETERMINATION TO PROCEED WITH
21 THE WORK, THE DRAINAGE BOARD SHALL PROCEED IN THE SAME MANNER AND
22 HAVE THE SAME POWERS AND DUTIES AS ARE PROVIDED FOR OTHER DRAIN
23 PROJECTS IN THIS CHAPTER.

24 Sec. 499. (1) After the construction of a county drain for
25 which none of the financing is obtained through special assess-
26 ments under section 490, the drainage board shall provide for an
27 amount from surplus construction funds sufficient to inspect,

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1 repair, and maintain the drain as provided in section ~~196~~ 199.
2 After providing for inspection, repair, and maintenance, the
3 drainage board may apportion the balance of the surplus construc-
4 tion funds to separate accounts to the credit of the public cor-
5 porations against which the cost of the drain is assessed. The
6 funds shall be credited in direct proportion to amounts assessed
7 and collected from the public corporations.

8 (2) Funds in an account apportioned to the credit of a
9 public corporation under this section shall be used only for the
10 following:

11 (a) To pay principal and interest on bonds issued to finance
12 the drain for which the assessment is imposed.

13 (b) If bonds are not sold, to pay assessments due from the
14 public corporation.

15 (c) At the request of the public corporation, to alleviate
16 drainage problems in that public corporation.

17 (3) A DRAINAGE BOARD SHALL APPLY SECTION 283 TO SURPLUS CON-
18 STRUCTION FUNDS INSTEAD OF THIS SECTION WHEN STATE TRUNK LINE
19 FUNDS ARE USED.

20 SEC. 500. ASSESSMENTS AGAINST A TOWNSHIP SHALL BE AGAINST
21 THE TOWNSHIP AS A WHOLE, INCLUDING ANY VILLAGE UNLESS THE DRAIN-
22 AGE BOARD OR THE DRAIN COMMISSIONER DETERMINES TO ASSESS A VIL-
23 LAGE SEPARATELY. IN THAT CASE, ALL OF THE FOLLOWING APPLY:

24 (A) THE ASSESSMENT AGAINST THE VILLAGE SHALL BE THE RESPON-
25 SIBILITY OF THE VILLAGE.

26 (B) THE ASSESSMENT AGAINST THE TOWNSHIP SHALL EXCLUDE THE
27 VILLAGE.

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1 (C) A TAX OR SPECIAL ASSESSMENT LEVIED BY THE TOWNSHIP TO
2 PAY THE ASSESSMENT AGAINST THE TOWNSHIP SHALL NOT BE LEVIED
3 AGAINST PROPERTY ASSESSABLE IN THE VILLAGE.

4 CHAPTER 21 —

5 INTERCOUNTY DRAINS; PUBLIC CORPORATIONS —

6 Sec. 513. ~~(1) Before filing a petition under this section,~~
7 ~~the legislative body of a public corporation shall first deter-~~
8 ~~mine whether the drain project contemplated may necessitate the~~
9 ~~levy of a special assessment, fee, or charge under section 539.~~
10 ~~If the legislative body determines that a special assessment,~~
11 ~~fee, or charge may be made under section 539, before filing a~~
12 ~~petition under this section, the legislative body shall proceed~~
13 ~~as prescribed in section 538a.~~

14 (1) ~~(2) If it is necessary for the public health to locate,~~
15 ~~establish, and construct an intercounty drain, a petition for~~
16 ~~that purpose may be filed with the director of the department of~~
17 ~~agriculture signed by 2 or more public corporations which will be~~
18 ~~subject to assessments to pay the cost of the drain~~ TO INITIATE
19 THE ESTABLISHMENT OF A DRAINAGE DISTRICT AND ESTABLISHMENT AND
20 THE CONSTRUCTION OF A COUNTY DRAIN THAT IS NECESSARY FOR THE
21 PUBLIC HEALTH OR THE MAINTENANCE AND IMPROVEMENT OF SUCH A DRAIN,
22 1 OR MORE CITIES, VILLAGES, OR TOWNSHIPS THAT WILL BE SUBJECT TO
23 ASSESSMENT TO PAY THE COST OF THE DRAIN MAY FILE A PETITION WITH
24 THE DIRECTOR OF AGRICULTURE AS PROVIDED IN SECTION 14, AND THE
25 DRAIN COMMISSIONER OF THE COUNTIES WHERE THE CITIES, VILLAGES, OR
26 TOWNSHIPS ARE LOCATED. The petition shall state that it is filed
27 pursuant to this chapter, ~~and shall describe the location and~~

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1 ~~route of the proposed drain sufficiently to determine with~~
2 ~~reasonable certainty the areas to be serviced by the drain.~~

3 REQUEST THE ESTABLISHMENT OF A DRAINAGE DISTRICT AND THE ESTAB-
4 LISHMENT AND CONSTRUCTION OF A DRAIN, AND SET FORTH THE REASONS
5 FOR THE REQUEST. THE PETITION MAY PROPOSE A LOCATION AND ROUTE
6 FOR THE DRAIN.

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

12 (2) ~~(4) A certified copy of the resolution of the governing~~
13 ~~body of each signer authorizing the affixing of the signature of~~
14 ~~the governing body to the petition shall be attached to the~~
15 ~~petition. The petition may be filed in more than 1 counterpart.~~
16 ~~For a petition filed by a county, the county board of commission-~~
17 ~~ers shall authorize the execution, and for a petition filed by~~
18 ~~the state, the state transportation commission shall authorize~~
19 ~~the execution of the petition.~~ THE PETITION MAY BE FILED IN MORE
20 THAN 1 COUNTERPART. As provided in section 423, an order of
21 determination of the ~~water resources commission~~ DEPARTMENT OF
22 ENVIRONMENTAL QUALITY shall also serve as a petition made pursu-
23 ant to this chapter.

24 (3) NOT MORE THAN 28 DAYS AFTER THE PETITION IS FILED, THE
25 DIRECTOR OF AGRICULTURE SHALL NOTIFY EACH PUBLIC CORPORATION
26 WHICH MAY BE SUBJECT TO AN ASSESSMENT OR IN WHICH IS LOCATED ANY

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1 OF THE AREAS TO BE DRAINED, AS DESCRIBED IN THE PETITION, THAT A
2 PETITION WAS FILED.

3 Sec. 515. There is created for each project petitioned for
4 under ~~the provisions of~~ this chapter, an augmented drainage
5 board to consist of the members of the drainage board together
6 with the ~~chairman~~ CHAIRPERSON of the COUNTY board of
7 ~~supervisors~~ COMMISSIONERS OR A MEMBER OF THE COUNTY BOARD OF
8 COMMISSIONERS DESIGNATED BY THAT CHAIRPERSON and the ~~chairman~~
9 CHAIRPERSON of the board of county auditors of each county
10 involved. If there is no board of county auditors in ~~any~~ A
11 county, then the ~~chairman~~ CHAIRPERSON of the finance committee
12 of the COUNTY board of ~~supervisors shall act as a member of the~~
13 ~~augmented drainage board, and if~~ COMMISSIONERS OR A MEMBER OF
14 THE COUNTY BOARD OF COMMISSIONERS DESIGNATED BY THAT CHAIRPERSON
15 SHALL BE A MEMBER OF THE AUGMENTED DRAINAGE BOARD IF there is
16 neither a board of county auditors nor A finance committee, then
17 the ~~chairman~~ CHAIRPERSON of the COUNTY board of ~~supervisors~~
18 COMMISSIONERS shall select 1 member of the COUNTY board of
19 ~~supervisors~~ COMMISSIONERS of his OR HER county to act as a
20 member of the augmented drainage board. ~~The chairman~~ THE
21 CHAIRPERSON and secretary of the drainage board shall act as
22 ~~chairman~~ CHAIRPERSON and secretary, respectively, of the aug-
23 mented drainage board. The ~~chairman~~ CHAIRPERSON of the COUNTY
24 board of ~~supervisors~~ COMMISSIONERS and any member of ~~a~~ THE
25 COUNTY board of ~~supervisors~~ COMMISSIONERS, serving on the aug-
26 mented drainage board, shall receive ~~such~~ compensation,
27 mileage, and expenses, ~~as shall be provided by the augmented~~

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1 ~~drainage board except that such compensation shall not exceed~~
2 ~~\$25.00 per diem exclusive of mileage and expenses for attendance~~
3 ~~at augmented drainage board meetings~~ WHICH SHALL BE DETERMINED
4 AS PROVIDED IN SECTION 51A FOR MEMBERS OF A BOARD OF
5 DETERMINATION.

6 Sec. 517. Upon receipt of a petition ~~as hereinbefore~~
7 ~~provided~~ UNDER THIS CHAPTER, the director of agriculture shall
8 make a preliminary finding of the counties which, in his OR HER
9 opinion, include public corporations that should be assessed
10 under ~~the provisions of~~ this chapter for the cost of the pro-
11 posed drain. ~~Upon the making of such preliminary finding, the~~
12 THE director of agriculture shall THEN give notice of the time
13 and place of the first meeting of the drainage board and of the
14 first meeting of the augmented drainage board, by sending a copy
15 of ~~such~~ THE notice and of ~~such~~ THE preliminary finding by
16 ~~registered~~ FIRST-CLASS mail to each member thereof, and to each
17 ~~highway agency~~ ROADWAY AUTHORITY having jurisdiction over any
18 ~~highway, road and street in said~~ ROADWAY IN THE district. ~~,~~
19 ~~which~~ THE notice and finding shall be mailed not less than ~~10~~
20 14 days ~~prior to~~ BEFORE the ~~time~~ DATE of the meeting. ~~In~~
21 ~~the event~~ IF there ~~be~~ IS no board of county auditors or
22 finance committee in ~~any~~ THE county, ~~involved,~~ then notice to
23 the ~~chairman~~ CHAIRPERSON of the COUNTY board of ~~supervisors~~
24 COMMISSIONERS of ~~such~~ THE county shall ~~be deemed to be~~ SERVE
25 AS notice to the member of the COUNTY board of ~~supervisors~~
26 COMMISSIONERS to be selected by ~~him~~ THE CHAIRPERSON UNDER
27 SECTION 515. The drainage board shall meet first ~~,~~ ~~for the~~

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1 ~~purpose of selecting~~ TO SELECT a secretary. Upon the selection
2 of a secretary, the director of agriculture shall turn over to
3 ~~such~~ THE secretary the original petition and any other records
4 in his OR HER office pertaining to the proposed drain.

5 Sec. 518. (1) Meetings of the drainage board, or of the
6 augmented drainage board, may be called by the chairperson or 2
7 members of the board. ~~, on notice sent by registered mail to~~
8 ~~each member. The notice shall be mailed not less than 10 days~~
9 ~~before the time of the meeting.~~ NOTICE OF THE MEETING SHALL BE
10 GIVEN AS PROVIDED IN SECTION 8.

11 (2) A majority of the members of the board ~~shall~~ consti-
12 tute a quorum for the transaction of business, but a lesser
13 number may adjourn from time to time. A meeting may be adjourned
14 from time to time. Unless otherwise provided herein, an action
15 shall not be taken by either of the boards except by a majority
16 vote of A QUORUM OF its members.

17 (3) All orders issued by either the drainage board, or the
18 augmented drainage board, shall be signed by the chairperson and
19 secretary.

20 Sec. 519. (1) The augmented drainage board, at its first
21 meeting, shall consider the petition for the project UNDER THIS
22 CHAPTER and make a tentative determination as to the sufficiency
23 of the petition and the practicability of the proposed ~~drain~~
24 PROJECT, and further make a tentative determination of the public
25 corporations to be assessed. The augmented drainage board shall
26 give a name to the drain and to the drainage district. The
27 district shall be composed of the ~~public corporations~~ CITIES,

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1 VILLAGES, AND TOWNSHIPS to be assessed for the cost of the
2 project.

3 (2) If the augmented drainage board, by resolution, tenta-
4 tively determines that there should be assessed a public corpora-
5 tion in a county ~~other than those contained~~ NOT in the tenta-
6 tive findings of the director of ~~the department of~~ agriculture,
7 further proceedings shall not be taken by the augmented drainage
8 board, but the resolution shall have the effect of amending the
9 preliminary finding of the director of ~~the department of~~
10 agriculture. The director of ~~the department of~~ agriculture
11 shall proceed, as in the first instance, to call a new meeting of
12 the drainage board and the augmented drainage board as enlarged
13 by reason of the inclusion of the additional public corporations
14 in another county.

15 (3) After the augmented drainage board has made the
16 ~~determination specified in this section~~ TENTATIVE DETERMINATION
17 OF THE SUFFICIENCY OF THE PETITION AND THE PRACTICABILITY OF THE
18 PROPOSED DRAIN, it shall fix a time, date, and place it will meet
19 to hear objections to the proposed drain and the petition for the
20 drain, and TO the matter of assessing the cost of the drain to
21 the designated public corporations. Notice of the hearing shall
22 be ~~published twice in each county involved by inserting the~~
23 ~~notice in at least 1 newspaper published in the county, desig-~~
24 ~~nated by the augmented drainage board. The first publication~~
25 ~~shall be made not less than 20 days before the time of hearing.~~
26 ~~The notice shall also be sent by registered mail to the clerk or~~
27 ~~secretary of each public corporation proposed to be assessed,~~

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1 ~~except that a notice to the state shall be sent to the state~~
2 ~~highway director and a notice to a county shall be sent to both~~
3 ~~the county clerk and the county road commission. The mailing~~
4 ~~shall be made not less than 20 days before the time of hearing.~~
5 ~~The notice shall be signed by the secretary and proof of the pub-~~
6 ~~lication and mailing of the notice shall be filed with the~~
7 ~~secretary. The augmented drainage board may provide a form to be~~
8 ~~substantially followed in the giving of such notice~~ GIVEN AS
9 PROVIDED IN SECTION 8.

10 (4) After the hearing, the augmented drainage board shall
11 make a determination as to the sufficiency of the petition, the
12 practicability of the ~~drain, whether the drain should be~~
13 ~~constructed~~ PROJECT, WHETHER THE PROJECT IS NECESSARY AND CONDU-
14 CIVE TO PUBLIC HEALTH, AND, IF SO, the public corporations to be
15 assessed, and shall issue its order accordingly. The order shall
16 be known as the final order of determination. A public corpora-
17 tion shall not be eliminated from, or added to, those tentatively
18 determined to be assessed without a rehearing after notice AS
19 PROVIDED IN SUBSECTION (2).

20 (5) After the augmented drainage board ~~has made~~ MAKES the
21 determinations, further action in respect to the drain shall be
22 taken by the drainage board. The augmented drainage board may be
23 reconvened by its chairperson or 2 members of the board, upon
24 notice given for the purpose of making a correction or addition
25 to its proceedings.

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1 SEC. 519A. (1) AFTER THE DRAINAGE BOARD ENTERS THE FINAL
2 ORDER OF DETERMINATION, THE DRAINAGE BOARD SHALL PROCEED IN THE
3 SAME MANNER AS PROVIDED IN SECTION 467A.

4 (2) IF, AFTER THE RECEIPT OF THE PLANS, SPECIFICATIONS,
5 ESTIMATE OF COST, AND DESCRIPTIONS OF THE LANDS OR RIGHTS-OF-WAY
6 NEEDED FOR THE PROPOSED DRAIN, THE DRAINAGE BOARD DETERMINES THAT
7 THE PROJECT IS NOT PRACTICAL, THE DRAINAGE BOARD SHALL NOTIFY THE
8 PUBLIC CORPORATIONS IN THE DISTRICT BY FIRST-CLASS MAIL OF THE
9 INTENT TO REJECT THE PETITION. THE NOTICE SHALL SPECIFY THE REA-
10 SONS FOR THE PROPOSED REJECTION. THE NOTICE SHALL ALSO SPECIFY A
11 TIME, DATE, AND PLACE FOR A PUBLIC HEARING TO HEAR OBJECTIONS TO
12 THE REJECTION OF THE PETITION. AT THE PUBLIC HEARING, THE DRAIN-
13 AGE BOARD SHALL ELICIT TESTIMONY AND EVIDENCE WITH REGARDS TO THE
14 PROPOSED REJECTION. FOLLOWING THE RECEIPT OF TESTIMONY, THE
15 DRAINAGE BOARD SHALL DETERMINE WHETHER OR NOT THE PETITION SHOULD
16 BE REJECTED. IF THE REJECTION IS DETERMINED TO BE PRACTICAL, THE
17 DRAINAGE BOARD SHALL ENTER AN ORDER OF REJECTION AND APPORTION
18 ALL COSTS INCURRED TO THE DISTRICT AS IF THE PROJECT HAD BEEN
19 BUILT AND THE COSTS SHALL BE SUBSEQUENTLY ASSESSED AND PAID AS
20 PROVIDED IN THIS CHAPTER. A DETERMINATION TO REJECT A PETITION
21 DOES NOT LIMIT THE RIGHT TO FILE ANOTHER PETITION.

22 Sec. 520. (1) ~~The drainage board shall proceed to secure~~
23 ~~from a competent engineer, plans, specifications, and an estimate~~
24 ~~of cost of the proposed drain, which when approved and adopted by~~
25 ~~the board shall be filed with the secretary thereof. In approv-~~
26 ~~ing the plans and specifications, the drainage board shall not be~~
27 ~~limited to the route of the drain described in the petition or~~

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1 ~~the final order of determination. The~~ FOR EACH COUNTY AFFECTED,
2 THE drainage board shall tentatively establish the percentage of
3 the cost of the drain or of the several sections or parts thereof
4 which is to be borne by public corporations. ~~in each county~~
5 ~~affected and by the state on account of any state highway, and by~~
6 ~~the county on account of any county highway.~~ The percentage of
7 the cost apportioned to public corporations ~~in~~ FOR each county
8 shall then be apportioned by the drain commissioner among public
9 corporations to be assessed in the county, which determination
10 shall be filed with the secretary of the drainage board. In
11 making the apportionments ~~hereunder, there shall be taken into~~
12 ~~consideration the benefits to accrue to each public corporation~~
13 ~~and also the extent to which each public corporation contributes~~
14 ~~to the conditions which make the drain necessary. Apportionments~~
15 ~~against the state shall be based upon the benefits and contribu-~~
16 ~~tions as related solely to the drainage of state highways, and~~
17 ~~those against the county shall be based as related solely to the~~
18 ~~drainage of its county highways.~~ TO CITIES, VILLAGES, AND TOWN-
19 SHIPS, THE DRAINAGE BOARD SHALL CONSIDER THE BENEFITS TO ACCRUE
20 TO EACH CITY, VILLAGE, OR TOWNSHIP AND ALSO THE EXTENT TO WHICH
21 EACH CITY, VILLAGE, OR TOWNSHIP CONTRIBUTES TO THE CONDITIONS
22 THAT MAKE THE DRAIN NECESSARY, SUBJECT TO SECTION 500.
23 APPORTIONMENTS AGAINST THIS STATE OR A COUNTY SHALL RELATE SOLELY
24 TO STATE TRUNK LINE HIGHWAYS OR COUNTY ROADS, RESPECTIVELY. THE
25 APPORTIONMENT OF BENEFITS FOR STATE TRUNK LINE HIGHWAYS AND THE
26 PORTION PAID BY COUNTY ROAD COMMISSIONS FOR BENEFIT TO COUNTY
27 ROADS MUST BE PAID PURSUANT TO SECTION 14A OF 1951 PA 51,

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1 MCL 247.664A. Before a tentative apportionment ~~shall be~~ IS
2 made, the drainage board shall designate the area to be served by
3 the drain project, which may or may not include all of the area
4 in a ~~public corporation~~ CITY, VILLAGE, OR TOWNSHIP to be
5 assessed, and may divide the drain into sections or parts for
6 purposes of apportionment or construction. ~~Nothing herein con-~~
7 ~~tained shall prohibit a~~ THE county ~~from assuming any~~ MAY
8 ASSUME AN additional cost of the drain ~~if~~ BY THE VOTE OF 2/3 of
9 the members elect of the county board of commissioners. ~~vote in~~
10 ~~favor thereof.~~

11 (2) The apportionment shall apply only to the proposed drain
12 PROJECT, AND SEPARATE CONCURRENT MAINTENANCE APPORTIONMENTS FOR
13 THE DRAIN MAY BE ESTABLISHED. The apportionments for extensions
14 or other work subsequently performed under section 535 shall be
15 reestablished by the board. ~~When chapter 25 is employed in the~~
16 ~~apportionment of costs, the above~~

17 (3) THE proceedings ~~shall~~ IN THIS SECTION MAY be altered
18 and supplemented as provided in chapter 25.

19 Sec. 521. ~~After the tentative apportionments of cost have~~
20 ~~been made, the drainage board shall set a time, date, and place~~
21 ~~it will meet and hear objections to the apportionments. Notice~~
22 ~~of the hearing shall be published twice in each county involved~~
23 ~~by inserting the notice in at least 1 newspaper published in the~~
24 ~~county, designated by the drainage board. The first publication~~
25 ~~is to be not less than 20 days before the time of hearing. The~~
26 ~~notice shall also be sent by registered mail to the clerk or~~
27 ~~secretary of each public corporation proposed to be assessed,~~

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1 ~~except that a notice to the state shall be sent to the state~~
2 ~~highway director and a notice to a county shall be sent both to~~
3 ~~the county clerk and the county road commission. The mailing~~
4 ~~shall be made not less than 20 days before the time of hearing.~~
5 ~~The notice shall be signed by the secretary and proof of the pub-~~
6 ~~lication and mailing of the notice shall be filed with the~~
7 ~~secretary. The drainage board may provide a form to be substan-~~
8 ~~tially followed in the giving of the notice. The notice shall~~
9 ~~include tentative apportionments to the several public~~
10 ~~corporations. After the hearing, the drainage board may confirm~~
11 ~~the apportionments as tentatively made, or, if it considers the~~
12 ~~apportionments to be inequitable, it shall readjust the~~
13 ~~apportionments. Before readjusted apportionments are confirmed,~~
14 ~~the drainage board shall set a time, date, and place for a~~
15 ~~rehearing and shall give notice of the hearing. The notice shall~~
16 ~~also set forth the apportionments as readjusted. It shall then~~
17 ~~issue its order setting forth the several apportionments as~~
18 ~~confirmed. The order shall be known as the final order of~~
19 ~~apportionment~~ THE INTERCOUNTY DRAINAGE BOARD OR A PUBLIC CORPO-
20 RATION HAS THE SAME POWERS AND DUTIES WITH RESPECT TO AN INTER-
21 COUNTY DRAIN UNDER THIS CHAPTER AS THE COUNTY DRAINAGE BOARD OR A
22 PUBLIC CORPORATION, RESPECTIVELY, UNDER SECTION 469.

23 Sec. 524. The drainage board shall designate the treasurer
24 of 1 of the counties involved as the treasurer for ~~said board.~~
25 ~~He~~ THE DRAINAGE DISTRICT. THE TREASURER may designate 1 or more
26 of his OR HER deputies ~~who may~~ TO act for ~~him~~ THE TREASURER
27 in the performance of any of his OR HER duties under this

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1 section. ~~Such~~ THE treasurer and any such deputy shall serve
2 without additional compensation. ~~He~~ THE TREASURER and each
3 deputy county treasurer so designated shall furnish a bond in
4 ~~such sum as shall be fixed~~ THE AMOUNT SPECIFIED by the drainage
5 board, conditioned upon the faithful discharge of his OR HER
6 duties. ~~, the premium thereon to~~ THE PREMIUM ON THE BOND SHALL
7 be paid by the drainage board. ~~Moneys~~ MONEY held by the trea-
8 surer shall be paid out only upon order of the drainage board,
9 except that ~~no such order shall be~~ AN ORDER IS NOT required for
10 the payment of principal and interest on bonds.

11 Sec. 525. (1) ~~After the confirmation of the apportionments~~
12 ~~by the drainage board, the secretary of the board shall prepare a~~
13 ~~special assessment roll assessing the estimated cost of the~~
14 ~~drain, or if the actual cost has been ascertained, then the~~
15 ~~actual cost, against the several public corporations in accord-~~
16 ~~ance with the confirmed apportionments. The drainage board may~~
17 ~~provide for the payment of the special assessments in any number~~
18 ~~of annual installments, not exceeding 30, but an installment~~
19 ~~shall not be less than 1/4 of any subsequent installment.~~
20 ~~Installments of assessments against the state and against public~~
21 ~~corporations which collect their taxes beginning approximately~~
22 ~~December 1 in each year shall become due and payable on or before~~
23 ~~April 1 of each year. Installments of assessments against other~~
24 ~~public corporations shall become due and payable on or before the~~
25 ~~dates as shall be fixed by the drainage board, depending upon the~~
26 ~~times of the collection of taxes by the public corporations. The~~
27 ~~drainage board shall fix the commencement date of interest to be~~

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1 ~~paid upon unpaid installments, not to exceed an amount sufficient~~
2 ~~to pay interest on bonds or other evidences of indebtedness~~
3 ~~issued or to be issued by the drainage district, which interest~~
4 ~~shall become due annually on the day and month upon which the~~
5 ~~annual installments become due but may become due in years before~~
6 ~~the due date of the first installment. The drainage board may~~
7 ~~provide for the payment of installments in advance of their~~
8 ~~respective due dates and may prescribe the terms and conditions~~
9 ~~of payment. The drainage board shall fix the date, not later~~
10 ~~than 4 years after confirmation for the payment of the first~~
11 ~~installment so that each public corporation can make a tax levy~~
12 ~~for the payment thereof and subsequent installments shall become~~
13 ~~due annually on the same day and month of subsequent years. A~~
14 ~~city or village may elect to spread the tax levy upon the county~~
15 ~~tax roll instead of the city or village tax roll. When chapter~~
16 ~~25 is employed in the apportionment of costs, the above proceed-~~
17 ~~ings shall be altered and supplemented as provided in chapter~~
18 ~~25. THE DRAINAGE BOARD AND THE CHAIRPERSON OF THE DRAINAGE BOARD~~
19 ~~SHALL PROCEED IN THE MANNER PROVIDED IN SECTION 473.~~

20 (2) AFTER THE CHAIRPERSON OF THE DRAINAGE BOARD PREPARES THE
21 SPECIAL ASSESSMENT SCHEDULE, THE CHAIRPERSON SHALL PRESENT THE
22 SCHEDULE TO THE DRAINAGE BOARD FOR APPROVAL. IF THE DRAINAGE
23 BOARD APPROVES THE SPECIAL ASSESSMENT SCHEDULE, THE CHAIRPERSON
24 OF THE DRAINAGE BOARD SHALL AFFIX TO THE SCHEDULE A STATEMENT TO
25 THAT EFFECT SIGNED BY THE CHAIRPERSON AND SECRETARY OF THE DRAIN-
26 AGE BOARD. THE CHAIRPERSON OF THE DRAINAGE BOARD SHALL THEN

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1 CERTIFY TO EACH PUBLIC CORPORATION ASSESSED THE ASSESSMENT
2 INFORMATION IN THE ASSESSMENT SCHEDULE.

3 (3) EACH YEAR, AT LEAST 28 DAYS BEFORE THE TIME OF THE LEVY-
4 ING OF TAXES BY EACH PUBLIC CORPORATION, THE SECRETARY OF THE
5 DRAINAGE BOARD SHALL NOTIFY THE PUBLIC CORPORATION OF THE AMOUNT
6 OF THE INSTALLMENT AND INTEREST NEXT BECOMING DUE, BUT THE FAIL-
7 URE TO NOTIFY A PUBLIC CORPORATION SHALL NOT EXCUSE IT FROM
8 MAKING PAYMENT OF THE INSTALLMENT AND INTEREST.

9 (4) ON OR BEFORE THE DUE DATE OF AN INSTALLMENT, EACH PUBLIC
10 CORPORATION SHALL PAY TO ITS COUNTY TREASURER THE FULL AMOUNT
11 THEREOF, TOGETHER WITH INTEREST ACCRUING TO THE DUE DATE. NOT
12 MORE THAN 14 DAYS AFTER A PUBLIC CORPORATION PAYS A SPECIAL
13 ASSESSMENT INSTALLMENT TO ITS COUNTY TREASURER, THE COUNTY TREA-
14 SURER SHALL FORWARD TO THE DRAINAGE BOARD THE AMOUNT PAID.

15 (5) THE INTERCOUNTY DRAINAGE BOARD, AN OFFICER OF AN INTER-
16 COUNTY DRAINAGE BOARD, A PUBLIC CORPORATION, OR ANY OTHER PERSON
17 SHALL PROCEED IN THE SAME MANNER WITH RESPECT TO AN INTERCOUNTY
18 DRAIN UNDER THIS CHAPTER AS PROVIDED UNDER SECTIONS 473, 474A TO
19 479, 483 TO 485, 490, 491, AND 500 EXCEPT AS FOLLOWS:

20 (A) THE PERIOD UNDER SECTION 483 TO FILE A COMPLAINT FOR
21 SUPERINTENDING CONTROL FOR AN ERROR IN PROCEEDINGS OCCURRING
22 BEFORE OR IN THE FINAL ORDER OF DETERMINATION SHALL BEGIN WHEN
23 THE FINAL ORDER IS FILED IN THE OFFICE OF THE SECRETARY OF THE
24 INTERCOUNTY DRAINAGE BOARD.

25 (B) A PETITION UNDER SECTION 491 FOR ASSUMPTION OF JURISDIC-
26 TION BY AN INTERCOUNTY DRAINAGE BOARD SHALL OTHERWISE MEET THE
27 REQUIREMENTS OF THIS CHAPTER.

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1 Sec. 532. ~~Any~~ AN action arising from the provisions of
2 this chapter ~~except such actions as may be brought directly in~~
3 ~~the supreme court~~ may be brought in the circuit court of ~~any~~ A
4 county in which ~~any~~ A part of the intercounty ~~drain involved~~
5 is located: ~~Provided, That on request by any party to said~~
6 ~~action made prior to the time said action is instituted, or~~
7 ~~within 30 days after receipt of service of process, the presiding~~
8 ~~circuit judge of Michigan shall appoint a circuit judge to hear~~
9 ~~said action~~ DRAINAGE DISTRICT IS LOCATED, SUBJECT TO THE
10 MICHIGAN RULES OF COURT.

11 Sec. 540. ~~When~~ IF 2 or more public corporations, consti-
12 tuting as a whole contiguous territory, are served by 1 or more
13 intercounty drains or by a combination of 1 or more intercounty
14 drains and 1 or more county drains, and it is necessary for the
15 public health to supplement such existing drain or drains by con-
16 structing 1 or more relief drains, which may consist of new
17 drains and branches and connections thereto or ~~extensions,~~
18 ~~enlargements, branches, connections or improvements described in~~
19 ~~section 535 to~~ IMPROVEMENTS TO OR CONSOLIDATIONS OF existing
20 drains, or any combination thereof, then the entire project may
21 be constructed and financed as a whole under the provisions of
22 this chapter and the word "drain" ~~shall be deemed to include~~
23 INCLUDES such a project.

24 Sec. 541. (1) A petition OTHERWISE meeting the requirements
25 of this chapter ~~as to petitioners, execution and filing~~ may
26 request, for reasons of public health, that jurisdiction be
27 assumed over all or a specified part of the bed, tributaries,

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1 banks, and ~~flood plains~~ FLOODPLAINS of a river, creek, or
2 watercourse, not part of an established drain. The petition
3 shall describe the existing or threatened conditions which cause
4 or increase the danger of flooding, pollution, ~~desecration~~
5 DAMAGE, or obstruction of such river, creek, or watercourse, and
6 shall specify, in general terms, the works, property acquisition,
7 actions, or procedures, ~~deemed~~ CONSIDERED necessary to remove
8 or lessen such danger.

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

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

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

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

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

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1 OF THE HEARING SHALL CONTAIN THE DESCRIPTION AS APPROVED AND
2 ADOPTED BY THE DRAINAGE BOARD.

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

18 (5) THE RECORDING OF THE DESCRIPTION DOES NOT APPROPRIATE,
19 TERMINATE, OR LESSEN ANY PRIVATE RIGHTS IN PROPERTY, REAL OR PER-
20 SONAL, EXCEPT PROPERTY ACQUIRED UNDER SECTION 7. THE RECORDING
21 OF THE DESCRIPTION CONSTITUTES A REGULATION AND LIMITATION, FOR
22 REASONS OF PUBLIC HEALTH, OF THE USE OF THE PUBLIC AND PRIVATE
23 PROPERTY THEREIN DESCRIBED TO REMOVE OR LESSEN THE DANGER OF
24 FLOODING, POLLUTION, DAMAGE, OR OBSTRUCTION OF THE RIVER, CREEK,
25 OR WATERCOURSE, OR PART THEREOF, INVOLVED.

26 (6) BEFORE ANY WORK, OTHER THAN PREPARATION OF THE
27 DESCRIPTION AND THE APPROVAL, ADOPTION, AND RECORDING OF THE

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1 DESCRIPTION, IS DONE OR RIGHTS IN PROPERTY ARE ACQUIRED BY THE
2 DRAINAGE BOARD, PURSUANT TO A PETITION FILED UNDER
3 SUBSECTION (1), THE DRAINAGE BOARD SHALL MAKE A DETERMINATION,
4 FOLLOWING NOTICE AND A HEARING AS PROVIDED IN THIS CHAPTER, AS TO
5 THE PUBLIC CORPORATIONS TO BE ASSESSED FOR THE COST OF THE WORK
6 OR ACQUISITION. THE HEARING MAY BE THE HEARING PROVIDED FOR IN
7 SUBSECTION (2). AFTER THE HEARING AND THE DETERMINATION TO PRO-
8 CEED WITH THE WORK, THE DRAINAGE BOARD SHALL PROCEED IN THE SAME
9 MANNER AND HAVE THE SAME POWERS AND DUTIES AS ARE PROVIDED FOR
10 OTHER DRAIN PROJECTS IN THIS CHAPTER.

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~~CHAPTER 23.~~

20

~~PENALTIES.~~

21

22

~~Sec. 601. If any commissioner is interested directly or~~

23 ~~indirectly in the profits of any contract, job, work or services,~~

24 ~~other than official services, to be performed for the drainage~~

25 ~~district, he is deemed to be guilty of a misdemeanor, and the~~

26 ~~office of such commissioner shall be deemed vacant and the com-~~

27 ~~missioner so convicted shall be incapable of again holding the~~

28 ~~office of county drain commissioner.~~

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~~Sec. 602. If any person shall wilfully or maliciously remove any section or grade stake set along the line of any drain, or obstruct or injure any drain, he shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding \$100.00 and the costs of prosecution, or in default of the payment thereof, by imprisonment in the county jail not exceeding 90 days.~~

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CHAPTER 23

4

SANCTIONS

5

6

SEC. 615. IF A COMMISSIONER IS INTERESTED DIRECTLY OR INDI-
RECTLY IN THE PROFITS OF A CONTRACT, JOB, WORK, OR SERVICES,
OTHER THAN OFFICIAL SERVICES, TO BE PERFORMED FOR A DRAINAGE DIS-
TRICT, HE OR SHE IS GUILTY OF A MISDEMEANOR. UPON CONVICTION,
HIS OR HER OFFICE IS VACATED AND HE OR SHE IS INELIGIBLE TO AGAIN
HOLD THE OFFICE OF COMMISSIONER.

12

SEC. 616. IF ANY PERSON WILLFULLY OR MALICIOUSLY REMOVES
ANY SECTION OR GRADE STAKE SET ALONG THE LINE OF ANY DRAIN, OR
OBSTRUCTS OR DAMAGES A DRAIN, HE OR SHE IS GUILTY OF A MISDEMEAN-
OR, PUNISHABLE BY A FINE OF NOT MORE THAN \$100.00 AND THE COSTS
OF PROSECUTION, OR IN DEFAULT OF THE PAYMENT OF THE FINE, BY
IMPRISONMENT FOR NOT MORE THAN 93 DAYS.

18

SEC. 617. (1) A PERSON IS GUILTY OF A MISDEMEANOR IF THE
PERSON WILLFULLY PROHIBITS, PREVENTS, OR OBSTRUCTS THE DRAIN COM-
MISSIONER OR DRAINAGE BOARD OR THEIR AGENTS, EMPLOYEES, OR CON-
TRACTORS FROM DOING EITHER OF THE FOLLOWING:

22

(A) GOING UPON LAND FOR THE PURPOSE OF EXAMINING THE LAND OR
MAKING SURVEYS IN CONNECTION WITH THE WORK OF THE DRAIN COMMIS-
SIONER OR DRAINAGE BOARD.

25

(B) GOING UPON A RIGHT-OF-WAY OF THE DISTRICT WITH THEIR
EMPLOYEES, TOOLS, MACHINERY, INSTRUMENTS, AND OTHER EQUIPMENT FOR
THE PURPOSE OF CONSTRUCTING, RECONSTRUCTING, REPAIRING, OR

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1 MAINTAINING THE WORK OF THE DRAIN COMMISSIONER OR DRAINAGE
2 BOARD.

3 (2) SUBSECTION (1) DOES NOT APPLY UNLESS THE DRAIN COMMIS-
4 SIONER HAS GIVEN NOTICE BY FIRST-CLASS MAIL TO THE OWNER OF THE
5 LAND WHOSE NAME APPEARS ON THE LAST CITY OR TOWNSHIP TAX ROLL
6 THAT THE DRAIN COMMISSIONER OR DRAINAGE BOARD OR THEIR AGENTS,
7 EMPLOYEES, OR CONTRACTORS WILL GO UPON THE LAND OR UPON THE
8 RIGHT-OF-WAY TO WHICH THE LAND IS SUBJECT.

9 (3) SUBSECTION (2) DOES NOT APPLY IF THE ADDRESS OF THE
10 OWNER OF THE LAND DOES NOT APPEAR ON THE TAX ROLL.

11 CHAPTER 24 —

12 REPEALS AND SAVING CLAUSES —

[Sec. 622. ~~In cases where the law shall have been~~ IF THIS
ACT IS amended during the progress of any drain proceedings, ~~such~~
THE proceedings shall not be invalidated by ~~any such~~ THE
amendment, but may be continued to completion. ~~, and each step~~
EACH STEP IN THE PROCEEDINGS shall be governed by the law in force
~~at the time such step was taken. Any drain proceedings pending when~~
~~this act takes effect shall be completed in the manner prescribed in~~
~~this act~~ WHEN THE STEP IS TAKEN. HOWEVER, IF A PETITION UNDER THIS
ACT WAS FILED BEFORE THE EFFECTIVE DATE OF THE 2000 AMENDATORY ACT
THAT AMENDED THIS SECTION, STEPS TAKEN ON OR AFTER THE EFFECTIVE
DATE OF THE 2000 AMENDATORY ACT THAT AMENDED THIS SECTION IN
PROCEEDINGS UNDER THAT PETITION SHALL BE GOVERNED BY THE LAW IN
EFFECT ON THE DAY BEFORE THE EFFECTIVE DATE OF THE 2000 AMENDATORY
ACT THAT AMENDED THIS SECTION.]

13 CHAPTER 25

14 ALTERNATE PROCEDURES

15 Sec. 626. ~~When~~ IF 2 or more public corporations other
16 than the state or a county or counties are to be assessed, the
17 drainage board, or if appropriate in chapter 21 proceedings, the
18 drain commissioner, may determine that costs to be assessed to
19 the public corporations, in excess of those apportioned for
20 drainage to ~~state or county highways~~ ROADWAYS, shall not be
21 apportioned by the establishment of a fixed percentage of costs
22 to be borne by each public corporation, but that the costs shall
23 be assessed at large to all of the public corporations in the
24 aggregate and apportioned annually between the public corpora-
25 tions on the basis of the relative valuations, as equalized, of
26 each within the area served by the drain. ~~, if the~~ THE drainage
27 board or drain commissioner shall ~~determine that~~ BASE THE

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1 DETERMINATION ON WHETHER this method of apportionment will more
2 fairly result in the costs of the drain being apportioned in
3 accordance with the benefits to be derived therefrom. Notice of
4 tentative apportionment in the ~~foregoing~~ manner PROVIDED IN
5 THIS SECTION shall include a calculation of the apportionment of
6 costs between public corporations assessed in the aggregate based
7 on the latest available valuations.

8 Sec. 627. When employing this chapter, the ~~chairman~~
9 CHAIRPERSON of the drainage board in chapter 20 proceedings or
10 the secretary of the drainage board in chapter 21 proceedings
11 shall prepare a special assessment roll. ~~which~~ THE SPECIAL
12 ASSESSMENT ROLL shall contain the name of each public corporation
13 assessed, the total estimated or actual cost of the project, the
14 fixed percentage of the cost, if any, apportioned to public
15 corporations, and to ~~the state or counties~~ ROADWAY AUTHORITIES
16 for drainage of ~~highways~~ ROADWAYS, the aggregate amount
17 assessed at large against all other public corporations, and if
18 the assessment is divided into annual installments, the amount of
19 each installment, listed separately for the state and counties
20 and for public corporations assessed a fixed percentage if appli-
21 cable, and in the aggregate for all other public corporations.
22 After approval of the roll by the drainage board, the ~~chairman~~
23 CHAIRPERSON shall then send a certified copy of the roll to each
24 public corporation assessed.

25 Enacting section 1. Sections 4, 5, 11, 21a, and 22,
26 chapter 4, chapter 6, sections 193, 194, 195, 196, 197, 198, 246,
27 248, 268, 271, 272, 281, 321, and 325, chapters 14, 15, and 16,

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1 sections 424, 426, 427, 428, 432, and 434, chapter 19, sections
2 461, 470, 471, 480, 482, 485, 492 to 498, 511, 522, 523, 526 to
3 531, 533 to 539, 542 to 549, [] and 621 of the drain
4 code of 1956, 1956 PA 40, MCL 280.4, 280.5, 280.11, 280.21a,
5 280.22, 280.71 to 280.88, 280.121 to 280.135, 280.193, 280.194,
6 280.195, 280.196, 280.197, 280.198, 280.246, 280.248, 280.268,
7 280.271, 280.272, 280.281, 280.321, 280.325, 280.341 to 280.384,
8 280.424, 280.426, 280.427, 280.428, 280.432, 280.434, 280.441 to
9 280.448, 280.461, 280.470, 280.471, 280.480, 280.482, 280.485,
10 280.492 to 280.498, 280.511, 280.522, 280.523, 280.526 to
11 280.531, 280.533 to 280.539, 280.542 to 280.549, [
12] and 280.621, are repealed.