

SENATE BILL NO. 666

June 17, 1999, Introduced by Senators BULLARD, GOUGEON and MC MANUS and referred to the Committee on Farming, Agribusiness and Food Systems.

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, 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,

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, 280.626, 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, 55, 56, 57, 58, 59, 107, 108, 109, 110, 111, 112, 113, 201, 275a, 277a, 329, 330, 467a, 467b, 474a, 500, 519a, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 603, 604, 605, 606, 607, 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 ~~ivers 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 INCLUDES ADVANTAGES THAT
25 RESULT FROM ELIMINATION OF POLLUTION AND ELIMINATION OF FLOOD
26 DAMAGE, OR ELIMINATION OF WATER CONDITIONS THAT JEOPARDIZE THE

1 PUBLIC HEALTH OR SAFETY; INCREASE OR DECREASE OF THE VALUE OR USE
 2 OF LANDS AND PROPERTY RESULTING FROM THE PROJECT; AND THE POSI-
 3 TIVE OR NEGATIVE CONSEQUENCES OF THE PROJECT FOR INDIVIDUAL PAR-
 4 CELS OF LAND INCLUDING, BUT NOT LIMITED TO, ALL OF THE
 5 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 FACTORS INCLUDING, BUT NOT LIMITED TO, THE
 10 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 OR IMPROVES OR DEGRADES THE
 16 WATER QUALITY.

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

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

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

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

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

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

8 (F) "DRAIN" MEANS ANY OF THE FOLLOWING IF ESTABLISHED PURSU-
9 ANT TO THIS ACT:

10 (*i*) THE MAIN STREAM OR TRUNK AND ALL TRIBUTARIES OR BRANCHES
11 OF A CREEK OR RIVER.

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

13 (*iii*) A COVERED DRAIN.

14 (*iv*) A SANITARY OR A COMBINED SANITARY AND STORM SEWER OR
15 STORM SEWER OR CONDUIT.

16 (*v*) A STRUCTURE OR MECHANICAL DEVICE TO PURIFY THE FLOW OF A
17 DRAIN.

18 (*vi*) PUMPING EQUIPMENT NECESSARY TO ASSIST OR RELIEVE THE
19 FLOW OF A DRAIN.

20 (*vii*) ANY LEVEE, DIKE, OR BARRIER FOR DRAINAGE OR TO PURIFY
21 THE FLOW OF A DRAIN.

22 (G) "DRAIN" DOES NOT INCLUDE ANY DAM AND CONNECTED FLOWAGE
23 RIGHTS USED FOR THE GENERATION OF POWER BY A PUBLIC UTILITY
24 SUBJECT TO REGULATION BY THE PUBLIC SERVICE COMMISSION.

25 (H) "DRAINAGE DISTRICT" MEANS THE AREA DESCRIBED IN THE
26 FINAL ORDER OF DETERMINATION OR, FOR A PROPOSED DRAIN FOR WHICH A
27 FINAL ORDER OF DETERMINATION HAS NOT BEEN MADE, THE AREA THAT

1 WOULD BE DRAINED BY THE PROPOSED DRAIN. ONCE ESTABLISHED, A
2 DRAINAGE DISTRICT IS A BODY CORPORATE WITH POWER TO CONTRACT, TO
3 SUE AND TO BE SUED, AND TO HOLD, MANAGE, AND DISPOSE OF REAL AND
4 PERSONAL PROPERTY, IN ADDITION TO ANY OTHER POWERS CONFERRED UPON
5 IT BY LAW.

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

9 (J) "IMPROVEMENT" MEANS AND "IMPROVE" REFERS TO ANY OF THE
10 FOLLOWING:

11 (i) RELOCATING, WIDENING, DEEPENING, STRAIGHTENING, OR
12 TILING A DRAIN.

13 (ii) PROVIDING STRUCTURES OR MECHANICAL DEVICES THAT WILL
14 PROPERLY PURIFY, CONTROL, OR IMPROVE THE FLOW OF A DRAIN.

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

17 (iv) EXTENDING AN EXISTING DRAIN DOWNSTREAM FOR THE PURPOSE
18 OF PROVIDING AN ADEQUATE OUTLET TO RESTORE OR IMPROVE DRAINAGE TO
19 LANDS WITHIN AN ESTABLISHED DRAINAGE DISTRICT.

20 (v) EXTENDING OR ADDING BRANCHES TO AN EXISTING DRAIN TO
21 RESTORE OR IMPROVE DRAINAGE FOR LANDS WITHIN AN ESTABLISHED
22 DRAINAGE DISTRICT.

23 (vi) EXTENDING AN EXISTING DRAIN TO PROVIDE DRAINAGE FOR
24 LANDS NOT PREVIOUSLY WITHIN A DRAINAGE DISTRICT, SUBJECT TO ANY
25 PERMIT REQUIRED UNDER THE NATURAL RESOURCES AND ENVIRONMENTAL
26 PROTECTION ACT, 1994 PA 451, MCL 324.101 TO 324.90106.

1 (K) "INTERCOUNTY DRAIN" MEANS A DRAIN THAT PROVIDES DRAINAGE
2 OR SERVES LANDS IN MORE THAN 1 COUNTY THAT MAY BE SUBJECT TO
3 ASSESSMENT.

4 (l) "LANDOWNER" MEANS A PERSON HOLDING THE MOST RECENT FEE
5 TITLE OR A LAND CONTRACT VENDEE'S INTEREST IN LAND AS SHOWN BY
6 THE RECORDS OF THE COUNTY REGISTER OF DEEDS. IF THERE IS MORE
7 THAN 1 PERSON WITH A FEE INTEREST OR LAND CONTRACT VENDEE'S
8 INTEREST IN LAND, EACH SUCH PERSON IS A SEPARATE LANDOWNER.

9 (M) "MAINTENANCE" AND "MAINTAIN" REFER TO ANY OF THE FOLLOW-
10 ING THAT DO NOT INCREASE THE DESIGNED CAPACITY OF A DRAIN:

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

16 (ii) CLEANING OUT A DRAIN OR DRAINS.

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

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

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

24 (vi) EROSION REPAIR AND CONTROL.

25 (vii) EROSION AND SEDIMENTATION CONTROL.

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

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 1966 PA 347, MCL 252.131 TO 252.135.

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

14 (O) "PERSON" MEANS AN INDIVIDUAL, PARTNERSHIP, CORPORATION,
15 ASSOCIATION, GOVERNMENTAL ENTITY, OR OTHER LEGAL ENTITY.

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

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

1 RESPECT TO A STATE TRUNK LINE HIGHWAY, THIS STATE; OR WITH
2 RESPECT TO A COUNTY ROAD, THE COUNTY.

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

6 (S) "ROADWAY AUTHORITY" MEANS, WITH RESPECT TO A STATE TRUNK
7 LINE HIGHWAY, THE STATE TRANSPORTATION COMMISSION; WITH RESPECT
8 TO A COUNTY ROAD, THE BOARD OF COUNTY ROAD COMMISSIONERS; WITH
9 RESPECT TO A CITY OR VILLAGE STREET, THE CITY OR VILLAGE; AND
10 WITH RESPECT TO A ROAD UNDER TOWNSHIP JURISDICTION, THE
11 TOWNSHIP.

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

15 Sec. 3. ~~The word "drain", whenever used in this act, shall~~
16 ~~include the main stream or trunk and all tributaries or branches~~
17 ~~of any creek or river, any watercourse or ditch, either open or~~
18 ~~closed, any covered drain, any sanitary or any combined sanitary~~
19 ~~and storm sewer or storm sewer or conduit composed of tile,~~
20 ~~brick, concrete, or other material, any structures or mechanical~~
21 ~~devices, that will properly purify the flow of such drains, any~~
22 ~~pumping equipment necessary to assist or relieve the flow of such~~
23 ~~drains and any levee, dike, barrier, or a combination of any or~~
24 ~~all of same constructed, or proposed to be constructed, for the~~
25 ~~purpose of drainage or for the purification of the flow of such~~
26 ~~drains, but shall not include any dam and flowage rights used in~~
27 ~~connection therewith which is used for the generation of power by~~

1 ~~a public utility subject to regulation by the public service~~
 2 ~~commission.~~

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

5 (2) EACH COMMISSIONER, EACH DRAINAGE BOARD, AND THE DIRECTOR
 6 OF AGRICULTURE SHALL DO ALL OF THE FOLLOWING:

7 (A) PROTECT WATER QUALITY, HEADWATERS, AND TRIBUTARIES.

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

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

15 (D) MAKE ON-SITE RETENTION OF STORM WATER A PRIORITY.

16 (E) UTILIZE APPLICABLE BEST MANAGEMENT PRACTICES, WHICH
 17 SHALL BE DRAFTED AND ADOPTED JOINTLY BY THE DEPARTMENT OF AGRI-
 18 CULTURE AND THE DEPARTMENT OF ENVIRONMENTAL QUALITY.

19 Sec. 6. All ~~established~~ drains regularly located and
 20 established ~~in pursuance of~~ UNDER law ~~existing~~ IN EFFECT at
 21 the time of ~~location and~~ establishment and visibly in exis-
 22 tence, ~~which were established as drains, and~~ OR all drains vis-
 23 ibly in existence in written drain easements, ~~or~~ rights-of-way,
 24 ORDERS, OR OTHER RECORDS on file in the office of the commission-
 25 er, ~~shall be deemed~~ ARE public drains ~~located~~ AND SHALL BE
 26 PRESUMED TO HAVE BEEN ESTABLISHED UNDER LAW. THE EASEMENTS AND
 27 THE DRAINS SHALL BE PRESUMED TO HAVE BEEN LOCATED in public

1 easements or rights-of-way which are valid and binding against
2 any ~~owners of any~~ PERSONS MAKING A CLAIM ON THE BASIS OF OWNER-
3 SHIP OF A property interest who became ~~or hereafter become such~~
4 owners after the ~~location and~~ establishment of the drain or the
5 existence of the drain became visible or the written drain
6 easement, ~~or~~ right-of-way, OR ORDER was executed. ~~, and the~~
7 THE commissioner or drainage board may use, enter upon, and pre-
8 serve ~~such~~ THE easement or right-of-way for maintenance AND
9 IMPROVEMENT of the ~~visible~~ drain and any other lawful activity
10 with respect to the ~~same~~ DRAIN not requiring a larger or dif-
11 ferent easement or right-of-way and may exercise any rights
12 granted in the written easement, ~~or~~ right-of-way, OR ORDER on
13 file in the office of the DRAIN commissioner. UNLESS THE EASE-
14 MENT OR RIGHT-OF-WAY PROVIDES OTHERWISE, THE EASEMENT OR
15 RIGHT-OF-WAY SHALL BE CONSIDERED TO INCLUDE SUFFICIENT GROUND ON
16 EACH SIDE OF THE CENTER LINE OF THE DRAIN FOR THE DEPOSIT OF
17 EXCAVATIONS FROM THE DRAIN, IN ADDITION TO ANY LAND THAT MAY BE
18 SPECIFIED IN THE WRITING. Easements or rights-of-way ~~,~~ or por-
19 tions of easements or rights-of-way ~~,~~ no longer necessary for
20 drainage purposes may be conveyed or released to the ~~fee owners~~
21 LANDOWNERS by the commissioner or drainage board on behalf of the
22 drainage district. ~~The drain commissioner or drainage board~~
23 ~~shall give at least 30 days' notice of the intention to release~~
24 ~~the excess easements by publishing a notice in a newspaper of~~
25 ~~general circulation in the county or a newspaper of general cir-~~
26 ~~ulation where the drainage district boundaries are located.~~
27 ~~This notice shall give a general description of the excess~~

~~1 easements to be released and the date any taxpayers may appear to
2 protest said release. After said date if no protests are
3 received, the drain commissioner or drainage board may release
4 said excess easements or portions thereof not necessary for
5 drainage purposes.~~

6 SEC. 7. (1) FOR THE PURPOSES OF THIS ACT, A DRAIN COMMIS-
7 SIONER OR DRAINAGE BOARD MAY ACQUIRE PROPERTY OR A PROPERTY
8 INTEREST, INCLUDING, BUT NOT LIMITED TO, LAND, EASEMENTS, AND
9 RIGHTS OF WAY. THE PROPERTY OR A PROPERTY INTEREST MAY BE
10 ACQUIRED BY GIFT, GRANT, DEDICATION, PURCHASE, OR CONDEMNATION
11 UNDER THE UNIFORM CONDEMNATION PROCEDURES ACT, 1980 PA 287, MCL
12 213.51 TO 213.77.

13 (2) A RELEASE OF RIGHT-OF-WAY SHALL DESCRIBE THE LAND TO BE
14 CONVEYED AND SHALL BE SIGNED AND ACKNOWLEDGED BY THE PERSON
15 HAVING THE RIGHT TO CONVEY. SUCH A CONVEYANCE IS SUFFICIENT
16 UNDER THIS ACT. ALL RELEASES FOR RIGHTS-OF-WAY SHALL BE CONSID-
17 ERED TO INCLUDE SUFFICIENT GROUND ON EACH SIDE OF THE CENTER LINE
18 OF THE DRAIN FOR THE DEPOSIT OF THE EXCAVATIONS FROM THE DRAIN.
19 IF THE LANDOWNER IS A MARRIED MAN OR MARRIED WOMAN, IT IS NOT
20 NECESSARY FOR THE LANDOWNER'S WIFE OR HUSBAND TO SIGN THE RELEASE
21 OF RIGHT-OF-WAY UNLESS SHE OR HE HAS AN INTEREST IN THE LAND
22 OTHER THAN AN INCHOATE RIGHT OF DOWER. IF A PORTION OF A DRAIN
23 IS LOCATED WITHIN A ROADWAY, OR PUBLIC PLACE, THEN A RESOLUTION
24 OF THE ROADWAY AUTHORITY OR THE GOVERNING BODY HAVING JURISDIC-
25 TION OVER THE PUBLIC PLACE, RESPECTIVELY, GRANTING LEAVE TO CON-
26 STRUCT THE DRAIN THEREIN AND DESIGNATING THE PLACE TO BE

1 TRAVERSED BY THE DRAIN, IS A SUFFICIENT RELEASE OF THE
2 RIGHT-OF-WAY, UNDER THIS ACT.

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

7 (4) IF THE FEDERAL GOVERNMENT IS PARTICIPATING IN A PROJECT
8 UNDER THIS ACT, PROPERTY OR A PROPERTY INTEREST FOR THE PROJECT
9 MAY BE ACQUIRED BY THE FEDERAL GOVERNMENT UNDER APPLICABLE FED-
10 ERAL LAW. EXCEPT AS PROVIDED IN SECTION 431, THE COST FOR THE
11 FEDERAL GOVERNMENT TO ACQUIRE THE PROPERTY OR A PROPERTY INTEREST
12 SHALL BE CONSIDERED A PART OF THE COST OF THE PROJECT AS IF THE
13 PROPERTY OR A PROPERTY INTEREST WERE ACQUIRED UNDER SUBSECTION
14 (1).

15 SEC. 7A. (1) IF A DRAIN COMMISSIONER OR DRAINAGE BOARD
16 ACQUIRES PROPERTY OR AN INTEREST IN PROPERTY AFTER THE EFFECTIVE
17 DATE OF THE AMENDATORY ACT THAT AMENDED SECTION 1 IN CONNECTION
18 WITH ANY PROPOSED DRAIN OR DRAINS, THE DRAIN COMMISSIONER OR
19 DRAINAGE BOARD SHALL RECORD THE PROPERTY OR INTEREST IN PROPERTY
20 IN THE OFFICE OF THE REGISTER OF DEEDS.

21 (2) PROPERTY OR AN INTEREST IN PROPERTY ACQUIRED AT ANY TIME
22 IN CONNECTION WITH AN EXISTING DRAIN MAY BE RECORDED IN THE
23 OFFICE OF THE REGISTER OF DEEDS AT ANY TIME BUT SHALL BE RECORDED
24 WHEN THE DRAIN IS MAINTAINED PURSUANT TO A PETITION, IMPROVED, OR
25 CONSOLIDATED. IF A DRAIN IS CONSOLIDATED, ANY EASEMENTS GRANTED
26 TO THE SEPARATE DRAINAGE DISTRICTS SHALL BE CONSIDERED TO BE

1 ASSIGNED TO THE CONSOLIDATED DRAINAGE DISTRICT WITH FULL FORCE
2 AND EFFECT OF LAW AS ORIGINALLY GRANTED.

3 (3) THE COST OF RECORDING UNDER THIS SECTION SHALL BE PAID
4 BY THE DRAINAGE DISTRICT.

5 SEC. 7B. A CERTIFICATE, REPORT, OR DETERMINATION AUTHORIZED
6 OR REQUIRED BY THIS ACT, OR THE RECORD THEREOF, OR A CERTIFIED
7 COPY OF ANY SUCH CERTIFICATE, REPORT, OR DETERMINATION OR RECORD,
8 IS PRIMA FACIE EVIDENCE OF THE FACTS RECITED THEREIN, OF THE
9 TITLE TO THE PROPERTY DESCRIBED OR REFERRED TO, AND OF THE RIGHT
10 OF THE DRAINAGE BOARD OR COMMISSIONER TO TAKE THE PROPERTY FOR
11 DRAIN PURPOSES.

12 SEC. 7C. THE OWNER OF ANY LAND OVER, THROUGH, OR ACROSS
13 WHICH A DRAINAGE DISTRICT HAS ACQUIRED AN EASEMENT OR
14 RIGHT-OF-WAY FOR THE CONSTRUCTION AND MAINTENANCE OF AN OPEN OR
15 COVERED DRAIN SHALL NOT USE THE LAND OCCUPIED BY THE EASEMENT OR
16 RIGHT-OF-WAY IN ANY MANNER INCONSISTENT WITH THE EASEMENT OR
17 RIGHT-OF-WAY OF THE DISTRICT. A USE OF THE LAND THAT WILL INTER-
18 FERE WITH THE OPERATION OF THE DRAIN OR WILL INCREASE THE COST TO
19 THE DISTRICT OF PERFORMING WORK ON THE DRAIN IS INCONSISTENT WITH
20 THE EASEMENT OR RIGHT-OF-WAY. A LANDOWNER WHO VIOLATES THIS SEC-
21 TION IS SUBJECT TO SECTION 421.

22 Sec. 8. (1) The business ~~which~~ PERFORMED BY AND ANY HEAR-
23 ING HELD BY a board or ~~commission~~ COMMITTEE created pursuant to
24 this act ~~, or a body of special commissioners appointed pursuant~~
25 ~~to this act, may perform~~ shall be conducted at a public meeting
26 of the board ~~, commission, or body of special commissioners~~ OR
27 COMMITTEE held in compliance with ~~Act No. 267 of the Public Acts~~

1 of 1976, being sections 15.261 to 15.275 of the Michigan Compiled
2 Laws— THE OPEN MEETINGS ACT, 1976 PA 267, MCL 15.261 TO 15.275.
3 Public notice of the time, date, and place of the meeting shall
4 be given in the manner required by ~~Act No. 267 of the Public~~
5 ~~Acts of 1976~~ THE OPEN MEETINGS ACT, 1976 PA 267, MCL 15.261 TO
6 15.275.

7 (2) IN ADDITION TO THE REQUIREMENTS OF SUBSECTION (1) AND
8 EXCEPT AS OTHERWISE PROVIDED IN THIS ACT, NOTICE OF PUBLIC HEAR-
9 INGS FOR THE BOARD OF DETERMINATION, DAY OF REVIEW, OR BOARD OF
10 REVIEW; HEARINGS OF PRACTICABILITY AND NECESSITY OF THE DRAINAGE
11 BOARD, THE RECEIVING OF BIDS, AND THE REVIEW OF APPORTIONMENTS;
12 NOTICE OF AN ORDER UNDER SECTION 151 CHANGING THE NAME OR NUMBER
13 OF A DRAIN OR THE BOUNDARIES OF A DRAINAGE DISTRICT; AND NOTICE
14 OF AN ORDER UNDER SECTION 199(1) FOR INSPECTION OF A DRAIN AT
15 LEAST EVERY 3 YEARS SHALL BE SENT BY FIRST-CLASS MAIL TO ALL
16 LANDOWNERS OTHER THAN PUBLIC CORPORATIONS SUBJECT TO AN ASSESS-
17 MENT IN THE DRAINAGE DISTRICT OR PROPOSED DRAINAGE DISTRICT AT
18 THE ADDRESS IN THE LAST CITY, VILLAGE, OR TOWNSHIP TAX ASSESSMENT
19 ROLL. IF A PUBLIC CORPORATION OTHER THAN A STATE DEPARTMENT MAY
20 BE SUBJECT TO AN ASSESSMENT FOR THE DRAIN, NOTICE SHALL BE PER-
21 SONALLY DELIVERED OR SENT BY FIRST-CLASS MAIL TO THE GOVERNING
22 BODY OF THE PUBLIC CORPORATION. IF A STATE DEPARTMENT MAY BE
23 SUBJECT TO AN ASSESSMENT FOR THE DRAIN, NOTICE SHALL BE PERSON-
24 ALLY DELIVERED OR SENT BY FIRST-CLASS MAIL TO THE HEAD OF THE
25 STATE DEPARTMENT. HOWEVER, IF THE HEAD OF THE STATE DEPARTMENT
26 IS A COMMISSION, NOTICE SHALL BE PERSONALLY DELIVERED OR SENT BY
27 FIRST-CLASS MAIL TO THE PRINCIPAL EXECUTIVE OFFICER OF THE STATE

1 DEPARTMENT. NOTICE SHALL ALSO BE PERSONALLY DELIVERED OR SENT BY
2 FIRST-CLASS MAIL TO THE DIRECTOR OF THE STATE TRANSPORTATION
3 DEPARTMENT, THE DIRECTOR OF THE DEPARTMENT OF NATURAL RESOURCES,
4 THE DIRECTOR OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY, AND THE
5 BOARD OF COUNTY ROAD COMMISSIONERS. NOTICE OF A CHANGE IN ROUTE
6 OF THE DRAIN AFTER THE FIRST ORDER OF DETERMINATION SHALL BE
7 DELIVERED IN THE MANNER PROVIDED IN THIS SUBSECTION BUT NEED ONLY
8 BE DELIVERED TO LANDOWNERS WHOSE LANDS WILL BE AFFECTED AS A
9 RESULT OF THE CHANGE OF ROUTE. THE NOTICE SHALL BE MAILED AS
10 FOLLOWS:

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

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

15 (C) FOR A CHANGE IN ROUTE OF THE DRAIN AFTER THE FIRST ORDER
16 OF DETERMINATION, NOT MORE THAN 14 DAYS AFTER THE APPROVAL OF THE
17 ROUTE.

18 (D) FOR AN ORDER UNDER SECTION 151 CHANGING THE NAME OR
19 NUMBER OF A DRAIN OR THE BOUNDARIES OF A DRAINAGE DISTRICT OR AN
20 ORDER UNDER SECTION 199(1), NOT MORE THAN 14 DAYS AFTER ENTRY OF
21 THE ORDER.

22 (3) THE PERSON GIVING NOTICE SHALL MAKE AN AFFIDAVIT OF THE
23 MAILING AND SHALL RECITE IN THE AFFIDAVIT THAT THE PERSONS TO
24 WHOM THE NOTICE WAS MAILED CONSTITUTE ALL OF THE PERSONS WHOSE
25 NAMES AND ADDRESSES APPEAR UPON THE TAX ROLLS AS OWNING LAND
26 WITHIN THE DRAINAGE DISTRICT OR PROPOSED DRAINAGE DISTRICT. THE
27 AFFIDAVIT OF MAILING IS CONCLUSIVE PROOF THAT NOTICE OF A PUBLIC

1 HEARING DESCRIBED IN SUBSECTION (2) WAS MAILED ACCORDING TO THIS
2 ACT. FAILURE TO RECEIVE A NOTICE BY MAIL IS NOT A JURISDICTIONAL
3 DEFECT INVALIDATING A DRAIN PROCEEDING OR SPECIAL ASSESSMENT IF
4 NOTICE HAS BEEN SENT AS PROVIDED IN THIS ACT.

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

8 (5) 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 SHALL SET FORTH THE TIME, DATE,
11 PLACE, AND PURPOSE OF THE MEETING. IF THE HEARING IS FOR THE
12 BOARD OF DETERMINATION, DAY OF REVIEW, OR BOARD OF REVIEW, THE
13 NOTICE SHALL INCLUDE THE NAME, ADDRESS, AND TELEPHONE NUMBER OF
14 THE DRAIN COMMISSIONER IN THE COUNTY WHERE THE PROCEEDING WILL
15 TAKE PLACE. IF THE HEARING IS A HEARING OF PRACTICABILITY AND
16 NECESSITY OF THE DRAINAGE BOARD, THE NOTICE SHALL INCLUDE THE
17 NAME, ADDRESS, AND TELEPHONE NUMBER OF EACH OF THE MEMBERS OF THE
18 DRAINAGE BOARD. THE NOTICE SHALL EXPLAIN THE CONSEQUENCE OF ANY
19 OF THE DECISIONS MADE AT THE HEARING AND SHALL SPECIFY ANY APPEAL
20 PERIOD FOR THE ACTION TAKEN. THE NOTICE SHALL BE PUBLISHED AT
21 LEAST ONCE, NOT LESS THAN 14 DAYS BEFORE THE DATE OF THE
22 PROCEEDING. HOWEVER, FOR A HEARING UNDER SECTION 467 OR 469,
23 NOTICE SHALL BE PUBLISHED AT LEAST TWICE, WITH THE FIRST PUBLICA-
24 TION NOT LESS THAN 21 DAYS BEFORE THE DATE OF THE HEARING.

25 (6) ~~(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

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.

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

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

21 ~~If any drainage project lies entirely within the limits of~~
22 ~~a municipality less than a county, such municipality, by its gov-~~
23 ~~erning body, shall have the power to pledge the full faith and~~
24 ~~credit of the municipality for the payment of bonds or drain~~
25 ~~orders issued in connection with such project, and if a defi-~~
26 ~~ciency exists in the drain fund or sinking fund for said drain 1~~
27 ~~year after the last installment of the deficiency assessment~~

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

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

22 SEC. 13. (1) THE DIRECTOR OF AGRICULTURE MAY DESIGNATE AN
23 INDIVIDUAL TO ACT IN HIS OR HER STEAD IN RESPECT TO THE PER-
24 FORMANCE OF DUTIES UNDER THIS ACT. IF ANY DEPUTY OR ASSISTANT SO
25 ACTS, IT SHALL BE CONCLUSIVELY PRESUMED THAT HE OR SHE WAS PROP-
26 ERLY DESIGNATED BY THE DIRECTOR OF AGRICULTURE. ANY OFFICIAL
27 PROCEEDINGS MAY BE SIGNED BY THE DESIGNEE IN HIS OR HER OWN

1 NAME. THE SIGNATURE OF THE DESIGNEE SHALL BE FOLLOWED BY HIS OR
 2 HER OFFICIAL TITLE. IF AN INDIVIDUAL IS DESIGNATED BY THE DIREC-
 3 TOR OF AGRICULTURE TO ACT IN HIS OR HER STEAD IN CONNECTION WITH
 4 ALL THE PROCEEDINGS AS TO ANY PROJECT, THEN ANY NOTICE REQUIRED
 5 TO BE SERVED UPON OR MAILED TO THE DIRECTOR OF AGRICULTURE MAY BE
 6 SERVED UPON OR MAILED TO THE DESIGNEE.

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

9 SEC. 14. (1) FOR A PUBLIC CORPORATION OTHER THAN A STATE
 10 DEPARTMENT TO BE A PETITIONER UNDER THIS ACT, THE PETITION SHALL
 11 BE AUTHORIZED BY RESOLUTION OF THE GOVERNING BODY AND SIGNED ON
 12 BEHALF OF THE PUBLIC CORPORATION BY AN OFFICER DESIGNATED BY THE
 13 GOVERNING BODY. A CERTIFIED COPY OF THE RESOLUTION SHALL BE
 14 ATTACHED TO THE PETITION.

15 (2) FOR A STATE DEPARTMENT TO BE A PETITIONER UNDER THIS
 16 ACT, THE PETITION SHALL BE SIGNED ON BEHALF OF THE STATE DEPART-
 17 MENT BY THE HEAD OF THE STATE DEPARTMENT. HOWEVER, IF THE HEAD
 18 OF THE STATE DEPARTMENT IS A COMMISSION, THE PETITION SHALL BE
 19 SIGNED BY THE PRINCIPAL EXECUTIVE OFFICER OF THE STATE
 20 DEPARTMENT.

21 CHAPTER 2 —

22 COUNTY DRAIN COMMISSIONER —

23 Sec. 21. (1) ~~At~~ SUBJECT TO THIS SECTION, AT the general
 24 election to be held in November ~~—, 1976—~~ 2000, and each fourth
 25 year after November ~~—, 1976—~~ 2000, a county drain commissioner
 26 shall be elected in each county having a drain commissioner by
 27 the qualified electors of the county. The term of office of

1 ~~the~~ A commissioner shall begin on the January 1 following the
2 drain commissioner's election and continue for a period of 4
3 years and until his or her successor is elected and qualified,
4 whichever occurs earlier. IF A COUNTY DOES NOT HAVE THE ELECTED
5 OFFICE OF COUNTY DRAIN COMMISSIONER, ON THE EFFECTIVE DATE OF THE
6 1998 AMENDATORY ACT THAT AMENDED SECTION 1, THAT OFFICE IS ESTAB-
7 LISHED OR REESTABLISHED IN THAT COUNTY AS OF JANUARY 1, 2001.

8 (2) As determined by the county board of commissioners, the
9 county drain commissioner shall be covered by a blanket bond or,
10 before entering upon the duties of office, shall execute and file
11 with the county clerk a bond to the people of the state in the
12 penal sum of ~~\$5,000.00~~ \$100,000.00, issued by a surety company
13 licensed to do business in this state, conditioned upon the
14 faithful discharge of the duties of the office. The county board
15 of commissioners may fix the individual bond to be required of
16 the commissioner at a different amount if, in its judgment, that
17 is desirable.

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

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

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

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

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

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

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

14 Sec. 23. The commissioner shall have jurisdiction over all
 15 COUNTY drains within ~~his~~ THE county, including those
 16 ~~heretofore established and now~~ in THE process of ~~construction~~
 17 BEING ESTABLISHED OR CONSTRUCTED. Drains extending into more
 18 than 1 county ~~,~~ or affecting lands in more than 1 county ~~,~~
 19 ARE UNDER THE JURISDICTION OF THE DRAINAGE BOARD AND shall be
 20 established and constructed in accordance with the provisions of
 21 this act regulating the establishment and construction of drains
 22 traversing more than 1 county or affecting lands in more than 1
 23 county. ~~Nothing in this act shall be construed as depriving a~~
 24 THE drain commissioner OF A COUNTY IS NOT DEPRIVED of jurisdic-
 25 tion ~~or as making any drain~~ OVER A DRAIN AND THE DRAIN DOES NOT
 26 BECOME an intercounty drain, merely because ~~a~~ THE drain extends
 27 into another county for the purpose of securing a proper outlet

1 and not for the purpose of draining any lands in the other
2 county, ~~:- Provided, such~~ IF THE extension is approved by the
3 drain commissioners and the COUNTY board of ~~supervisors~~
4 COMMISSIONERS of each affected county. The portion of ~~any such~~
5 THE drain extending into another county shall not be considered
6 in determining the number of signers required ~~to~~ FOR a
7 petition. ~~to locate, establish and construct.~~

8 Sec. 24. (1) THE COUNTY BOARD OF COMMISSIONERS MAY EMPLOY
9 AN ENGINEER WHO SHALL PERFORM UNDER THIS ACT THE SERVICES
10 REQUIRED TO BE PERFORMED BY AN ENGINEER OR SURVEYOR AS MAY BE
11 DIRECTED BY THE DRAIN COMMISSIONER.

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

1 duties of a commissioner until a commissioner is appointed or
2 elected.

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

9 Sec. 25. (1) The commissioner and ~~his bondsmen shall be~~
10 THE SURETIES ON THE INDIVIDUAL OR BLANKET BONDS COVERING THE COM-
11 MISSIONER AND DEPUTY ARE liable for all the acts and defaults of
12 ~~the~~ A deputy ~~or deputies when~~ appointed as ~~herein~~ provided
13 IN SECTION 24. After entry of the order designating drainage
14 districts as provided in section ~~54 and section~~ 55 OR 105, ~~of~~
15 ~~this act,~~ the drainage district as designated ~~shall be respon-~~
16 ~~sible for and~~ IS liable for all acts and defaults of ~~such~~ THE
17 commissioner ~~and his~~ OR A deputy, ~~or deputies,~~ except for
18 acts of malfeasance or misfeasance. THE COMMISSIONER IS LIABLE
19 ON THE BLANKET BOND OR HIS OR HER INDIVIDUAL BOND FOR GROSS
20 NEGLECT OF DUTY OR A MISAPPLICATION OF MONEY COMING UNDER HIS OR
21 HER CONTROL AS COMMISSIONER.

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

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

9 Sec. 27. (1) ~~County clerks, or the board of auditors in~~
10 ~~counties having such boards, shall be authorized, and it shall be~~
11 ~~their duty to procure, at the expense of their respective coun-~~
12 ~~ties, the necessary books, blanks and stationery for the use of~~
13 ~~said commissioners; and each commissioner shall furnish upon~~
14 ~~request blank applications or petitions to any person who may~~
15 ~~desire to file the same under this act. The~~ AT THE EXPENSE OF
16 THE COUNTY AND SUBJECT TO COUNTY APPROPRIATIONS, THE office of
17 the DRAIN commissioner shall be furnished ~~at the expense of the~~
18 ~~county by the board of supervisors, or by the board of auditors~~
19 ~~in counties having such boards, and shall be maintained at the~~
20 ~~county seat, in which said office said commissioner shall be and~~
21 ~~remain at least 1 day per week such day to be painted on the door~~
22 ~~of the commissioner's office and printed or stamped on his~~
23 ~~stationery.~~ WITH ALL OF THE FOLLOWING AS NECESSARY TO FULFILL
24 THE DUTIES OF THIS ACT OR OTHER ACTS, ORDINANCES, OR RESOLUTIONS
25 SPECIFYING DUTIES TO BE PERFORMED BY THE DRAIN COMMISSIONER:
26 (A) BOOKS, BLANKS, DOCUMENTS, STATIONERY, AND OFFICE
27 SUPPLIES.

1 (B) OFFICE EQUIPMENT NECESSARY TO MAKE PROFILES, BLUEPRINTS,
2 AND SPECIFICATIONS IN ANY DRAINAGE DISTRICT, WORD PROCESSING
3 EQUIPMENT, AND MAPPING AND ASSESSING EQUIPMENT.

4 (C) SPACE AND FACILITIES TO FILE, PRESERVE, AND RETAIN FIELD
5 NOTES, BLUEPRINTS, PROFILES, ESTIMATES, AND ALL OTHER RECORDS.

6 (2) THE OFFICE OF THE COMMISSIONER SHALL BE MAINTAINED AT
7 THE COUNTY SEAT OR AT FACILITIES OUTSIDE THE COUNTY SEAT WHERE
8 OTHER COUNTY OFFICERS ARE LOCATED.

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

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

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

17 Sec. 29. ~~The county shall furnish the commissioner with~~
18 ~~all necessary books and papers for use in the survey, and such~~
19 ~~office equipment as shall be necessary in making profiles, blue-~~
20 ~~prints and specifications in any drainage district. The surveyor~~
21 ~~or engineer shall file with the commissioner all field notes,~~
22 ~~blueprints, profiles, estimates and all other papers in his pos-~~
23 ~~session relating to said drain. The board of supervisors of any~~
24 ~~county may employ an engineer who shall perform under this act~~
25 ~~the services required to be performed by an engineer or~~
26 ~~surveyor.~~ THE DRAIN COMMISSIONER'S OFFICE SHALL FURNISH TO ANY
27 PERSON, WHO MAY SO DESIRE, DOCUMENTS AS MAY BE REQUIRED TO

1 IMPLEMENT THE PROCEDURES OF THIS ACT, AND THE DRAIN COMMISSIONER
2 MAY ASSIST IN THE PREPARATION OF SUCH DOCUMENTS AS MAY BE
3 REQUIRED TO IMPLEMENT THE PROCEDURES OF THIS ACT.

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

25 Sec. 31. ~~(1) Each~~ IF REQUESTED BY THE COUNTY BOARD OF
26 COMMISSIONERS, A DRAIN commissioner shall make a report to the
27 county board of commissioners at its annual meeting in October of

1 the drainage districts ~~laid out, the drains constructed,~~
2 ~~finished, or begun~~ ESTABLISHED AND THE DRAINS ESTABLISHED AND
3 CONSTRUCTED under his or her supervision during the year ending
4 October 1, and ~~the commissioner~~ shall ~~also~~ submit to the
5 board a full financial statement of each drainage district. THE
6 REPORTS ARE INTENDED TO BE ADVISORY AND NOT A PREREQUISITE TO THE
7 SPREAD OF ANY SPECIAL ASSESSMENTS UNDER THIS ACT. THE FAILURE TO
8 SUBMIT A REPORT DOES NOT CONSTITUTE A DEFECT INVALIDATING A DRAIN
9 PROCEEDING OR SPECIAL ASSESSMENT. If authorized by resolution of
10 the county board of commissioners, the report shall be made
11 before April 2 of each year and shall cover the preceding calen-
12 dar year. The commissioner shall also make reports and furnish
13 information as required by the director of ~~the department of~~
14 agriculture. ~~(2)~~ The reports ~~required by subsection (1)~~
15 SPECIFIED IN THIS SECTION shall include an itemized statement of
16 the orders issued on account of each drainage district and a
17 debit and credit balance of the district fund. ~~The commissioner~~
18 ~~shall be liable on the blanket bond or his or her individual bond~~
19 ~~for gross neglect of duty or a misapplication of money coming~~
20 ~~under his or her control as commissioner.~~

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

1 38.851 TO 38.871, to allow the drain commissioner and all the
 2 employees of the drain commissioner's office to obtain the bene-
 3 fits provided by the ~~federal~~ social security act, CHAPTER 531,
 4 49 STAT. 620. The funds necessary for this coverage shall be
 5 appropriated from the county general fund. ~~or from the revolving~~
 6 ~~drain fund.~~

7 Sec. 33. (1) ~~The salary of the commissioner, deputy com-~~
 8 ~~missioners, and clerks and employees of the drain commissioner's~~
 9 ~~office shall, except as otherwise provided in this act, be paid~~
 10 ~~from the general fund of the county in the same manner and at the~~
 11 ~~same time as other county employees are paid. (2) The drain~~
 12 commissioner may, with the approval of the county board of com-
 13 missioners, hire drain maintenance employees. ~~Such drain~~ DRAIN
 14 maintenance employees ~~shall be considered~~ ARE county employees
 15 and shall be compensated from the general fund of a county in the
 16 same manner and at the same time as other county employees.

17 (2) ~~(3)~~ The general fund of a county shall be reimbursed
 18 by the drain districts in which work is performed by drain main-
 19 tenance employees hired by the commissioner pursuant to subsec-
 20 tion (2) for compensation, including the cost of fringe benefits,
 21 paid to the drain maintenance employees by the county from its
 22 general fund. The county board of commissioners may waive the
 23 reimbursement for emergency work ~~not exceeding \$800.00~~ per-
 24 formed on any 1 drain during the course of 1 year.

25 SEC. 34. (1) IF A MUNICIPALITY DETERMINES THAT CONSTRUCTION
 26 OR OTHER ACTIVITY THAT THE MUNICIPALITY HAS AUTHORITY TO APPROVE
 27 MAY HAVE A SIGNIFICANT EFFECT ON THE QUANTITY OR QUALITY OF WATER

1 ENTERING A DRAIN OR ON THE HYDROLOGY OF A DRAIN, THE MUNICIPALITY
2 SHALL NOTIFY THE DRAIN COMMISSIONER A REASONABLE TIME BEFORE
3 APPROVING THE ACTIVITY. THE DRAIN COMMISSIONER MAY REVIEW,
4 INSPECT, AND ANALYZE THE ACTIVITY AND MAKE RECOMMENDATIONS TO THE
5 MUNICIPALITY. THE DRAIN COMMISSIONER MAY PROPOSE AND THE COUNTY
6 BOARD OF COMMISSIONERS MAY ADOPT AN ORDINANCE ESTABLISHING A
7 SCHEDULE OF FEES ATTENDANT TO THE REVIEW, INSPECTION, OR ANALYSIS
8 OF ACTIVITY DESCRIBED IN THIS SUBSECTION.

9 (2) THE DRAIN COMMISSIONER OR DRAINAGE BOARD SHALL REVIEW
10 AND MAY APPROVE ALL REQUESTS TO DISCHARGE INTO, MAKE A CONNECTION
11 TO, OR CONSTRUCT A CROSSING OF ANY ESTABLISHED COUNTY OR INTER-
12 COUNTY DRAINS. THE DRAIN COMMISSIONER MAY PROPOSE AND THE COUNTY
13 BOARD OF COMMISSIONERS MAY ADOPT AN ORDINANCE TO IMPLEMENT THIS
14 SUBSECTION. THE ORDINANCE MAY INCLUDE A SCHEDULE OF FEES TO BE
15 CHARGED FOR THE REVIEW AND INSPECTION OF ANY DISCHARGES, CONNEC-
16 TIONS, OR CROSSINGS AND PENALTIES FOR NONCOMPLIANCE. THE FEES
17 SHALL BE DEPOSITED IN A REVOLVING FUND AND USED FOR REVIEWS AND
18 INSPECTIONS AS SPECIFIED IN THE ORDINANCE. IF THE REVOLVING FUND
19 IS NOT SUFFICIENT TO COVER EXPENSES FOR THE REVIEWS AND INSPEC-
20 TIONS, THE EXPENSES SHALL BE PAID FROM THE COUNTY GENERAL FUND.

21 (3) THE DRAIN COMMISSIONER MAY ESTABLISH RULES AND SCHEDULE
22 OF FEES FOR OTHER REVIEWS AND INSPECTIONS REQUIRED OF THE DRAIN
23 COMMISSIONER'S OFFICE BY THE COUNTY BOARD OF COMMISSIONERS OR BY
24 OTHER STATUTE, INCLUDING BUT NOT LIMITED TO THE LAND DIVISION
25 ACT, 1967 PA 288, MCL 560.101 TO 560.293, THE MOBILE HOME COMMIS-
26 SION ACT, 1987 PA 96, MCL 125.2301 TO 125.2349, AND THE
27 CONDOMINIUM ACT, 1978 PA 59, MCL 559.101 TO 559.275. THE RULES

1 AND SCHEDULE OF FEES SHALL NOT TAKE EFFECT UNLESS APPROVED BY THE
2 COUNTY BOARD OF COMMISSIONERS. THE FEES SHALL BE DEPOSITED IN A
3 REVOLVING FUND UNDER SUBSECTION (1).

4 SEC. 35. (1) IF A DRAIN COMMISSIONER WHO IS REQUIRED TO
5 APPORTION BENEFITS UNDER THIS ACT, OR THE SPOUSE OR CHILD OF SUCH
6 A DRAIN COMMISSIONER, OWNS LANDS THAT WOULD BE LIABLE TO AN
7 ASSESSMENT FOR THE BENEFITS, OR IF THE COMMISSIONER IS OTHERWISE
8 DISQUALIFIED TO ACT IN THE MAKING OF AN APPORTIONMENT OF BENE-
9 FITS, THE COMMISSIONER SHALL FILE WITH THE JUDGE OF PROBATE OF
10 THE COUNTY A COPY OF THE PETITION AND A SIGNED STATEMENT SHOWING
11 THAT THE DRAIN COMMISSIONER IS DISQUALIFIED TO ACT IN MAKING THE
12 APPORTIONMENT OF BENEFITS.

13 (2) NOT MORE THAN 14 DAYS AFTER RECEIVING THE PETITION AND
14 SIGNED STATEMENT UNDER SUBSECTION (1), THE JUDGE OF PROBATE SHALL
15 APPOINT A DISINTERESTED DRAIN COMMISSIONER OF AN ADJOINING OR
16 NEARBY COUNTY TO MAKE THE APPORTIONMENT OF BENEFITS ON THE
17 DRAIN. THE DISINTERESTED COMMISSIONER APPOINTED SHALL MAKE AND
18 COMPLETE WITHIN A PERIOD OF 28 DAYS, OR WITHIN SUCH REASONABLE
19 TIME THEREAFTER AS MAY BE NECESSARY, AN APPORTIONMENT OF THE BEN-
20 EFITS OF THE DRAIN AND FILE THE APPORTIONMENT WITH THE DISQUALI-
21 FIED COMMISSIONER. THE APPORTIONMENT SHALL BE ADOPTED FOR THE
22 DRAIN, SUBJECT TO THE SAME RIGHTS OF APPEAL AS PROVIDED IN THIS
23 ACT. THE DISQUALIFIED COMMISSIONER SHALL FURNISH THE DISINTER-
24 ESTED COMMISSIONER WITH A COPY OF THE FINAL ORDER OF DETERMINA-
25 TION ON THE DRAIN.

26 (3) THE SALARY OF THE COMMISSIONER APPOINTED UNDER SECTION
27 36 SHALL BE THE SAME AS THAT RECEIVED FROM THE COUNTY OF WHICH HE

1 OR SHE IS THE COMMISSIONER. THE SALARY, TOGETHER WITH ALL
 2 EXPENSES ACTUALLY AND NECESSARILY INCURRED BY THE COMMISSIONER,
 3 SHALL BE ASSESSED AGAINST THE DRAIN IN CONNECTION WITH WHICH THE
 4 SERVICES WERE PERFORMED AND SHALL BE PAID IN THE SAME MANNER AS
 5 OTHER EXPENSES ARE PAID.

6 CHAPTER 3 —

7 COUNTY DRAINAGE DISTRICTS AND COUNTY DRAINS —

8 Sec. 51. (1) ~~Before a commissioner takes any action on any~~
 9 ~~application to locate, establish and construct any drain, there~~
 10 ~~shall first be filed with him an application to lay out and des-~~
 11 ~~ignate a drainage district with reference to a proposed drain~~
 12 ~~therein; such application shall tentatively describe the location~~
 13 ~~and route of such proposed drain. The application shall be~~
 14 ~~signed by not less than 10 freeholders of the township or town-~~
 15 ~~ships in which such proposed drain or the proposed lands to be~~
 16 ~~drained thereby may be situated: Provided, That 5 or more of~~
 17 ~~said signers shall be the owners of land liable to an assessment~~
 18 ~~for the construction of such proposed drain: Provided further,~~
 19 ~~if it shall appear to the drain commissioner on filing an appli-~~
 20 ~~cation to lay out and designate a drainage district that said~~
 21 ~~district might not include 20 freeholders whose lands would be~~
 22 ~~liable for such assessment, in such case such application shall~~
 23 ~~be received if any one of the signers is a freeholder liable to~~
 24 ~~an assessment for the construction of such proposed drain. TO~~
 25 INITIATE THE ESTABLISHMENT OF A DRAINAGE DISTRICT AND THE ESTAB-
 26 LISHMENT AND CONSTRUCTION OF A DRAIN, A PETITION SHALL BE FILED
 27 WITH THE DRAIN COMMISSIONER. SUBJECT TO SUBSECTION (2), THE

1 PETITION SHALL BE SIGNED BY 5 LANDOWNERS IN THE PROPOSED DRAINAGE
 2 DISTRICT WHOSE LANDS WOULD BE LIABLE TO ASSESSMENT FOR BENEFITS
 3 OR AT LEAST 50% OF THE LANDOWNERS IF THERE ARE LESS THAN 5 LAND-
 4 OWNERS WHOSE LANDS WOULD BE LIABLE FOR ASSESSMENT OR MAY BE
 5 SIGNED BY LANDOWNERS REPRESENTING 25% OF THE LAND AREA LIABLE FOR
 6 ASSESSMENT. The DRAIN COMMISSIONER SHALL DETERMINE THE eligibil-
 7 ity of the signers to ~~such application shall be determined by~~
 8 ~~the drain commissioner according to their interest of record in~~
 9 ~~the office of the register of deeds, in the probate court or in~~
 10 ~~the circuit court of the county in which such lands are situated~~
 11 ~~at the time such application is~~ THE PETITION BASED ON THEIR
 12 STATUS AS LANDOWNERS WHEN THE PETITION WAS filed. ~~The board of~~
 13 ~~supervisors, by resolution, may instruct the drain commissioner~~
 14 ~~to refuse any application to lay out a drainage district unless a~~
 15 ~~cash deposit, sufficient to cover the preliminary costs, accom-~~
 16 ~~panies the application. If the drain is completed, the cost~~
 17 ~~advanced shall be returned to the depositor or his personal rep-~~
 18 ~~resentative out of the first tax collections on the drain. If~~
 19 ~~uncompleted, any excess above costs shall be so returned. In~~
 20 ~~lieu of an application signed by freeholders as aforesaid, such~~
 21 ~~an application may be signed solely by the board of health of the~~
 22 ~~county~~

23 (2) INSTEAD OF LANDOWNERS, A PUBLIC CORPORATION MAY PETITION
 24 FOR THE ESTABLISHMENT OF A DRAINAGE DISTRICT AND THE ESTABLISH-
 25 MENT AND CONSTRUCTION OF A DRAIN if the proposed drain is neces-
 26 sary for ~~the~~ public health ~~of any part of the county, or may~~
 27 ~~be signed solely by any city, village or township when duly~~

1 ~~authorized by its governing body, if the proposed drain is~~
2 ~~necessary for the public health of such municipality and if such~~
3 ~~municipality~~ IN THE PUBLIC CORPORATION AND IF THE PUBLIC
4 CORPORATION will be liable for an assessment at large ~~against~~
5 ~~it~~ for a percentage of the cost of the proposed drain. The
6 entry of ~~an order designating a drainage district, as hereinaf-~~
7 ~~ter provided,~~ AN ORDER OF NECESSITY UNDER SECTION 54 shall be
8 considered a determination of the sufficiency of ~~such~~
9 ~~application~~ THE PETITION.

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

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

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

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DESCRIPTION YEAR TAX OR ASSESSMENT AMOUNT

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

(6) THE COUNTY BOARD OF COMMISSIONERS, BY RESOLUTION, MAY INSTRUCT THE DRAIN COMMISSIONER TO REFUSE A PETITION TO ESTABLISH A DRAINAGE DISTRICT AND ESTABLISH AND CONSTRUCT A DRAIN UNLESS A CASH DEPOSIT ACCOMPANIES THE PETITION. THE AMOUNT OF THE CASH DEPOSIT SHALL NOT EXCEED THE DRAIN COMMISSIONER'S REASONABLE ESTIMATE OF THE COSTS TO COMPLY WITH THE REQUIREMENTS OF SECTIONS 52 AND 53.

(7) IF THE DRAIN IS CONSTRUCTED, THE COSTS INCURRED ARE COSTS OF THE DRAINAGE DISTRICT AND A DEPOSIT SHALL BE RETURNED TO THE DEPOSITOR OR HIS OR HER PERSONAL REPRESENTATIVE OUT OF THE FIRST SPECIAL ASSESSMENT COLLECTIONS ON THE DRAIN OR BORROWED FUNDS SECURED BY SPECIAL ASSESSMENT COLLECTIONS ON THE DRAIN, WHICHEVER IS RECEIVED FIRST. IF THE DRAIN IS NOT CONSTRUCTED BECAUSE THE PETITION WAS DEEMED IMPRACTICAL OR NOT NECESSARY, COSTS INCURRED, INCLUDING ANY ATTORNEY FEES, SHALL BE PAID FROM THE DEPOSIT. IF COSTS INCURRED ARE IN EXCESS OF THE DEPOSIT OR IF NO DEPOSIT WAS REQUIRED BY THE COUNTY BOARD OF COMMISSIONERS, THE COSTS SHALL BE PAID FROM THE GENERAL FUND OF THE COUNTY.

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

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

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

14 (1) AS SOON AS PRACTICABLE BUT NOT LATER THAN 60 DAYS AFTER
15 THE FILING OF A PETITION UNDER SECTION 51, THE COMMISSIONER
16 AUTHORIZED TO ACT ON THE PETITION, IF NOT DISQUALIFIED UNDER SEC-
17 TION 381 TO MAKE THE APPORTIONMENT OF BENEFITS, MAY APPOINT A
18 BOARD OF DETERMINATION COMPOSED OF 3 DISINTERESTED PROPERTY
19 OWNERS AND AN ALTERNATE DISINTERESTED PROPERTY OWNER. IF THE
20 COMMISSIONER IS DISQUALIFIED OR CHOOSES NOT TO APPOINT THE BOARD
21 OF DETERMINATION, THE COMMISSIONER SHALL IMMEDIATELY FILE WITH
22 THE CHAIRPERSON OF THE COUNTY BOARD OF COMMISSIONERS A COPY OF
23 THE PETITION, TOGETHER WITH A STATEMENT SIGNED BY THE COMMISSION-
24 ER, EXPLAINING WHY HE OR SHE IS DISQUALIFIED OR CHOOSES NOT TO
25 ACT IN APPOINTING A BOARD OF DETERMINATION. AS SOON AS PRACTICA-
26 BLE AFTER RECEIVING THE COPY OF THE PETITION AND THE STATEMENT,
27 THE CHAIRPERSON OF THE COUNTY BOARD OF COMMISSIONERS, IF NOT

1 PRIVATELY INTERESTED, SHALL APPOINT THE BOARD OF DETERMINATION
2 AND SHALL IMMEDIATELY NOTIFY THE DRAIN COMMISSIONER OF THE NAMES
3 AND ADDRESSES OF THOSE APPOINTED. IF THE CHAIRPERSON OF THE
4 COUNTY BOARD OF COMMISSIONERS HAS A PRIVATE INTEREST IN THE PRO-
5 CEEDINGS, THE FINANCE COMMITTEE OF THE COUNTY BOARD OF COMMIS-
6 SIONERS SHALL APPOINT THE BOARD OF DETERMINATION.

7 (2) EACH MEMBER OF A BOARD OF DETERMINATION SHALL BE A LAND-
8 OWNER IN THE COUNTY. EACH MEMBER OF THE BOARD OF DETERMINATION
9 SHALL BE A RESIDENT OF THE COUNTY, BUT NOT OF A TOWNSHIP, CITY,
10 OR VILLAGE AFFECTED BY THE DRAIN. A MEMBER OF THE BOARD OF
11 DETERMINATION SHALL ALSO NOT BE EITHER OF THE FOLLOWING:

12 (A) A MEMBER OF THE COUNTY BOARD OF COMMISSIONERS.

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

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

1 (4) THE PER DIEM COMPENSATION, MILEAGE, AND EXPENSES OF A
2 MEMBER OF THE BOARD OF DETERMINATION SHALL BE PAID IN THE SAME
3 AMOUNT AND MANNER AS FOR A MEMBER OF THE COUNTY BOARD OF COMMIS-
4 SIONERS OF THE COUNTY. IN A COUNTY IN WHICH MEMBERS OF THE
5 COUNTY BOARD OF COMMISSIONERS ARE NOT PAID ON A PER DIEM BASIS,
6 THE COMPENSATION, MILEAGE, AND EXPENSES SHALL BE FIXED BY THE
7 DRAIN COMMISSIONER.

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

13 (6) NOTICE OF THE HEARING OF THE BOARD OF DETERMINATION
14 SHALL BE GIVEN IN THE MANNER PROVIDED IN SECTION 8.

15 (7) THE DRAIN COMMISSIONER SHALL ARRANGE FOR A CERTIFIED
16 COURT REPORTER, STENOMASK REPORTER, OR COURT RECORDER TO ATTEND
17 EACH HEARING OF THE BOARD OF DETERMINATION AND TAKE A VERBATIM
18 RECORD OF THE PROCEEDINGS. IF PROCEEDINGS ARE INITIATED IN THE
19 PROBATE OR CIRCUIT COURT UNDER SECTION 54(4) OR (5) OR SECTION
20 58, THE DRAIN COMMISSIONER SHALL PROMPTLY REQUEST THE REPORTER OR
21 RECORDER TO FURNISH A TRANSCRIPT OF THE PROCEEDINGS TO THE
22 COURT. UPON REQUEST OF THE DRAIN COMMISSIONER, THE REPORTER OR
23 RECORDER SHALL PROMPTLY FURNISH THE TRANSCRIPT TO THE COURT.

24 (8) 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 OF THE BOARD OF DETERMINATION. THE DRAIN

1 COMMISSIONER OR DEPUTY DRAIN COMMISSIONER SHALL ATTEND THE
2 HEARING OF THE BOARD OF 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.~~

22 (1) THE BOARD OF DETERMINATION SHALL DO ALL OF THE FOLLOWING
23 AT THE HEARING UNDER SECTION 52:

24 (A) ELECT A CHAIRPERSON, UNLESS THE DRAIN COMMISSIONER OR
25 DEPUTY DRAIN COMMISSIONER CHOOSES TO SERVE AS A NONVOTING
26 CHAIRPERSON.

1 (B) ELECT A SECRETARY.

2 (C) RECEIVE TESTIMONY AND EVIDENCE ON WHETHER THE DRAIN IS
3 NECESSARY AND CONDUCTIVE TO THE PUBLIC HEALTH, CONVENIENCE, OR
4 WELFARE.

5 (D) RECEIVE TESTIMONY AND EVIDENCE AS TO THE EXTENT OF THE
6 LANDS PROPOSED TO BE SERVED BY THE DRAIN.

7 (E) DETERMINE WHETHER OR NOT THE PROPOSED DRAIN IS NECESSARY
8 AND CONDUCTIVE TO PUBLIC HEALTH, CONVENIENCE, OR WELFARE.

9 (F) PRELIMINARILY DETERMINE WHETHER THE DRAIN WOULD SERVE
10 LANDS IN ONLY 1 COUNTY.

11 (G) DESIGNATE A PRELIMINARY NAME FOR THE DRAIN AND DRAINAGE
12 DISTRICT.

13 (2) IF THE BOARD OF DETERMINATION FINDS THAT THE DRAIN IS
14 NOT NECESSARY AND CONDUCTIVE TO THE PUBLIC HEALTH, CONVENIENCE, OR
15 WELFARE, ALL OF THE FOLLOWING APPLY:

16 (A) THE BOARD OF DETERMINATION SHALL FILE AN ORDER DISMISS-
17 ING THE PETITION WITH THE DRAIN COMMISSIONER.

18 (B) COSTS SHALL BE PAID AS PROVIDED IN SECTION 51(7).

19 (C) A NEW PETITION FOR THE DRAIN SHALL NOT BE FILED WITHIN 1
20 YEAR AFTER THE DETERMINATION UNDER THIS SUBSECTION.

21 (3) IF THE BOARD OF DETERMINATION FINDS THAT THE DRAIN WOULD
22 SERVE LANDS IN MORE THAN 1 COUNTY, THE BOARD OF DETERMINATION
23 SHALL FILE AN ORDER TO THAT EFFECT AND REFER THE PETITION TO THE
24 DRAIN COMMISSIONER FOR PROCEEDINGS UNDER CHAPTER 5.

25 (4) IF THE BOARD OF DETERMINATION DETERMINES THAT ADDITIONAL
26 INFORMATION REGARDING EXISTING CONDITIONS, ALTERNATIVES, OR OTHER
27 MATTERS IS NEEDED TO DETERMINE WHETHER THE DRAIN IS NECESSARY AND

1 CONDUCTIVE TO THE PUBLIC HEALTH, CONVENIENCE, OR WELFARE, OR TO
2 DETERMINE THE BOUNDARIES OF THE DRAINAGE DISTRICT, THE BOARD OF
3 DETERMINATION MAY ADJOURN THE MEETING TO ALLOW SUCH ADDITIONAL
4 INFORMATION TO BE GATHERED BY THE DRAIN COMMISSIONER.

5 (5) UPON GATHERING THE ADDITIONAL INFORMATION, THE DRAIN
6 COMMISSIONER SHALL CALL THE BOARD OF DETERMINATION TO RECONVENE.
7 THE DRAIN COMMISSIONER SHALL GIVE NOTICE OF THE RECONVENING OF
8 THE BOARD OF DETERMINATION AS PROVIDED IN SECTION 8. AT THE
9 RECONVENED HEARING OF THE BOARD OF DETERMINATION, THE DRAIN COM-
10 MISSIONER SHALL PRESENT THE ADDITIONAL INFORMATION.

11 (6) THE BOARD OF DETERMINATION SHALL CONSIDER THE INFORMA-
12 TION AND TESTIMONY OFFERED AND BY MAJORITY VOTE OF THE MEMBERS
13 APPOINTED DETERMINE WHETHER THE DRAIN IS NECESSARY AND CONDUCTIVE
14 TO THE PUBLIC HEALTH, CONVENIENCE, OR WELFARE. THE BOARD OF
15 DETERMINATION SHALL NOT DETERMINE THE SCOPE OF THE WORK TO BE
16 UNDERTAKEN. THE SCOPE OF THE WORK IS WITHIN THE SOLE AUTHORITY
17 OF THE DRAIN COMMISSIONER IN CONSULTATION WITH HIS OR HER ENGI-
18 NEERS OR OTHER QUALIFIED PROFESSIONALS AND IS TO BE DECIDED IN
19 SEPARATE PROCEEDINGS.

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

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

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

~~25 (1) IF THE BOARD OF DETERMINATION BY A MAJORITY VOTE FINDS
26 THE DRAIN IS NECESSARY AND CONDUCTIVE TO THE PUBLIC HEALTH,
27 CONVENIENCE, OR WELFARE, THE BOARD OF DETERMINATION SHALL MAKE AN~~

1 ORDER OF NECESSITY TO THAT EFFECT AND FILE THE ORDER OF NECESSITY
2 WITH THE COMMISSIONER. THE COSTS INCURRED BY THE DRAIN COMMIS-
3 SIONER AND BOARD OF DETERMINATION UNDER SECTIONS 52 AND 53 SHALL
4 BE INCLUDED IN THE COMPUTATION OF THE COSTS FOR THE DRAIN. ANY
5 SECURITY POSTED UNDER SECTION 51 SHALL BE RELEASED TO THE PERSONS
6 WHO POSTED THE SECURITY.

7 (2) IF THE BOARD OF DETERMINATION FINDS THAT THE DRAIN IS
8 NECESSARY AND CONDUCIVE TO THE PUBLIC HEALTH, CONVENIENCE, OR
9 WELFARE, IT SHALL ALSO FIND WHETHER ALL OR A PORTION OF THE COSTS
10 OF CONSTRUCTION OF THE PROPOSED DRAIN OR PROJECT IS NECESSARY FOR
11 THE PROTECTION OF THE PUBLIC HEALTH IN 1 OR MORE PUBLIC
12 CORPORATIONS. THE ORDER OF NECESSITY SHALL SET FORTH THAT FIND-
13 ING AND IDENTIFY ANY PUBLIC CORPORATIONS RECEIVING BENEFITS AT
14 LARGE FOR PUBLIC HEALTH. IF THE BOARD OF DETERMINATION FINDS
15 THAT THE WHOLE COST, EXCEPT THAT TO BE LEVIED AGAINST ROADWAYS
16 FOR HIGHWAYS BENEFITS, IS NECESSARY FOR THE PUBLIC HEALTH, THE
17 COST SHALL BE LEVIED AGAINST THE PUBLIC CORPORATIONS AT LARGE,
18 AND IT IS NOT NECESSARY, IN A SUBSEQUENT ORDER OR NOTICE TO
19 DESCRIBE OR REFER TO LAND INCLUDED IN OR COMPRISING THE DRAINAGE
20 DISTRICT.

21 (3) IF THE BOARD OF DETERMINATION DETERMINES THAT THE DRAIN
22 IS NECESSARY AND CONDUCIVE TO THE PUBLIC HEALTH, CONVENIENCE, OR
23 WELFARE, THE DRAIN COMMISSIONER MAY CONVENE A MEETING TO PROVIDE
24 INFORMATION OR ELICIT INFORMATION AND TESTIMONY WITH REGARDS TO
25 THE ROUTE AND TYPE OF CONSTRUCTION AND ESTIMATE OF COST OF THE
26 DRAIN TO ASSIST THE DRAIN COMMISSIONER IN DETERMINING THE SCOPE

1 OF THE DRAIN PROJECT TO BE UNDERTAKEN BY THE COMMISSIONER. THE
2 MEETING IS FOR INFORMATIONAL PURPOSES ONLY.

3 (4) WITHIN 14 DAYS AFTER THE ORDER OF NECESSITY IS FILED
4 WITH THE DRAIN COMMISSIONER, THE DRAIN COMMISSIONER SHALL NOTIFY
5 EACH PUBLIC CORPORATION IDENTIFIED IN THE ORDER OF NECESSITY AS
6 RECEIVING BENEFITS AT LARGE FOR PUBLIC HEALTH THAT IT IS LIABLE
7 TO PAY A PERCENT OF THE COST OF CONSTRUCTION OF THE DRAIN BY
8 REASON OF BENEFITS FOR PUBLIC HEALTH. THE GOVERNING BODY OF THE
9 PUBLIC CORPORATION, WITHIN 21 DAYS AFTER MAILING OF THE NOTIFICA-
10 TION BY FIRST-CLASS MAIL FROM THE DRAIN COMMISSIONER, MAY APPEAL
11 THE ORDER OF NECESSITY AS TO THE FINDING THAT ALL OR A PORTION OF
12 THE COSTS IS NECESSARY FOR PUBLIC HEALTH TO THE PROBATE COURT
13 HAVING JURISDICTION IN THE COUNTY IN WHICH THE TERRITORY OF THE
14 PUBLIC CORPORATION IS LOCATED.

15 (5) AFTER THE BOARD OF DETERMINATION FILES AN ORDER DISMISS-
16 ING THE PETITION UNDER SECTION 53(2) OR FILES AN ORDER OF NECES-
17 SITY, A PUBLIC CORPORATION OR OTHER PERSON FEELING AGGRIEVED BY
18 THE ORDER MAY INSTITUTE AN ACTION IN THE CIRCUIT COURT FOR THE
19 COUNTY IN WHICH THE DRAINAGE DISTRICT IS LOCATED FOR A REVIEW OF
20 THE ORDER. THE ACTION SHALL BE FILED BY THE PUBLIC CORPORATION
21 OR OTHER PERSON AGGRIEVED WITHIN 14 DAYS AFTER THE FILING OF THE
22 ORDER. THE PURPOSE OF THE CIRCUIT COURT REVIEW IS TO DETERMINE
23 WHETHER THE ORDER WAS AUTHORIZED BY LAW AND SUPPORTED BY SUBSTAN-
24 TIAL, MATERIAL, AND COMPETENT EVIDENCE ON THE WHOLE RECORD. THE
25 REVIEW SHALL BE MADE ON THE RECORD PRESENTED TO THE BOARD OF
26 DETERMINATION AND NO ADDITIONAL TESTIMONY OR INFORMATION SHALL BE
27 OFFERED EXCEPT FOR PURPOSES OF CLAIM OF FRAUD OR ERROR OF LAW.

1 SEC. 55. (1) THE DRAIN COMMISSIONER, AFTER RECEIPT OF THE
2 ORDER OF NECESSITY, 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 DRAINS 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 54(5) AND, IF APPLICABLE,
21 54(4). IF AN APPEAL IS FILED, THE DRAIN COMMISSIONER SHALL SAT-
22 ISFY THE REQUIREMENTS OF SUBSECTION (1) AFTER THE APPEAL PROCE-
23 DURES ARE TERMINATED.

24 SEC. 56. IF THE BOARD OF DETERMINATION DETERMINES THAT A
25 PROPOSED DRAIN IS NECESSARY AND CONDUCTIVE TO PUBLIC HEALTH, CON-
26 VENIENCE, OR WELFARE, THE COMMISSIONER SHALL PROMPTLY SECURE THE
27 SERVICES OF AN ENGINEER AND ARRANGE FOR THE PREPARATION OF AN

1 ENGINEERING ANALYSIS. THE COMMISSIONER SHALL SELECT THE ENGINEER
2 BASED ON THE ENGINEER'S QUALIFICATIONS. THE ENGINEERING ANALYSIS
3 SHALL DESCRIBE A DRAIN AND DRAINAGE DISTRICT TO ADDRESS THE REA-
4 SONS FOR A DRAIN AND DRAINAGE DISTRICT SET FORTH IN THE PETITION
5 AND IN THE EVIDENCE AND TESTIMONY RECEIVED AT THE HEARING OF THE
6 BOARD OF DETERMINATION. EXCEPT AS PROVIDED IN SUBDIVISION (E),
7 AN ENGINEER SHALL PREPARE THE ENGINEERING ANALYSIS. THE ENGI-
8 NEERING ANALYSIS SHALL INCLUDE ALL OF THE FOLLOWING:

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

13 (B) RECOMMENDED ROUTE AND COURSE.

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

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

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

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

1 (G) A DESCRIPTION OF ALTERNATIVES CONSIDERED.

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

5 (I) AN EVALUATION OF THE IMPACTS OF THE PROJECT ON NATURAL
6 RESOURCES THAT IDENTIFIES APPROPRIATE PRACTICAL MEASURES TO MINI-
7 MIZE ADVERSE EFFECTS. IF SUCH AN EVALUATION IS PREPARED, IT NEED
8 NOT BE PART OF THE ENGINEERING ANALYSIS AND MAY INSTEAD BE PRE-
9 PARED BY THE COMMISSIONER OR ANOTHER QUALIFIED PROFESSIONAL.

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

11 SEC. 57. (1) AFTER THE DRAIN COMMISSIONER ENTERS THE FIRST
12 ORDER OF DETERMINATION, THE ENGINEER SHALL PREPARE FINAL PLANS,
13 SPECIFICATIONS, AND AN ESTIMATE OF COSTS OF THE PROPOSED DRAIN.
14 THE COMMISSIONER SHALL SECURE FROM THE ENGINEER OR A SURVEYOR A
15 DESCRIPTION OF THE LANDS OR RIGHTS-OF-WAY NEEDED FOR THE PROPOSED
16 DRAIN. THE COMMISSIONER SHALL SECURE FROM AN ENGINEER OR OTHER
17 QUALIFIED PROFESSIONAL AN EVALUATION OF THE EFFECTS OF THE PRO-
18 POSED DRAIN ON NATURAL RESOURCES THAT IDENTIFIES APPROPRIATE
19 PRACTICAL MEASURES TO MINIMIZE ADVERSE EFFECTS. IN APPROVING THE
20 ROUTE OF THE DRAIN AS FURNISHED BY THE ENGINEER, THE COMMISSIONER
21 IS NOT LIMITED TO THAT DESCRIBED IN THE PETITION OR IN THE FIRST
22 ORDER OF DETERMINATION, IF THE NEW ROUTE IS MORE EFFICIENT AND
23 SERVICEABLE.

24 (2) THE DRAIN COMMISSIONER SHALL OBTAIN ANY PERMITS REQUIRED
25 UNDER THE NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT,
26 1994 PA 451, MCL 324.101 TO 324.90106. ALL COSTS ASSOCIATED WITH
27 EVALUATING NATURAL RESOURCE IMPACTS AND IMPLEMENTING THE MEASURES

1 TO MINIMIZE THOSE IMPACTS SHALL BE THE RESPONSIBILITY OF THE
2 DRAINAGE DISTRICT.

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

12 (4) IF THE PROPOSED DRAIN IS LOCATED IN A WATERSHED MANAGE-
13 MENT DISTRICT FOR WHICH A WATERSHED MANAGEMENT PLAN HAS BEEN
14 ADOPTED UNDER SECTION 595, THE DRAIN COMMISSIONER SHALL UNDERTAKE
15 THE ESTABLISHMENT AND CONSTRUCTION OF THE DRAIN, INCLUDING, BUT
16 NOT LIMITED TO, MEASURES TO IMPROVE OR ENHANCE NATURAL RESOURCE
17 VALUES, CONSISTENT WITH THE WATERSHED MANAGEMENT PLAN.

18 (5) IF, AFTER THE RECEIPT OF THE PLANS, SPECIFICATION, ESTI-
19 MATE OF COST, AND DESCRIPTIONS OF THE LANDS OR RIGHTS-OF-WAY
20 NEEDED FOR THE PROPOSED DRAIN, THE COMMISSIONER DETERMINES THAT
21 THE PROJECT IS NOT PRACTICAL, THE COMMISSIONER SHALL NOTIFY THE
22 LANDOWNERS IN THE DISTRICT AND PUBLIC CORPORATIONS IN THE DIS-
23 TRICT BY FIRST-CLASS MAIL OF THE INTENT TO REJECT THE PETITION.
24 THE NOTICE SHALL SPECIFY THE REASONS FOR THE PROPOSED REJECTION.
25 THE NOTICE SHALL ALSO SPECIFY A TIME, DATE, AND PLACE FOR A
26 PUBLIC HEARING TO HEAR OBJECTIONS TO THE REJECTION OF THE
27 PETITION. AT THE PUBLIC HEARING, THE COMMISSIONER SHALL ELICIT

1 TESTIMONY AND EVIDENCE WITH REGARDS TO THE PROPOSED REJECTION.
2 FOLLOWING THE RECEIPT OF TESTIMONY, THE DRAIN COMMISSIONER SHALL
3 DETERMINE WHETHER OR NOT THE PETITION SHOULD BE REJECTED. IF THE
4 REJECTION IS DETERMINED TO BE PRACTICAL, THE COMMISSIONER SHALL
5 ENTER AN ORDER OF REJECTION AND APPORTION ALL COSTS INCURRED TO
6 THE DISTRICT AS IF THE PROJECT HAD BEEN BUILT AND THE COSTS WILL
7 BE SUBSEQUENTLY ASSESSED AND PAID AS PROVIDED IN CHAPTER 7. A
8 DETERMINATION TO REJECT A PETITION DOES NOT LIMIT THE RIGHT TO
9 FILE ANOTHER PETITION.

10 SEC. 58. (1) UPON COMPLETION OF THE ENGINEERING ANALYSIS,
11 THE COMMISSIONER SHALL FILE A COPY OF THE ENGINEERING ANALYSIS IN
12 THE COMMISSIONER'S OFFICE AND SHALL CONVENE A PUBLIC HEARING TO
13 PRESENT THE ENGINEERING ANALYSIS AND THE PROJECT PROPOSED TO BE
14 UNDERTAKEN. THE COMMISSIONER SHALL GIVE NOTICE OF FILING OF THE
15 ENGINEERING ANALYSIS AND OF THE PUBLIC HEARING IN THE MANNER PRO-
16 VIDED IN SECTION 8. THE NOTICE SHALL GIVE ALL OF THE FOLLOWING
17 INFORMATION:

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

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

20 (C) A GENERAL MAP OF THE DRAINAGE DISTRICT AS DESCRIBED IN
21 THE ENGINEERING ANALYSIS OR A GENERAL DESCRIPTION OF THE BOUNDA-
22 RIES OF THAT DRAINAGE DISTRICT BY MUNICIPAL BOUNDARIES, ROADWAYS,
23 OR PARCELS OR TRACTS OF LAND.

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

26 (2) A PERSON AGGRIEVED BY THE DETERMINATION OF THE PROJECT
27 SELECTED BY THE DRAIN COMMISSIONER MAY SEEK REVIEW IN THE CIRCUIT

1 COURT WITHIN THE 14 DAYS OF THE PUBLIC HEARING. THE CIRCUIT
2 COURT SHALL REVIEW THE ENTIRE RECORD TO DETERMINE WHETHER THE
3 DRAIN COMMISSIONER ABUSED HIS OR HER DISCRETION IN MAKING A
4 DETERMINATION OF THE PROJECT SELECTED TO BE UNDERTAKEN, BASED ON
5 THE WHOLE RECORD.

6 SEC. 59. (1) UNLESS THE DRAIN COMMISSIONER DETERMINES TO
7 REJECT THE PETITION UNDER SECTION 57, THE DRAIN COMMISSIONER
8 SHALL PROCEED TO ACQUIRE PROPERTY FOR THE DRAIN UNDER SECTION 7.

9 (2) THE APPORTIONMENT AND REVIEW OF BENEFITS, THE LETTING OF
10 CONTRACTS, AND THE LEVY AND COLLECTION OF DRAIN SPECIAL ASSESS-
11 MENTS FOR THE DRAIN SHALL BE AS PROVIDED IN CHAPTERS 7, 9, AND
12 11.

13 CHAPTER 5 —

14 INTERCOUNTY DRAINAGE DISTRICTS — AND INTERCOUNTY DRAINS

15 Sec. 101. (1) ~~Before any action is taken on any petition~~
16 ~~to locate, establish and construct any drain, which proposed~~
17 ~~drain will traverse lands in more than 1 county, or affect more~~
18 ~~than 1 county, there shall first be filed with the commissioner~~
19 ~~having jurisdiction of any such lands an application to lay out~~
20 ~~and designate a drainage district with reference to a proposed~~
21 ~~drain therein; such application shall tentatively describe the~~
22 ~~location and route of such proposed drain. The application shall~~
23 ~~be signed by a number of freeholders in said drainage district~~
24 ~~whose lands would be liable to an assessment for benefits, equal~~
25 ~~to 50% of any of the freeholders whose lands would be traversed~~
26 ~~by the drain or drains applied for or abut on any highway or~~
27 ~~street along the side of which such drain extends, between a~~

~~1 point where such drain enters such highway and the point where it~~
~~2 leaves such highway and which lands are within the drainage~~
~~3 district~~ TO INITIATE THE ESTABLISHMENT OF A DRAINAGE DISTRICT
4 AND THE ESTABLISHMENT AND CONSTRUCTION OF A DRAIN THAT WILL
5 TRAVERSE LANDS IN MORE THAN 1 COUNTY OR AFFECT MORE THAN 1
6 COUNTY, A PETITION SHALL BE FILED WITH THE DRAIN COMMISSIONER OF
7 1 OF THE COUNTIES. SUBJECT TO SUBSECTION (2), THE PETITION SHALL
8 BE SIGNED BY 5 LANDOWNERS IN THE INTERCOUNTY DRAINAGE DISTRICT
9 WHOSE LANDS WOULD BE LIABLE TO ASSESSMENT FOR BENEFITS OR AT
10 LEAST 50% OF THE LANDOWNERS IF THERE ARE LESS THAN 5 LANDOWNERS
11 WHOSE LANDS WOULD BE LIABLE FOR ASSESSMENT OR MAY BE SIGNED BY
12 LANDOWNERS REPRESENTING 25% OF THE LAND AREA LIABLE TO
13 ASSESSMENT. The DRAIN COMMISSIONER SHALL DETERMINE THE eligibil-
14 ity of the signers to ~~such application shall be determined by~~
15 ~~their interest of record in the office of the register of deeds,~~
16 ~~in the probate court or in the circuit court of the county in~~
17 ~~which such lands are situated at the time such petition is filed~~
18 THE PETITION BASED ON THEIR STATUS AS LANDOWNERS WHEN THE PETI-
19 TION WAS FILED.

20 (2) INSTEAD OF LANDOWNERS, A PUBLIC CORPORATION MAY PETITION
21 FOR THE ESTABLISHMENT OF A DRAINAGE DISTRICT AND THE ESTABLISH-
22 MENT AND CONSTRUCTION OF A DRAIN IF THE PROPOSED DRAIN IS NECES-
23 SARY FOR PUBLIC HEALTH IN THE PUBLIC CORPORATION AND IF THE
24 PUBLIC CORPORATION WILL BE LIABLE FOR AN ASSESSMENT AT LARGE FOR
25 A PERCENTAGE OF THE COST OF THE PROPOSED DRAIN. THE ENTRY OF AN
26 ORDER OF NECESSITY UNDER SECTION 104 SHALL BE CONSIDERED A
27 DETERMINATION OF THE SUFFICIENCY OF THE PETITION.

1 (3) THE PETITION SHALL DESCRIBE THE NATURE AND EXTENT OF THE
 2 WATER PROBLEM TO BE REMEDIED. THE PETITION SHALL REQUEST THE
 3 ESTABLISHMENT OF A DRAINAGE DISTRICT AND THE ESTABLISHMENT AND
 4 CONSTRUCTION OF A DRAIN AND SET FORTH THE REASONS FOR THE
 5 REQUEST. THE PETITION MAY REQUEST THAT MEASURES BE UNDERTAKEN
 6 WHICH ARE INTENDED BOTH TO ENHANCE OR IMPROVE THE NATURAL
 7 RESOURCE VALUES OF THE PROPOSED DRAIN AND TO PROVIDE BENEFIT TO
 8 THE DESIGNED FUNCTION, LONGEVITY, OR HYDRAULIC CAPACITY OF THE
 9 PROPOSED DRAIN. THE PETITION MAY PROPOSE A LOCATION AND ROUTE
 10 FOR THE DRAIN.

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

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

21

22	DESCRIPTION	YEAR	TAX OR ASSESSMENT	AMOUNT
23

24 (5) THE NAME OF ANY SIGNER AS TO WHOSE LAND THE CERTIFICATE
 25 SHOWS TAXES OR ASSESSMENTS UNPAID FOR THE PRECEDING 3 YEARS SHALL
 26 NOT BE COUNTED. IF IT APPEARS FROM THE CERTIFICATE THAT 33-1/3%
 27 OR MORE OF THE LANDS IN THE PROPOSED DRAINAGE DISTRICT HAVE BEEN

1 RETURNED AS TAX DELINQUENT AND STILL REMAIN DELINQUENT, THE
2 COMMISSIONER SHALL NOT TAKE FURTHER ACTION ON THE PETITION.

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

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

13 (2) The drain commissioners of such counties and the direc-
14 tor of agriculture ~~or any deputy designated by him shall be and~~
15 ~~constitute the drainage board~~ SHALL CONSTITUTE THE DRAINAGE
16 BOARD. IF AT ANY TIME THE DRAINAGE BOARD DETERMINES THAT LANDS
17 SHOULD BE ADDED TO THE DRAINAGE DISTRICT AND IF THOSE LANDS ARE
18 LOCATED IN A COUNTY WHOSE DRAIN COMMISSIONER IS NOT A MEMBER OF
19 THE DRAINAGE BOARD, THE DRAINAGE BOARD SHALL NOTIFY THAT DRAIN
20 COMMISSIONER AND HE OR SHE SHALL BECOME A MEMBER OF THE DRAINAGE
21 BOARD. IF AT ANY TIME THE DRAINAGE BOARD DETERMINES THAT ALL THE
22 LANDS FROM A PARTICULAR COUNTY THAT ARE PART OF THE DRAINAGE DIS-
23 TRICT SHOULD BE DELETED FROM THE DRAINAGE DISTRICT, THE DRAIN
24 COMMISSIONER FROM THAT COUNTY SHALL NO LONGER BE A MEMBER OF THE
25 DRAINAGE BOARD.

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

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

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

1 (6) NOTICE OF THE HEARING OF THE DRAINAGE BOARD SHALL BE
2 GIVEN IN THE MANNER PROVIDED IN SECTION 8. TO DETERMINE WHICH
3 LANDOWNERS MAY BE SUBJECT TO ASSESSMENT AND SHOULD BE GIVEN
4 NOTICE, THE DRAIN COMMISSIONER OF EACH AFFECTED COUNTY SHALL FOR-
5 WARD TO THE DIRECTOR OF AGRICULTURE A TENTATIVE DESCRIPTION OF
6 THE PROPOSED DRAINAGE DISTRICT WITHIN THAT COUNTY. THE DIRECTOR
7 OF AGRICULTURE SHALL PREPARE AND FILE IN HIS OR HER OFFICE AND
8 WITH THE DRAIN COMMISSIONER OF EACH AFFECTED COUNTY A COMPOSITE
9 DESCRIPTION OF THE LANDS IN THE DRAINAGE DISTRICT.

10 (7) THE DRAINAGE BOARD SHALL ARRANGE FOR A CERTIFIED COURT
11 REPORTER, STENOMASK REPORTER, OR COURT RECORDER TO ATTEND EACH
12 HEARING OF THE DRAINAGE BOARD AND TAKE A VERBATIM RECORD OF THE
13 PROCEEDINGS. IF PROCEEDINGS ARE INITIATED IN THE PROBATE COURT
14 OR CIRCUIT COURT UNDER SECTION 104(4) OR (5) OR SECTION 108, THE
15 DRAINAGE BOARD SHALL PROMPTLY REQUEST THE REPORTER OR RECORDER TO
16 FURNISH A TRANSCRIPT OF THE PROCEEDINGS TO THE COURT. UPON
17 REQUEST OF THE DRAINAGE BOARD, THE REPORTER OR RECORDER SHALL
18 PROMPTLY FURNISH THE TRANSCRIPT TO THE COURT.

19 (8) THE DRAINAGE BOARD SHALL MEET AT THE TIME AND PLACE
20 SPECIFIED IN THE NOTICE.

21 Sec. 103. ~~Upon convening said meeting the state director~~
22 ~~of agriculture or any deputy selected by him shall act as~~
23 ~~chairman. The said drainage board shall consider such applica-~~
24 ~~tion, and determine the sufficiency of the signatures thereto,~~
25 ~~and shall go over the route of said proposed drain and take tes-~~
26 ~~timony to determine its practicability. All persons owning lands~~
27 ~~liable to assessment for benefits or whose lands shall be crossed~~

~~1 by said drain or any municipality affected may appear for or
2 against said drain proceedings. If at said meeting or at any
3 subsequent time before the entry of the order designating a
4 drainage district, they shall determine that the drainage of the
5 proposed drain area is not practical, no further action shall be
6 taken thereon within 1 year. If said proposed drain is deter-
7 mined to be practical, then the drainage board shall cause a
8 survey thereof to be made by a competent surveyor or engineer to
9 ascertain the area which would be drained by the proposed drain,
10 and the route and type of construction of drain or drains most
11 serviceable for that purpose.~~

12 (1) THE DRAINAGE BOARD SHALL DO ALL OF THE FOLLOWING AT THE
13 HEARING:

14 (A) ELECT A SECRETARY.

15 (B) RECEIVE TESTIMONY AND EVIDENCE ON THE REASONS TO ESTAB-
16 LISH A DRAINAGE DISTRICT AND A DRAIN.

17 (C) RECEIVE TESTIMONY AND EVIDENCE AS TO THE EXTENT OF THE
18 LANDS PROPOSED TO BE SERVED BY THE DRAIN.

19 (D) DETERMINE WHETHER OR NOT THE PROPOSED DRAIN IS NECESSARY
20 AND CONDUCIVE TO PUBLIC HEALTH, CONVENIENCE, OR WELFARE.

21 (E) PRELIMINARILY DETERMINE WHETHER THE DRAIN WOULD SERVE
22 LAND IN MORE THAN 1 COUNTY.

23 (F) 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.

1 (G) DESIGNATE A PRELIMINARY NAME FOR THE DRAIN AND DRAINAGE
2 DISTRICT.

3 (2) IF THE DRAINAGE BOARD FINDS THAT THE DRAIN IS NOT NECES-
4 SARY AND CONDUCTIVE TO THE PUBLIC HEALTH, CONVENIENCE, OR WELFARE,
5 BOTH OF THE FOLLOWING APPLY:

6 (A) THE DRAINAGE BOARD SHALL FILE AN ORDER DISMISSING THE
7 PETITION WITH THE DIRECTOR OF AGRICULTURE AND EACH COMMISSIONER
8 ON THE DRAINAGE BOARD.

9 (B) A NEW PETITION FOR THE DRAIN SHALL NOT BE FILED WITHIN 1
10 YEAR AFTER THE DETERMINATION UNDER THIS SUBSECTION.

11 (3) IF THE DRAINAGE BOARD FINDS THAT THE DRAIN WOULD SERVE
12 LANDS IN ONLY 1 COUNTY, THE DRAINAGE BOARD SHALL FILE AN ORDER TO
13 THAT EFFECT AND REFER THE PETITION TO THE DRAIN COMMISSIONER FOR
14 THAT COUNTY FOR PROCEEDINGS UNDER CHAPTER 3.

15 (4) IF THE DRAINAGE BOARD DETERMINES THAT ADDITIONAL INFOR-
16 MATION REGARDING EXISTING CONDITIONS, ALTERNATIVES, OR OTHER MAT-
17 TERS IS NEEDED TO DETERMINE WHETHER THE DRAIN IS NECESSARY AND
18 CONDUCTIVE TO THE PUBLIC HEALTH, CONVENIENCE, OR WELFARE, OR TO
19 DETERMINE THE BOUNDARIES OF THE DRAINAGE DISTRICT, THE DRAINAGE
20 BOARD MAY ADJOURN THE MEETING TO ALLOW SUCH ADDITIONAL INFORMA-
21 TION TO BE GATHERED AND SUBMITTED TO THE DIRECTOR OF
22 AGRICULTURE.

23 (5) UPON GATHERING OF THE ADDITIONAL INFORMATION AND ITS
24 SUBMITTAL TO THE DIRECTOR OF AGRICULTURE, THE DIRECTOR OF AGRI-
25 CULTURE SHALL CALL THE DRAINAGE BOARD TO RECONVENE. THE DIRECTOR
26 OF AGRICULTURE SHALL GIVE NOTICE OF THE RECONVENING OF THE
27 DRAINAGE BOARD AS PROVIDED IN SECTION 8. AT THE RECONVENED

1 HEARING OF THE DRAINAGE BOARD, THE DIRECTOR OF AGRICULTURE SHALL
2 PRESENT THE ADDITIONAL INFORMATION.

3 (6) THE DRAINAGE BOARD SHALL CONSIDER THE INFORMATION AND
4 TESTIMONY OFFERED AND BY MAJORITY VOTE OF THE MEMBERS DETERMINE
5 WHETHER THE DRAIN IS NECESSARY AND CONDUCTIVE TO THE PUBLIC
6 HEALTH, CONVENIENCE, OR WELFARE. THE DRAINAGE BOARD SHALL NOT AT
7 THIS STAGE DETERMINE THE SCOPE OF THE WORK TO BE UNDERTAKEN. THE
8 SCOPE OF THE WORK SHALL BE DETERMINED BY THE DRAINAGE BOARD IN
9 CONSULTATION WITH ITS ENGINEERS OR OTHER QUALIFIED PROFESSIONALS
10 UNDER SECTIONS 106 TO 108.

11 Sec. 104. ~~The surveyor or engineer authorized to make the~~
12 ~~survey shall ascertain the size and depth of the drains, and~~
13 ~~shall preserve all minutes with reference thereto. He shall pre-~~
14 ~~pare plans, drawings and profiles thereof, together with a compu-~~
15 ~~tation of the yards of earth to be excavated, and where practica-~~
16 ~~ble the leveling of the spoil banks or the amount of tile or pipe~~
17 ~~to be used and the necessary bridges and culverts or fords to be~~
18 ~~built in constructing the proposed drains, and his estimate of~~
19 ~~the cost of such construction. He shall thereupon lay out a pro-~~
20 ~~posed drainage district, which district may be described by its~~
21 ~~boundaries of streets and highways or tracts or parcels of land~~
22 ~~or by a description of all tracts or parcels of land, including~~
23 ~~therein all highways, townships, counties, cities and villages~~
24 ~~which would be benefited by the construction of the proposed~~
25 ~~drain, all of which he shall deliver to the drainage board. The~~
26 ~~surveyor or engineer shall not be limited to the route described~~
27 ~~in the application, but may recommend a route and type of~~

~~1 construction for the drains he considers most serviceable for
2 draining the area involved.~~

3 (1) IF THE DRAINAGE BOARD BY A MAJORITY VOTE FINDS THE DRAIN
4 IS NECESSARY AND CONDUCTIVE TO THE PUBLIC HEALTH, CONVENIENCE, OR
5 WELFARE, THE DRAINAGE BOARD SHALL MAKE AN ORDER OF NECESSITY TO
6 THAT EFFECT AND FILE THE ORDER OF NECESSITY WITH THE DIRECTOR OF
7 AGRICULTURE AND EACH COMMISSIONER SERVING ON THE DRAINAGE BOARD.

8 (2) IF THE DRAINAGE BOARD FINDS THAT THE DRAIN IS NECESSARY
9 AND CONDUCTIVE TO THE PUBLIC HEALTH, CONVENIENCE, OR WELFARE, IT
10 SHALL ALSO FIND WHETHER ALL OR A PORTION OF THE COSTS OF CON-
11 STRUCTION OF THE PROPOSED DRAIN IS NECESSARY FOR THE PROTECTION
12 OF THE PUBLIC HEALTH IN 1 OR MORE PUBLIC CORPORATIONS. THE ORDER
13 OF NECESSITY SHALL SET FORTH THAT FINDING AND IDENTIFY ANY PUBLIC
14 CORPORATIONS RECEIVING BENEFITS AT LARGE FOR PUBLIC HEALTH. IF
15 THE DRAINAGE BOARD FINDS THAT THE WHOLE COST, EXCEPT THAT TO BE
16 LEVIED AGAINST ROADWAYS FOR HIGHWAYS BENEFITS, IS NECESSARY FOR
17 THE PUBLIC HEALTH, THE COST SHALL BE LEVIED AGAINST THE PUBLIC
18 CORPORATIONS AT LARGE, AND IT IS NOT NECESSARY, IN A SUBSEQUENT
19 ORDER OR NOTICE TO DESCRIBE OR REFER TO LAND INCLUDED IN OR COM-
20 PRISING THE DRAINAGE DISTRICT.

21 (3) IF THE DRAINAGE BOARD DETERMINES THAT THE DRAIN IS NEC-
22 ESSARY AND CONDUCTIVE TO THE PUBLIC HEALTH, CONVENIENCE, OR WEL-
23 FARE, THE CHAIRPERSON OF THE DRAINAGE BOARD MAY CONVENE A MEETING
24 TO PROVIDE INFORMATION OR ELICIT INFORMATION AND TESTIMONY WITH
25 REGARDS TO THE ROUTE AND TYPE OF CONSTRUCTION AND ESTIMATE OF
26 COST OF THE DRAIN TO ASSIST THE DRAINAGE BOARD IN DETERMINING THE

1 SCOPE OF THE DRAIN PROJECT TO BE UNDERTAKEN BY THE DRAINAGE
2 BOARD. THE MEETING IS FOR INFORMATIONAL PURPOSES ONLY.

3 (4) WITHIN 10 DAYS AFTER THE ORDER OF NECESSITY IS FILED
4 WITH THE DIRECTOR OF AGRICULTURE, THE CHAIRPERSON OF THE DRAINAGE
5 BOARD SHALL NOTIFY EACH PUBLIC CORPORATION IDENTIFIED IN THE
6 ORDER OF NECESSITY AS RECEIVING BENEFITS AT LARGE FOR PUBLIC
7 HEALTH THAT IT IS LIABLE TO PAY A PERCENT OF THE COST OF CON-
8 STRUCTION OF THE DRAIN BY REASON OF BENEFITS FOR PUBLIC HEALTH.
9 THE GOVERNING BODY OF THE PUBLIC CORPORATION, WITHIN 20 DAYS
10 AFTER MAILING OF THE NOTIFICATION BY FIRST-CLASS MAIL FROM THE
11 CHAIRPERSON OF THE DRAINAGE BOARD, MAY APPEAL THE ORDER OF NECES-
12 SITY AS TO THE FINDING THAT ALL OR A PORTION OF THE COSTS IS NEC-
13 ESSARY FOR PUBLIC HEALTH TO THE PROBATE COURT HAVING JURISDICTION
14 IN THE COUNTY IN WHICH THE TERRITORY OF THE PUBLIC CORPORATION IS
15 LOCATED.

16 (5) AFTER THE DRAINAGE BOARD FILES AN ORDER DISMISSING THE
17 PETITION UNDER SECTION 103(2) OR FILES AN ORDER OF NECESSITY, A
18 PUBLIC CORPORATION OR OTHER PERSON FEELING AGGRIEVED BY THE ORDER
19 MAY INSTITUTE AN ACTION IN THE CIRCUIT COURT OF A COUNTY IN WHICH
20 THE DRAINAGE DISTRICT IS LOCATED FOR A REVIEW OF THE ORDER. THE
21 ACTION SHALL BE FILED BY THE PUBLIC CORPORATION OR OTHER PERSON
22 AGGRIEVED WITHIN 14 DAYS AFTER THE FILING OF THE ORDER. THE PUR-
23 POSE OF THE CIRCUIT COURT REVIEW IS TO DETERMINE WHETHER THE
24 ORDER WAS AUTHORIZED BY LAW AND SUPPORTED BY SUBSTANTIAL, MATERI-
25 AL, AND COMPETENT EVIDENCE ON THE WHOLE RECORD. THE REVIEW SHALL
26 BE MADE ON THE RECORD PRESENTED TO THE DRAINAGE BOARD AND NO

1 ADDITIONAL TESTIMONY OR INFORMATION SHALL BE OFFERED EXCEPT FOR
2 PURPOSES OF CLAIM OF FRAUD OR ERROR OF LAW.

3 (6) IF THE DRAINAGE BOARD DETERMINES THAT THE DRAIN IS NEC-
4 ESSARY, THE DRAINAGE BOARD SHALL REVIEW THE PERCENTAGES OF THE
5 WHOLE COST OF CONSTRUCTION WHICH EACH COUNTY SHALL BEAR, AS PRE-
6 LIMINARILY DETERMINED UNDER SECTION 103, AND DETERMINE THE NUMBER
7 OF INSTALLMENTS IN WHICH THE DRAIN SPECIAL ASSESSMENTS SHALL BE
8 COLLECTED.

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

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

8 (8) UPON SELECTION OF THE FINAL MEMBERS OF THE ARBITRATION
9 BOARD, THOSE MEMBERS PRESENT SHALL SET A DATE, TIME, AND PLACE IN
10 AN AFFECTED COUNTY FOR A FIRST FULL MEETING OF THE ARBITRATION
11 BOARD. NOTICE OF THE MEETING SHALL BE SERVED PERSONALLY OR BY
12 FIRST-CLASS MAIL AT LEAST 10 DAYS BEFORE THE MEETING ON THE
13 COUNTY CLERK OF EACH AFFECTED COUNTY AND THE CLERK OF EACH TOWN-
14 SHIP IN EACH AFFECTED COUNTY. THE ARBITRATION BOARD SHALL PUB-
15 LISH A NOTICE OF THE MEETING ONCE A WEEK FOR 2 CONSECUTIVE WEEKS
16 BEFORE THE MEETING IN A NEWSPAPER PUBLISHED AND OF GENERAL CIRCU-
17 LATION IN THE COUNTIES AFFECTED. THE FIRST PUBLICATION SHALL BE
18 AT LEAST 10 DAYS BEFORE THE MEETING. THE DIRECTOR OF AGRICULTURE
19 SHALL NOTIFY THE 1 OR 2 DRAIN COMMISSIONERS SELECTED OF THEIR
20 APPOINTMENT AND OF THE DATE, TIME, AND PLACE OF THE NEXT MEETING
21 OF THE ARBITRATION BOARD.

22 (9) THE ARBITRATION BOARD SHALL CONVENE AT THE TIME, DATE,
23 AND PLACE SPECIFIED, TAKE TESTIMONY FROM THE AFFECTED PARTIES,
24 ELECT A CHAIRPERSON AND SECRETARY, AND REVIEW THE FAIRNESS OF THE
25 APPORTIONMENT BETWEEN THE COUNTIES. THE ARBITRATION BOARD MAY
26 ADJOURN UNTIL THE REVIEW IS COMPLETED. THE FINDINGS SHALL BE
27 MADE AND SIGNED BY ALL THE MEMBERS ATTESTING THE DETERMINATION OF

1 THE MAJORITY OF THE ARBITRATION BOARD, AND THE DETERMINATION BY
2 THE MAJORITY OF THE ARBITRATION BOARD IS FINAL AND CONCLUSIVE AS
3 TO THE FAIRNESS OF THE APPORTIONMENT. COMMISSIONERS SO APPOINTED
4 SHALL BE COMPENSATED IN THE SAME AMOUNT AND MANNER AS MEMBERS OF
5 THE COUNTY BOARD OF COMMISSIONERS IN THEIR RESPECTIVE COUNTIES.
6 OTHER COSTS OF THE ARBITRATION BOARD SHALL BE BORNE BY THE
7 DISTRICT.

8 Sec. 105. ~~The chairman of the drainage board shall there-~~
9 ~~upon prepare an order designating a drainage district, giving it~~
10 ~~a name or number and describe therein the drainage district by~~
11 ~~its boundaries of streets and highways or tracts or parcels of~~
12 ~~land or by a description of all tracts or parcels of land~~
13 ~~included therein and the counties, townships, cities, villages~~
14 ~~and state trunk line highways including therein all highways,~~
15 ~~townships, counties, cities and villages, which would be bene-~~
16 ~~fited by the construction of such drain and would be liable to an~~
17 ~~assessment therefor; also a description of the drain according to~~
18 ~~the plans and specifications prepared by the surveyor or engineer~~
19 ~~and determined by the drainage board, showing the beginning,~~
20 ~~route, terminus, type of construction and the estimated cost of~~
21 ~~the construction. Notice of filing of the order shall be given~~
22 ~~by the state director of agriculture by publishing a notice in a~~
23 ~~newspaper in each county affected, once in each week for 2 suc-~~
24 ~~cessive weeks, which notice shall give a general description of~~
25 ~~the route of the drain and of the drainage district as shown by~~
26 ~~the order. A copy of the order shall within 10 days be filed by~~
27 ~~the state director of agriculture in the office of the county~~

~~1 drain commissioner of each county in which lie lands included in
2 the district.~~

~~3 At any time after the order designating an intercounty
4 drainage district, giving it a name or number, has been filed in
5 the offices of the county drain commissioners of the counties
6 within the district, the order may be amended as to the name or
7 number of the drain by a written request of a drain commissioner
8 of 1 of the counties traversed by the drain, which request shall
9 state the then present name or number of the drain and the change
10 to be made in the name or number. Upon filing of the request,
11 the drain commissioner shall mail a copy of the request, to the
12 state director of agriculture and also to the drain commissioner
13 of each county in which lie lands liable for assessments for the
14 drain. The state director of agriculture shall call a meeting of
15 the drainage board and if, in the opinion of the drainage board,
16 it is found advisable to change the name or number of the drain,
17 they shall file an order designating such change. The drainage
18 board shall also designate the number of signs to be posted upon
19 the drain as they may deem advisable for public notice of the new
20 name or number. Copies of the order changing the name or number
21 of the drain shall be filed with the drain commissioner and the
22 county treasurer of each county liable for assessments of such
23 drain. If the commissioners of the counties affected cannot
24 agree as to the apportionment of costs for laying out a drainage
25 district, the director of agriculture or any deputy appointed by
26 him shall apportion the costs and the counties affected shall pay
27 the same as provided in section 302 of this act.~~

1 (1) THE CHAIRPERSON OF THE DRAINAGE BOARD, AFTER RECEIPT OF
2 THE ORDER OF NECESSITY, SUBJECT TO SUBSECTION (2), SHALL EXECUTE
3 A FIRST ORDER OF DETERMINATION AND FILE THE FIRST ORDER OF DETER-
4 MINATION IN HIS OR HER OFFICE AND IN THE OFFICE OF THE COUNTY
5 DRAIN COMMISSIONER OF EACH COUNTY INTO WHICH THE DRAINAGE DIS-
6 TRICT EXTENDS. THE FIRST ORDER OF DETERMINATION SHALL DO ALL OF
7 THE FOLLOWING CONSISTENT WITH THE ORDER OF NECESSITY:

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

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

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

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

21 (2) IF AN APPEAL IS NOT FILED, THE CHAIRPERSON OF THE DRAIN-
22 AGE BOARD SHALL SATISFY THE REQUIREMENTS OF SUBSECTION (1) UPON
23 THE EXPIRATION OF THE APPEAL PERIODS UNDER SECTION 104(5) AND, IF
24 APPLICABLE, 104(4). IF AN APPEAL IS FILED, THE CHAIRPERSON OF
25 THE DRAINAGE BOARD SHALL SATISFY THE REQUIREMENTS OF SUBSECTION
26 (1) AFTER THE APPEAL PROCEDURES ARE TERMINATED.

1 Sec. 106. ~~If the drain commissioner of a county involved~~
2 ~~considers the apportionment between the counties to be unfair,~~
3 ~~the commissioner shall have the right to have the apportionment~~
4 ~~reviewed by an arbitration board to be composed of drain commis-~~
5 ~~sioners from unaffected counties in this state. Within 20 days~~
6 ~~after the order of apportionment provided in section 105, the~~
7 ~~commissioner shall file with the department of agriculture a~~
8 ~~claim for review by arbitration in which the commissioner shall~~
9 ~~state briefly in what respect he or she considers the apportion-~~
10 ~~ment unfair and request, over the commissioner's official signa-~~
11 ~~ture, a review by arbitration. The commissioner shall nominate a~~
12 ~~disinterested drain commissioner as his or her choice for the~~
13 ~~arbitration board. Upon receipt of the claim for review by arbi-~~
14 ~~tration, the director of the department of agriculture or the~~
15 ~~director's deputy shall forward to each county drain commissioner~~
16 ~~involved, except the claimant, within 10 days, a copy of the~~
17 ~~claim for review by arbitration. The commissioners, within 10~~
18 ~~days, shall notify the department of agriculture of their selec-~~
19 ~~tion to the arbitration board. The director of the department of~~
20 ~~agriculture, at the earliest date, consistent with Act No. 267~~
21 ~~of the Public Acts of 1976, but not later than 30 days after the~~
22 ~~notice, shall notify the chosen drain commissioners of a date and~~
23 ~~time they shall meet in the commissioner's office in Lansing. At~~
24 ~~the meeting they shall select 1 or 2 more unaffected drain com-~~
25 ~~missioners in the state to complete the board of review. Only 1~~
26 ~~shall be selected if the board members selected by the drain~~
27 ~~commissioners affected constitute an even number and 2 shall be~~

~~1 selected if the board members selected by the drain commissioners
2 affected constitute an odd number. Upon selection of the final
3 members of the board of review, those members present shall set a
4 date, time, and place in an affected county for a first full
5 meeting of the board of review. Notice of the meeting shall be
6 posted in 5 public places in each county affected and be served
7 personally or by registered mail at least 10 days before the
8 meeting on the county clerk of the county and the supervisor of a
9 township in each county traversed by the drain. A notice of the
10 meeting shall be published once a week for 2 consecutive weeks
11 before the meeting in a newspaper published and of general circu-
12 lation in the counties affected. The first publication is to be
13 at least 10 days before the meeting. The director of the depart-
14 ment of agriculture shall notify the 1 or 2 drain commissioners
15 selected of their appointment and of the date, time, and place of
16 the next meeting of the full board. The board of arbitration
17 shall convene at the time, date, and place specified, elect a
18 chairperson and secretary, and review the fairness of the appor-
19 tionment between the counties. The board may adjourn until their
20 review is completed. The findings shall be made and signed by
21 all the members attesting the determination of the majority of
22 the board and the determination by the majority of the board
23 shall be final and conclusive as to the fairness of the
24 apportionment. IF THE DRAINAGE BOARD DETERMINES THAT A PROPOSED
25 DRAIN IS NECESSARY AND CONDUCTIVE TO PUBLIC HEALTH, CONVENIENCE,
26 OR WELFARE, THE DRAINAGE BOARD SHALL PROMPTLY SECURE THE SERVICES
27 OF AN ENGINEER AND ARRANGE FOR THE PREPARATION OF AN ENGINEERING~~

1 ANALYSIS. THE DRAINAGE BOARD SHALL SELECT THE ENGINEER BASED ON
2 THE ENGINEER'S QUALIFICATIONS. THE ENGINEERING ANALYSIS SHALL
3 DESCRIBE A DRAIN AND DRAINAGE DISTRICT TO ADDRESS THE REASONS FOR
4 THE DRAIN AND DRAINAGE DISTRICT SET FORTH IN THE PETITION AND IN
5 THE EVIDENCE AND TESTIMONY RECEIVED AT THE HEARING OF THE DRAIN-
6 AGE BOARD. EXCEPT AS PROVIDED IN SUBDIVISION (E), AN ENGINEER
7 SHALL PREPARE THE ENGINEERING ANALYSIS. THE ENGINEERING ANALYSIS
8 SHALL INCLUDE ALL OF THE FOLLOWING:

9 (A) HYDROLOGIC AND HYDRAULIC REPORT.

10 (B) RECOMMENDED ROUTE AND COURSE.

11 (C) AN EXISTING AND PROPOSED PROFILE OF THE RECOMMENDED
12 ROUTE AND COURSE.

13 (D) DESCRIPTION OF THE RECOMMENDED WORK INCLUDING CROSSINGS,
14 STRUCTURES, AND FACILITIES.

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

22 (F) AN ESTIMATE OF THE COST OF CONSTRUCTION OF THE
23 ENGINEER'S RECOMMENDATION.

24 (G) A DESCRIPTION OF ALTERNATIVES CONSIDERED.

25 (H) AN ANALYSIS OF THE EFFECTIVENESS OF THE PROPOSED PROJECT
26 TO ADDRESS THE CONDITIONS THAT IT IS INTENDED TO REMEDY, CREATE,
27 OR ENHANCE.

1 (I) AN EVALUATION OF THE IMPACTS OF THE PROJECT ON NATURAL
2 RESOURCES THAT IDENTIFIES APPROPRIATE PRACTICAL MEASURES TO MINI-
3 MIZE ADVERSE EFFECTS. IF SUCH AN EVALUATION IS PREPARED, IT NEED
4 NOT BE PART OF THE PRELIMINARY ENGINEERING ANALYSIS AND MAY
5 INSTEAD BE PREPARED BY A COMMISSIONER OR ANOTHER QUALIFIED
6 PROFESSIONAL.

7 (J) ANY OTHER INFORMATION REQUESTED BY THE DRAINAGE BOARD.

8 SEC. 107. (1) AFTER THE DRAINAGE BOARD ENTERS THE FIRST
9 ORDER OF DETERMINATION, THE ENGINEER SHALL PREPARE FINAL PLANS,
10 SPECIFICATIONS, AND AN ESTIMATE OF COSTS OF THE PROPOSED DRAIN.
11 THE DRAINAGE BOARD SHALL SECURE FROM THE ENGINEER OR A SURVEYOR A
12 DESCRIPTION OF THE LANDS OR RIGHTS-OF-WAY NEEDED FOR THE PROPOSED
13 DRAIN. THE DRAINAGE BOARD SHALL SECURE FROM AN ENGINEER OR OTHER
14 QUALIFIED PROFESSIONAL AN EVALUATION OF THE EFFECTS OF THE PRO-
15 POSED DRAIN ON NATURAL RESOURCES THAT IDENTIFIES APPROPRIATE
16 PRACTICAL MEASURES TO MINIMIZE ADVERSE EFFECTS. IN APPROVING THE
17 ROUTE OF THE DRAIN AS FURNISHED BY THE ENGINEER, THE DRAINAGE
18 BOARD IS NOT LIMITED TO THAT DESCRIBED IN THE PETITION OR IN THE
19 FIRST ORDER OF DETERMINATION, IF THE NEW ROUTE IS MORE EFFICIENT
20 AND SERVICEABLE. THE DRAINAGE BOARD SHALL GIVE NOTICE DESCRIBING
21 THE NEW ROUTE FOR THE DRAIN IN THE MANNER PROVIDED IN SECTION 8.

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

1 (3) SUBJECT TO SUBSECTION (4), MEASURES THAT ARE INTENDED TO
2 IMPROVE OR ENHANCE NATURAL RESOURCES VALUES MAY BE INCLUDED AS
3 PART OF THE DRAINAGE PROJECT IN THE DISCRETION OF THE DRAINAGE
4 BOARD. THE FUNDING FOR THE COSTS OF SUCH MEASURES MAY INCLUDE
5 GIFTS, DONATIONS, GRANTS, AND CONTRACTS PURSUANT TO SECTION 431,
6 SPECIAL ASSESSMENTS OTHER THAN SPECIAL ASSESSMENTS UNDER THIS
7 ACT, OR ANY COMBINATION THEREOF AS CONSIDERED APPROPRIATE BY THE
8 DRAINAGE BOARD.

9 (4) IF THE PROPOSED DRAIN IS LOCATED IN A WATERSHED MANAGE-
10 MENT DISTRICT FOR WHICH A WATERSHED MANAGEMENT PLAN HAS BEEN
11 ADOPTED UNDER SECTION 595, THE DRAINAGE BOARD SHALL UNDERTAKE THE
12 ESTABLISHMENT AND CONSTRUCTION OF THE DRAIN, INCLUDING, BUT NOT
13 LIMITED TO, MEASURES TO IMPROVE OR ENHANCE NATURAL RESOURCE
14 VALUES, CONSISTENT WITH THE WATERSHED MANAGEMENT PLAN.

15 (5) IF, AFTER THE RECEIPT OF THE PLANS, SPECIFICATION, ESTI-
16 MATE OF COST, AND DESCRIPTIONS OF THE LANDS OR RIGHTS-OF-WAY
17 NEEDED FOR THE PROPOSED DRAIN, THE DRAINAGE BOARD BELIEVES THAT
18 THE PROJECT IS NOT PRACTICAL, THE DRAINAGE BOARD SHALL NOTIFY THE
19 LANDOWNERS IN THE DISTRICT AND PUBLIC CORPORATIONS IN THE DIS-
20 TRICT BY FIRST-CLASS MAIL OF THE INTENT TO REJECT THE PETITION.
21 THE NOTICE SHALL SPECIFY THE REASONS FOR THE PROPOSED REJECTION.
22 THE NOTICE SHALL ALSO SPECIFY A TIME, DATE, AND PLACE FOR A
23 PUBLIC HEARING TO HEAR OBJECTIONS TO THE REJECTION OF THE
24 PETITION. AT THE PUBLIC HEARING, THE DRAINAGE BOARD SHALL ELICIT
25 TESTIMONY AND EVIDENCE WITH REGARDS TO THE PROPOSED REJECTION.
26 FOLLOWING THE RECEIPT OF TESTIMONY, THE DRAINAGE BOARD SHALL
27 DETERMINE WHETHER OR NOT THE PETITION SHOULD BE REJECTED. IF THE

1 REJECTION IS DETERMINED TO BE PRACTICAL, THE DRAINAGE BOARD SHALL
2 ENTER AN ORDER OF REJECTION AND APPORTION ALL COSTS INCURRED TO
3 THE DISTRICT AS IF THE PROJECT HAD BEEN BUILT AND THE COSTS WILL
4 BE SUBSEQUENTLY ASSESSED AND PAID AS PROVIDED IN CHAPTER 7. A
5 DETERMINATION TO REJECT A PETITION DOES NOT LIMIT THE RIGHT TO
6 FILE ANOTHER PETITION.

7 SEC. 108. (1) UPON COMPLETION OF THE ENGINEERING ANALYSIS,
8 THE DIRECTOR OF AGRICULTURE SHALL FILE A COPY OF THE ENGINEERING
9 ANALYSIS IN THE OFFICE OF EACH COMMISSIONER SERVING ON THE DRAIN-
10 AGE BOARD AND SHALL CONVENE A PUBLIC HEARING TO PRESENT THE ENGI-
11 NEERING ANALYSIS AND THE PROJECT PROPOSED TO BE UNDERTAKEN. THE
12 DIRECTOR OF AGRICULTURE SHALL GIVE NOTICE OF FILING OF THE ENGI-
13 NEERING ANALYSIS AND OF THE PUBLIC HEARING IN THE MANNER PROVIDED
14 IN SECTION 8. THE NOTICE SHALL GIVE ALL OF THE FOLLOWING
15 INFORMATION:

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

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

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

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

24 (2) A PERSON AGGRIEVED BY THE DETERMINATION OF THE PROJECT
25 SELECTED BY THE DRAINAGE BOARD MAY SEEK REVIEW IN THE CIRCUIT
26 COURT WITHIN 14 DAYS OF THE PUBLIC HEARING. THE CIRCUIT COURT
27 SHALL REVIEW THE ENTIRE RECORD TO DETERMINE WHETHER THE DRAINAGE

1 BOARD ABUSED ITS DISCRETION IN MAKING A DETERMINATION OF THE
2 PROJECT SELECTED TO BE UNDERTAKEN, BASED ON THE WHOLE RECORD.

3 SEC. 109. (1) UNLESS THE DRAINAGE BOARD DETERMINES TO
4 REJECT THE PETITION UNDER SECTION 107, THE DRAINAGE BOARD SHALL
5 PROCEED TO ACQUIRE PROPERTY FOR THE DRAIN UNDER SECTION 7.

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

10 SEC. 110. A FULL RECORD OF THE DRAIN SHALL BE MADE AND
11 ENTERED BY THE SEVERAL COMMISSIONERS IN THE DRAIN RECORDS OF
12 THEIR RESPECTIVE COUNTIES, AND A COPY OF ALL THE RECORDS RELATIVE
13 TO THE ESTABLISHMENT AND CONSTRUCTION OF THE DRAIN SHALL BE
14 DELIVERED TO THE OTHER COMMISSIONERS BY THE COMMISSIONER HAVING
15 THE ORIGINAL APPLICATION OR PETITION, WHICH COPIES SHALL BE FILED
16 IN THE OFFICE OF THE COUNTY DRAIN COMMISSIONER OF THE RESPECTIVE
17 COUNTIES AS ORIGINAL RECORDS ARE REQUIRED TO BE FILED AND WITH
18 THE SAME FORCE AND EFFECT.

19 SEC. 111. THE DRAINAGE BOARD, ACTING ON BEHALF OF THE
20 DRAINAGE DISTRICT, MAY BORROW MONEY AND MAY ISSUE BONDS OR NOTES
21 THEREFOR AS PROVIDED FOR DRAINS LYING WHOLLY WITHIN 1 COUNTY.
22 THE BONDS OR NOTES SHALL BE SIGNED BY THE MEMBERS OF THE DRAINAGE
23 BOARD AND SHALL BE COUNTERSIGNED BY THE CLERKS OF THE COUNTIES
24 AFFECTED. BONDS OR NOTES ISSUED UNDER THIS CHAPTER ARE PAYABLE
25 AT THE OFFICE OF THE COUNTY TREASURER SELECTED BY THE DRAINAGE
26 BOARD TO SERVE AS THE TREASURER OF THE DRAINAGE DISTRICT. THE
27 BONDS OR NOTES SHALL BE DEPOSITED AND SAFELY KEPT BY THE

1 TREASURER UNTIL SOLD AND DELIVERED. ALL INSTALLMENTS, WITH
2 INTEREST THEREON, OF THE SPECIAL ASSESSMENTS SHALL BE TRANSMITTED
3 AS COLLECTED BY THE TREASURER OR TREASURERS OF THE OTHER COUNTY
4 OR COUNTIES CONCERNED TO THE TREASURER OF THE DRAINAGE DISTRICT,
5 WHO SHALL ISSUE A RECEIPT THEREFOR AND SHALL PLACE THE MONEY IN
6 THE FUND OF THE DRAIN TO BE DISBURSED SOLELY FOR THE RETIREMENT
7 OF THE BONDS OR NOTES AT MATURITY AND THE PAYMENT OF INTEREST
8 THEREON.

9 SEC. 112. IF A PROPOSED DRAIN LIES WHOLLY OR PARTLY IN AN
10 ADJOINING STATE, OR THE LANDS TO BE DRAINED THEREBY LIE PARTLY IN
11 AN ADJOINING STATE, A PETITION TO ESTABLISH A DRAINAGE DISTRICT
12 AND ESTABLISH AND CONSTRUCT A DRAIN AS SPECIFIED IN THIS ACT MAY
13 BE MADE TO ANY COMMISSIONER REPRESENTING ANY COUNTY IN THIS STATE
14 IN WHICH ANY PORTION OF THE PROPOSED DRAIN OR LANDS TO BE
15 AFFECTED THEREBY LIE, AND THE SAME PROCEEDINGS SHALL BE HAD
16 REGARDING THE PORTION OF THE DRAIN OR THE LANDS TO BE DRAINED OR
17 AFFECTED THEREBY LYING WITHIN THIS STATE AS ARE PROVIDED IN THIS
18 ACT FOR DRAINS AND LANDS LYING WHOLLY WITHIN THIS STATE.
19 HOWEVER, BEFORE ANY EXPENSE IS INCURRED IN RELATION TO THE PRO-
20 POSED DRAIN, A VOLUNTARY RELEASE OF THE RIGHT-OF-WAY TO CONSTRUCT
21 THE DRAIN OR PORTION OF THE DRAIN THAT LIES WITHOUT THIS STATE
22 AND AN AGREEMENT TO KEEP IT OR PERMIT IT TO BE KEPT, CLEAR FROM
23 OBSTRUCTION SHALL FIRST BE OBTAINED FROM THE PARTIES OWNING LANDS
24 OUTSIDE OF THIS STATE THROUGH WHICH THE DRAIN OR PORTION THEREOF
25 IS TO PASS, AND SUCH RELEASE AND AGREEMENT SHALL BE FILED WITH
26 THE SAID DRAIN COMMISSIONER AND SHALL FORM A PART OF THE RECORD
27 OF HIS OR HER PROCEEDINGS IN THE PREMISES.

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

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

~~1 of the cost of construction of such drain which any state trunk
2 line highway, under the control of the state highway commission-
3 er, shall be liable to pay by reason of benefits therefor and as
4 the means of improving said highway. He~~ THAT ANY ROADWAY
5 AUTHORITY IS LIABLE TO PAY BY REASON OF BENEFITS TO OR CONTRIBU-
6 TIONS FROM A ROADWAY.

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

1 apportionment of benefits ~~so made shall be~~ AND ADDITION OF
2 LANDS TO THE DRAINAGE DISTRICT ARE subject to review and correc-
3 tion and may be appealed from as PROVIDED in this act.

4 ~~provided.~~ The board of ~~supervisors~~ COMMISSIONERS at its
5 October meeting each year shall make provision by proper assess-
6 ment of the amounts apportioned against any ~~highway under the~~
7 ~~control of the county and district highway commissioners~~ COUNTY
8 ROAD.

9 Sec. 152. (1) ~~All apportionments~~ EACH APPORTIONMENT of
10 benefits under ~~the provisions of~~ this act shall be upon the
11 principle of benefits derived. ~~All 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.

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

11 Sec. 154. (1) ~~The commissioner~~ A COMMISSIONER RESPONSIBLE
12 FOR APPORTIONMENT OF BENEFITS FOR A COUNTY OR INTERCOUNTY DRAIN
13 shall give notice UNDER SECTION 8 OF A TIME AND PLACE FOR THE
14 MEETING FOR THE REVIEW OF THE APPORTIONMENTS MADE BY THAT
15 COMMISSIONER. THE MEETING SHALL BE HELD NOT LESS THAN 7 OR MORE
16 THAN 28 DAYS AFTER THE DATE SET for ~~the~~ receiving ~~of~~ bids for
17 ~~the~~ construction of the drain. ~~and for the holding of a public~~
18 ~~meeting. At the meeting a review shall be made of the apportion-~~
19 ~~ment of benefits. The notice shall specify the time and place of~~
20 ~~receiving bids, and the time and place of the meeting for review~~
21 ~~of apportionment. The meeting shall be not less than 5 nor more~~
22 ~~than 30 days after the date set for receiving bids. The notice~~
23 ~~shall be given by publication of at least 2 insertions in a news-~~
24 ~~paper published and of general circulation in the county. The~~
25 ~~first publication shall be at least 10 days before the date set~~
26 ~~for receiving bids. The drain commissioner shall send notice by~~
27 ~~first class mail of the time, date, and place of the meeting, at~~

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

24 ~~(2) The notice shall also contain the names of the coun-~~
25 ~~ties, cities, townships, or villages to be assessed at large, and~~
26 ~~shall be personally served on the county clerk and 1 or more~~
27 ~~members of the road commission of a county or road district, the~~

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

19 (2) ~~(3)~~ Bids shall be received and computation of the total
20 cost of the drain shall be made before the time set for BEFORE
21 THE review of the apportionment, ~~and~~ the DRAIN COMMISSIONER,
22 FOR A COUNTY DRAIN, OR DRAINAGE BOARD, FOR AN INTERCOUNTY DRAIN,
23 SHALL PREPARE A COMPUTATION OF THE TOTAL COST OF THE DRAIN
24 PROJECT INCLUDING THE ITEMS LISTED IN SECTION 261. THE computa-
25 tion shall be open to inspection. If the computation is not com-
26 pleted before the day of review, the review may be adjourned from
27 time to time, not more than ~~20~~ 21 days in all, for the

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

24 (3) ~~(4) When~~ IF an apportionment of benefits is made
25 against a state trunk line highway, unless the ~~state highway~~
26 director OF THE STATE TRANSPORTATION DEPARTMENT consents in
27 writing to the apportionment, the drain commissioner, at least

1 ~~20~~ 21 days before the ~~review on the trunk line~~ DAY OF REVIEW,
2 shall notify THE DIRECTOR OF THE STATE TRANSPORTATION DEPARTMENT
3 by ~~registered~~ CERTIFIED mail ~~the state highway director~~ of
4 the percentage apportioned against the STATE TRUNK LINE highway
5 and the date, time, and place fixed for a review of apportionment
6 of benefits. If the ~~state highway director~~ DIRECTOR OF THE
7 STATE TRANSPORTATION DEPARTMENT desires to have the apportionment
8 of benefits reviewed by the director of ~~the department of~~ agri-
9 culture, the ~~state highway~~ director ~~, within 10~~ OF THE STATE
10 TRANSPORTATION DEPARTMENT, THEN, NOT MORE THAN 14 days ~~from~~
11 AFTER the receipt of the notice, THE DIRECTOR OF THE STATE TRANS-
12 PORTATION DEPARTMENT shall file with the drain commissioner an
13 objection to the apportionment. The drain commissioner shall
14 notify the director ~~of the department~~ of agriculture of the
15 date, time, and place fixed for the review of apportionments. ~~—~~
16 ~~and at~~ AT the meeting, the director of ~~the department of~~ agri-
17 culture ~~, or a deputy of the director,~~ shall review the appor-
18 tionment made against the state trunk line highway, listen to the
19 proofs and allegations of the parties, and may view the STATE
20 TRUNK LINE highway benefited. The action and decision on the
21 apportionment SHALL BE reduced to writing ~~shall be~~ IS final.

22 (4) THE DIRECTOR OF THE STATE TRANSPORTATION DEPARTMENT
23 SHALL NOTIFY THE DRAIN COMMISSIONER IN WRITING WHETHER THE
24 DEPARTMENT WILL PAY ANY ASSESSMENT AGAINST STATE TRUNK LINE HIGH-
25 WAYS IN A SINGLE PAYMENT OR IN INSTALLMENTS. IF THE DIRECTOR OF
26 THE STATE TRANSPORTATION DEPARTMENT DOES NOT SPECIFY BEFORE THE
27 ADVERTISEMENT OF THE SALE OF BONDS OR NOTES WHETHER THE

1 DEPARTMENT WILL PAY THE ASSESSMENT IN FULL OR IN INSTALLMENTS,
2 THE DEPARTMENT IS LIABLE FOR THE INTEREST CHARGES INCURRED AS A
3 RESULT OF THE SALE OF BONDS OR NOTES.

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

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

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

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

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

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

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

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

1 THE BOARD OF REVIEW shall order and make the changes in the
2 apportionment as ~~they~~ THE BOARD OF REVIEW may consider just and
3 equitable. If the board of review upon personal examination
4 finds that a land liable to be assessed for the construction of
5 the drain OR PROJECT is not included in the drainage district
6 made by the commissioner, ~~they~~ THE BOARD OF REVIEW shall ~~add~~
7 ~~the land to the drainage district of the drain and shall adjourn~~
8 ~~the review to another time or place as they consider proper, but~~
9 ~~not in all more than 20 days from and after the time of review~~
10 ~~first advertised. The notice of the adjournment shall contain a~~
11 ~~description of lands added to the drainage district. The notice~~
12 ~~shall be given at least 10 days before the adjourned day of~~
13 ~~review. Should the owners of land liable to an assessment be~~
14 ~~nonresidents of the county, personal notice shall be served on~~
15 ~~the owners, or a notice shall be published in a weekly newspaper~~
16 ~~published in the county, of at least 2 insertions, giving the~~
17 ~~description of the land added to the assessment district and~~
18 ~~giving the time, date, and place where the board shall meet. The~~
19 ~~action and decision of the board shall be final. PREPARE A PRO-~~
20 ~~POSED DECISION MAKING THE CHANGES IN THE APPORTIONMENT THAT THE~~
21 ~~BOARD OF REVIEW CONSIDERS JUST AND EQUITABLE AND SHALL ADJOURN~~
22 ~~THE REVIEW FOR NOT MORE THAN 21 DAYS FROM THE DATE OF THE MEETING~~
23 ~~SPECIFIED IN THE FIRST NOTICE. THE BOARD OF REVIEW SHALL GIVE~~
24 ~~NOTICE OF THE ADJOURNMENT IN THE MANNER PROVIDED IN SECTION 8(2)~~
25 ~~AND (3), AND BY POSTING NOTICE IN THE OFFICE OF THE DRAIN COMMIS-~~
26 ~~SIONER BY THE DATE BY WHICH MAILING OF THE NOTICE IS REQUIRED~~
27 ~~UNDER SECTION 8(2). HOWEVER, THE BOARD OF REVIEW NEED ONLY~~

1 PROVIDE NOTICE TO PERSONS THAT THE BOARD OF REVIEW BELIEVES MAY
2 BE AFFECTED BY ITS FINAL DECISION.

3 (2) UPON RECONVENING, THE BOARD OF REVIEW SHALL HEAR ANY
4 FURTHER PROOFS AND ALLEGATIONS RELEVANT TO THE PROPOSED DECISION
5 OF THE BOARD OF REVIEW. THE BOARD OF REVIEW MAY VIEW LANDS AND
6 SHALL REVIEW APPORTIONMENTS THAT ARE THE SUBJECT OF THE FURTHER
7 PROOFS AND ALLEGATIONS.

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

16 (4) IF THE BOARD OF REVIEW MAKES CHANGES IN THE APPORTION-
17 MENT, THE CHANGES SHALL BE MADE BY THE COMMISSIONER WITHOUT
18 NECESSITY FOR A NEW DAY OF REVIEW OR NOTICE TO THE DISTRICT OF
19 THE CHANGES MADE BY THE BOARD OF REVIEW AND PERSONS AGGRIEVED BY
20 THE CHANGES MADE BY THE BOARD OF REVIEW ARE NOT ENTITLED TO ADDI-
21 TIONAL JUDICIAL REVIEW.

22 Sec. 158. (1) ~~In case~~ IF the apportionment of the commis-
23 sioner ~~shall be~~ IS sustained by ~~such~~ THE board of review, the
24 appellant shall pay the whole costs and expenses of ~~such~~ THE
25 appeal. ~~Such~~ IF THERE ARE MULTIPLE APPELLANTS, ANY APPELLANT
26 WHOSE APPORTIONMENT IS SUSTAINED SHALL PAY A PRO RATA SHARE OF
27 THE COSTS AND EXPENSES OF THE APPEAL BASED ON THE NUMBER OF

1 APPELLANTS. THE costs and expenses shall be ascertained and
2 determined by the judge of probate. ~~, and if not paid the appel-~~
3 ~~lant shall be liable on his bond for the full amount of such~~
4 ~~costs in an action at law, to be brought by the commissioner on~~
5 ~~the bond before any court having competent jurisdiction.~~

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

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

13 Sec. 161. (1) The proceedings ~~in establishing any drain~~
14 ~~and levying taxes therefor shall be~~ TO ESTABLISH A DRAIN AND
15 LEVY ASSESSMENTS ARE subject to review on ~~certiorari as herein~~
16 ~~provided~~ SUPERINTENDING CONTROL. A COMPLAINT SEEKING A writ of
17 ~~certiorari~~ SUPERINTENDING CONTROL for any error IN PROCEEDINGS
18 occurring before or in the final order of determination shall be
19 ~~issued within 10~~ FILED NOT MORE THAN 14 days after a copy of
20 ~~such~~ THE final order is filed in the office of the drain com-
21 missioner as required by section 151, ~~of this act,~~ and for any
22 error IN PROCEEDINGS occurring after ~~such~~ THE final order of
23 determination, ~~within 10~~ NOT MORE THAN 14 days after the day of
24 review, or if an appeal has been taken, ~~within 10~~ NOT MORE THAN
25 14 days after the filing of the report of the board of review.
26 ~~Notice of such certiorari shall be~~

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

21 (3) If the proceedings ~~be~~ FOR ESTABLISHING THE DRAIN AND
22 LEVYING ASSESSMENTS ARE sustained, the party ~~bringing the cer-~~
23 ~~tiorari shall be~~ SEEKING SUPERINTENDING CONTROL IS liable for
24 the costs ~~thereof, and if they be~~ OF THE SUPERINTENDING CONTROL
25 PROCEEDINGS. IF THE PROCEEDINGS FOR ESTABLISHING THE DRAIN AND
26 LEVYING ASSESSMENTS ARE not sustained, the parties making
27 application for the drain ~~shall be~~ ARE liable for the costs OF

1 THE SUPERINTENDING CONTROL PROCEEDINGS. If ~~no certiorari be~~
 2 ~~brought~~ A COMPLAINT FOR SUPERINTENDING CONTROL IS NOT FILED
 3 within the time ~~herein~~ prescribed, the drain shall be ~~deemed~~
 4 CONSIDERED to have been legally established, and the ~~taxes~~
 5 ~~therefor~~ DRAIN ASSESSMENTS legally levied, and the legality of
 6 ~~said~~ THE drain and the ~~taxes therefor~~ ASSESSMENTS shall not
 7 thereafter be questioned in ~~any suit at law or equity~~:
 8 ~~Provided, No court shall allow any certiorari questioning the~~
 9 ~~legality of any drain by any person unless notice has been given~~
 10 ~~to the commissioner in accordance with the provisions of this~~
 11 ~~chapter: Provided further, That when such proceedings are~~
 12 ~~brought~~ COURT. IF A COMPLAINT FOR SUPERINTENDING CONTROL IS
 13 FILED, the commissioner shall postpone the letting of contracts
 14 and all other proceedings until after the determination of the
 15 court. ~~And if any error be found in the proceedings~~ IF THE
 16 COURT FINDS AN ERROR IN THE PROCEEDINGS TO ESTABLISH THE DRAIN
 17 AND LEVY ASSESSMENTS, the court shall direct the commissioner to
 18 correct ~~such~~ THE error ~~or errors~~ and then proceed ~~the same~~
 19 as though no error had been made.

20 CHAPTER 8 ~~—~~

21 ~~CLEANING, WIDENING, DEEPENING, STRAIGHTENING AND EXTENDING~~
 22 ~~DRAINS.—~~ MAINTAINING, IMPROVING, AND CONSOLIDATING DRAINS

23 Sec. 191. (1) ~~When a drain or portion thereof, which~~
 24 ~~traverses lands wholly in 1 county, and lands only in 1 county~~
 25 ~~which is subject to assessment, needs cleaning out, relocating,~~
 26 ~~widening, deepening, straightening, tiling, extending, or~~
 27 ~~relocating along a highway, or requires structures or mechanical~~

~~1 devices that will properly purify or improve the flow of the
2 drain or pumping equipment necessary to assist or relieve the
3 flow of the drain, or needs supplementing by the construction of
4 1 or more relief drains which may consist of new drains or exten-
5 sions, enlargements, or connections to existing drains, or needs
6 1 or more branches added thereto, any 5 or at least 50% of the
7 freeholders if there are less than 5 freeholders whose lands
8 shall be liable to an assessment for benefits of such work, may
9 make petition in writing to the commissioner setting forth the
10 necessity of the proposed work and the commissioner shall proceed
11 in the same manner provided for the location, establishment, and
12 construction of a drain. If the project includes a tiled relief
13 drain, or the tiling of an existing open drain or any portion
14 thereof, with a conduit a part of which has an inside diameter in
15 excess of 36 inches or the retiling of an existing drain with a
16 conduit, a part of which has an inside diameter in excess of 36
17 inches, then the petition shall comply with section 71. The pre-
18 ceding sentence shall not be applicable to the construction of
19 bridges, culverts, and passageways. The word tiling as used in
20 this and other sections of this act, means the laying of a con-
21 duit composed of tile, brick, concrete, or other material. When
22 it is necessary for the public health of 1 or more cities, vil-
23 lages, and townships, the petition may be signed solely by a
24 city, village, or township when authorized by its governing body
25 or by a combination of the municipalities, if the municipality or
26 municipalities are liable to assessments at large for a
27 percentage of the total amount assessed for the cost of the~~

~~1 proposed work. After the board of determination determines the~~
~~2 necessity for the work, as provided in section 72, the commis-~~
~~3 sioner shall, as soon as practicable after the final order of~~
~~4 determination prescribed in section 151 has been filed by him,~~
~~5 proceed as provided in sections 151 to 161. If the apportionment~~
~~6 is the same as the last recorded apportionments, no day of review~~
~~7 is necessary, but in other cases the commissioner shall proceed~~
~~8 as provided in sections 151 to 161, including the notice of and~~
~~9 the holding of a day of review.~~ FOR A COUNTY DRAIN, 1 OR MORE OF
10 THE FOLLOWING MAY BE DONE, BY PETITION FILED PURSUANT TO THIS
11 SECTION:

12 (A) THE DRAIN OR PORTION OF THE DRAIN MAY BE MAINTAINED OR
13 IMPROVED.

14 (B) MEASURES MAY BE UNDERTAKEN THAT ARE INTENDED BOTH TO
15 ENHANCE OR IMPROVE NATURAL RESOURCE VALUES OF THE DRAIN AND TO
16 PROVIDE BENEFIT TO THE DESIGNED FUNCTION, LONGEVITY, OR HYDRAULIC
17 CAPACITY OF THE DRAIN.

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

1 OPERATION AND OUTLET, AND HOW HISTORICAL DRAINAGE IS TO BE
2 MAINTAINED.

3 (D) A DRAINAGE DISTRICT MAY BE CONSOLIDATED WITH ANY ESTAB-
4 LISHED DRAINAGE DISTRICT OR HAVE LANDS ADDED OR DELETED. THE
5 CONSOLIDATION, ADDITION, OR DELETION SHALL OTHERWISE COMPLY WITH
6 SECTION 277A RELATIVE TO DISPOSITION OF FUNDS AND PAYMENT OF OUT-
7 STANDING DEBT. THE LANDOWNERS OF ANY LANDS BEING PETITIONED FOR
8 CONSOLIDATION, ADDITION, OR DELETION AND THE PUBLIC CORPORATIONS
9 IN WHICH THOSE LANDS ARE LOCATED SHALL BE GIVEN NOTICE OF THE
10 PROPOSED CONSOLIDATION, ADDITION, OR DELETION.

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

15 (3) THE PETITION SHALL BE FILED WITH THE COUNTY DRAIN
16 COMMISSIONER. THE PETITION SHALL BE SIGNED BY AT LEAST 5 LAND-
17 OWNERS IN THE 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 5 LANDOWNERS WHOSE LANDS WOULD BE LIABLE FOR
20 ASSESSMENT OR SHALL BE SIGNED BY LANDOWNERS REPRESENTING 25% OF
21 THE LAND AREA LIABLE FOR ASSESSMENT. THE PETITION SHALL BE
22 ACCOMPANIED BY A DESCRIPTION OR TAX PARCEL CODE OF THE LAND IN
23 THE DISTRICT OWNED BY EACH SIGNER AND BY A CERTIFICATE OF THE
24 COUNTY TREASURER AS TO PAYMENT OF TAXES AND SPECIAL ASSESSMENTS
25 AGAINST THE LANDS IN A FORM AS DESCRIBED IN SECTION 51. THE NAME
26 OF ANY SIGNER AS TO WHOSE LAND THE CERTIFICATE SHOWS TAXES OR
27 ASSESSMENTS UNPAID FOR 3 YEARS SHALL NOT BE COUNTED. THE DRAIN

1 COMMISSIONER SHALL DETERMINE THE ELIGIBILITY OF THE SIGNERS TO
2 THE PETITION BASED ON THEIR STATUS AS LANDOWNERS WHEN THE PETI-
3 TION WAS FILED. INSTEAD OF BEING SIGNED BY LANDOWNERS, A PETI-
4 TION MAY BE SIGNED AS PROVIDED IN SECTION 14 ON BEHALF OF AT
5 LEAST 1 PUBLIC CORPORATION, IF THE DRAIN PROJECT IS NECESSARY FOR
6 THE PUBLIC HEALTH IN THE PUBLIC CORPORATION, AND IF THE PUBLIC
7 CORPORATION WILL BE LIABLE FOR AN ASSESSMENT AT LARGE AGAINST IT
8 FOR A PERCENTAGE OF THE COST OF THE PROPOSED DRAIN.

9 (4) FOR PURPOSES OF NOTICE UNDER SECTION 8, THE DRAIN COM-
10 MISSIONER SHALL EVALUATE THE DRAINAGE DISTRICT BOUNDARIES AND
11 IDENTIFY ANY ADDITIONAL LANDOWNERS WHO MAY BE SUBJECT TO ASSESS-
12 MENTS FOR THE DRAIN PROJECT. PROCEEDINGS SHALL OTHERWISE BE CON-
13 DUCTED IN THE SAME MANNER AS PROVIDED IN SECTIONS 52 TO 57. THE
14 DETERMINATIONS OF PRACTICABILITY AND NECESSITY SHALL BE FOR THE
15 ACTIVITIES PETITIONED UNDER THIS SECTION, NOT FOR THE DRAIN OR
16 DRAINAGE DISTRICT IN GENERAL. THE APPORTIONMENT OF BENEFITS IS
17 SUBJECT TO SECTION 201.

18 (5) IF THE DRAIN IS LOCATED IN A WATERSHED MANAGEMENT DIS-
19 TRICT FOR WHICH A WATERSHED MANAGEMENT PLAN HAS BEEN ADOPTED
20 UNDER SECTION 595, THE DRAIN COMMISSIONER SHALL UNDERTAKE THE
21 ACTIVITIES PETITIONED UNDER THIS SECTION CONSISTENT WITH THE
22 WATERSHED MANAGEMENT PLAN.

23 Sec. 192. (1) ~~Whenever a drain or portion thereof, which~~
24 ~~traverses lands in more than 1 county, and lands in more than 1~~
25 ~~county shall be subject to assessments, needs cleaning out, relo-~~
26 ~~cating, widening, deepening, straightening, tiling, extending or~~
27 ~~relocating along a highway, or requires structures or mechanical~~

~~1 devices that will properly purify or improve the flow of the
2 drain or pumping equipment necessary to assist or relieve the
3 flow of the drain, or needs supplementing by the construction of
4 1 or more relief drains which may consist of new drains or exten=
5 sions, enlargements or connections to existing drains, or needs 1
6 or more branches added thereto, freeholders within the drainage
7 district equal to 50% of the number of freeholders whose lands
8 are traversed by said drain or drains in said petition or abut on
9 any highway or street along either side of which such drain
10 extends, between the point where said drain enters such highway
11 and the point where it leaves such highway or street and which
12 lands are within the drainage district, may make a petition in
13 writing to the commissioner of any county having lands in such
14 district setting forth the necessity of such proposed work.
15 Whenever it is necessary for the public health of 1 or more
16 cities, villages or townships, the petition may be signed solely
17 by a city, village or township when duly authorized by its gov=
18 erning body or by any combination of such municipalities if the
19 municipality or municipalities will be liable to assessments at
20 large for a percentage of the total amount to be assessed for the
21 cost of the proposed work. The percentage of cost apportioned to
22 the municipality or municipalities shall be based upon the bene=
23 fits to accrue to such municipality or municipalities and also
24 the extent to which they contribute to the conditions which makes
25 the drain necessary. Upon receipt of such petition, the commis=
26 sioner shall notify the state director of agriculture and the
27 commissioners of each county embracing any lands in the drainage~~

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

~~17 (A) THE DRAIN OR PORTION OF THE DRAIN MAY BE MAINTAINED OR
18 IMPROVED.~~

~~19 (B) MEASURES MAY BE UNDERTAKEN THAT ARE INTENDED BOTH TO
20 ENHANCE OR IMPROVE NATURAL RESOURCE VALUES OF THE DRAIN AND TO
21 PROVIDE BENEFIT TO THE DESIGNED FUNCTION, LONGEVITY, OR HYDRAULIC
22 CAPACITY OF THE DRAIN.~~

~~23 (C) CONSISTENT WITH PART 315 OF THE NATURAL RESOURCES AND
24 ENVIRONMENTAL PROTECTION ACT, 1994 PA 451, MCL 324.31501 TO
25 324.31529, A DAM OR STRUCTURE IN OR ADJACENT TO THE DRAIN MAY BE
26 CONSTRUCTED, OPERATED, AND MAINTAINED TO CONTROL THE RATE OF FLOW
27 THROUGH OR INTO THE DRAIN, OR THE LEVEL OF WATER, OR THE AMOUNT~~

1 OF SEEPAGE, OR TO PROVIDE FOR REMOVAL OF DRAINAGE BY PUMPING AND
2 OTHER MECHANICAL OPERATIONS. A PETITION FOR SUCH A DAM OR STRUC-
3 TURE SHALL STATE THAT THE IMPROVEMENT IS NECESSARY TO DRAIN, PRO-
4 TECT, OR IRRIGATE LAND. THE PETITION MAY STATE THE DESIRED LOCA-
5 TION OF THE DAM OR STRUCTURE, THE PROPOSED METHOD OF OPERATION
6 AND OUTLET, AND HOW HISTORICAL DRAINAGE IS TO BE MAINTAINED.

7 (D) A DRAINAGE DISTRICT MAY BE CONSOLIDATED WITH ANY ESTAB-
8 LISHED DRAINAGE DISTRICT OR HAVE LANDS ADDED OR DELETED. THE
9 CONSOLIDATION, ADDITION, OR DELETION SHALL OTHERWISE COMPLY WITH
10 SECTION 277A RELATIVE TO DISPOSITION OF FUNDS AND PAYMENT OF OUT-
11 STANDING DEBT. THE LANDOWNERS OF ANY LANDS BEING PETITIONED FOR
12 CONSOLIDATION, ADDITION, OR DELETION AND THE PUBLIC CORPORATIONS
13 IN WHICH THOSE LANDS ARE LOCATED SHALL BE GIVEN NOTICE OF THE
14 PROPOSED CONSOLIDATION, ADDITION, OR DELETION.

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

19 (3) THE PETITION SHALL BE SIGNED BY 5 LANDOWNERS IN THE
20 DRAINAGE DISTRICT WHOSE LANDS WOULD BE LIABLE TO ASSESSMENT FOR
21 BENEFITS OR AT LEAST 50% OF THE LANDOWNERS IF THERE ARE LESS THAN
22 5 LANDOWNERS WHOSE LANDS WOULD BE LIABLE FOR ASSESSMENT OR SHALL
23 BE SIGNED BY LANDOWNERS REPRESENTING 25% OF THE LAND AREA LIABLE
24 FOR ASSESSMENT. THE PETITION SHALL BE ACCOMPANIED BY A DESCRIP-
25 TION OR TAX PARCEL CODE OF THE LAND IN THE DISTRICT OWNED BY EACH
26 SIGNER AND BY A CERTIFICATE OF THE COUNTY TREASURER OF THE COUNTY
27 WHERE THAT LAND IS LOCATED AS TO PAYMENT OF TAXES AND SPECIAL

1 ASSESSMENTS AGAINST THE LAND IN A FORM DESCRIBED IN SECTION 101.
2 THE NAME OF ANY SIGNER AS TO WHOSE LAND A CERTIFICATE SHOWS TAXES
3 OR ASSESSMENTS UNPAID FOR 3 YEARS SHALL NOT BE COUNTED. THE
4 DRAIN COMMISSIONER SHALL DETERMINE THE ELIGIBILITY OF THE SIGNERS
5 TO THE PETITION BASED ON THEIR STATUS AS LANDOWNERS WHEN THE
6 PETITION WAS FILED. INSTEAD OF BEING SIGNED BY LANDOWNERS, A
7 PETITION MAY BE SIGNED AS PROVIDED IN SECTION 14 ON BEHALF OF AT
8 LEAST 1 PUBLIC CORPORATION, IF THE DRAIN PROJECT IS NECESSARY FOR
9 THE PUBLIC HEALTH IN THE PUBLIC CORPORATION, AND IF THE PUBLIC
10 CORPORATION WILL BE LIABLE FOR AN ASSESSMENT AT LARGE AGAINST IT
11 FOR A PERCENTAGE OF THE COST OF THE PROPOSED DRAIN.

12 (4) FOR PURPOSES OF NOTICE UNDER SECTION 8, THE DRAINAGE
13 BOARD SHALL EVALUATE THE DRAINAGE DISTRICT BOUNDARIES AND IDEN-
14 TIFY ANY ADDITIONAL LANDOWNERS WHO MAY BE SUBJECT TO ASSESSMENTS
15 FOR THE DRAIN PROJECT. PROCEEDINGS SHALL OTHERWISE BE CONDUCTED
16 IN THE SAME MANNER AS PROVIDED IN SECTIONS 102 TO 113. THE
17 DETERMINATION OF NECESSITY SHALL BE FOR THE ACTIVITIES PETITIONED
18 UNDER THIS SECTION, NOT FOR THE DRAIN OR DRAINAGE DISTRICT IN
19 GENERAL. THE APPORTIONMENT OF BENEFITS IS SUBJECT TO SECTION
20 201. AFTER THE DRAINAGE BOARD DETERMINES THE NECESSITY FOR THE
21 WORK, THE COMMISSIONER SHALL, AS SOON AS PRACTICABLE AFTER THE
22 FINAL ORDER OF DETERMINATION PRESCRIBED IN SECTION 151 IS FILED,
23 PROCEED AS PROVIDED IN SECTIONS 151 TO 161. IF THE APPORTIONMENT
24 IS THE SAME AS THE LAST RECORDED APPORTIONMENTS, NO DAY OF REVIEW
25 IS NECESSARY, BUT IN OTHER CASES THE COMMISSIONER SHALL PROCEED
26 AS PROVIDED IN SECTIONS 151 TO 161, INCLUDING THE NOTICE OF AND
27 THE HOLDING OF A DAY OF REVIEW.

1 (5) IF THE PROPOSED DRAIN IS LOCATED IN A WATERSHED
2 MANAGEMENT DISTRICT FOR WHICH A WATERSHED MANAGEMENT PLAN HAS
3 BEEN ADOPTED UNDER SECTION 595, THE DRAINAGE BOARD SHALL UNDER-
4 TAKE THE ACTIVITIES PETITIONED UNDER THIS SECTION CONSISTENT WITH
5 THE WATERSHED MANAGEMENT PLAN.

6 Sec. 199. (1) ~~In case the necessity for cleaning out any~~
7 ~~drain arises from the act or neglect of any land owner, said act~~
8 ~~or neglect shall be taken into consideration by the commissioner~~
9 ~~in making the apportionment. In case the cost of cleaning out~~
10 ~~shall be lessened by the tiling of the source of the drain under~~
11 ~~section 425 of this act, the commissioner may take that into con-~~
12 ~~sideration in making the apportionment of benefits against the~~
13 ~~land so tiled, but in no case shall said benefits be considered~~
14 ~~to be less than 50% of the benefits to such land if it were not~~
15 ~~tiled. Should there be a surplus in any drain fund, the commis-~~
16 ~~sioner or drainage board, as the case may be, may, in their dis-~~
17 ~~cretion, without application or notice, pay out of such funds a~~
18 ~~reasonable compensation for cleaning out any obstruction that may~~
19 ~~accumulate in the particular drain for which the fund was~~
20 ~~raised.~~ AN ANNUAL INSPECTION MAY BE MADE OF A DRAIN ESTABLISHED
21 UNDER THIS ACT. INSPECTION SHALL BE MADE ON A DRAIN LAID OUT AND
22 CONSTRUCTED UNDER THIS ACT UPON THE REQUEST OF THE GOVERNING BODY
23 OF A PUBLIC CORPORATION SERVED IN WHOLE OR IN PART BY THE DRAIN
24 TO BE INSPECTED. FOR A DRAIN CONSTRUCTED, IMPROVED, OR RESTORED
25 TO THE LAST ESTABLISHED DEPTH BOTTOM WIDTH AND GRADE AFTER THE
26 EFFECTIVE DATE OF THE 2000 AMENDATORY ACT THAT AMENDED THIS

1 SECTION, AN INSPECTION AND REPORT SHALL BE MADE AT LEAST EVERY 3
2 YEARS FROM THE DATE OF THE COMPLETION OF THE CONSTRUCTION.

3 (2) WITHIN 2 YEARS AFTER THE EFFECTIVE DATE OF THE 2000
4 AMENDATORY ACT THAT AMENDED THIS SECTION, IF A DRAIN COMMISSIONER
5 OR DRAINAGE BOARD DETERMINES THAT A DRAIN SUBSTANTIALLY CONFORMS
6 TO ITS LAST ESTABLISHED DEPTH, BOTTOM WIDTH, AND GRADE, THE DRAIN
7 COMMISSIONER OR DRAINAGE BOARD MAY ENTER AN ORDER THAT AN INSPEC-
8 TION AND REPORT ON THE DRAIN SHALL BE MADE AT LEAST EVERY 3 YEARS
9 FROM THE DATE OF THE ORDER. NOTICE OF THE ORDER SHALL BE GIVEN
10 IN THE MANNER PROVIDED IN SECTION 8 AND SHALL EXPLAIN THAT THE
11 DRAIN WILL BE REGULARLY INSPECTED AND MAINTAINED AND THAT LAND-
12 OWNERS MAY BE SUBJECT TO ASSESSMENTS FOR DRAIN MAINTENANCE.

13 (3) FOR COUNTY DRAINS, THE INSPECTION SHALL BE MADE BY THE
14 DRAIN COMMISSIONER, OR A COMPETENT PERSON APPOINTED BY THE DRAIN
15 COMMISSIONER. FOR INTERCOUNTY DRAINS, THE INSPECTION SHALL BE
16 CAUSED TO BE MADE BY THE DRAINAGE BOARD. THE FAILURE TO INSPECT
17 AS REQUIRED BY THIS SECTION DOES NOT CREATE A DEFECT INVALIDATING
18 THE DRAIN OR AN ASSESSMENT.

19 (4) IF THE DRAIN COMMISSIONER OR DRAINAGE BOARD DETERMINES
20 BASED ON THE INSPECTION REPORT THAT MAINTENANCE IS NECESSARY ON
21 THE DRAIN, THE DRAIN COMMISSIONER OR DRAINAGE BOARD SHALL PERFORM
22 MAINTENANCE IN A TIMELY MANNER. IF THE DRAIN COMMISSIONER OR
23 DRAINAGE BOARD DETERMINES BASED ON THE INSPECTION REPORT THAT
24 DETERIORATED STRUCTURES MAY HAVE DIMINISHED THE CAPACITY OF THE
25 DRAIN OR BECOME UNSTABLE OR UNSAFE, THE DRAIN COMMISSIONER OR
26 DRAINAGE BOARD SHALL RETAIN A COMPETENT ENGINEER TO EVALUATE THE

1 DETERIORATION AND MAKE RECOMMENDATIONS CONCERNING MAINTENANCE OR
2 REPLACEMENT OF THE STRUCTURES.

3 (5) IF AT ANY TIME THE DRAIN FUND OF A DRAINAGE DISTRICT
4 CONTAINS LESS THAN \$5,000.00 PER MILE OR FRACTION OF A MILE OF A
5 DRAIN, THE DRAIN COMMISSIONER OR DRAINAGE BOARD MAY ASSESS THE
6 DRAINAGE DISTRICT FOR AN AMOUNT NOT TO EXCEED \$2,500.00 PER MILE
7 OR FRACTION OF A MILE IN ANY 1 YEAR BASED ON APPORTIONMENTS AS
8 DESCRIBED IN SECTION 201. THE AMOUNT COLLECTED UNDER AN ASSESS-
9 MENT SHALL BE DEPOSITED IN THE DRAIN FUND OF A DRAINAGE DISTRICT
10 FOR NECESSARY INSPECTION, REPAIR, AND MAINTENANCE OF THE DRAIN.

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

21 (7) IF THE DRAIN COMMISSIONER OR THE DRAINAGE BOARD FINDS IT
22 NECESSARY TO EXPEND FUNDS IN EXCESS OF \$5,000.00 PER MILE OR PER
23 FRACTION OF A MILE, IN ANY 1 YEAR FOR THE MAINTENANCE OR REPAIR
24 OF A DRAIN, THE ADDITIONAL AMOUNTS SHALL NOT BE EXPENDED UNTIL 1
25 OF THE FOLLOWING IS SATISFIED:

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

4 (B) IF NO PUBLIC CORPORATION IS AFFECTED BY MORE THAN 20% OF
5 THE COST OF THE MAINTENANCE, THE DRAIN COMMISSIONER OR DRAINAGE
6 BOARD GIVES NOTICE OF THE MAINTENANCE TO BE PERFORMED AND THE
7 ESTIMATED COST TO THE PERSONS LIABLE FOR ASSESSMENTS FOR THE
8 DRAIN.

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

12 (8) IN DETERMINING WHETHER OR NOT A PUBLIC CORPORATION IS
13 AFFECTED BY MORE THAN 20% OF THE COST, THE DRAIN COMMISSIONER OR
14 DRAINAGE BOARD SHALL CONSIDER THE TOTAL OF THE AT LARGE PERCENT-
15 TAGES OF THE APPORTIONMENT TOGETHER WITH THE TOTAL PERCENTAGE OF
16 LAND APPORTIONED.

17 (9) IF THE DRAIN FUND OF A DRAINAGE DISTRICT DOES NOT CON-
18 TAIN SUFFICIENT FUNDS, OR THE DISTRICT IS OBLIGATED TO REPAY OUT-
19 STANDING INDEBTEDNESS TO PAY FOR INSPECTION, REPAIR, AND MAINTENANCE,
20 THE DRAIN COMMISSIONER OR DRAINAGE BOARD SHALL ASSESS THE
21 DRAINAGE DISTRICT ACCORDING TO BENEFITS RECEIVED. A REASSESSMENT
22 SHALL BE MADE AND SPREAD UPON THE CITY OR TOWNSHIP TAX ASSESSMENT
23 ROLLS WITHIN 3 YEARS AFTER THE COMPLETION OF THE INSPECTION,
24 REPAIR, AND MAINTENANCE. IF THE TOTAL ESTIMATED EXPENDITURE WILL
25 EXCEED \$5,000.00 PER MILE OR A FRACTION OF A MILE, ALL LANDOWNERS
26 AND PUBLIC CORPORATIONS WITHIN THE DISTRICT OR ABUTTING THE DRAIN
27 SHALL RECEIVE NOTICE FOR THE NATURE AND TYPE OF MAINTENANCE TO BE

1 CONDUCTED BEFORE THE COMMENCEMENT OF WORK BY FIRST-CLASS MAIL AND
2 BY PUBLICATION IN A NEWSPAPER OF GENERAL CIRCULATION. AN AFFIDA-
3 VIT OF MAILING SHALL BE MADE BY THE DRAIN COMMISSIONER OR DRAIN-
4 AGE BOARD. THE AFFIDAVIT IS CONCLUSIVE PROOF THAT THE NOTICES
5 REQUIRED BY THIS SUBSECTION WERE MAILED. THE FAILURE TO RECEIVE
6 NOTICES BY MAIL SHALL NOT CONSTITUTE A JURISDICTIONAL DEFECT
7 INVALIDATING A SPECIAL ASSESSMENT IF NOTICE BY PUBLICATION WAS
8 GIVEN AS REQUIRED BY THIS SUBSECTION.

9 (10) AN ASSESSMENT FOR THE ACTUAL COST OF INSPECTION,
10 REPAIR, AND MAINTENANCE PERFORMED ON A DRAIN, OR AN ASSESSMENT TO
11 BE DEPOSITED IN THE DRAIN FUND OF A DRAINAGE DISTRICT, SHALL BE
12 MADE ACCORDING TO BENEFITS RECEIVED.

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

22 (12) IN COMPUTING AMOUNTS UNDER THIS SECTION, THE COST OF
23 WORK TO BE PERFORMED BY A FEDERAL AGENCY OR PUBLIC CORPORATION
24 THAT IS NOT CHARGEABLE TO THE COUNTY OR INTERCOUNTY DRAINAGE DIS-
25 TRICT SHALL NOT BE INCLUDED, NOR SHALL IT BE NECESSARY FOR THE
26 DRAIN COMMISSIONER OR THE DRAINAGE BOARD TO ADVERTISE FOR BIDS
27 FOR THAT PORTION OF THE WORK TO BE DONE BY THE FEDERAL AGENCY OR

1 PUBLIC CORPORATION. INSPECTION, ENGINEERING, LEGAL, OR
2 CONSULTANT FEES SHALL NOT BE INCLUDED IN AMOUNTS COMPUTED UNDER
3 THIS SECTION.

4 (13) FOR PURPOSES OF THIS ACT, THE COSTS OF MAINTENANCE
5 ASSESSABLE AGAINST A DRAINAGE DISTRICT INCLUDE ALL OF THE
6 FOLLOWING:

7 (A) THE COSTS INCURRED BY THE DRAIN COMMISSIONER OR DRAINAGE
8 BOARD FOR INSPECTION OR PROFESSIONAL CONSULTATION FEES AND CON-
9 TRACTUAL SERVICES.

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

12 (C) ALL OTHER COSTS ASSOCIATED WITH MAINTENANCE OF THE
13 DRAIN.

14 (14) THE DRAIN COMMISSIONER OR DRAINAGE BOARD MAY ENTER INTO
15 A WRITTEN AGREEMENT WITH A LANDOWNER TO ENTER UPON PROPERTY FOR
16 PURPOSES OF REMOVING AN OBSTRUCTION IN A WATERCOURSE THAT IS NOT
17 AN ESTABLISHED COUNTY OR INTERCOUNTY DRAIN, IF THE WATERCOURSE IS
18 AN OUTLET OF A COUNTY OR INTERCOUNTY DRAIN. THE COSTS ATTENDANT
19 TO THE ACCESS OF PROPERTY AND REMOVAL OF THE OBSTRUCTION MAY BE
20 ASSESSED AGAINST THE DRAINAGE DISTRICT.

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

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

3 (16) 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,~~

~~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, CONVENIENCE, OR WELFARE, THE BOARD OF DETERMINATION SHALL

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~~

~~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~~

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

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

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

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.

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

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 siders 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

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

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~~

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~~

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

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

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

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~~

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

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

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.

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

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

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

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

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, or welfare, and that all the steps
 9 required by law have been substantially complied with, notwith-
 10 standing the record required to be kept by the commissioner OR
 11 DRAINAGE BOARD. ~~In case~~ IF substantial error is found AFTER
 12 HEARING PROOF OF BOTH SIDES, the court may correct any gross
 13 injustice in the award of damages, or assessment of benefits.
 14 ~~as may appear after hearing the proofs and allegations of both~~
 15 ~~sides and~~ THE COURT shall make such AN order ~~in the premises as~~
 16 ~~shall be~~ just and equitable, and may order ~~that such tax or~~
 17 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~~

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

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.~~

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

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~~

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

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.

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

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

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

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

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,~~

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

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.~~

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

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 ~~intra-county~~ 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

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.

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 MAY return TO THE STATE TRANS-
 5 PORTATION DEPARTMENT, on a pro rata basis, surplus construction
 6 funds in excess of the amount CONSIDERED necessary BY THE DRAIN
 7 COMMISSIONER OR DRAINAGE BOARD to pay for inspection, repair, and
 8 maintenance of the drain as provided in section 199. ~~196 to the~~
 9 ~~state transportation department for the construction, mainte-~~
 10 ~~nance, 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~~

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

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~~

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 PERCENTAGE
10 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

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

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

15 (4) As part of ~~such~~ THE drain, there shall be constructed
16 at least 1 bridge or culvert across such drain connecting the
17 ~~highway (except~~ 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

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

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

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

18 Sec. 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

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~~ IF an
12 apportionment is made against a state trunk line highway, the
13 amount of the assessment based on such apportionment shall be
14 paid out of any state ~~trunk line highway~~ TRANSPORTATION funds
15 on hand. ~~in the state treasury. On or before December 1 of the~~
16 ~~year when such assessment is made, the drain commissioner shall~~
17 ~~certify to the auditor general the amount due from the state to~~
18 ~~such drainage district by reason of the assessment of benefits,~~
19 ~~and the auditor general shall, if satisfied of the correctness of~~
20 ~~such certificate, cause the same to be paid within 30 days~~
21 ~~thereafter.~~

22 ~~When a ditch or drain has been constructed prior to 1923~~
23 ~~primarily for drainage of private lands, and constructed along a~~
24 ~~public highway, and the records including the original survey of~~
25 ~~such drain are not of public record nor turned over to the county~~
26 ~~drain commissioner, or have not been entered in the records of~~
27 ~~the county drain commissioner as a county drain, then the actual~~

~~1 location of such drain shall be sufficient to make such drain
2 comply with the provisions of this act with respect to the loca-
3 tion thereof, and such drain shall be a county drain upon compli-
4 ance with the other provisions of this act with respect to county
5 drains. No proceedings shall be instituted for the widening of
6 such drain or the deepening thereof below its original bottom.~~

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

17 (2) The county road commission shall secure the right-of-way
18 for ~~any such~~ THE drain by gift or purchase from the owners of
19 the land to be crossed by ~~such~~ THE drain. ~~; but in case of~~
20 ~~purchase the~~ A purchase price must be approved by the township
21 board whenever township funds are involved, before any ~~money be~~
22 ~~paid thereon~~ PAYMENT IS MADE. ~~Such~~ THE right-of-way shall be
23 acquired by deed duly executed by the owner or owners of the
24 lands ~~sought~~ to be crossed by the ~~said~~ drain, and shall be
25 taken in the name of the township ~~wherein the same~~ WHERE
26 RIGHT-OF-WAY is located. ~~, and~~ THE DEED SHALL BE filed in the
27 office of the register of deeds of the county before any

1 ~~highway~~ COUNTY ROAD money shall be expended in opening ~~such~~
2 THE drain outside the ~~highway~~ COUNTY ROAD limits.

3 ~~Before the township board approves the purchase price of~~
4 ~~any drain right-of-way under this section, the county road com-~~
5 ~~mission shall submit to the board for its approval details of the~~
6 ~~proposed drain, with specifications that the drain shall be con-~~
7 ~~structed in accordance with good health and sanitation standards~~
8 ~~and in such a manner as not to constitute a hazard to health or~~
9 ~~safety and that in construction of the drain the township board~~
10 ~~shall approve the use of the land upon which the drain is to be~~
11 ~~located.~~

12 Sec. 326. On the completion by the county road commission
13 of ~~any~~ A drain, ~~constructed under the provisions of this act,~~
14 ~~it shall be the duty of said~~ THE county road commission ~~to~~
15 SHALL file in the office of the drain commissioner a detailed
16 report of the construction of ~~such~~ THE drain, giving the date
17 of construction, the termini and general course ~~thereof,~~
18 ~~together with~~ OF THE DRAIN, AND a copy of the deed by which the
19 right-of-way therefor was secured. ~~Nothing in the provisions of~~
20 ~~the preceding sections shall be construed as giving to~~ THIS
21 CHAPTER DOES NOT GIVE the county road commission power to ~~lay~~
22 ~~out and~~ construct drains having any other purpose than the
23 drainage of ~~highways~~ COUNTY ROADS.

24 Sec. 327. (1) ~~In case it becomes~~ IF IT IS necessary for
25 the construction or maintenance of ~~any highway~~ A ROADWAY to
26 take the surplus water across adjacent lands, the ~~state, county~~
27 ~~or township highway commissioner or county road commissioners may~~

~~1 make under his or their name of office an application or petition
2 to the drain commissioner of the county in which such highway is
3 situated to lay out and designate a drainage district, locate and
4 establish a drain, clean out, widen, deepen, straighten or extend
5 an established drain. Such application or petition shall conform
6 to the law regulating applications or petitions for the laying
7 out and designating a drainage district, locating and establish-
8 ing of drains, and cleaning out, widening, deepening, straighten-
9 ing and extending established drains, and shall require no other
10 signature than his own as highway commissioner or county road
11 commissioners. Such application or petition shall have the same
12 force and effect, and be subject in other respects to the same
13 laws and regulations that govern other such applications or peti-
14 tions and shall confer the same jurisdiction and authority on the
15 county drain commissioner to lay out and designate a drainage
16 district, locate and establish a drain, or clean out, widen,
17 deepen, straighten or extend an established drain: Provided,
18 That in cases where the state highway commissioner makes such
19 application or petition he shall serve a copy of such application
20 or petition on the director of agriculture, who shall within 30
21 days hold a meeting at some place in the drainage district for
22 the purpose of determining the practicability or necessity of
23 such drain, and no board of determination shall be necessary to
24 pass on those questions. Said meeting shall be held, notice
25 given and all persons interested may be heard in the same manner
26 as provided in section 102 or section 122 of this act. The
27 determination of the director of agriculture shall be filed with~~

1 ~~the drain commissioner.~~ ROADWAY AUTHORITY MAY FILE A PETITION
2 WITH THE DRAIN COMMISSIONER OF THE COUNTY IN WHICH THE ROADWAY IS
3 SITUATED TO ESTABLISH A DRAINAGE DISTRICT AND A COUNTY OR INTER-
4 COUNTY DRAIN OR TO MAINTAIN OR IMPROVE A DRAIN. EXCEPT AS PRO-
5 VIDED IN SUBSECTIONS (2) AND (3), THE PETITION AND PROCEEDINGS
6 ARE SUBJECT TO CHAPTER 3, 5, OR 8, AS APPLICABLE, AND OTHER PRO-
7 VISIONS OF THIS ACT.

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

10 (3) IF THE PETITIONING ROADWAY AUTHORITY IS THE STATE TRANS-
11 PORTATION COMMISSION, ALL OF THE FOLLOWING APPLY:

12 (A) IN ADDITION TO FILING THE PETITION WITH THE DRAIN COM-
13 MISSIONER OF THE COUNTY IN WHICH THE ROADWAY IS LOCATED, THE
14 STATE TRANSPORTATION COMMISSION SHALL PROMPTLY SERVE A COPY OF
15 THE PETITION ON THE DIRECTOR OF AGRICULTURE.

16 (B) THE DIRECTOR OF AGRICULTURE SHALL EXERCISE THE POWERS
17 AND DUTIES OF THE BOARD OF DETERMINATION, FOR A COUNTY DRAIN, OR
18 THE DRAINAGE BOARD, FOR AN INTERCOUNTY DRAIN, UP TO AND INCLUDING
19 THE FILING OF THE ORDER OF NECESSITY. THE DIRECTOR OF AGRICUL-
20 TURE SHALL CONDUCT THE FIRST HEARING UNDER CHAPTER 3, 5, OR 8, AS
21 APPLICABLE, NOT LATER THAN 63 DAYS AFTER THE STATE TRANSPORTATION
22 COMMISSION SERVES THE COPY OF THE PETITION ON THE DIRECTOR OF
23 AGRICULTURE.

24 Sec. 328. ~~Before the department of state highways may com-~~
25 ~~mence the construction of a state highway, the engineering plans~~
26 ~~of the state highway relative to county drains shall be forwarded~~
27 ~~to the drain commissioner of each county where the state highway~~

~~1 is to be constructed.~~ BEFORE A PERSON LAYS OR CONSTRUCTS A
2 CABLE, PIPELINE, SEWER, CONDUIT, ROADWAY, CULVERT, BRIDGE, OR
3 OTHER STRUCTURE ACROSS A COUNTY OR INTERCOUNTY DRAIN, THE PERSON
4 SHALL FORWARD RELEVANT ENGINEERING PLANS TO THE DRAIN COMMIS-
5 SIONER OR DRAINAGE BOARD, RESPECTIVELY, FOR REVIEW AND WRITTEN
6 APPROVAL UPON TERMS AND CONDITIONS THAT ARE REASONABLE AND PROPER
7 TO PREVENT INTERFERENCE WITH THE DRAIN.

8 SEC. 329. IF THE ROADWAY AUTHORITY REQUESTS OR ORDERS THAT
9 AN EXISTING LEGALLY ESTABLISHED DRAIN WITHIN THE RIGHT-OF-WAY OF
10 THE ROADWAY BE RELOCATED OUTSIDE THE ROADWAY RIGHT-OF-WAY, THE
11 COST OF RELOCATING THE DRAIN SHALL BE BORNE BY THE ROADWAY
12 AUTHORITY.

13 SEC. 330. (1) IF IT IS NECESSARY TO ESTABLISH, CONSTRUCT,
14 MAINTAIN, OR IMPROVE A DRAIN ACROSS THE RIGHT-OF-WAY OR ROADBED
15 OF ANY RAILROAD OR RAILWAY COMPANY, TELEPHONE OR TELEGRAPH COM-
16 PANY, OR DAM, ELECTRIC, CABLE, WATER, OIL, GAS, PIPELINE, OR
17 OTHER UTILITY COMPANY, THE DRAIN COMMISSIONER OR DRAINAGE BOARD
18 SHALL GIVE NOTICE OF THE NECESSITY TO CROSS THE RIGHT-OF-WAY OR
19 ROADBED. NOTICE SHALL BE PROVIDED BY FIRST-CLASS MAIL TO THE
20 GENERAL OFFICE OF THE COMPANY OR THE OFFICE OF THE REGISTERED
21 AGENT OF THE COMPANY. THE NOTICE SHALL INCLUDE THE LOCATION OF
22 THE PROPOSED CROSSING, THE NAME OF THE DRAIN, THE PLANS AND SPEC-
23 IFICATIONS FOR THE CROSSING AND FOR THE METHOD OF CONSTRUCTING
24 THE CROSSING, AND A SCHEDULE FOR CONSTRUCTING THE CROSSING. THE
25 NOTICE SHALL ALSO INCLUDE A STATEMENT THAT THE COMPANY HAS 42
26 DAYS WITHIN WHICH TO OBJECT TO THE PROPOSED PLAN AND FAILURE TO
27 DO SO MAY RESULT IN A WAIVER OF ANY OBJECTIONS.

1 (2) WITHIN 42 DAYS AFTER RECEIPT OF THE NOTICE, THE COMPANY
2 SHALL DELIVER TO THE DRAIN COMMISSIONER OR DRAINAGE BOARD BY
3 FIRST-CLASS MAIL NOTICE WHETHER IT APPROVES OR OBJECTS TO THE
4 LOCATION OF THE CROSSING AND THE PLANS AND SPECIFICATIONS FOR THE
5 CROSSING AND FOR THE METHOD OF CONSTRUCTING THE CROSSING. THE
6 NOTICE SHALL STATE THE REASONS FOR ANY OBJECTION. IF THE COMPANY
7 APPROVES OF OR FAILS TO OBJECT TO THE CROSSING, THE DRAIN COMMIS-
8 SIONER OR DRAINAGE BOARD MAY PROCEED WITH THE CROSSING. IF THE
9 COMPANY OBJECTS TO THE CROSSING, THE DRAIN COMMISSIONER OR DRAIN-
10 AGE BOARD MAY DO 1 OF THE FOLLOWING:

11 (A) GIVE A REVISED NOTICE OF CROSSING UNDER SUBSECTION (1).
12 THE REVISED NOTICE OF CROSSING SHALL BE DESIGNED TO RESOLVE 1 OR
13 MORE OF THE REASONS FOR OBJECTION OF THE ORIGINAL NOTICE OF
14 CROSSING. THE REVISED NOTICE OF CROSSING IS SUBJECT TO THE SAME
15 REQUIREMENTS AND PROCEDURES AS THE ORIGINAL NOTICE OF CROSSING
16 UNDER THIS SECTION.

17 (B) SUBMIT THE DISPUTE TO BINDING ARBITRATION BY A MEMBER OF
18 THE AMERICAN ARBITRATION ASSOCIATION OR ITS SUCCESSOR UNDER THE
19 COMMERCIAL ARBITRATION RULES OF THE AMERICAN ARBITRATION ASSOCIA-
20 TION OR ITS SUCCESSOR. THE ARBITRATOR MAY AWARD ATTORNEY FEES OR
21 ARBITRATION FEES TO THE PREVAILING PARTY. AT THE REQUEST OF
22 EITHER PARTY, THE DECISION OF THE ARBITRATOR MAY BE ENTERED IN
23 AND ENFORCED BY THE CIRCUIT COURT OF THE COUNTY IN WHICH THE
24 CROSSING IS PROPOSED.

25 (C) PETITION THE CIRCUIT COURT OF THE COUNTY IN WHICH THE
26 CROSSING IS PROPOSED TO BE LOCATED TO ORDER THE COMPANY TO ALLOW
27 THE DRAIN COMMISSIONER OR DRAINAGE BOARD TO CONSTRUCT THE

1 CROSSING. THE CIRCUIT COURT SHALL, IF IT FINDS THAT THERE IS A
 2 LEGAL RIGHT TO THE CROSSING, ISSUE A WRIT OF MANDAMUS ORDERING
 3 THE COMPANY TO ALLOW THE DRAIN COMMISSIONER OR DRAINAGE BOARD TO
 4 CONSTRUCT THE CROSSING. THE DRAIN COMMISSIONER OR DRAINAGE BOARD
 5 SHALL GIVE THE COMPANY AT LEAST 14 DAYS' NOTICE OF THE PETITION
 6 TO THE CIRCUIT COURT AND THE PROCEEDINGS SHALL FOLLOW THE PRAC-
 7 TICE OF CIRCUIT COURTS IN MANDAMUS PROCEEDINGS. THE MATTER SHALL
 8 BE HEARD AND DETERMINED AS SPEEDILY AS PRACTICABLE. THE COURT
 9 MAY AWARD COSTS AND ATTORNEY FEES TO THE PREVAILING PARTY.

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~~ OR welfare may be
 21 declared to be abandoned and vacated in the manner ~~herein~~ pro-
 22 vided 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

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

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

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

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

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

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, OR PARKS AND RECREATION COMMISSION,
11 THAT WILL EXERCISE JURISDICTION OVER THE DRAIN OR PART OF THE
12 DRAIN.

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

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

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

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

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

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

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

CHAPTER 18 —

OBSTRUCTIONS IN DRAINS; SEWAGE; MISCELLANEOUS PROVISIONS —

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

24 (2) BY FIRST-CLASS MAIL OR PERSONAL SERVICE, THE DRAIN
25 COMMISSIONER OR DRAINAGE BOARD SHALL GIVE THE PERSON CAUSING OR

1 PERMITTING THE OBSTRUCTION A WRITTEN NOTICE TO REMOVE OR MODIFY
2 THE OBSTRUCTION. BEGINNING 14 DAYS AFTER THE NOTICE IS DELIVERED
3 TO THE PERSON, IF THE PERSON HAS NOT SO REMOVED OR MODIFIED THE
4 OBSTRUCTION OR MADE ARRANGEMENTS SATISFACTORY TO THE DRAIN COM-
5 MISSIONER OR DRAINAGE BOARD FOR REMOVAL OR MODIFICATION OF THE
6 OBSTRUCTION, THE DRAIN COMMISSIONER OR DRAINAGE BOARD MAY CAUSE
7 THE OBSTRUCTION TO BE REMOVED OR MODIFIED.

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

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

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

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

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

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

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

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

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

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

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

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

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

1 DISTRICT TO REMOVE OR MODIFY AN OBSTRUCTION IN A NATURAL
2 WATERCOURSE THAT SERVES AS AN OUTLET FOR A COUNTY OR INTERCOUNTY
3 DRAIN BUT THAT IS NOT ITSELF A DRAIN. THE ENTRY SHALL BE MADE
4 PURSUANT TO A WRITTEN AGREEMENT WITH THE LANDOWNER. THE AGREE-
5 MENT SHALL SPECIFY THAT THE DRAIN COMMISSIONER OR DRAINAGE BOARD
6 SHALL RESTORE THE PROPERTY TO SUBSTANTIALLY THE SAME CONDITION AS
7 BEFORE THE ENTRY OR SHALL SPECIFY THAT THE DRAIN COMMISSIONER OR
8 DRAINAGE BOARD SHALL MAKE RESTITUTION FOR ACTUAL DAMAGE RESULTING
9 FROM THE ENTRY. THE ENTRY SHALL BE MADE UPON REASONABLE NOTICE
10 TO THE LANDOWNER AND AT A REASONABLE HOUR. THE LANDOWNER OR HIS
11 OR HER REPRESENTATIVE SHALL BE GIVEN A REASONABLE OPPORTUNITY TO
12 ACCOMPANY THE DRAIN COMMISSIONER OR DRAINAGE BOARD OR THEIR
13 AGENTS OR EMPLOYEES DURING THE ENTRY UPON THE PROPERTY.

14 (2) IF ENTRY UNDER SUBSECTION (1) HAS BEEN DENIED, THE DRAIN
15 COMMISSIONER OR DRAINAGE BOARD MAY COMMENCE A CIVIL ACTION IN THE
16 CIRCUIT COURT IN THE COUNTY IN WHICH THE PROPERTY OR ANY PART OF
17 THE PROPERTY IS LOCATED FOR AN ORDER PERMITTING ENTRY. THE COM-
18 PLAINTEE SHALL STATE THE FACTS MAKING THE ENTRY NECESSARY, THE DATE
19 ON WHICH ENTRY IS SOUGHT, AND THE DURATION AND THE METHOD PRO-
20 POSED FOR PROTECTING THE DEFENDANT AGAINST DAMAGE. THE COURT MAY
21 GRANT A LIMITED LICENSE FOR ENTRY UPON SUCH TERMS AS JUSTICE AND
22 EQUITY REQUIRE, INCLUDING THE FOLLOWING:

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

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

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

1 (3) AN ENTRY MADE PURSUANT TO THIS SECTION SHALL BE MADE IN
2 A MANNER THAT MINIMIZES ANY DAMAGE TO THE PROPERTY AND ANY
3 HARDSHIP, BURDEN, OR DAMAGE TO A PERSON IN LAWFUL POSSESSION OF
4 THE PROPERTY.

5 (4) THE REMOVAL OR MODIFICATION OF AN OBSTRUCTION UNDER THIS
6 SECTION IS SUBJECT TO THE EXPENDITURE LIMITS AND OTHER PROCEDURES
7 FOR NECESSARY MAINTENANCE OR REPAIR OF A DRAIN UNDER SECTION
8 199. IN ADDITION, THE DRAIN COMMISSIONER OR DRAINAGE BOARD SHALL
9 OBTAIN ANY PERMITS FOR THE REMOVAL OR MODIFICATION REQUIRED UNDER
10 STATE OR FEDERAL LAW.

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

26 (2) Disposal plants, filtration beds, and other mechanical
27 devices to properly purify the flow of ~~any~~ A drain may be

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

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

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

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

1 persons, the drain commissioner OR DRAINAGE BOARD shall proceed
2 as provided in ~~chapters 8 and 9~~ CHAPTER 8, using the order of
3 determination as the first order of determination.

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

25 (6) ~~(5)~~ Land may be acquired as a site for the construc-
26 tion of such ~~plants, beds, and devices, and releases of land may~~
27 ~~be obtained in the same manner as provided in this act for other~~

1 ~~lands acquired for right of way~~ PURIFICATION FACILITIES UNDER
2 SECTION 7.

3 (7) ~~(6)~~ A person shall not connect sewage or other waste
4 to a county or intercounty drain except with the written approval
5 of the appropriate commissioner or the drainage board ~~indorsed~~
6 ENDORSED upon a written application for such service and the pay-
7 ment of a service fee of not to exceed \$50.00 for each connection
8 to a covered drain. The application shall include information
9 showing that all other local, state, and federal approvals
10 related to the sewage or waste have been obtained.

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

22 (9) ~~(8)~~ ~~Subject to the review and approval of the depart-~~
23 ~~ment of environmental quality, the~~ THE drain commissioner or
24 drainage board may study the ~~requirements of persons~~ NEED for
25 flood control or ~~drainage~~ POLLUTION CONTROL projects
26 ~~including~~ FOR THE PROTECTION OF THE PUBLIC HEALTH, SAFETY, AND
27 WELFARE. SUCH PROJECTS MAY INCLUDE sewage disposal systems,

1 storm sewers, sanitary sewers, combined sanitary and storm
 2 sewers, sewage treatment plants, ~~and all~~ OR other plants,
 3 works, instrumentalities, and properties useful ~~in connection~~
 4 ~~with~~ FOR the collection, treatment, ~~and~~ OR disposal of sewage
 5 and industrial wastes or agricultural wastes or run-off. ~~, to~~
 6 ~~abate pollution or decrease the danger of flooding. The objec-~~
 7 ~~tive of such studies shall be that sewers, drains, and sewage~~
 8 ~~disposal facilities are made available to persons situated within~~
 9 ~~the territorial limits of any drainage district or proposed~~
 10 ~~drainage district as necessary for the protection of public~~
 11 ~~health and the promotion of the general welfare.~~

12 (10) ~~(9)~~ The drainage board or drain commissioner may
 13 cooperate, negotiate, and enter into contracts with ~~other gov-~~
 14 ~~ernmental units and agencies or with any public or private corpo-~~
 15 ~~ration including the United States of America, and to take such~~
 16 ~~steps and perform such acts and execute such documents as may be~~
 17 ~~necessary to take advantage of any act of the congress of the~~
 18 ~~United States which may make available funds~~ A PRIVATE CORPORA-
 19 TION, PUBLIC CORPORATION, THE FEDERAL GOVERNMENT, OR AN AGENCY
 20 AND MAY DO WHAT IS NECESSARY TO OBTAIN FUNDS AVAILABLE UNDER FED-
 21 ERAL LAW for any of the purposes described in this section.

22 (11) ~~(10)~~ Failure to comply with any of the provisions of
 23 this section subjects the offender to the penalties described in
 24 section ~~602~~ 616. However, for each offense, a person who vio-
 25 lates subsection ~~(6)~~ (7) is guilty of a misdemeanor punishable
 26 by a fine of not more than \$25,000.00 or imprisonment for not
 27 more than ~~90~~ 93 days, or both. In addition, the person may be

1 required to pay the costs of prosecution and the costs of any
 2 emergency abatement measures taken to protect public health or
 3 the environment. Payment of a fine or costs under this subsec-
 4 tion does not relieve a person of liability for damage to natural
 5 resources or for response activity costs under the natural
 6 resources and environmental protection act, ~~Act No. 451 of the~~
 7 ~~Public Acts of 1994, being sections 324.101 to 324.90106 of the~~
 8 ~~Michigan Compiled Laws~~ 1994 PA 451, MCL 324.101 TO 324.90106.

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

12 Sec. 425. (1) ~~A landowner in the~~ ONE OR MORE LANDOWNERS
 13 IN A drainage district whose land requires additional drainage
 14 may petition the DRAIN commissioner OR DRAINAGE BOARD for permis-
 15 sion to construct an open or closed drain, or a combination
 16 thereof, to a regularly established drain, and permission shall
 17 be granted by the commissioner or drainage board ~~when~~ IF, in
 18 ~~their opinion~~ THE OPINION OF THE COMMISSIONER OR THE DRAINAGE
 19 BOARD, ~~the nature of~~ the ground to be crossed ~~will admit~~
 20 ~~thereof~~ IS SUITABLE FOR A DRAIN and the surface of the land can
 21 be restored. ~~and for~~ FOR that purpose the drain may traverse
 22 the lands of other ~~freeholders~~ LANDOWNERS in the district.
 23 Before permission may be granted by the DRAIN commissioner OR
 24 DRAINAGE BOARD, consent in writing by the owner or owners of the
 25 lands to be traversed by the proposed drain shall be obtained.
 26 THE LANDOWNER OR LANDOWNERS GRANTED PERMISSION TO CONSTRUCT THE
 27 DRAIN SHALL OBTAIN ANY PERMITS REQUIRED UNDER THE NATURAL

1 RESOURCES AND ENVIRONMENTAL PROTECTION ACT, 1994 PA 451, MCL
2 324.101 TO 324.90106, OR ANY OTHER STATE OR FEDERAL LAW.

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

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

13 (B) The entire expense ~~thereof~~ TO DESIGN AND CONSTRUCT A
14 DRAIN UNDER THIS SECTION shall be borne by the ~~petitioner,~~ and
15 ~~the construction of an open or closed drain or combination~~
16 ~~thereof shall be done at a time and in a manner as the commis-~~
17 ~~sioner or drainage board shall prescribe. When drains are con-~~
18 ~~structed, the drain entrance shall be substantially protected~~
19 ~~from driftwood and debris. An application to lay out and desig-~~
20 ~~nate a drainage district or petition to locate, establish, and~~
21 ~~construct a drain under the foregoing provisions of this section~~
22 ~~shall only require the signature of the petitioning landowner or~~
23 ~~owners, other provisions of this act notwithstanding. If permis-~~
24 ~~sion is granted to tile the source of a drain, the commissioner~~
25 ~~shall further prescribe the amount and part of the drain to be~~
26 ~~tiled and the manner of tiling.~~ PETITIONERS.

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

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

19 Sec. 429. ~~Subject~~ A COUNTY DRAIN COMMISSIONER, SUBJECT to
20 the ~~consent and~~ approval of the ~~several boards of supervisors~~
21 ~~of this state and the~~ COUNTY BOARD OF COMMISSIONERS, OR THE
22 DRAINAGE BOARD OF AN INTERCOUNTY DRAINAGE DISTRICT, SUBJECT TO
23 THE APPROVAL OF THE COUNTY boards of ~~supervisors~~ COMMISSIONERS
24 of the counties comprising THE intercounty drainage ~~districts,~~
25 the ~~several county drain commissioners and the drainage boards of~~
26 ~~intercounty drainage districts are hereby authorized to grant~~
27 ~~unto~~ DISTRICT, MAY GRANT TO the United States ~~of America~~ the

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

14 Sec. 430. (1) ~~Whenever any~~ IF A county or intercounty
15 drain is used for the transportation of sanitary sewage, the
16 county or counties within whose boundaries the drainage district
17 lies may contract under ~~the provisions of Act No. 129 of the~~
18 ~~Public Acts of 1943, as amended, being sections 123.231 to~~
19 ~~123.235 of the Compiled Laws of 1948,~~ 1943 PA 129, MCL 123.231
20 TO 123.236, or any other applicable act, for the disposal of
21 sewage therefrom, including any storm water necessarily mixed
22 therewith. ~~In such case~~ IF SUCH A CONTRACT IS ENTERED INTO,
23 the drain commissioner or the drainage board may fix and collect
24 charges to cover the cost of the treatment and disposal of sani-
25 tary sewage. ~~Such~~ THE charges shall be approved by the major-
26 ity vote of the members-elect of the COUNTY board of
27 ~~supervisors~~ COMMISSIONERS. The charges may be made to each

1 user of the services or may be made to public corporations.

2 Contracts for periods not exceeding 50 years may be made between
3 the county and public corporations to be so served, in respect to
4 sewage disposal services, when approved by the governing bodies
5 of the several parties thereto.

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

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

1 Sec. 431. (1) ~~The drain commissioner or drainage board may~~
2 ~~contract or make agreements with the federal government, includ-~~
3 ~~ing any agency thereof, whereby the federal government will pay~~
4 ~~the whole or any part of the cost of the project or will perform~~
5 ~~the whole or any part of the work connected therewith, which con-~~
6 ~~tract or agreement~~ THE DRAIN COMMISSIONER OR DRAINAGE BOARD MAY
7 CONTRACT WITH THE FEDERAL GOVERNMENT OR ANY OTHER PERSON WITH
8 RESPECT TO THE ESTABLISHMENT, CONSTRUCTION, OPERATION, IMPROVE-
9 MENT, MAINTENANCE, USE, OR SERVICES OF ANY DRAIN, OR THE PAYMENT
10 OF THE COST FOR ANY DRAIN. A CONTRACT OR AGREEMENT WITH THE FED-
11 ERAL GOVERNMENT may include any specific terms required by act of
12 congress or federal regulation, not in conflict with state law,
13 as a condition for participation on the part of the federal
14 government. ~~The drain commissioner or drainage board may con-~~
15 ~~tract or make agreements with any private corporation or with any~~
16 ~~public corporation, including any agency thereof, in respect to~~
17 ~~any matter connected with the construction, operation or mainte-~~
18 ~~nance of any flood control or drainage project or combination~~
19 ~~thereof.~~ The contract or agreement may provide that any payments
20 made or work done by ~~the~~ A public corporation shall relieve it
21 in whole or in part from assessment for the cost of the project.
22 ~~No construction~~

23 (2) CONSTRUCTION work shall NOT be undertaken by the drain
24 commissioner or drainage board until bids have been advertised
25 for and received for the performance of ~~such~~ THE work, but this
26 ~~provision shall~~ REQUIREMENT DOES not apply to work to be

1 performed solely by the federal government or a public
2 corporation at its expense.

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

1 or federal government shall promptly reimburse the drainage
 2 district for all costs of acquisition in excess of those costs
 3 directly attributable to drainage and flood control.

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

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

~~1 the drain commissioner or drainage board, upon execution of the~~
~~2 agreement,~~ THE DRAIN COMMISSIONER OR DRAINAGE BOARD MAY REQUIRE
3 A GOOD FAITH DEPOSIT OR BOND EQUAL TO the estimated cost of the
4 construction and expenses. THE AMOUNT OF THE DEPOSIT OR BOND
5 SHALL BE REFUNDED TO THE OWNER, OR THE BOND RETURNED, UPON FINAL
6 ACCEPTANCE OF THE WORK BY THE DRAIN COMMISSIONER OR DRAINAGE
7 BOARD.

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

16 (A) THAT the lands to be added naturally drain into the area
17 served by the existing drain or that the existing drain is the
18 only reasonably available outlet for the drainage from the lands
19 to be added. ~~and that~~

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

25 (3) If the ~~existing~~ drain in the existing drainage dis-
26 trict has been financed by the levy of drain special assessments
27 on the lands in the ~~drainage~~ district and if the basis of

1 special assessment as applied to the lands to be added to the
 2 drainage district would result in a drain special assessment on
 3 the ADDED lands ~~to be added~~ in an aggregate principal amount
 4 greater than the costs and expenses to be paid or incurred by the
 5 owner and developer, if any, of the ~~lands for the new~~ LAND TO
 6 CONSTRUCT ADEQUATE drain facilities at the time of entering into
 7 the agreement, then the owner or developer OF THE LAND shall also
 8 pay the amount of the excess to the drainage district at the time
 9 of execution of the agreement. In addition, the ~~developer or~~
 10 owner of the added ~~lands~~ LAND shall pay a pro rata equitable
 11 share of the cost of the original construction of the drain, if
 12 any.

13 (4) ~~(3) Lands~~ LAND added to ~~any~~ A drainage district by
 14 agreement shall be liable from and after the date of THE agree-
 15 ment for all assessments levied ~~after the date of the agreement~~
 16 for operation and maintenance of the drain, including the exten-
 17 sion of the drain pursuant to the agreement, and the ~~lands~~ LAND
 18 shall THEREAFTER be a part of the drainage district for all other
 19 purposes and procedures set forth in this act. All drain
 20 facilities, ~~and all~~ rights-of-way, easements, or property in
 21 which the facilities are located, acquired, or constructed pursu-
 22 ant to the agreement ~~to add lands~~ shall be dedicated to public
 23 use or conveyed or transferred to the drainage district. ~~and~~
 24 ~~the~~ THE drain facilities shall be a part of the drain the same
 25 as if originally ~~located, established,~~ ESTABLISHED and con-
 26 structed ~~by procedures set forth in~~ UNDER this act. ~~as a part~~
 27 ~~of the original drain.~~

1 (5) ~~(4) An existing intracounty or intercounty drain may be~~
 2 ~~extended or have branches added to provide additional service to~~
 3 ~~lands within the drainage district by agreement between the drain~~
 4 ~~commissioner or the drainage board and the owner of the lands; or~~
 5 ~~if there is a developer of the lands who is not the owner,~~
 6 ~~between the drain commissioner or the drainage board and the~~
 7 ~~owner and the developer of the lands, pursuant to the procedures~~
 8 ~~and conditions set forth in this section. The affected public~~
 9 ~~PUBLIC corporations or municipalities in which the proposed~~
 10 ~~lands are to be added will~~ AFFECTED BY AN AGREEMENT PROVIDED FOR
 11 IN THIS SECTION SHALL be apprised of the agreement by the drain
 12 commissioner or drainage board ~~and who shall also publish~~
 13 ~~notice~~ BY FIRST-CLASS MAIL OR PERSONAL SERVICE. NOTICE of the
 14 agreement SHALL ALSO BE PUBLISHED in a newspaper of general cir-
 15 culation in the drainage district. ~~in question.~~

16 (6) ~~(5)~~ By agreement with a landowner, and the developer,
 17 if any, the drain commissioner or ~~intercounty~~ drainage board
 18 may establish an existing private drain ~~which~~ THAT IS WITHIN A
 19 DRAINAGE DISTRICT AND THAT was constructed by the landowner or
 20 developer to service an area on his or her own land. ~~as a county~~
 21 ~~or intercounty drain.~~ THE LANDOWNER SHALL PROVIDE PLANS AND
 22 EASEMENTS IN FORM ACCEPTABLE TO THE DRAIN COMMISSIONER OR DRAIN-
 23 AGE BOARD.

24 (7) ~~(6)~~ If a drain established pursuant to subsection
 25 ~~(5)~~ (6) adds lands to an existing drainage district, ~~the pro-~~
 26 ~~visions of subsections (2) and (3) shall~~ SUBSECTIONS (3) AND (4)
 27 apply.

1 (8) ~~(7)~~ If a drain established pursuant to subsection
2 ~~(5)~~ (6) is independent from an existing drainage district, a
3 certificate shall be obtained ~~—~~ AS PROVIDED IN SUBSECTION (2)
4 AND at the expense of the landowner or developer of the ~~lands~~
5 LAND served by the proposed drain. ~~—, from a registered profes-~~
6 ~~sional engineer satisfactory to the drain commissioner or the~~
7 ~~intercounty drainage board to the effect that the outlet for the~~
8 ~~existing drain is the only reasonably available outlet for the~~
9 ~~drain and that there is sufficient capacity in the existing~~
10 ~~outlet for the proposed drain to serve as an adequate outlet~~
11 ~~without detriment to or diminution of the drainage service which~~
12 ~~the outlet presently provides.~~ All drain facilities, ~~and all~~
13 rights-of-way, easements, or property in which the facilities are
14 located, acquired, or constructed pursuant to the agreement to
15 establish the drain shall be dedicated to public use or conveyed
16 or transferred to the drainage district. ~~and the~~ THE drain
17 facilities and drainage district shall be an established drain
18 and drainage district the same as if originally ~~laid out and~~
19 ~~designated, located, established,~~ ESTABLISHED and constructed
20 ~~by procedures set forth in~~ UNDER this act. ~~All plans~~ PLANS
21 and specifications, including a map and a description of the
22 drainage district, ~~pertaining to the private drain as may be~~
23 ~~required by the drain commissioner or intercounty drainage board~~
24 shall be furnished to the drain commissioner or ~~intercounty~~
25 drainage board.

26 (9) ~~(8)~~ The landowner or developer who transfers a drain
27 pursuant to ~~subsection (5)~~ THIS SECTION shall deposit with the

1 drain commissioner or drainage board FUNDS IN THE AMOUNT OF 5% of
2 the cost of the drain but not more than ~~-\$2,500.00~~ \$5,000.00.
3 The money received by the drain commissioner or intercounty
4 drainage board pursuant to this subsection shall be deposited in
5 ~~a special~~ THE drain fund ~~which shall be used for the future~~
6 ~~maintenance of the transferred drain~~ FOR THE DRAIN AND USED AS
7 PROVIDED IN SECTION 196.

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

13 CHAPTER 20 ~~—~~

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

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

23 (1) ~~(2) If it is necessary for the public health to locate,~~
24 ~~establish, and construct a county drain, a petition for that pur-~~
25 ~~pose may be filed with the county drain commissioner signed by 2~~
26 ~~or more public corporations which will be subject to assessments~~
27 ~~to pay the cost of the drain~~ TO INITIATE THE ESTABLISHMENT OF A

1 DRAINAGE DISTRICT AND THE ESTABLISHMENT AND CONSTRUCTION OF A
2 COUNTY DRAIN THAT IS NECESSARY FOR THE PUBLIC HEALTH OR THE MAIN-
3 TENANCE AND IMPROVEMENT OF SUCH A DRAIN, 1 OR MORE CITIES, VIL-
4 LAGES, AND TOWNSHIPS THAT WILL BE SUBJECT TO ASSESSMENT TO PAY
5 THE COST OF THE DRAIN MAY FILE A PETITION WITH THE COUNTY DRAIN
6 COMMISSIONER AS PROVIDED IN SECTION 14. The petition shall state
7 that it is filed pursuant to this chapter, ~~and shall describe~~
8 ~~the location and route of the proposed drain sufficiently to~~
9 ~~determine with reasonable certainty the areas to be serviced by~~
10 ~~the drain.~~ REQUEST THE ESTABLISHMENT OF A DRAINAGE DISTRICT AND
11 THE ESTABLISHMENT AND CONSTRUCTION OF A DRAIN, AND SET FORTH THE
12 REASONS FOR THE REQUEST. THE PETITION MAY PROPOSE A LOCATION AND
13 ROUTE FOR THE DRAIN.

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

19 (2) ~~(4) A certified copy of the resolution of the governing~~
20 ~~body of each signer authorizing the affixing of the signature of~~
21 ~~the governing body to the petition shall be attached to the~~
22 ~~petition. The petition may be filed in more than 1 counterpart.~~
23 ~~For a petition filed by a county, the county board of commission-~~
24 ~~ers shall authorize the execution of the petition, and for a~~
25 ~~petition filed by the state, the state transportation commission~~
26 ~~shall authorize the execution of the petition.~~ THE PETITION MAY
27 BE FILED IN MORE THAN 1 COUNTERPART. As provided in section 423,

1 an order of determination of the ~~water resources commission~~
2 DEPARTMENT OF ENVIRONMENTAL QUALITY shall also serve as a peti-
3 tion made pursuant to this chapter.

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

9 Sec. 464. (1) ~~There~~ A DRAINAGE BOARD is created for each
10 project petitioned for under this chapter. ~~, a drainage board~~
11 ~~that, except~~ EXCEPT as otherwise provided in subsection (2), THE
12 DRAINAGE BOARD shall consist of the drain commissioner of the
13 county, the chairperson of the county board of commissioners OR A
14 MEMBER OF THE COUNTY BOARD OF COMMISSIONERS DESIGNATED BY THAT
15 CHAIRPERSON, and the chairperson of the board of county
16 auditors. If there is no board of county auditors in the county,
17 then the chairperson of the finance committee of the county board
18 of commissioners ~~shall act as a member of the drainage board,~~
19 ~~and if~~ OR A MEMBER OF THE COUNTY BOARD OF COMMISSIONERS DESIG-
20 NATED BY THAT CHAIRPERSON SHALL BE A MEMBER OF THE DRAINAGE
21 BOARD. IF there is neither a board of county auditors nor A
22 finance committee, then the chairperson of the county board of
23 commissioners shall select from time to time 1 member of the
24 county board of commissioners to act as a member of the drainage
25 board. ~~If a member of the drainage board who is a commissioner,~~
26 ~~as provided in this section or section 487, is interested in a~~
27 ~~project petitioned for under this chapter, by reason of his or~~

~~1 her holding an elected or appointed office in a public
2 corporation to be assessed for the cost of the project, he or she
3 is disqualified to act as a member of the drainage board with
4 respect to the project. In such case the vice-chairperson or
5 chairperson pro tempore of the county board of commissioners or
6 of the finance committee of the county board of commissioners, if
7 not also disqualified, shall act as the member. If the
8 vice-chairperson or chairperson pro tempore is disqualified, the
9 drain commissioner of the county shall designate a member of the
10 county board of commissioners who is not disqualified to act as a
11 member of the drainage board for the project. The chairperson of
12 the county board of commissioners and any member of a county
13 board of commissioners serving on A MEMBER OF the drainage board
14 shall receive the compensation, mileage, and expenses as pro-
15 vided by the drainage board. However, compensation paid to a
16 member shall not exceed \$25.00 per diem, exclusive of mileage and
17 expenses, for attendance at drainage board meetings WHICH SHALL
18 BE DETERMINED AS PROVIDED IN SECTION 52 FOR MEMBERS OF A BOARD OF
19 DETERMINATION. The county drain commissioner shall be chair-
20 person of the drainage board. The chairperson shall keep minutes
21 of the proceedings of the drainage board and all records and
22 files of the board shall be kept in his or her office. In coun-
23 ties of less than 500,000 population, the commissioner shall be
24 paid the same compensation as other members of the drainage
25 board.~~

26 (2) In a county organized under a charter adopted under Act
27 No. 293 of the Public Acts of 1966, being sections 45.501 to

1 ~~45.521 of the Michigan Compiled Laws~~ 1966 PA 293, MCL 45.501 TO
2 45.521, that has a population of more than 2,000,000 at the time
3 the charter is adopted and whose charter prescribes an elected
4 county executive, the drainage board shall consist of the follow-
5 ing members:

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

10 (b) The county commissioner whose district will be assessed
11 for the greatest portion of the cost of the project, or that
12 county commissioner's designee. The determination of which
13 county commissioner is qualified to sit under this subdivision
14 shall initially be made by the chairperson of the drainage board
15 ~~at the time~~ WHEN the petition for the project is filed. After
16 the final order of apportionment is issued under section 469, the
17 county commissioner who qualifies under this section shall become
18 the county commissioner member and serve until another apportion-
19 ment is established requiring the seating of another
20 commissioner.

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

24 (3) In a county described in subsection (2), the require-
25 ments in this chapter for substantive actions and determinations
26 shall be followed in administering each project petitioned for

1 under this chapter, subject to and in accordance with any
2 applicable provisions of the county charter.

3 Sec. 465. (1) A meeting of the drainage board may be called
4 by the chairperson or 2 members of the board. ~~—, on notice sent~~
5 ~~by registered mail to each member, setting forth the time, date,~~
6 ~~and place of the meeting. The notice shall be mailed not less~~
7 ~~than 5 days before the time of the meeting. The affidavit of~~
8 ~~the chairman as to such mailing shall be conclusive proof~~
9 ~~thereof.~~ NOTICE OF THE MEETING SHALL BE GIVEN AS PROVIDED IN
10 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~~
14 ~~adjourned from time to time.~~ Unless otherwise provided in this
15 act, an action shall not be taken by the board except by a major-
16 ity vote of its members. ~~In the event of the adjournment of a~~
17 ~~hearing, it shall not be necessary to advertise~~ IF A HEARING IS
18 ADJOURNED, IT IS NOT NECESSARY TO GIVE NOTICE OF the adjournment
19 of the hearing.

20 (3) All orders issued by the drainage board shall be signed
21 by the chairperson.

22 Sec. 466. Upon receipt of a petition ~~as hereinbefore~~
23 ~~provided~~ UNDER THIS CHAPTER, the county drain commissioner shall
24 call the first meeting of the drainage board BY GIVING NOTICE OF
25 THE MEETING AS DESCRIBED IN SECTION 465. ~~In the event there be~~
26 ~~no board of county auditors or~~ HOWEVER, IF THERE IS NEITHER A
27 BOARD OF COUNTY AUDITORS NOR A finance committee in the county,

1 then notice to the ~~chairman~~ CHAIRPERSON of the COUNTY board of
2 ~~supervisors~~ COMMISSIONERS of ~~such~~ THE county shall ~~be deemed~~
3 ~~to be~~ SERVE AS notice to the member of the COUNTY board of
4 ~~supervisors~~ COMMISSIONERS to be selected by ~~him~~ THE CHAIR-
5 PERSON UNDER SECTION 464.

6 Sec. 467. (1) The drainage board, at its first meeting,
7 shall consider the petition for the project UNDER THIS CHAPTER
8 and make a tentative determination as to the sufficiency of the
9 petition and the practicability of the proposed ~~drain~~ PROJECT,
10 and shall further make a tentative determination of the public
11 corporations to be assessed. The drainage board shall give a
12 name to the drain and to the drainage district. The district
13 shall be composed of the public corporations to be assessed for
14 the cost of the project.

15 (2) After the drainage board ~~has made~~ MAKES the
16 determination, it shall fix a time, date, and place it will meet
17 to hear objections to the proposed drain and the petition for the
18 drain, and to the matter of assessing the cost of the drain to
19 the designated public corporations. Notice of the hearing shall
20 be ~~published twice in the county by inserting the notice in at~~
21 ~~least 1 newspaper published in the county, designated by the~~
22 ~~drainage board, with the first publication to be not less than 20~~
23 ~~days before the time of the hearing. The notice shall also be~~
24 ~~sent by registered mail to the clerk or secretary of each public~~
25 ~~corporation proposed to be assessed, except that a notice to the~~
26 ~~state shall be sent to the state highway director and a notice to~~
27 ~~a county shall be sent to both the county clerk and the county~~

~~1 road commission. The mailing shall be made not less than 20 days
2 before the time of the hearing. The notice shall be signed by
3 the chairperson and proof of the publication and mailing of the
4 notice shall be filed in his or her office. The drainage board
5 may provide a form to be substantially followed in the giving of
6 the notice.~~ GIVEN AS PROVIDED IN SECTION 8.

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

17 SEC. 467A. (1) AFTER THE DRAINAGE BOARD ENTERS THE FINAL
18 ORDER OF DETERMINATION, THE DRAINAGE BOARD SHALL SECURE THE SERV-
19 ICE OF AN ENGINEER. THE DRAINAGE BOARD SHALL SELECT THE ENGINEER
20 BASED ON HIS OR HER QUALIFICATIONS. THE ENGINEER SHALL PREPARE
21 PLANS, SPECIFICATIONS, AND AN ESTIMATE OF COSTS OF THE PROPOSED
22 DRAIN. THE DRAINAGE BOARD SHALL SECURE FROM THE ENGINEER OR A
23 SURVEYOR A DESCRIPTION OF THE LANDS OR RIGHTS-OF-WAY NEEDED FOR
24 THE PROPOSED DRAIN. THE DRAINAGE BOARD SHALL SECURE FROM AN
25 ENGINEER OR OTHER QUALIFIED PROFESSIONAL AN EVALUATION OF THE
26 EFFECTS OF THE PROPOSED DRAIN ON NATURAL RESOURCES THAT
27 IDENTIFIES APPROPRIATE PRACTICAL MEASURES TO MINIMIZE ADVERSE

1 EFFECTS. IN APPROVING THE ROUTE OF THE DRAIN AS FURNISHED BY THE
2 ENGINEER, THE DRAINAGE BOARD IS NOT LIMITED TO THAT DESCRIBED IN
3 THE PETITION OR IN THE FINAL ORDER OF DETERMINATION, IF THE NEW
4 ROUTE IS MORE EFFICIENT AND SERVICEABLE.

5 (2) THE DRAINAGE BOARD SHALL OBTAIN ANY PERMITS REQUIRED
6 UNDER THE NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT,
7 1994 PA 451, MCL 324.101 TO 324.90106. ALL COSTS ASSOCIATED WITH
8 EVALUATING NATURAL RESOURCE IMPACTS AND IMPLEMENTING THE MEASURES
9 TO MINIMIZE THOSE IMPACTS SHALL BE THE RESPONSIBILITY OF THE
10 DRAINAGE DISTRICT.

11 (3) SUBJECT TO SUBSECTION (4), MEASURES THAT ARE INTENDED TO
12 IMPROVE OR ENHANCE NATURAL RESOURCES VALUES MAY BE INCLUDED AS
13 PART OF THE DRAINAGE PROJECT IN THE DISCRETION OF THE DRAINAGE
14 BOARD. THE FUNDING FOR THE COSTS OF SUCH MEASURES MAY INCLUDE
15 GIFTS, DONATIONS, GRANTS, AND CONTRACTS PURSUANT TO SECTION 431,
16 SPECIAL ASSESSMENTS OR ANY COMBINATION THEREOF AS CONSIDERED
17 APPROPRIATE BY THE DRAIN COMMISSIONER.

18 (4) IF THE PROPOSED DRAIN IS LOCATED IN A WATERSHED MANAGE-
19 MENT DISTRICT FOR WHICH A WATERSHED MANAGEMENT PLAN HAS BEEN
20 ADOPTED UNDER SECTION 595, THE DRAINAGE BOARD SHALL UNDERTAKE THE
21 ESTABLISHMENT AND CONSTRUCTION OF THE DRAIN, INCLUDING, BUT NOT
22 LIMITED TO, MEASURES TO IMPROVE OR ENHANCE NATURAL RESOURCE
23 VALUES, CONSISTENT WITH THE WATERSHED MANAGEMENT PLAN.

24 SEC. 467B. IF, AFTER THE RECEIPT OF THE PLANS, SPECIFICA-
25 TIONS, ESTIMATE OF COST, AND DESCRIPTIONS OF THE LANDS OR
26 RIGHTS-OF-WAY NEEDED FOR THE PROPOSED DRAIN, THE DRAINAGE BOARD
27 DETERMINES THAT THE PROJECT IS NOT PRACTICAL, THE DRAINAGE BOARD

1 SHALL NOTIFY THE PUBLIC CORPORATIONS IN THE DISTRICT BY
2 FIRST-CLASS MAIL OF THE INTENT TO REJECT THE PETITION. THE
3 NOTICE SHALL SPECIFY THE REASONS FOR THE PROPOSED REJECTION. THE
4 NOTICE SHALL ALSO SPECIFY A TIME, DATE, AND PLACE FOR A PUBLIC
5 HEARING TO HEAR OBJECTIONS TO THE REJECTION OF THE PETITION. AT
6 THE PUBLIC HEARING, THE DRAINAGE BOARD SHALL ELICIT TESTIMONY AND
7 EVIDENCE WITH REGARDS TO THE PROPOSED REJECTION. FOLLOWING THE
8 RECEIPT OF TESTIMONY, THE DRAINAGE BOARD SHALL DETERMINE WHETHER
9 OR NOT THE PETITION SHOULD BE REJECTED. IF THE REJECTION IS
10 DETERMINED TO BE PRACTICAL, THE DRAINAGE BOARD SHALL ENTER AN
11 ORDER OF REJECTION AND APPORTION ALL COSTS INCURRED TO THE DIS-
12 TRICT AS IF THE PROJECT HAD BEEN BUILT AND THE COSTS SHALL BE
13 SUBSEQUENTLY ASSESSED AND PAID AS PROVIDED IN THIS CHAPTER. A
14 DETERMINATION TO REJECT A PETITION DOES NOT LIMIT THE RIGHT TO
15 FILE ANOTHER PETITION.

16 Sec. 468. (1) ~~The drainage board shall secure from a com-~~
17 ~~petent engineer, plans, specifications, and an estimate of cost~~
18 ~~of the proposed drain, which, when approved and adopted by the~~
19 ~~board, shall be filed with the chairman thereof. In approving~~
20 ~~the plans and specifications, the drainage board shall not be~~
21 ~~limited to the route of the drain described in the petition or~~
22 ~~the final order of determination. The drainage board shall ten-~~
23 ~~tatively establish the percentage of the cost of the drain or of~~
24 ~~the several sections or parts thereof which is to be borne by~~
25 ~~each public corporation. In making the apportionments~~
26 ~~hereunder, there shall be taken into consideration the benefits~~
27 ~~to accrue to each public corporation and also the extent to which~~

1 ~~each public corporation contributes to the conditions which make~~
2 ~~the drain necessary. Apportionments against the state shall be~~
3 ~~based upon the benefits and contributions as related solely to~~
4 ~~the drainage of state highways, and those against the county~~
5 ~~shall be based as related solely to the drainage of its county~~
6 ~~highways.~~ TO CITIES, VILLAGES, AND TOWNSHIPS, THE DRAINAGE BOARD
7 SHALL CONSIDER THE BENEFITS TO ACCRUE TO EACH CITY, VILLAGE, OR
8 TOWNSHIP AND ALSO THE EXTENT TO WHICH EACH CITY, VILLAGE, OR
9 TOWNSHIP CONTRIBUTES TO THE CONDITIONS THAT MAKE THE DRAIN NECES-
10 SARY, SUBJECT TO SECTION 500. APPORTIONMENTS AGAINST THIS STATE
11 OR A COUNTY SHALL RELATE SOLELY TO STATE TRUNK LINE HIGHWAYS OR
12 COUNTY ROADS, RESPECTIVELY. THE APPORTIONMENT OF BENEFITS FOR
13 STATE TRUNK LINE HIGHWAYS AND THE PORTION PAID BY COUNTY ROAD
14 COMMISSIONS FOR BENEFIT TO COUNTY ROADS MUST BE PAID PURSUANT TO
15 SECTION 14A OF 1951 PA 51, MCL 247.664A. Before a tentative
16 apportionment ~~shall be~~ IS made, the drainage board shall desig-
17 nate the area to be served by the drain project, which may or may
18 not include all of the area in a ~~public corporation~~ CITY, VIL-
19 LAGE, OR TOWNSHIP to be assessed and may divide the drain into
20 sections or parts for purposes of apportionment or construction.
21 ~~Nothing herein contained shall prohibit the county from assuming~~
22 ~~any~~ THE COUNTY MAY ASSUME AN additional cost of the drain ~~if~~
23 BY THE VOTE OF 2/3 of the members elect of the county board of
24 commissioners. ~~vote in favor thereof.~~

25 (2) The apportionment shall ~~only~~ apply to the proposed
26 drain CONSTRUCTION OR IMPROVEMENT PROJECT AND SEPARATE
27 MAINTENANCE APPORTIONMENTS FOR THE DRAIN MAY BE ESTABLISHED. The

1 apportionments for any extensions or other work subsequently
2 performed under section 482 shall be reestablished by the board.
3 ~~When chapter 25 is employed in the apportionment of costs, the~~
4 ~~above~~

5 (3) THE proceedings ~~shall~~ IN THIS CHAPTER MAY be altered
6 and supplemented as provided in chapter 25.

7 Sec. 469. (1) After the tentative apportionments of cost
8 have been made, the drainage board shall set a time, date, and
9 place it will meet and hear objections to the apportionments.
10 Notice of the hearing shall be ~~published twice in the county by~~
11 ~~inserting the notice in at least 1 newspaper published in the~~
12 ~~county, designated by the drainage board, the first publication~~
13 ~~to be not less than 20 days before the time of the hearing. The~~
14 ~~notice shall also be sent by registered mail to the clerk or sec-~~
15 ~~retary of each public corporation proposed to be assessed, except~~
16 ~~that a notice to the state shall be sent to the state highway~~
17 ~~director and a notice to the county shall be sent both to the~~
18 ~~county clerk and the county road commission. The mailing shall~~
19 ~~be made not less than 20 days before the time of hearing. The~~
20 ~~notice shall be signed by the chairperson and proof of the publi-~~
21 ~~cation and mailing of the notice shall be filed in his or her~~
22 ~~office. The drainage board may provide a form to be substan-~~
23 ~~tially followed in the giving of the notice~~ GIVEN AS PROVIDED IN
24 SECTION 8. The notice shall include tentative apportionments to
25 the several public corporations.

26 (2) After the hearing, the drainage board may confirm the
27 apportionments as tentatively made, or if it considers the

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

13 (3) AFTER ISSUING THE FINAL ORDER OF APPORTIONMENT, THE
14 DRAINAGE BOARD SHALL ACQUIRE UNDER SECTION 7 PROPERTY NECESSARY
15 FOR THE DRAIN.

16 Sec. 472. The county treasurer shall be the custodian of
17 the funds of the drainage district. ~~He~~ THE COUNTY TREASURER
18 may designate 1 or more of his OR HER deputies ~~who may~~ TO act
19 for ~~him~~ THE COUNTY TREASURER in the performance of any of his
20 OR HER duties under this section. The drainage board may require
21 the county treasurer and any deputy county treasurer so desig-
22 nated to furnish a bond payable to the drainage district, in
23 addition to any bond payable to the county, conditioned upon the
24 faithful discharge of his OR HER duties in respect to ~~moneys~~
25 MONEY belonging to the drainage district. ~~, the~~ THE premium
26 ~~thereon to~~ ON THE BOND SHALL be paid by the drainage district.
27 ~~Moneys~~ MONEY held by ~~said~~ THE treasurer shall be paid out

1 only upon order of the drainage board, except that ~~no such order~~
2 ~~shall be~~ AN ORDER IS NOT required for the payment of principal
3 and interest on bonds.

4 Sec. 473. (1) AFTER THE CONFIRMATION OF THE APPORTIONMENTS
5 BY THE DRAINAGE BOARD, THE CHAIRPERSON OF THE BOARD SHALL PREPARE
6 A COMPUTATION OF THE ESTIMATED COST OF THE DRAIN PROJECT OR, IF
7 THE ACTUAL COST HAS BEEN ASCERTAINED, THE ACTUAL COST, INCLUDING
8 THE ITEMS LISTED IN SECTION 261 AND INTEREST ON ANY MONEY
9 ADVANCED PURSUANT TO SECTION 479.

10 (2) After the ~~confirmation of the apportionments by the~~
11 ~~drainage board, the chairman~~ PREPARATION OF THE COMPUTATION OF
12 COSTS BY THE CHAIRPERSON OF THE DRAINAGE BOARD, THE CHAIRPERSON
13 of the board shall prepare a special assessment ~~roll~~ SCHEDULE
14 assessing the estimated cost of the drain, or if the actual cost
15 has been ascertained, then the actual cost AND ANY INTEREST ON
16 BONDS OR OTHER EVIDENCES OF INDEBTEDNESS, against the several
17 public corporations in accordance with the confirmed
18 apportionments. The drainage board may provide for the payment
19 of the special assessments in any number of annual installments,
20 not exceeding 30, but an installment shall not be less than 1/4
21 of any subsequent installment. THE DRAINAGE BOARD SHALL FIX A
22 DATE, NOT LATER THAN 4 YEARS AFTER CONFIRMATION, FOR THE PAYMENT
23 OF THE FIRST INSTALLMENT SO THAT EACH PUBLIC CORPORATION CAN MAKE
24 A TAX LEVY FOR THE PAYMENT OF THE INSTALLMENT. SUBSEQUENT
25 INSTALLMENTS SHALL BECOME DUE ANNUALLY ON THE SAME DAY AND MONTH
26 OF SUBSEQUENT YEARS. A CITY OR VILLAGE MAY ELECT TO SPREAD THE

1 TAX LEVY UPON THE COUNTY TAX ROLL INSTEAD OF THE CITY OR VILLAGE
2 TAX ROLL.

3 (3) INSTALLMENTS OF ASSESSMENTS AGAINST THE STATE AND
4 AGAINST PUBLIC CORPORATIONS WHICH COLLECT THEIR TAXES BEGINNING
5 APPROXIMATELY DECEMBER 1 IN EACH YEAR SHALL BECOME DUE AND PAY-
6 ABLE ON OR BEFORE APRIL 1 OF EACH YEAR. INSTALLMENTS OF ASSESS-
7 MENTS AGAINST OTHER PUBLIC CORPORATIONS SHALL BECOME DUE AND PAY-
8 ABLE ON OR BEFORE THE DATES FIXED BY THE DRAINAGE BOARD, DEPEND-
9 ING UPON THE TIMES OF THE COLLECTION OF TAXES BY THE PUBLIC
10 CORPORATIONS. The drainage board shall fix the commencement date
11 of interest to be paid upon unpaid installments, not to exceed an
12 amount sufficient to pay interest on bonds or other evidences of
13 indebtedness issued or to be issued by the drainage district. ~~—~~
14 ~~which~~ THE interest shall become due annually on the day and
15 month upon which the annual installments become due but may
16 become due in years before the due date of the first
17 installment. The drainage board may provide for the payment of
18 installments in advance of their respective due dates and may
19 prescribe the terms and conditions ~~thereof. The drainage board~~
20 ~~shall fix the date, not later than 4 years after confirmation on~~
21 ~~which the first installment of special assessments shall become~~
22 ~~due and payable so that each public corporation can make a tax~~
23 ~~levy for the payment, and subsequent installments shall become~~
24 ~~due annually on the same day and month of subsequent years. When~~
25 ~~chapter 25 is employed in the apportionment of costs, the above~~
26 ~~proceedings shall be altered and supplemented as provided in~~
27 ~~chapter 25~~ FOR ADVANCE PAYMENTS.

1 (4) THE SPECIAL ASSESSMENT SCHEDULE SHALL CONTAIN ALL OF THE
2 FOLLOWING:

3 (A) THE NAME OF EACH PUBLIC CORPORATION ASSESSED.

4 (B) THE TOTAL ESTIMATED COST OF THE PROJECT, OR THE ACTUAL
5 COST IF THE SAME ACTUAL COST HAS BEEN ASCERTAINED BY THE TIME OF
6 THE PREPARATION OF THE SCHEDULE.

7 (C) THE PERCENTAGE APPORTIONED TO EACH PUBLIC CORPORATION.

8 (D) THE PRINCIPAL AMOUNT OF THE ASSESSMENT AGAINST EACH
9 PUBLIC CORPORATION BASED ON THE PERCENTAGE OF APPORTIONMENT.

10 (E) THE INTEREST PORTION OF THE ASSESSMENT SUFFICIENT TO PAY
11 THE INTEREST ON BONDS OR OTHER EVIDENCE OF INDEBTEDNESS BASED
12 UPON THE PERCENTAGE OF APPORTIONMENT.

13 (F) THE AMOUNT OF EACH INSTALLMENT IF THE ASSESSMENT IS
14 DIVIDED INTO ANNUAL INSTALLMENTS.

15 (G) THE DUE DATE OF EACH INSTALLMENT.

16 Sec. 474. (1) ~~The special assessment roll shall contain~~
17 ~~the name of each public corporation assessed, the total estimated~~
18 ~~cost of the project, or actual cost if the same has been ascer-~~
19 ~~tained at the time of the preparation of the roll, the percentage~~
20 ~~apportioned to each public corporation, the amount of the assess-~~
21 ~~ment against each public corporation based upon the percentage of~~
22 ~~apportionment, and the amount of each installment if the assess-~~
23 ~~ment is divided into annual installments. After the special~~
24 ~~assessment roll has been prepared, it shall be presented to the~~
25 ~~drainage board for approval. When the roll has been approved,~~
26 ~~then a statement to that effect, signed by the chairman of the~~
27 ~~drainage board, shall be affixed to the roll~~ CHAIRPERSON OF THE

1 DRAINAGE BOARD PREPARES THE SPECIAL ASSESSMENT SCHEDULE, THE
2 CHAIRPERSON SHALL PRESENT THE SCHEDULE TO THE DRAINAGE BOARD FOR
3 APPROVAL. IF THE DRAINAGE BOARD APPROVES THE SPECIAL ASSESSMENT
4 SCHEDULE, THE CHAIRPERSON OF THE DRAINAGE BOARD SHALL AFFIX TO
5 THE SCHEDULE A SIGNED STATEMENT TO THAT EFFECT setting forth the
6 date of approval. The ~~chairman~~ CHAIRPERSON of the drainage
7 board shall then certify to each public corporation assessed the
8 ~~amount of the total assessment against it, the amount of the~~
9 ~~various installments if the assessment is divided into install-~~
10 ~~ments, the due date of each installment, and the rate of interest~~
11 ~~upon installments from time to time unpaid. The chairman each~~
12 ASSESSMENT INFORMATION IN THE ASSESSMENT SCHEDULE.

13 (2) EACH year, at least ~~30~~ 28 days before the time of the
14 levying of taxes by each public corporation, THE CHAIRPERSON OF
15 THE DRAINAGE BOARD shall notify ~~it~~ THE PUBLIC CORPORATION of
16 the amount of the installment and interest next becoming due, but
17 the failure to notify a public corporation shall not excuse it
18 from making payment of the installment and interest.

19 (3) On or before the due date of an installment, each public
20 corporation shall pay to the county treasurer the full amount
21 thereof, together with interest accruing to the due date. ~~If a~~
22 ~~public corporation fails or neglects to account to the county~~
23 ~~treasurer for the amount of an installment and interest, then the~~
24 ~~county treasurer shall advance the amount thereof from county~~
25 ~~funds if bonds or other evidences of indebtedness have been~~
26 ~~issued to finance the project, in anticipation of the collection~~
27 ~~of the installment and interest pursuant to this chapter and the~~

~~1 county board of commissioners has previously acted, by a
2 resolution adopted by a 2/3 vote of its members elect, to pledge
3 the full faith and credit of the county for the prompt payment of
4 the principal of and interest on the bonds or evidences of
5 indebtedness.~~

~~6 The county treasurer shall immediately notify the public
7 corporation of the amount advanced by the county on account of
8 the default by the public corporation in paying the installment
9 and interest assessed against it. The county treasurer shall
10 also notify the state treasurer, or other appropriate disbursing
11 official, who shall deduct the amount from moneys in his posses-
12 sion belonging to the public corporation which are not pledged to
13 the payment of debts, but the state treasurer or other official
14 shall not withhold in any 1 year a sum greater than 25% of the
15 total amount owed by the delinquent public corporation as stated
16 in the notice from the county treasurer. Nothing in this section
17 shall permit the deduction of moneys in contravention of the
18 state constitution of 1963.~~

~~19 The county board of commissioners of a county which has
20 advanced money for a public corporation and which has not been
21 reimbursed therefor, may order the public corporation and its
22 officers to levy upon its next tax roll an amount sufficient to
23 make the reimbursement on or before the date when its taxes
24 become delinquent; and the public corporation and its tax levying
25 and collecting officials shall levy and collect those taxes and
26 reimburse the county. The foregoing shall not prevent the county
27 from obtaining reimbursement by any other legal method.~~

~~1 Assessments against the state shall be certified to the state
2 highway commission and paid from state highway funds. The tax
3 levying officials of each of the other public corporations
4 assessed shall levy sufficient taxes to pay assessment install-
5 ments and interest as the same become due unless there has been
6 set aside moneys sufficient therefor. A city or village may
7 elect to spread the tax levy upon the county tax roll instead of
8 the city or village tax roll. If a special assessment roll is
9 prepared upon the basis of the estimated cost of the project,
10 then after the actual cost has been ascertained and determined by
11 the drainage board, the special assessments and the installments
12 thereof shall be corrected by adding any deficiency or deducting
13 any excess. The drainage board may order the corrections to be
14 made upon the original roll or may order that a new corrected
15 roll or a supplemental roll be prepared and submitted for
16 approval by the drainage board. When chapter 25 is employed in
17 the apportionment of costs, the above proceedings shall be
18 altered and supplemented as provided in chapter 25.~~

19 SEC. 474A. (1) IF A PUBLIC CORPORATION FAILS OR NEGLECTS TO
20 ACCOUNT TO THE COUNTY TREASURER FOR THE AMOUNT OF AN INSTALLMENT
21 AND INTEREST, THEN THE COUNTY TREASURER SHALL ADVANCE THE AMOUNT
22 THEREOF FROM COUNTY FUNDS IF BONDS OR OTHER EVIDENCES OF INDEBT-
23 EDNESS HAVE BEEN ISSUED TO FINANCE THE PROJECT IN ANTICIPATION OF
24 THE COLLECTION OF THE INSTALLMENT AND INTEREST PURSUANT TO THIS
25 CHAPTER AND IF THE COUNTY BOARD OF COMMISSIONERS HAS PREVIOUSLY
26 ACTED, BY A RESOLUTION ADOPTED BY A 2/3 VOTE OF ITS MEMBERS
27 ELECT, TO PLEDGE THE FULL FAITH AND CREDIT OF THE COUNTY FOR THE

1 PROMPT PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE BONDS OR
2 EVIDENCES OF INDEBTEDNESS.

3 (2) THE COUNTY TREASURER SHALL IMMEDIATELY NOTIFY THE COUNTY
4 BOARD OF COMMISSIONERS AND PUBLIC CORPORATION OF THE AMOUNT
5 ADVANCED BY THE COUNTY ON ACCOUNT OF THE DEFAULT BY THE PUBLIC
6 CORPORATION IN PAYING THE INSTALLMENT AND INTEREST ASSESSED
7 AGAINST IT. THE COUNTY MAY USE ANY LEGAL MEANS TO OBTAIN REIM-
8 BURSEMENT OF THE AMOUNT ADVANCED.

9 (3) THE TAX LEVYING OFFICIALS OF EACH OF THE OTHER PUBLIC
10 CORPORATIONS ASSESSED SHALL LEVY SUFFICIENT TAXES TO PAY ASSESS-
11 MENT INSTALLMENTS AND INTEREST AS THE SAME BECOME DUE UNLESS
12 THERE HAS BEEN SET ASIDE MONEY SUFFICIENT THEREFOR. A CITY OR
13 VILLAGE MAY ELECT TO SPREAD THE SPECIAL ASSESSMENT LEVY UPON THE
14 COUNTY TAX ROLL INSTEAD OF THE CITY OR VILLAGE TAX ROLL. IF A
15 SPECIAL ASSESSMENT SCHEDULE IS PREPARED UPON THE BASIS OF THE
16 ESTIMATED COST OF THE PROJECT, THEN AFTER THE ACTUAL COST HAS
17 BEEN ASCERTAINED AND DETERMINED BY THE DRAINAGE BOARD, THE SPE-
18 CIAL ASSESSMENTS AND THE INSTALLMENTS THEREOF SHALL BE CORRECTED
19 BY ADDING ANY DEFICIENCY OR DEDUCTING ANY EXCESS. THE DRAINAGE
20 BOARD MAY ORDER THE CORRECTIONS TO BE MADE UPON THE ORIGINAL SPE-
21 CIAL ASSESSMENT SCHEDULE OR MAY ORDER THAT A NEW CORRECTED SCHED-
22 ULE OR A SUPPLEMENTAL SCHEDULE BE PREPARED AND SUBMITTED FOR
23 APPROVAL BY THE DRAINAGE BOARD. THE PROCEEDINGS IN THIS SECTION
24 MAY BE ALTERED AND SUPPLEMENTED AS PROVIDED IN CHAPTER 25.

25 Sec. 476. (1) The drainage board may issue 1 or more series
26 of bonds for ~~and on behalf of~~ the drainage district, in
27 anticipation of the collection of ~~any or all~~ installments of

1 assessments, ~~or any part thereof,~~ and pledge the full faith and
2 credit of the drainage district for the prompt payment of the
3 principal thereof and the interest thereon. The bonds shall
4 mature serially with the last maturity not later than 2-1/2 years
5 after the due date of the last installment of the assessments.
6 ~~and there may be~~ THE BONDS MAY HAVE more than 1 principal matu-
7 rity date during any 12-month period. The bonds shall be signed
8 by the ~~chairman and at least 1 other member~~ CHAIRPERSON AND
9 SECRETARY of the drainage board ~~and the facsimile signature of~~
10 ~~the chairman shall~~ WHO SHALL CAUSE THEIR FACSIMILE SIGNATURES TO
11 be affixed to the interest coupons attached thereto.

12 (2) Collections of both principal and interest on all
13 installments of assessments in anticipation of which bonds ~~shall~~
14 ~~have been~~ ARE issued shall be kept in a separate bank account by
15 the county treasurer and, ~~used for no other purpose than~~ UNTIL
16 THE BONDS ARE FULLY PAID, SHALL BE USED SOLELY FOR the payment of
17 principal and interest on ~~such~~ THE bonds. ~~until the full pay-~~
18 ~~ment thereof.~~

19 Sec. 478. (1) The drainage board for each project shall
20 continue in existence with such changes in personnel as shall
21 result from changes in the officers constituting the board
22 membership. It shall be responsible for the operation and main-
23 tenance of the drain. Any necessary expenses incurred in admin-
24 istration and in the operation and maintenance of the drain and
25 not covered by contract shall be paid by the several public cor-
26 porations assessed for the cost of the drain. The assessments
27 shall be in the same proportion as the cost of the drain was

1 assessed unless the drainage board establishes a different
2 proportion for the assessments after notice and hearing as pro-
3 vided in section 469.

4 (2) The drainage board ~~—, by resolution duly adopted by it,~~
5 ~~may relinquish jurisdiction and control over all or any part of a~~
6 ~~drain or drain project at any time when there is no outstanding~~
7 ~~indebtedness or contract liability of its drainage district, to~~
8 ~~the county, township, city or village in which all or the part of~~
9 ~~the drain or drain project is wholly located, if the county,~~
10 ~~township, city or village requests or consents to the relinquish-~~
11 ~~ment of jurisdiction and control by resolution duly adopted by~~
12 ~~its governing body. Indebtedness or contract liability of any~~
13 ~~drainage district which will be paid in full at the time of con-~~
14 ~~summation of relinquishment of jurisdiction and control shall not~~
15 ~~be deemed to be outstanding. If relinquishment of jurisdiction~~
16 ~~and control is to a county, the resolution of the governing body~~
17 ~~of the county shall specify the county agency, such as board of~~
18 ~~public works, drain commissioner, board of county road commis-~~
19 ~~sioners, or parks and recreation commission, which shall be~~
20 ~~thereafter responsible for exercise of such jurisdiction and~~
21 ~~control. Any moneys in the drain fund of any drain, over all or~~
22 ~~any part of which jurisdiction and control is relinquished, shall~~
23 ~~be used to pay any indebtedness or contract liability of its~~
24 ~~drainage district, and the balance shall be turned over to the~~
25 ~~county, township, city or village to be used solely with respect~~
26 ~~to the drain, all or part thereof, over which jurisdiction and~~
27 ~~control is assumed. If the relinquishment of jurisdiction and~~

~~1 control and the turnover of drain fund relates to a part of a
2 drain or drain project, such relinquishment and turnover shall
3 not become effective until consented to by resolution of the gov=
4 erning body of each public corporation which has paid a part of
5 the cost of the drain or drain project, and for this purpose the
6 board of county road commissioners and the state highway commis=
7 sion shall be deemed to be the governing body for the county and
8 the state.~~ MAY RELINQUISH JURISDICTION OVER ALL OR PART OF A
9 DRAIN AS PROVIDED IN SECTION 395.

10 Sec. 483. ~~Neither the final order of determination nor the
11 final order of apportionment shall be subject to attack in any
12 court, except by proceedings in certiorari brought within 20 days
13 after the filing of such order in the office of the chairman of
14 the board issuing the same. If no such proceeding shall be
15 brought within the time above prescribed, the drain shall be
16 deemed to have been legally established and the legality of the
17 drain and the assessments therefor shall not thereafter be ques=
18 tioned in any suit at law or in equity, either on jurisdictional
19 or nonjurisdictional grounds.~~ THE PROCEEDINGS TO ESTABLISH A
20 DRAIN AND LEVY ASSESSMENTS ARE SUBJECT TO REVIEW ON SUPERINTEND=
21 ING CONTROL. A COMPLAINT SEEKING A WRIT OF SUPERINTENDING CON=
22 TROL FOR ANY ERROR IN PROCEEDINGS OCCURRING BEFORE OR IN THE
23 FINAL ORDER OF DETERMINATION SHALL BE FILED NOT MORE THAN 14 DAYS
24 AFTER THE FINAL ORDER IS ISSUED AND FOR ANY ERROR IN PROCEEDINGS
25 OCCURRING AFTER THE FINAL ORDER OF DETERMINATION, NOT MORE THAN
26 10 DAYS AFTER THE HEARING ON OBJECTIONS TO APPORTIONMENTS. THE
27 PROCEEDINGS SHALL BE AS PROVIDED IN SECTION 161(2) AND (3).

1 Sec. 490. (1) ~~Subject to the requirements of section 489a,~~
2 ~~if~~ IF the ~~legislative~~ GOVERNING body of a ~~public corporation~~
3 CITY, VILLAGE, OR TOWNSHIP, which has been assessed under this
4 chapter, determines that a part of the lands in the public corpo-
5 ration will be especially benefited by the drain project to the
6 extent of a portion of the amount assessed under this chapter,
7 the ~~legislative~~ GOVERNING body may cause that portion of the
8 assessment under this chapter to be specially assessed, according
9 to benefits, against the especially benefited lands, if the spe-
10 cial assessment method of financing is not inconsistent with
11 local financing policy for similar drains and sewers. The spe-
12 cial assessment shall be made under the statutory or charter pro-
13 visions governing special assessments in the ~~public corporation~~
14 CITY, VILLAGE, OR TOWNSHIP to the extent applicable. However, if
15 there is not another drain assessment in the district on this
16 particular drain, the special assessment proceedings may be ini-
17 tiated by resolution of the ~~legislative~~ GOVERNING body of the
18 ~~public corporation~~ CITY, VILLAGE, OR TOWNSHIP without petition,
19 ~~after compliance with section 489a,~~ and a petition or written
20 objection in opposition to the levying of special assessments
21 shall be advisory only and shall not require a petition for the
22 project. ~~, except as otherwise provided in section 489a.~~

23 (2) After determining by resolution to proceed, the
24 ~~legislative~~ GOVERNING body shall cause a special assessment
25 roll to be prepared. After the special assessment roll is pre-
26 pared, the proceedings with respect to the special assessment
27 roll and the making and collection of the special assessments

1 shall be conducted pursuant to the statute or charter governing
2 special assessments in the ~~public corporation~~ CITY, VILLAGE, OR
3 TOWNSHIP. However, the total assessment may be divided into not
4 more than 30 installments, and a person assessed, at the hearing
5 upon the special assessment roll prepared by the ~~public~~
6 ~~corporation~~ CITY, VILLAGE, OR TOWNSHIP, may object to the spe-
7 cial assessment district previously established by the ~~public~~
8 ~~corporation~~ CITY, VILLAGE, OR TOWNSHIP. Due consideration shall
9 be given to the objections. ~~A hearing held under this section~~
10 ~~shall not take the place of a meeting required under section~~
11 ~~489a, unless notice is prepared and mailed in the manner pre-~~
12 ~~scribed by section 489a.~~

13 (3) If a special assessment is levied under this section,
14 all collections from the special assessment shall be used towards
15 the payment of the assessment at large against the ~~public~~
16 ~~corporation~~ CITY, VILLAGE, OR TOWNSHIP. Each annual levy made
17 for the payment of the assessment at large shall be reduced by
18 the amount of money then on hand from special assessment collec-
19 tions available for this use.

20 (4) This section ~~shall not be construed to~~ DOES NOT pre-
21 vent the assessment of ~~public corporations~~ A CITY, VILLAGE, OR
22 TOWNSHIP at large under this chapter. In place of or in addition
23 to levying special assessments, the public corporation, under the
24 same conditions and for the same purpose, may exact connection,
25 readiness to serve, availability, or service charges to be paid
26 by owners of land directly or indirectly connected with the drain

1 project, or a combination of projects. ~~, subject to section~~
2 ~~489a.~~

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

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

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

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

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

25 (3) UPON THE FILING OF THE PETITION WITH THE AGREEMENT OR
26 DEPOSIT TO PAY COSTS, THE DRAIN COMMISSIONER AND DRAINAGE BOARD
27 SHALL PROCEED UNDER SECTIONS 466 AND 467. THE DRAINAGE BOARD

1 SHALL HOLD A HEARING TO HEAR OBJECTIONS TO THE ASSUMPTION OF SUCH
2 JURISDICTION, TO THE PETITION AND TO THE PROPOSED WORK OR PROP-
3 ERTY AS PROVIDED FOR OTHER DRAIN PROJECTS UNDER THIS CHAPTER.
4 NOTICE OF THE HEARING SHALL CONTAIN THE DESCRIPTION AS APPROVED
5 AND ADOPTED BY THE DRAINAGE BOARD.

6 (4) AFTER THE HEARING, THE DRAINAGE BOARD SHALL ISSUE ITS
7 FINAL ORDER OF DETERMINATION UNDER SECTION 467. THE FINAL ORDER
8 OF DETERMINATION SHALL STATE WHETHER OR NOT THE DRAINAGE BOARD
9 WILL ASSUME JURISDICTION AND PERFORM THE WORK PROPOSED, IF ANY.
10 THE FINAL ORDER OF DETERMINATION SHALL CONTAIN THE DESCRIPTION OF
11 THE BED, TRIBUTARIES, BANKS, AND FLOODPLAINS OF THE RIVER, CREEK,
12 OR WATERCOURSE OVER WHICH JURISDICTION HAS BEEN ASSUMED AND SHALL
13 BE RECORDED IN THE COUNTY RECORDS IN THE COUNTY IN WHICH ANY PART
14 THEREOF IS LOCATED. AFTER THE FINAL ORDER OF DETERMINATION IS
15 RECORDED, NO CONSTRUCTING, EXCAVATING, LAND FILLING, REMOVING OF
16 STRUCTURES OR VEGETATION, DUMPING, OR DISCHARGING OF SEWERS OR
17 DRAINS SHALL BE PERMITTED OR CONTINUED IN THE BED, TRIBUTARIES,
18 BANKS, OR FLOODPLAINS OF THE RIVER, CREEK, OR WATERCOURSE WITHIN
19 THE RECORDED DESCRIPTION THEREOF, EXCEPT UPON WRITTEN ORDER OR
20 PERMIT ISSUED BY THE DRAINAGE BOARD.

21 (5) THE RECORDING OF THE DESCRIPTION DOES NOT APPROPRIATE,
22 TERMINATE, OR LESSEN ANY PRIVATE RIGHTS IN PROPERTY, REAL OR PER-
23 SONAL, EXCEPT PROPERTY ACQUIRED UNDER SECTION 7. THE RECORDING
24 OF THE DESCRIPTION CONSTITUTES A REGULATION AND LIMITATION, FOR
25 REASONS OF PUBLIC HEALTH, OF THE USE OF THE PUBLIC AND PRIVATE
26 PROPERTY THEREIN DESCRIBED TO REMOVE OR LESSEN THE DANGER OF

1 FLOODING, POLLUTION, DAMAGE, OR OBSTRUCTION OF THE RIVER, CREEK,
2 OR WATERCOURSE, OR PART THEREOF, INVOLVED.

3 (6) BEFORE ANY WORK, OTHER THAN PREPARATION OF THE DESCRIP-
4 TION AND THE APPROVAL, ADOPTION, AND RECORDING OF THE DESCRIP-
5 TION, IS DONE OR RIGHTS IN PROPERTY ARE ACQUIRED BY THE DRAINAGE
6 BOARD, PURSUANT TO A PETITION UNDER SUBSECTION (1), THE DRAINAGE
7 BOARD SHALL MAKE A DETERMINATION, FOLLOWING NOTICE AND A HEARING
8 AS PROVIDED IN THIS CHAPTER, AS TO THE PUBLIC CORPORATIONS TO BE
9 ASSESSED FOR THE COST OF THE WORK OR ACQUISITION. THE HEARING
10 MAY BE THE SAME HEARING PROVIDED FOR IN SUBSECTION (2).

11 (7) AFTER THE HEARING AND THE DETERMINATION TO PROCEED WITH
12 THE WORK, THE DRAINAGE BOARD SHALL PROCEED IN THE SAME MANNER AND
13 HAVE THE SAME POWERS AND DUTIES AS ARE PROVIDED FOR OTHER DRAIN
14 PROJECTS IN THIS CHAPTER.

15 Sec. 499. (1) After the construction of a county drain for
16 which none of the financing is obtained through special assess-
17 ments under section 490, the drainage board shall provide for an
18 amount from surplus construction funds sufficient to inspect,
19 repair, and maintain the drain as provided in section ~~196~~ 199.
20 After providing for inspection, repair, and maintenance, the
21 drainage board may apportion the balance of the surplus construc-
22 tion funds to separate accounts to the credit of the public cor-
23 porations against which the cost of the drain is assessed. The
24 funds shall be credited in direct proportion to amounts assessed
25 and collected from the public corporations.

1 (2) Funds in an account apportioned to the credit of a
 2 public corporation under this section shall be used only for the
 3 following:

4 (a) To pay principal and interest on bonds issued to finance
 5 the drain for which the assessment is imposed.

6 (b) If bonds are not sold, to pay assessments due from the
 7 public corporation.

8 (c) At the request of the public corporation, to alleviate
 9 drainage problems in that public corporation.

10 (3) A DRAINAGE BOARD MAY APPLY SECTION 283 TO SURPLUS CON-
 11 STRUCTION FUNDS INSTEAD OF THIS SECTION.

12 SEC. 500. EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION,
 13 ASSESSMENTS AGAINST A TOWNSHIP SHALL BE AGAINST THE TOWNSHIP AS A
 14 WHOLE, INCLUDING ANY VILLAGE. HOWEVER, THE DRAINAGE BOARD OR THE
 15 DRAIN COMMISSIONER MAY DETERMINE TO ASSESS SEPARATELY OR EXCLUDE
 16 A VILLAGE, IN WHICH CASE THE ASSESSMENT AGAINST THE TOWNSHIP
 17 SHALL BE EXCLUSIVE OF THE VILLAGE AND THE TAX LEVIES TO BE MADE
 18 BY THE TOWNSHIP TO PAY THE ASSESSMENT SHALL NOT INCLUDE PROPERTY
 19 TAXABLE IN THE VILLAGE.

20 CHAPTER 21 —

21 INTERCOUNTY DRAINS; PUBLIC CORPORATIONS —

22 Sec. 513. ~~(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 539.~~
 26 ~~If the legislative body determines that a special assessment,~~
 27 ~~fee, or charge may be made under section 539, before filing a~~

~~1 petition under this section, the legislative body shall proceed
2 as prescribed in section 538a.~~

~~3 (1) (2) If it is necessary for the public health to locate,
4 establish, and construct an intercounty drain, a petition for
5 that purpose may be filed with the director of the department of
6 agriculture signed by 2 or more public corporations which will be
7 subject to assessments to pay the cost of the drain~~ TO INITIATE
8 THE ESTABLISHMENT OF A DRAINAGE DISTRICT AND ESTABLISHMENT AND
9 THE CONSTRUCTION OF A COUNTY DRAIN THAT IS NECESSARY FOR THE
10 PUBLIC HEALTH OR THE MAINTENANCE AND IMPROVEMENT OF SUCH A DRAIN,
11 1 OR MORE CITIES, VILLAGES, OR TOWNSHIPS THAT WILL BE SUBJECT TO
12 ASSESSMENT TO PAY THE COST OF THE DRAIN MAY FILE A PETITION WITH
13 THE DIRECTOR OF AGRICULTURE AS PROVIDED IN SECTION 14, AND THE
14 DRAIN COMMISSIONER OF THE COUNTIES WHERE THE CITIES, VILLAGES, OR
15 TOWNSHIPS ARE LOCATED. The petition shall state that it is filed
16 pursuant to this chapter, ~~and shall describe the location and
17 route of the proposed drain sufficiently to determine with rea-
18 sonable certainty the areas to be serviced by the drain.~~ REQUEST
19 THE ESTABLISHMENT OF A DRAINAGE DISTRICT AND THE ESTABLISHMENT
20 AND CONSTRUCTION OF A DRAIN, AND SET FORTH THE REASONS FOR THE
21 REQUEST. THE PETITION MAY PROPOSE A LOCATION AND ROUTE FOR THE
22 DRAIN.

~~23 (3) Not more than 20 days after the petition is filed, the
24 director of the department of agriculture shall notify all public
25 corporations in which any of the areas to be drained are located,
26 as described in the petition, that a petition has been filed
27 which may affect drainage in the public corporation.~~

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, and for a petition filed by~~
7 ~~the state, the state transportation commission shall authorize~~
8 ~~the execution of the petition.~~ THE PETITION MAY BE FILED IN MORE
9 THAN 1 COUNTERPART. As provided in section 423, an order of
10 determination of the ~~water resources commission~~ DEPARTMENT OF
11 ENVIRONMENTAL QUALITY shall also serve as a petition made pursu-
12 ant to this chapter.

13 (3) NOT MORE THAN 28 DAYS AFTER THE PETITION IS FILED, THE
14 DIRECTOR OF AGRICULTURE 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. 515. There is created for each project petitioned for
19 under ~~the provisions of~~ this chapter, an augmented drainage
20 board to consist of the members of the drainage board together
21 with the ~~chairman~~ CHAIRPERSON of the COUNTY board of
22 ~~supervisors~~ COMMISSIONERS OR A MEMBER OF THE COUNTY BOARD OF
23 COMMISSIONERS DESIGNATED BY THAT CHAIRPERSON and the ~~chairman~~
24 CHAIRPERSON of the board of county auditors of each county
25 involved. If there is no board of county auditors in ~~any~~ A
26 county, then the ~~chairman~~ CHAIRPERSON of the finance committee
27 of the COUNTY board of ~~supervisors shall act as a member of the~~

1 ~~augmented drainage board, and if~~ COMMISSIONERS OR A MEMBER OF
2 THE COUNTY BOARD OF COMMISSIONERS DESIGNATED BY THAT CHAIRPERSON
3 SHALL BE A MEMBER OF THE AUGMENTED DRAINAGE BOARD IF there is
4 neither a board of county auditors nor A finance committee, then
5 the ~~chairman~~ CHAIRPERSON of the COUNTY board of ~~supervisors~~
6 COMMISSIONERS shall select 1 member of the COUNTY board of
7 ~~supervisors~~ COMMISSIONERS of his OR HER county to act as a
8 member of the augmented drainage board. ~~The chairman~~ THE
9 CHAIRPERSON and secretary of the drainage board shall act as
10 ~~chairman~~ CHAIRPERSON and secretary, respectively, of the aug-
11 mented drainage board. The ~~chairman~~ CHAIRPERSON of the COUNTY
12 board of ~~supervisors~~ COMMISSIONERS and any member of ~~a~~ THE
13 COUNTY board of ~~supervisors~~ COMMISSIONERS, serving on the aug-
14 mented drainage board, shall receive ~~such~~ compensation,
15 mileage, and expenses, ~~as shall be provided by the augmented~~
16 ~~drainage board except that such compensation shall not exceed~~
17 ~~\$25.00 per diem exclusive of mileage and expenses for attendance~~
18 ~~at augmented drainage board meetings~~ WHICH SHALL BE DETERMINED
19 AS PROVIDED IN SECTION 51A FOR MEMBERS OF A BOARD OF
20 DETERMINATION.

21 Sec. 517. Upon receipt of a petition ~~as hereinbefore~~
22 ~~provided~~ UNDER THIS CHAPTER, the director of agriculture shall
23 make a preliminary finding of the counties which, in his OR HER
24 opinion, include public corporations that should be assessed
25 under ~~the provisions of~~ this chapter for the cost of the pro-
26 posed drain. ~~Upon the making of such preliminary finding, the~~
27 THE director of agriculture shall THEN give notice of the time

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

20 Sec. 518. (1) Meetings of the drainage board, or of the
 21 augmented drainage board, may be called by the chairperson or 2
 22 members of the board. ~~,~~ ~~on notice sent by registered mail to~~
 23 ~~each member.~~ ~~The notice shall be mailed not less than 10 days~~
 24 ~~before the time of the meeting.~~ NOTICE OF THE MEETING SHALL BE
 25 GIVEN AS PROVIDED IN SECTION 8.

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

1 number may adjourn from time to time. A meeting may be adjourned
2 from time to time. Unless otherwise provided herein, an action
3 shall not be taken by either of the boards except by a majority
4 vote of A QUORUM OF its members.

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

8 Sec. 519. (1) The augmented drainage board, at its first
9 meeting, shall consider the petition for the project UNDER THIS
10 CHAPTER and make a tentative determination as to the sufficiency
11 of the petition and the practicability of the proposed ~~drain~~
12 PROJECT, and further make a tentative determination of the public
13 corporations to be assessed. The augmented drainage board shall
14 give a name to the drain and to the drainage district. The dis-
15 trict shall be composed of the ~~public corporations~~ CITIES, VIL-
16 LAGES, AND TOWNSHIPS to be assessed for the cost of the project.

17 (2) If the augmented drainage board, by resolution, tenta-
18 tively determines that there should be assessed a public corpora-
19 tion in a county ~~other than those contained~~ NOT in the tenta-
20 tive findings of the director of ~~the department of~~ agriculture,
21 further proceedings shall not be taken by the augmented drainage
22 board, but the resolution shall have the effect of amending the
23 preliminary finding of the director of ~~the department of~~
24 agriculture. The director of ~~the department of~~ agriculture
25 shall proceed, as in the first instance, to call a new meeting of
26 the drainage board and the augmented drainage board as enlarged

1 by reason of the inclusion of the additional public corporations
2 in another county.

3 (3) After the augmented drainage board has made the
4 ~~determination specified in this section~~ TENTATIVE DETERMINATION
5 OF THE SUFFICIENCY OF THE PETITION AND THE PRACTICABILITY OF THE
6 PROPOSED DRAIN, it shall fix a time, date, and place it will meet
7 to hear objections to the proposed drain and the petition for the
8 drain, and TO the matter of assessing the cost of the drain to
9 the designated public corporations. Notice of the hearing shall
10 be ~~published twice in each county involved by inserting the~~
11 ~~notice in at least 1 newspaper published in the county, desig-~~
12 ~~nated by the augmented drainage board. The first publication~~
13 ~~shall be made not less than 20 days before the time of hearing.~~
14 ~~The notice shall also be sent by registered mail to the clerk or~~
15 ~~secretary of each public corporation proposed to be assessed,~~
16 ~~except that a notice to the state shall be sent to the state~~
17 ~~highway director and a notice to a county shall be sent to both~~
18 ~~the county clerk and the county road commission. The mailing~~
19 ~~shall be made not less than 20 days before the time of hearing.~~
20 ~~The notice shall be signed by the secretary and proof of the pub-~~
21 ~~lication and mailing of the notice shall be filed with the~~
22 ~~secretary. The augmented drainage board may provide a form to be~~
23 ~~substantially followed in the giving of such notice~~ GIVEN AS
24 PROVIDED IN SECTION 8.

25 (4) After the hearing, the augmented drainage board shall
26 make a determination as to the sufficiency of the petition, the
27 practicability of the ~~drain, whether the drain should be~~

1 ~~constructed~~ PROJECT, WHETHER THE PROJECT IS NECESSARY AND
2 CONDUCTIVE TO PUBLIC HEALTH, AND, IF SO, the public corporations
3 to be assessed, and shall issue its order accordingly. The order
4 shall be known as the final order of determination. A public
5 corporation shall not be eliminated from, or added to, those ten-
6 tatively determined to be assessed without a rehearing after
7 notice AS PROVIDED IN SUBSECTION (2).

8 (5) After the augmented drainage board ~~has made~~ MAKES the
9 determinations, further action in respect to the drain shall be
10 taken by the drainage board. The augmented drainage board may be
11 reconvened by its chairperson or 2 members of the board, upon
12 notice given for the purpose of making a correction or addition
13 to its proceedings.

14 SEC. 519A. (1) AFTER THE DRAINAGE BOARD ENTERS THE FINAL
15 ORDER OF DETERMINATION, THE DRAINAGE BOARD SHALL PROCEED IN THE
16 SAME MANNER AS PROVIDED IN SECTION 467A.

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

1 DRAINAGE BOARD SHALL DETERMINE WHETHER OR NOT THE PETITION SHOULD
2 BE REJECTED. IF THE REJECTION IS DETERMINED TO BE PRACTICAL, THE
3 DRAINAGE BOARD SHALL ENTER AN ORDER OF REJECTION AND APPORTION
4 ALL COSTS INCURRED TO THE DISTRICT AS IF THE PROJECT HAD BEEN
5 BUILT AND THE COSTS SHALL BE SUBSEQUENTLY ASSESSED AND PAID AS
6 PROVIDED IN THIS CHAPTER. A DETERMINATION TO REJECT A PETITION
7 DOES NOT LIMIT THE RIGHT TO FILE ANOTHER PETITION.

8 Sec. 520. (1) ~~The drainage board shall proceed to secure~~
9 ~~from a competent engineer, plans, specifications, and an estimate~~
10 ~~of cost of the proposed drain, which when approved and adopted by~~
11 ~~the board shall be filed with the secretary thereof. In approv-~~
12 ~~ing the plans and specifications, the drainage board shall not be~~
13 ~~limited to the route of the drain described in the petition or~~
14 ~~the final order of determination. The~~ FOR EACH COUNTY AFFECTED,
15 THE drainage board shall tentatively establish the percentage of
16 the cost of the drain or of the several sections or parts thereof
17 which is to be borne by public corporations. ~~in each county~~
18 ~~affected and by the state on account of any state highway, and by~~
19 ~~the county on account of any county highway. The percentage of~~
20 the cost apportioned to public corporations ~~in~~ FOR each county
21 shall then be apportioned by the drain commissioner among public
22 corporations to be assessed in the county, which determination
23 shall be filed with the secretary of the drainage board. In
24 making the apportionments ~~hereunder, there shall be taken into~~
25 ~~consideration the benefits to accrue to each public corporation~~
26 ~~and also the extent to which each public corporation contributes~~
27 ~~to the conditions which make the drain necessary. Apportionments~~

1 ~~against the state shall be based upon the benefits and~~
2 ~~contributions as related solely to the drainage of state high-~~
3 ~~ways, and those against the county shall be based as related~~
4 ~~solely to the drainage of its county highways.~~ TO CITIES, VIL-
5 LAGES, AND TOWNSHIPS, THE DRAINAGE BOARD SHALL CONSIDER THE BENE-
6 FITS TO ACCRUE TO EACH CITY, VILLAGE, OR TOWNSHIP AND ALSO THE
7 EXTENT TO WHICH EACH CITY, VILLAGE, OR TOWNSHIP CONTRIBUTES TO
8 THE CONDITIONS THAT MAKE THE DRAIN NECESSARY, SUBJECT TO SECTION
9 500. APPORTIONMENTS AGAINST THIS STATE OR A COUNTY SHALL RELATE
10 SOLELY TO STATE TRUNK LINE HIGHWAYS OR COUNTY ROADS,
11 RESPECTIVELY. THE APPORTIONMENT OF BENEFITS FOR STATE TRUNK LINE
12 HIGHWAYS AND THE PORTION PAID BY COUNTY ROAD COMMISSIONS FOR BEN-
13 EFIT TO COUNTY ROADS MUST BE PAID PURSUANT TO SECTION 14A OF 1951
14 PA 51, MCL 247.664A. Before a tentative apportionment ~~shall be~~
15 IS made, the drainage board shall designate the area to be served
16 by the drain project, which may or may not include all of the
17 area in a ~~public corporation~~ CITY, VILLAGE, OR TOWNSHIP to be
18 assessed, and may divide the drain into sections or parts for
19 purposes of apportionment or construction. ~~Nothing herein con-~~
20 ~~tained shall prohibit a~~ THE county ~~from assuming any~~ MAY
21 ASSUME AN additional cost of the drain ~~if~~ BY THE VOTE OF 2/3 of
22 the members elect of the county board of commissioners. ~~vote in~~
23 ~~favor thereof.~~

24 (2) The apportionment shall apply only to the proposed drain
25 PROJECT, AND SEPARATE CONCURRENT MAINTENANCE APPORTIONMENTS FOR
26 THE DRAIN MAY BE ESTABLISHED. The apportionments for extensions
27 or other work subsequently performed under section 535 shall be

1 reestablished by the board. ~~When chapter 25 is employed in the~~
2 ~~apportionment of costs, the above~~

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

5 Sec. 521. ~~After the tentative apportionments of cost have~~
6 ~~been made, the drainage board shall set a time, date, and place~~
7 ~~it will meet and hear objections to the apportionments. Notice~~
8 ~~of the hearing shall be published twice in each county involved~~
9 ~~by inserting the notice in at least 1 newspaper published in the~~
10 ~~county, designated by the drainage board. The first publication~~
11 ~~is to be not less than 20 days before the time of hearing. The~~
12 ~~notice shall also be sent by registered mail to the clerk or sec-~~
13 ~~retary of each public corporation proposed to be assessed, except~~
14 ~~that a notice to the state shall be sent to the state highway~~
15 ~~director and a notice to a county shall be sent both to the~~
16 ~~county clerk and the county road commission. The mailing shall~~
17 ~~be made not less than 20 days before the time of hearing. The~~
18 ~~notice shall be signed by the secretary and proof of the publica-~~
19 ~~tion and mailing of the notice shall be filed with the~~
20 ~~secretary. The drainage board may provide a form to be substan-~~
21 ~~tially followed in the giving of the notice. The notice shall~~
22 ~~include tentative apportionments to the several public~~
23 ~~corporations. After the hearing, the drainage board may confirm~~
24 ~~the apportionments as tentatively made, or, if it considers the~~
25 ~~apportionments to be inequitable, it shall readjust the~~
26 ~~apportionments. Before readjusted apportionments are confirmed,~~
27 ~~the drainage board shall set a time, date, and place for a~~

~~1 rehearing and shall give notice of the hearing. The notice shall~~
~~2 also set forth the apportionments as readjusted. It shall then~~
~~3 issue its order setting forth the several apportionments as~~
~~4 confirmed. The order shall be known as the final order of~~
~~5 apportionment~~ THE INTERCOUNTY DRAINAGE BOARD OR A PUBLIC CORPO-
 6 RATION HAS THE SAME POWERS AND DUTIES WITH RESPECT TO AN INTER-
 7 COUNTY DRAIN UNDER THIS CHAPTER AS THE COUNTY DRAINAGE BOARD OR A
 8 PUBLIC CORPORATION, RESPECTIVELY, UNDER SECTION 469.

9 Sec. 524. The drainage board shall designate the treasurer
 10 of 1 of the counties involved as the treasurer for ~~said board.~~
~~11 He~~ THE DRAINAGE DISTRICT. THE TREASURER may designate 1 or more
 12 of his OR HER deputies ~~who may~~ TO act for ~~him~~ THE TREASURER
 13 in the performance of any of his OR HER duties under this
 14 section. ~~Such~~ THE treasurer and any such deputy shall serve
 15 without additional compensation. ~~He~~ THE TREASURER and each
 16 deputy county treasurer so designated shall furnish a bond in
 17 ~~such sum as shall be fixed~~ THE AMOUNT SPECIFIED by the drainage
 18 board, conditioned upon the faithful discharge of his OR HER
 19 duties. ~~, the premium thereon to~~ THE PREMIUM ON THE BOND SHALL
 20 be paid by the drainage board. ~~Moneys~~ MONEY held by the trea-
 21 surer shall be paid out only upon order of the drainage board,
 22 except that ~~no such order shall be~~ AN ORDER IS NOT required for
 23 the payment of principal and interest on bonds.

24 Sec. 525. (1) ~~After the confirmation of the apportionments~~
 25 ~~by the drainage board, the secretary of the board shall prepare a~~
 26 ~~special assessment roll assessing the estimated cost of the~~
 27 ~~drain, or if the actual cost has been ascertained, then the~~

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

1 ~~tax roll instead of the city or village tax roll. When chapter~~
2 ~~25 is employed in the apportionment of costs, the above proceed-~~
3 ~~ings shall be altered and supplemented as provided in chapter~~
4 ~~25.~~ THE DRAINAGE BOARD AND THE CHAIRPERSON OF THE DRAINAGE BOARD
5 SHALL PROCEED IN THE MANNER PROVIDED IN SECTION 473.

6 (2) AFTER THE CHAIRPERSON OF THE DRAINAGE BOARD PREPARES THE
7 SPECIAL ASSESSMENT SCHEDULE, THE CHAIRPERSON SHALL PRESENT THE
8 SCHEDULE TO THE DRAINAGE BOARD FOR APPROVAL. IF THE DRAINAGE
9 BOARD APPROVES THE SPECIAL ASSESSMENT SCHEDULE, THE CHAIRPERSON
10 OF THE DRAINAGE BOARD SHALL AFFIX TO THE SCHEDULE A STATEMENT TO
11 THAT EFFECT SIGNED BY THE CHAIRPERSON AND SECRETARY OF THE DRAIN-
12 AGE BOARD. THE CHAIRPERSON OF THE DRAINAGE BOARD SHALL THEN CER-
13 TIFY TO EACH PUBLIC CORPORATION ASSESSED THE ASSESSMENT INFORMA-
14 TION IN THE ASSESSMENT SCHEDULE.

15 (3) EACH YEAR, AT LEAST 28 DAYS BEFORE THE TIME OF THE LEVY-
16 ING OF TAXES BY EACH PUBLIC CORPORATION, THE SECRETARY OF THE
17 DRAINAGE BOARD SHALL NOTIFY THE PUBLIC CORPORATION OF THE AMOUNT
18 OF THE INSTALLMENT AND INTEREST NEXT BECOMING DUE, BUT THE FAIL-
19 URE TO NOTIFY A PUBLIC CORPORATION SHALL NOT EXCUSE IT FROM
20 MAKING PAYMENT OF THE INSTALLMENT AND INTEREST.

21 (4) ON OR BEFORE THE DUE DATE OF AN INSTALLMENT, EACH PUBLIC
22 CORPORATION SHALL PAY TO ITS COUNTY TREASURER THE FULL AMOUNT
23 THEREOF, TOGETHER WITH INTEREST ACCRUING TO THE DUE DATE. NOT
24 MORE THAN 14 DAYS AFTER A PUBLIC CORPORATION PAYS A SPECIAL
25 ASSESSMENT INSTALLMENT TO ITS COUNTY TREASURER, THE COUNTY TREA-
26 SURER SHALL FORWARD TO THE DRAINAGE BOARD THE AMOUNT PAID.

1 (5) THE INTERCOUNTY DRAINAGE BOARD, AN OFFICER OF AN
 2 INTERCOUNTY DRAINAGE BOARD, A PUBLIC CORPORATION, OR ANY OTHER
 3 PERSON SHALL PROCEED IN THE SAME MANNER WITH RESPECT TO AN INTER-
 4 COUNTY DRAIN UNDER THIS CHAPTER AS PROVIDED UNDER SECTIONS 473,
 5 474A TO 479, 483 TO 485, 490, 491, AND 500 EXCEPT AS FOLLOWS:

6 (A) THE PERIOD UNDER SECTION 483 TO FILE A COMPLAINT FOR
 7 SUPERINTENDING CONTROL FOR AN ERROR IN PROCEEDINGS OCCURRING
 8 BEFORE OR IN THE FINAL ORDER OF DETERMINATION SHALL BEGIN WHEN
 9 THE FINAL ORDER IS FILED IN THE OFFICE OF THE SECRETARY OF THE
 10 INTERCOUNTY DRAINAGE BOARD.

11 (B) A PETITION UNDER SECTION 491 FOR ASSUMPTION OF JURISDIC-
 12 TION BY AN INTERCOUNTY DRAINAGE BOARD SHALL OTHERWISE MEET THE
 13 REQUIREMENTS OF THIS CHAPTER.

14 Sec. 532. ~~Any~~ AN action arising from the provisions of
 15 this chapter ~~except such actions as may be brought directly in~~
 16 ~~the supreme court~~ may be brought in the circuit court of ~~any~~ A
 17 county in which ~~any~~ A part of the intercounty ~~drain involved~~
 18 ~~is located: Provided, That on request by any party to said~~
 19 ~~action made prior to the time said action is instituted, or~~
 20 ~~within 30 days after receipt of service of process, the presiding~~
 21 ~~circuit judge of Michigan shall appoint a circuit judge to hear~~
 22 ~~said action~~ DRAINAGE DISTRICT IS LOCATED, SUBJECT TO THE
 23 MICHIGAN RULES OF COURT.

24 Sec. 540. ~~When~~ IF 2 or more public corporations, consti-
 25 tuting as a whole contiguous territory, are served by 1 or more
 26 intercounty drains or by a combination of 1 or more intercounty
 27 drains and 1 or more county drains, and it is necessary for the

1 public health to supplement such existing drain or drains by
2 constructing 1 or more relief drains, which may consist of new
3 drains and branches and connections thereto or ~~extensions,~~
4 ~~enlargements, branches, connections or improvements described in~~
5 ~~section 535 to~~ IMPROVEMENTS TO OR CONSOLIDATIONS OF existing
6 drains, or any combination thereof, then the entire project may
7 be constructed and financed as a whole under the provisions of
8 this chapter and the word "drain" ~~shall be deemed to include~~
9 INCLUDES such a project.

10 Sec. 541. (1) A petition OTHERWISE meeting the requirements
11 of this chapter ~~as to petitioners, execution and filing~~ may
12 request, for reasons of public health, that jurisdiction be
13 assumed over all or a specified part of the bed, tributaries,
14 banks, and ~~flood plains~~ FLOODPLAINS of a river, creek, or
15 watercourse, not part of an established drain. The petition
16 shall describe the existing or threatened conditions which cause
17 or increase the danger of flooding, pollution, ~~desecration~~
18 DAMAGE, or obstruction of such river, creek, or watercourse, and
19 shall specify, in general terms, the works, property acquisition,
20 actions, or procedures, ~~deemed~~ CONSIDERED necessary to remove
21 or lessen such danger.

22 (2) THE PETITIONERS NAMED IN A PETITION UNDER SUBSECTION (1)
23 SHALL INCLUDE IN THE PETITION AN AGREEMENT TO PAY, OR ACCOMPANY
24 THE PETITION WITH A DEPOSIT IN THE AMOUNT OF, THE ESTIMATED COST
25 OF THE PLANNING AND ENGINEERING REQUIRED TO DESCRIBE ALL OF THE
26 FOLLOWING:

1 (A) IN RECORDABLE FORM THE BED, TRIBUTARIES, BANKS, AND
2 FLOODPLAINS OF THE RIVER, CREEK, OR WATERCOURSE OVER WHICH
3 JURISDICTION IS NECESSARY AND IS TO BE ASSUMED UNDER THE
4 PETITION.

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

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

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

17 (4) AFTER THE HEARING, THE DRAINAGE BOARD SHALL DETERMINE
18 WHETHER OR NOT IT WILL ASSUME SUCH JURISDICTION AND PERFORM THE
19 WORK PROPOSED, IF ANY, AND SHALL ISSUE ITS ORDER ACCORDINGLY.
20 THE ORDER SHALL BE KNOWN AS THE "FINAL ORDER OF DETERMINATION".
21 THE FINAL ORDER OF DETERMINATION SHALL CONTAIN THE DESCRIPTION OF
22 THE BED, TRIBUTARIES, BANKS, AND FLOODPLAINS OF THE RIVER, CREEK,
23 OR WATERCOURSE OVER WHICH JURISDICTION HAS BEEN ASSUMED AND SHALL
24 BE RECORDED IN THE COUNTY RECORDS IN THE COUNTY IN WHICH ANY PART
25 THEREOF IS LOCATED. AFTER THE FINAL ORDER OF DETERMINATION IS
26 RECORDED, NO CONSTRUCTING, EXCAVATING, LAND FILLING, REMOVING OF
27 STRUCTURES OR VEGETATION, DUMPING, OR DISCHARGING OF SEWERS OR

1 DRAINS SHALL BE PERMITTED OR CONTINUED IN THE BED, TRIBUTARIES,
2 BANKS, OR FLOODPLAINS OF THE RIVER, CREEK, OR WATERCOURSE WITHIN
3 THE RECORDED DESCRIPTION THEREOF, EXCEPT UPON WRITTEN ORDER OR
4 PERMIT ISSUED BY THE DRAINAGE BOARD.

5 (5) THE RECORDING OF THE DESCRIPTION DOES NOT APPROPRIATE,
6 TERMINATE, OR LESSEN ANY PRIVATE RIGHTS IN PROPERTY, REAL OR PER-
7 SONAL, EXCEPT PROPERTY ACQUIRED UNDER SECTION 7. THE RECORDING
8 OF THE DESCRIPTION CONSTITUTES A REGULATION AND LIMITATION, FOR
9 REASONS OF PUBLIC HEALTH, OF THE USE OF THE PUBLIC AND PRIVATE
10 PROPERTY THEREIN DESCRIBED TO REMOVE OR LESSEN THE DANGER OF
11 FLOODING, POLLUTION, DAMAGE, OR OBSTRUCTION OF THE RIVER, CREEK,
12 OR WATERCOURSE, OR PART THEREOF, INVOLVED.

13 (6) BEFORE ANY WORK, OTHER THAN PREPARATION OF THE DESCRIP-
14 TION AND THE APPROVAL, ADOPTION, AND RECORDING OF THE DESCRIP-
15 TION, IS DONE OR RIGHTS IN PROPERTY ARE ACQUIRED BY THE DRAINAGE
16 BOARD, PURSUANT TO A PETITION FILED UNDER SUBSECTION (1), THE
17 DRAINAGE BOARD SHALL MAKE A DETERMINATION, FOLLOWING NOTICE AND A
18 HEARING AS PROVIDED IN THIS CHAPTER, AS TO THE PUBLIC CORPORA-
19 TIONS TO BE ASSESSED FOR THE COST OF THE WORK OR ACQUISITION.
20 THE HEARING MAY BE THE HEARING PROVIDED FOR IN SUBSECTION (2).
21 AFTER THE HEARING AND THE DETERMINATION TO PROCEED WITH THE WORK,
22 THE DRAINAGE BOARD SHALL PROCEED IN THE SAME MANNER AND HAVE THE
23 SAME POWERS AND DUTIES AS ARE PROVIDED FOR OTHER DRAIN PROJECTS
24 IN THIS CHAPTER.

25

CHAPTER 22 —

WATERSHED MANAGEMENT —

~~DISTRICTS AND SUBDISTRICTS.~~

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SEC. 585. AS USED IN THIS CHAPTER, UNLESS THE CONTEXT INDICATES OTHERWISE:

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

(B) "BENEFIT" OR "BENEFITS" MEANS THE ADVANTAGES RESULTING FROM A PLAN OR PROJECT TO PUBLIC CORPORATIONS, THE RESIDENTS OF PUBLIC CORPORATIONS, AND PROPERTY WITHIN PUBLIC CORPORATIONS.

BENEFITS INCLUDE, BUT ARE NOT LIMITED TO, BENEFITS THAT RESULT FROM THE MANAGEMENT AND CONTROL OF WATER, SUCH AS ELIMINATION OR REDUCTION OF FLOOD DAMAGE, ELIMINATION OR REDUCTION OF WATER QUALITY CONDITIONS THAT JEOPARDIZE THE PUBLIC HEALTH, SAFETY, OR WELFARE, INCREASE OF THE VALUE OR USE OF LANDS AND PROPERTY ARISING FROM IMPROVED WATER QUALITY, INCREASED USEFULNESS OF THE WATER FOR AGRICULTURAL OR RECREATIONAL USES, REDUCTION OF FLOODING, IMPROVED DRAINAGE, AND REMEDYING A PUBLIC CORPORATION'S CONTRIBUTIONS TO THE CONDITIONS THAT MAKE A PLAN NECESSARY.

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

(D) "DISTRICT", UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE, MEANS A WATERSHED MANAGEMENT DISTRICT.

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

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

1 (G) "PLAN" MEANS A WATERSHED MANAGEMENT PLAN ADOPTED UNDER
2 SECTION 595.

3 (H) "PROJECT" MEANS AN ACTIVITY SET FORTH IN THE WATERSHED
4 MANAGEMENT PLAN.

5 (I) "PUBLIC CORPORATION" MEANS A COUNTY, TOWNSHIP, CITY, OR
6 VILLAGE.

7 (J) "STUDY" OR "WATERSHED STUDY" MEANS THE PROCESS BY WHICH
8 THE OBJECTIVES OF THE PETITION OR OBJECTIVES IDENTIFIED BY THE
9 COMMISSION ARE INVESTIGATED AND RESOLVED, SETTING FORTH THE
10 WATERSHED MANAGEMENT PLAN.

11 (K) "WATERSHED" MEANS A GEOGRAPHIC AREA OF ANY SIZE FROM
12 WHICH WATER SEEKS A COMMON OUTLET, INCLUDING, BUT NOT LIMITED TO,
13 A CREEKSHED, CATCHMENT AREA, DRAINAGE BASIN, DRAINAGE DISTRICT,
14 OR RIVER BASIN.

15 SEC. 586. (1) TO INITIATE PROCEDURES TO ESTABLISH A WATER-
16 SHED MANAGEMENT DISTRICT AND DEVELOP A WATERSHED MANAGEMENT PLAN,
17 A PETITION SHALL BE FILED WITH THE COUNTY BOARD OF COMMISSIONERS
18 IN A COUNTY WHERE ALL OR A PORTION OF THE PROPOSED WATERSHED MAN-
19 AGEMENT DISTRICT IS TO BE LOCATED AND ESTABLISHED.

20 (2) THE PETITION SHALL STATE THAT IT IS FILED UNDER THIS
21 CHAPTER, REQUEST THE ESTABLISHMENT OF A DISTRICT, SET FORTH THE
22 PROPOSED NAME OF THE DISTRICT, AND BRIEFLY RECITE FACTS AND CIR-
23 CUMSTANCES SHOWING THAT THE DISTRICT WOULD BE CONDUCIVE TO THE
24 PUBLIC HEALTH, CONVENIENCE, OR WELFARE OR TO THE PROTECTION AND
25 REHABILITATION OF WATERS OF THE DISTRICT. THE PETITION SHALL
26 IDENTIFY THE COMMON OUTLET FOR THE PROPOSED DISTRICT. THE
27 PETITION SHALL INCLUDE A GENERAL DESCRIPTION OF THE LOCATION OF

1 THE PROPOSED DISTRICT WHICH MAY CONSIST OF A MAP GENERALLY
2 OUTLINING THE BOUNDARIES OF THE PROPOSED DISTRICT. THE PETITION
3 SHALL ALSO REQUEST THE DEVELOPMENT OF A WATERSHED MANAGEMENT PLAN
4 AND IDENTIFY THE OBJECTIVES TO BE INVESTIGATED. THE PETITION MAY
5 SPECIFY PERSONS OR ENTITIES THAT SHOULD BE CONSIDERED FOR MEMBER-
6 SHIP ON ANY APPOINTED WATERSHED ADVISORY BOARD.

7 (3) A PETITION FOR THE ESTABLISHMENT OF A DISTRICT SHALL BE
8 SIGNED BY 1 OF THE FOLLOWING, AS APPLICABLE:

9 (A) FOR A DISTRICT LYING WHOLLY WITHIN THE BOUNDARIES OF 1
10 COUNTY, BY A RESOLUTION OF THE GOVERNING BODY OF AT LEAST 1
11 PUBLIC CORPORATION LYING WHOLLY OR PARTLY WITHIN THAT COUNTY.

12 (B) FOR A DISTRICT LYING WHOLLY OR PARTLY WITHIN 2 OR MORE
13 COUNTIES, BY RESOLUTIONS OF THE GOVERNING BODIES OF AT LEAST 2
14 PUBLIC CORPORATIONS LYING WHOLLY OR PARTLY WITHIN THOSE
15 COUNTIES.

16 SEC. 587. THE PETITION FILER SHALL ALSO FILE WITH THE BOARD
17 OF COUNTY COMMISSIONERS A CASH DEPOSIT SUFFICIENT TO PAY THE
18 COSTS, AS DETERMINED BY THE COUNTY BOARD OF COMMISSIONERS, OF
19 NOTICE UPON EACH AFFECTED PUBLIC CORPORATION, PUBLICATION OF
20 NOTICE FOR THE FIRST MEETING OF THE COMMISSION, AND PUBLICATION
21 OF THE FIRST HEARING. ANY UNUSED FUNDS FROM THE DEPOSIT SHALL BE
22 RETURNED TO THE PERSON FILING THE PETITION. IF A DISTRICT IS
23 ESTABLISHED, THE BALANCE OF THE DEPOSIT SHALL BE CONSIDERED A
24 COST OF THE WATERSHED MANAGEMENT DISTRICT, SHALL BE COLLECTED IN
25 THE FIRST ASSESSMENT, AND SHALL BE RETURNED TO THE PETITIONER
26 UPON COLLECTION OF THE FIRST ASSESSMENT.

1 SEC. 588. (1) WITHIN 42 DAYS FOLLOWING RECEIPT OF THE
2 PETITION, THE COUNTY BOARD OF COMMISSIONERS SHALL REVIEW THE
3 PETITION FOR SUFFICIENCY UNDER SECTION 586. IF THE PETITION IS
4 INSUFFICIENT UNDER SECTION 586, THE COUNTY BOARD OF COMMISSIONERS
5 SHALL RETURN THE PETITION TO THE FILER OF THE PETITION WITH A
6 WRITTEN EXPLANATION OF THE REASONS THAT THE PETITION IS
7 INSUFFICIENT.

8 (2) IF THE COUNTY BOARD OF COMMISSIONERS FINDS THAT THE
9 PETITION IS SUFFICIENT, A WATERSHED MANAGEMENT COMMISSION IS
10 ESTABLISHED FOR THE PROPOSED DISTRICT. THE COMMISSION CONSISTS
11 OF THE FOLLOWING MEMBERS:

12 (A) THE DRAIN COMMISSIONER OF EACH COUNTY WITHIN THE
13 DISTRICT.

14 (B) THE CHIEF ELECTED OFFICIAL OR AN ELECTED OFFICIAL DESIG-
15 NATED BY THE CHIEF ELECTED OFFICIAL OF EACH PUBLIC CORPORATION
16 WITH LANDS WITHIN THE DISTRICT.

17 (C) THE DIRECTOR OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY
18 OR A PERSON DESIGNATED BY THE DIRECTOR AS A NONVOTING MEMBER.

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

21 (E) UNLESS THE DISTRICT LIES WHOLLY WITHIN THE BOUNDARIES OF
22 1 COUNTY, THE DIRECTOR OF THE DEPARTMENT OF AGRICULTURE OR A
23 PERSON DESIGNATED BY THE DIRECTOR.

24 (3) WITHIN 28 DAYS OF DETERMINING THAT THE PETITION IS SUF-
25 FICIENT, THE COUNTY BOARD OF COMMISSIONERS SHALL DO BOTH OF THE
26 FOLLOWING:

1 (A) MAKE A PRELIMINARY FINDING OF THE PUBLIC CORPORATIONS
2 SUBJECT TO ASSESSMENT UNDER THIS CHAPTER.

3 (B) BY FIRST-CLASS MAIL PROVIDE NOTICE OF THE FIRST MEETING
4 OF THE WATERSHED MANAGEMENT COMMISSION TO ALL OF THE FOLLOWING:

5 (i) THE COUNTY CLERK, DRAIN COMMISSIONER, AND CHAIRPERSON OF
6 EACH COUNTY ROAD COMMISSION OF EACH COUNTY SUBJECT TO ASSESSMENT
7 UNDER THIS CHAPTER.

8 (ii) THE CHAIRPERSON OF EACH SOIL CONSERVATION DISTRICT
9 WITHIN THE PROPOSED WATERSHED MANAGEMENT DISTRICT.

10 (iii) THE CLERK OF EACH CITY, VILLAGE, AND TOWNSHIP HAVING
11 LANDS WITHIN THE PROPOSED DISTRICT.

12 (iv) THE DIRECTOR OF THE DEPARTMENT OF AGRICULTURE.

13 (v) THE DIRECTOR OF THE DEPARTMENT OF ENVIRONMENTAL
14 QUALITY.

15 (vi) THE DIRECTOR OF THE DEPARTMENT OF NATURAL RESOURCES.

16 (vii) THE DIRECTOR OF THE STATE TRANSPORTATION DEPARTMENT.

17 (viii) THE CHAIRPERSON OF ANY WATERSHED COUNCIL ESTABLISHED
18 UNDER PART 311 OF THE NATURAL RESOURCES AND ENVIRONMENTAL PROTEC-
19 TION ACT, 1994 PA 451, MCL 324.31101 TO 324.31119, WHOSE WATER-
20 SHED LIES WHOLLY OR PARTLY WITHIN THE DISTRICT.

21 (4) THE NOTICE SHALL INCLUDE A COPY OF THE PETITION AND
22 SHALL REQUEST EACH NOTIFIED PUBLIC CORPORATION TO DESIGNATE A
23 REPRESENTATIVE TO THE COMMISSION AND STATE THE TIME AND PLACE OF
24 THE FIRST MEETING WHICH SHALL BE NOT LESS THAN 42 AND NOT MORE
25 THAN 63 DAYS FOLLOWING THE MAILING OF THE NOTICE. FAILURE OF THE
26 GOVERNING BODY OF ANY PUBLIC CORPORATION ENTITLED REPRESENTATION
27 TO DESIGNATE A MEMBER TO THE COMMISSION DOES NOT PREVENT THE

1 INCLUSION OF THE PUBLIC CORPORATION IN THE WATERSHED MANAGEMENT
2 DISTRICT OR EXEMPT IT FROM ASSESSMENT OR OTHER OBLIGATIONS UNDER
3 THIS CHAPTER.

4 (5) THE COUNTY BOARD OF COMMISSIONERS WITH WHOM THE PETITION
5 WAS FILED SHALL ALSO PUBLISH A NOTICE OF THE FIRST MEETING OF THE
6 COMMISSION IN A NEWSPAPER OF GENERAL CIRCULATION IN THE PROPOSED
7 DISTRICT.

8 (6) EACH COUNTY BOARD OF COMMISSIONERS WHOSE COUNTY LIES
9 WHOLLY OR PARTLY WITHIN THE BOUNDARIES OF THE DISTRICT SHALL BY
10 FIRST-CLASS MAIL DELIVER A COPY OF THE NOTICE UNDER SUBSECTION
11 (4) TO ANY INTERESTED PARTY THAT HAS MADE A WRITTEN REQUEST TO BE
12 NOTIFIED REGARDING WATERSHED MANAGEMENT DISTRICT PETITIONS.

13 SEC. 589. (1) AT THE FIRST MEETING OF THE COMMISSION, THE
14 COMMISSION SHALL ELECT A CHAIRPERSON, VICE-CHAIRPERSON, AND SEC-
15 RETARY FROM AMONG ITS MEMBERS. THE CHAIRPERSON OF THE COMMISSION
16 MAY VOTE ONLY IF NECESSARY TO CAST THE DECIDING VOTE IN CASE OF A
17 TIE.

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

1 FUNDS SHALL BE INVESTED IN INTEREST BEARING ACCOUNTS IN THE NAME
2 OF THE DISTRICT.

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

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

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

18 (6) THE COMMISSION SHALL MEET AT LEAST ONCE ANNUALLY BEFORE
19 APRIL 1. THE FIRST MEETING OF THE COMMISSION EACH YEAR SHALL BE
20 CONSIDERED ITS ANNUAL MEETING. AT ITS ANNUAL MEETING, THE COM-
21 MISSION SHALL DO ALL OF THE FOLLOWING:

22 (A) APPOINT MEMBERS OF THE WATERSHED ADVISORY BOARD AND
23 EXECUTIVE COMMITTEE AND SUCH OTHER COMMITTEES AS IT CONSIDERS
24 APPROPRIATE.

25 (B) APPROVE ASSESSMENTS FOR DISTRICT OPERATION AND WATERSHED
26 MANAGEMENT PLAN IMPLEMENTATION.

1 (C) APPROVE AN ANNUAL WORK PLAN AND ANNUAL BUDGET FOR THE
2 DISTRICT FOR THE ENSUING YEAR, AND CONDUCT OTHER BUSINESS.

3 (D) ISSUE AN ANNUAL REPORT STATING PROGRESS TOWARD THE
4 PETITION.

5 (E) CONDUCT OTHER BUSINESS.

6 (7) A COPY OF THE ANNUAL REPORT AND BUDGET SHALL BE PRE-
7 PARED, PUBLISHED, AND PROVIDED TO ALL PUBLIC CORPORATIONS IN THE
8 DISTRICT, THE DEPARTMENT OF AGRICULTURE, THE DEPARTMENT OF ENVI-
9 RONMENTAL QUALITY, AND THE DEPARTMENT OF NATURAL RESOURCES.

10 (8) ORDERS ISSUED BY THE COMMISSION SHALL BE SIGNED BY THE
11 CHAIRPERSON AND THE SECRETARY.

12 (9) THE SECRETARY SHALL PREPARE AND SIGN 3 DUPLICATE ORIGI-
13 NALS OF THE MINUTES OF THE PROCEEDINGS OF THE BODY. THE SECRE-
14 TARY SHALL RETAIN 1 DUPLICATE ORIGINAL, FILE 1 DUPLICATE ORIGINAL
15 WITH THE CHAIRPERSON, AND FILE 1 DUPLICATE ORIGINAL WITH THE
16 DIRECTOR OF THE DEPARTMENT OF AGRICULTURE. THE ORIGINALS OF ALL
17 PROCEEDINGS AND RECORDS SHALL BE KEPT ON FILE WITH THE
18 SECRETARY.

19 (10) A WRITING PREPARED, OWNED, USED, IN THE POSSESSION OF,
20 OR RETAINED BY THE COMMISSION IN THE PERFORMANCE OF AN OFFICIAL
21 FUNCTION IS SUBJECT TO THE FREEDOM OF INFORMATION ACT, 1976 PA
22 442, MCL 15.231 TO 15.246.

23 SEC. 590. (1) AT THE FIRST MEETING, THE COMMISSION SHALL
24 TENTATIVELY DETERMINE THE PRACTICALITY OF THE PETITION AND
25 WHETHER A DISTRICT WOULD BE CONDUCIVE TO THE PUBLIC HEALTH, CON-
26 VENIENCE, OR WELFARE OR TO THE PROTECTION AND REHABILITATION OF
27 THE WATERS OF THE DISTRICT. IF THE COMMISSION DETERMINES THAT

1 THE PETITION IS NOT PRACTICAL, THE COMMISSION MAY RETURN THE
2 PETITION TO THE PETITION FILER FOR SUPPLEMENTATION AND
3 REFINEMENT. IF SUCH REFINEMENT RESULTS IN THE INCLUSION OF ADDI-
4 TIONAL PUBLIC CORPORATIONS WHICH ARE ENTITLED TO DESIGNATE A
5 MEMBER OF THE COMMISSION, THE COMMISSION SHALL NOTIFY THE CLERK
6 OF SUCH PUBLIC CORPORATION OF THE TIME AND PLACE TO RECONVENE THE
7 COMMISSION. IF THE COMMISSION AT ANY TIME DETERMINES THAT THE
8 DISTRICT WOULD NOT BE CONDUCTIVE TO THE PUBLIC HEALTH, CONVE-
9 NIENCE, OR WELFARE OR TO THE PROTECTION AND REHABILITATION OF THE
10 WATERS OF THE DISTRICT, IT SHALL ORDER THE PETITION DISMISSED AND
11 PROCEEDINGS UNDER THE PETITION SHALL BE TERMINATED. IF A PETI-
12 TION IS SO DISMISSED, A PETITION THAT IS THE SAME OR SUBSTAN-
13 TIALY THE SAME SHALL NOT BE FILED UNDER THIS CHAPTER FOR 1 YEAR
14 AFTER THE DATE OF DISMISSAL.

15 (2) IF THE COMMISSION TENTATIVELY FINDS THAT THE PETITION IS
16 PRACTICAL AND THAT THE WATERSHED MANAGEMENT DISTRICT WOULD BE
17 CONDUCTIVE TO THE PUBLIC HEALTH, CONVENIENCE, OR WELFARE OR TO THE
18 PROTECTION AND REHABILITATION OF WATERS OF THE DISTRICT, IT SHALL
19 PROMPTLY SELECT A NAME FOR THE DISTRICT AND MAKE A TENTATIVE
20 DETERMINATION OF THE PUBLIC CORPORATIONS TO BE ASSESSED FOR THE
21 COST, AND FIX A TIME, DATE, AND PLACE TO HEAR OBJECTIONS TO THE
22 ESTABLISHMENT OF THE DISTRICT AND PUBLIC CORPORATIONS SUBJECT TO
23 ASSESSMENT. THE HEARING SHALL TAKE PLACE WITHIN 42 DAYS OF THE
24 TENTATIVE DETERMINATION OF THE PUBLIC CORPORATIONS TO BE
25 ASSESSED. NOTICE OF THE HEARING SHALL BE PUBLISHED TWICE BY
26 INSERTING THE NOTICE IN A NEWSPAPER OF GENERAL CIRCULATION IN THE
27 DISTRICT. THE PUBLICATION SHALL NOT BE LESS THAN 21 DAYS BEFORE

1 THE DATE OF THE HEARING. THE NOTICE SHALL ALSO BE SENT BY
2 FIRST-CLASS MAIL TO THE CLERK OF EACH PUBLIC CORPORATION PROPOSED
3 TO BE ASSESSED NOT LESS THAN 21 DAYS BEFORE THE DATE OF THE
4 HEARING. THE NOTICE SHALL BE SIGNED BY THE CHAIRPERSON AND PROOF
5 OF THE PUBLICATION AND MAILING OF THE NOTICE SHALL BE FILED IN
6 HIS OR HER OFFICE. THE PROOF WILL BE CONCLUSIVE OF THE PUBLICA-
7 TION AND MAILING. THE COMMISSION MAY PROVIDE A FORM TO BE SUB-
8 STANTIALLY FOLLOWED IN GIVING OF NOTICE.

9 (3) AFTER THE HEARING, THE COMMISSION SHALL DETERMINE
10 WHETHER THE PETITION IS PRACTICAL AND THE DISTRICT WOULD BE CON-
11 DUCIVE TO THE PUBLIC HEALTH, CONVENIENCE, OR WELFARE OR TO THE
12 PROTECTION AND REHABILITATION OF THE WATERS OF THE DISTRICT AND,
13 IF SO, THE PUBLIC CORPORATIONS TO BE ASSESSED. THE COMMISSION
14 SHALL ISSUE ITS ORDER ACCORDINGLY. THE ORDER SHALL BE KNOWN AS
15 THE ORDER DESIGNATING THE WATERSHED MANAGEMENT DISTRICT. A
16 PUBLIC CORPORATION SHALL NOT BE ELIMINATED FROM OR ADDED TO THOSE
17 TENTATIVELY DETERMINED TO BE ASSESSED WITHOUT A REHEARING AFTER
18 NOTICE. THE COMMISSION SHALL PUBLISH NOTICE OF THE ORDER DESIG-
19 NATING THE DISTRICT BY PUBLISHING IN A NEWSPAPER OF GENERAL CIR-
20 CULATION IN THE DISTRICT. THE NOTICE SHALL GIVE A GENERAL
21 DESCRIPTION OF THE COMMON OUTLET AND THE LOCATION OF THE DISTRICT
22 AS SHOWN BY THE ORDER. IN ADDITION, THE COMMISSION SHALL SERVE A
23 COPY OF THE ORDER BY FIRST-CLASS MAIL ON THE CLERKS OF EACH
24 PUBLIC CORPORATION WITHIN THE DISTRICT, THE DIRECTOR OF AGRICUL-
25 TURE, THE DIRECTOR OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY,
26 THE DIRECTOR OF THE DEPARTMENT OF NATURAL RESOURCES, AND THE

1 SECRETARY OF EACH SOIL CONSERVATION DISTRICT WITHIN THE PROPOSED
2 DISTRICT.

3 (4) ANY PUBLIC CORPORATION AGGRIEVED BY THE DECISION OF THE
4 COMMISSION MAY FILE AN APPEAL IN THE CIRCUIT COURT FOR THE CIR-
5 CUIT COURT CIRCUIT WHERE THAT PUBLIC CORPORATION IS LOCATED
6 WITHIN 28 DAYS.

7 SEC. 591. (1) THE COMMISSION SHALL FUNCTION AS THE GOVERN-
8 ING BODY OF THE DISTRICT. ACTIONS TAKEN BY THE COMMISSION SHALL
9 BE TAKEN IN THE NAME OF THE DISTRICT.

10 (2) AFTER THE COMMISSION ISSUES ITS ORDER DESIGNATING THE
11 DISTRICT, IT MAY APPOINT A WATERSHED MANAGEMENT DISTRICT EXECU-
12 TIVE COMMITTEE. ONLY MEMBERS OF THE COMMISSION ARE ELIGIBLE TO
13 BE MEMBERS OF THE EXECUTIVE COMMITTEE. THE MEMBERS OF THE EXECU-
14 TIVE COMMITTEE SHALL BE ELECTED BY A VOTE OF THE MAJORITY OF THE
15 MEMBERS OF THE COMMISSION. HOWEVER, THE DRAIN COMMISSIONER SERV-
16 ING ON THE COMMISSION SHALL BE A MEMBER OF THE EXECUTIVE
17 COMMITTEE.

18 (3) THE EXECUTIVE COMMITTEE SHALL PERFORM ADMINISTRATIVE AND
19 MINISTERIAL DUTIES AS DIRECTED BY THE COMMISSION AND OUTLINED IN
20 ITS BYLAWS. THE EXECUTIVE COMMITTEE'S DUTIES MAY INCLUDE CONDUCT
21 OF MEETINGS AND PUBLIC HEARINGS FOR PURPOSES OF RECOMMENDING A
22 WATERSHED MANAGEMENT PLAN AND RECOMMENDING IMPLEMENTATION OF THE
23 PLAN. THE EXECUTIVE COMMITTEE MAY PREPARE AND MAKE RECOMMENDA-
24 TIONS AS TO THE APPORTIONMENT OF COSTS AND THE REVIEW OF
25 EXPENDITURES. HOWEVER, THE ADOPTION OF THE FINAL PLAN, IMPLEMEN-
26 TATION OF THE PLAN, FINAL APPORTIONMENT OF COSTS, ADOPTION OF AN

1 ANNUAL BUDGET, AND AUTHORIZATION OF ASSESSMENTS SHALL BE APPROVED
2 BY THE MAJORITY OF THE COMMISSION.

3 SEC. 592. (1) AFTER THE ISSUANCE OF THE ORDER DESIGNATING
4 THE DISTRICT, THE COMMISSION SHALL DEVELOP THE TENTATIVE SCOPE OF
5 THE WATERSHED STUDY WHICH SHALL GUIDE THE DEVELOPMENT OF THE
6 WATERSHED MANAGEMENT PLAN.

7 (2) THE COMMISSION SHALL APPOINT A WATERSHED MANAGEMENT DIS-
8 TRICT ADVISORY BOARD. THE COMMISSION SHALL INVITE THE DEPARTMENT
9 OF NATURAL RESOURCES, THE DEPARTMENT OF ENVIRONMENTAL QUALITY,
10 THE STATE TRANSPORTATION DEPARTMENT, AND ANY WATERSHED COUNCIL
11 ESTABLISHED UNDER PART 311 OF THE NATURAL RESOURCES AND ENVIRON-
12 MENTAL PROTECTION ACT, 1994 PA 451, MCL 324.31101 TO 324.31119,
13 SOIL CONSERVATION DISTRICT, OR BOARD OF COUNTY ROAD COMMISSIONERS
14 WHOSE WATERSHED, CONSERVATION DISTRICT, OR COUNTY LIES WHOLLY OR
15 PARTLY WITHIN THE WATERSHED MANAGEMENT DISTRICT TO APPOINT A REP-
16 RESENTATIVE TO THE ADVISORY BOARD. THE COMMISSION MAY CONSIDER
17 AS MEMBERS OF THE ADVISORY BOARD THOSE PERSONS OR ENTITIES WHICH
18 WERE SPECIFIED AS PART OF THE PETITION, AND ANY OTHER PERSON OR
19 ENTITY WITH AN INTEREST IN THE DISTRICT, INCLUDING, BUT NOT
20 LIMITED TO, FEDERAL, STATE, COUNTY, AND MUNICIPAL AGENCIES,
21 REGIONAL PLANNING AGENCIES, PROPERTY OWNERS, AND INTEREST
22 GROUPS. IT IS INTENDED THAT THE ADVISORY BOARD INCLUDE MEMBERS
23 WHO WILL REPRESENT A BALANCE OF THE INTERESTS EXISTING IN THE
24 DISTRICT.

25 (3) AT ITS FIRST MEETING, THE ADVISORY BOARD SHALL ELECT A
26 CHAIRPERSON AND SECRETARY. MINUTES SHALL BE KEPT AT ALL
27 MEETINGS, AND RECORDS OF ALL PROCEEDINGS AND RECOMMENDATIONS OF

1 THE ADVISORY BOARD SHALL BE FILED IN THE OFFICE OF THE
2 CHAIRPERSON OF THE COMMISSION.

3 (4) THE WATERSHED MANAGEMENT COMMISSION SHALL APPOINT AT
4 LEAST 1 MEMBER OF THE COMMISSION TO THE ADVISORY BOARD. ONCE THE
5 ADVISORY BOARD HAS BEEN ESTABLISHED, THE COMMISSION SHALL PERIOD-
6 ICALLY REVIEW THE MEMBERSHIP BASED UPON DEMOGRAPHIC INFORMATION
7 OF THE WATERSHED MANAGEMENT DISTRICT AND REVISE THE MEMBERSHIP AS
8 NECESSARY TO ENSURE A BALANCE OF ALL INTERESTS IN THE DISTRICT.

9 (5) THE ADVISORY BOARD, IN CONJUNCTION WITH THE COMMISSION
10 OR ITS EXECUTIVE COMMITTEE, OR BOTH, SHALL FURTHER DEFINE THE
11 SCOPE OF THE WATERSHED STUDY. THE WATERSHED STUDY OR THE PLAN
12 MAY INCLUDE 1 OR MORE OF THE FOLLOWING:

13 (A) PREPARATION OF PLANS.

14 (B) PROBLEM ASSESSMENT.

15 (C) SPECIAL STUDIES.

16 (D) WATER QUALITY, WATER QUANTITY MONITORING, OR BIOLOGICAL
17 MONITORING.

18 (E) MODELING.

19 (F) DATA GATHERING.

20 (G) EDUCATION AND EDUCATION PROGRAMS.

21 (H) PURCHASE OF LANDS, ACQUISITION OF CONSERVATION OR OTHER
22 EASEMENTS OR RIGHTS-OF-WAY, OR PURCHASE OF DEVELOPMENT RIGHTS.

23 (I) DEVELOPMENT AND RECOMMENDATION OF ORDINANCES AND REGULA-
24 TORY PROGRAMS TO BE IMPLEMENTED BY THE PUBLIC CORPORATION.

25 (J) MAPPING.

26 (K) PUBLICATIONS.

1 (I) TESTING.

2 (M) HYDROLOGICAL ENGINEERING, ANALYSIS, AND MODELING.

3 (N) DEVELOPMENT AND DRAFTING OF RECOMMENDED MANAGEMENT
4 PRACTICES.

5 (O) ANY OTHER COMPONENT CONSIDERED APPROPRIATE BY THE COM-
6 MISSION TO ACCOMPLISH THE PURPOSE OF THIS CHAPTER, OTHER THAN
7 CONSTRUCTION ACTIVITIES WHICH CONSTITUTE MAINTENANCE, IMPROVE-
8 MENT, OR CONSTRUCTION OF A DRAIN OR CONSTRUCTION ACTIVITIES
9 WITHIN BOUNDARIES OF THE WATERCOURSE.

10 (6) THE ADVISORY BOARD SHALL CONDUCT PUBLIC MEETINGS TO
11 GATHER INPUT ON THE SCOPE OF THE WATERSHED STUDY. THE ADVISORY
12 BOARD SHALL PREPARE ITS RECOMMENDATION FOR THE SCOPE OF THE
13 WATERSHED STUDY. THE RECOMMENDATION SHALL BE FORWARDED TO THE
14 COMMISSION.

15 (7) UPON RECEIPT OF THE ADVISORY BOARD'S RECOMMENDATION, THE
16 COMMISSION SHALL CONVENE TO DISCUSS THE RECOMMENDATION AND TENTA-
17 TIVELY ADOPT THE SCOPE OF THE WATERSHED STUDY. THE COMMISSION
18 SHALL SET A TIME, DATE, AND PLACE TO HEAR ANY OBJECTIONS TO THE
19 PROPOSED SCOPE OF THE WATERSHED STUDY.

20 SEC. 593. (1) AFTER CONVENING A MEETING OF THE COMMISSION
21 TO HEAR ANY OBJECTIONS TO THE PROPOSED SCOPE OF THE WATERSHED
22 STUDY AND GIVING THE OBJECTIONS DUE CONSIDERATION, THE COMMISSION
23 SHALL CONVENE TO FINALIZE THE SCOPE OF THE WATERSHED STUDY, ADOPT
24 THE SCOPE OF THE WATERSHED STUDY, AND TENTATIVELY APPORTION BENE-
25 FITS IN A FIRST ORDER OF DETERMINATION.

26 (2) INTERESTED PARTIES MAY APPEAL THE SCOPE OF THE PLAN OR
27 THE APPORTIONMENT OF BENEFITS TO THE CIRCUIT COURT IN THE COUNTY

1 WHERE THEY RESIDE WITHIN 21 DAYS OF THE ISSUANCE OF THE FIRST
2 ORDER.

3 (3) THE COMMISSION SHALL NOT PROCEED WITH THE IMPLEMENTATION
4 OF THE WATERSHED STUDY WHILE ANY APPEALS ARE PENDING.

5 SEC. 594. (1) AFTER ANY APPEALS HAVE BEEN RESOLVED, THE
6 COMMISSION SHALL AUTHORIZE THE ADVISORY BOARD TO IMPLEMENT THE
7 SCOPE OF THE WATERSHED STUDY. THE COMMISSION SHALL ESTABLISH
8 OPERATING PROCEDURES FOR THE ADVISORY BOARD TO COMPLETE THE
9 WATERSHED STUDY AND DEVELOP THE DRAFT PLAN.

10 (2) AFTER THE FIRST ORDER OF DETERMINATION HAS BEEN ENTERED,
11 THE COMMISSION MAY CONTRACT WITH PERSONS TO ASSIST IN THE COMPLE-
12 TION OF THE WATERSHED STUDY AND ASSIST THE ADVISORY BOARD IN THE
13 PREPARATION OF THE DRAFT PLAN. THE COMMISSION MAY HIRE EMPLOYEES
14 AND DETERMINE THEIR COMPENSATION. AN EMPLOYEE SHALL NOT BE A
15 MEMBER OF THE COMMISSION OR ANY ADVISORY BOARD.

16 (3) THE ADVISORY BOARD MAY CONVENE PUBLIC HEARINGS TO GATHER
17 PUBLIC INPUT ON THE DRAFT PLAN. THE ADVISORY BOARD SHALL GIVE
18 DUE CONSIDERATION TO ANY RECOMMENDATION SUBMITTED BY LANDOWNERS,
19 PUBLIC CORPORATIONS, AND OTHER INTERESTED PARTIES.

20 (4) PROMPTLY AFTER COMPLETION OF THE SCOPE OF THE WATERSHED
21 STUDY AND PREPARATION OF A DRAFT WATERSHED MANAGEMENT PLAN, THE
22 ADVISORY BOARD SHALL SUBMIT ITS REPORT AND RECOMMENDATIONS TO THE
23 COMMISSION.

24 SEC. 595. (1) AFTER RECEIPT OF THE WRITTEN REPORT AND REC-
25 OMMENDATIONS FROM THE ADVISORY BOARD, THE CHAIRPERSON OF THE COM-
26 MISSION SHALL FORWARD THE REPORT AND RECOMMENDATIONS TO THE
27 MEMBERS OF THE COMMISSION AND SET THE TIME, DATE, AND PLACE FOR A

1 MEETING TO TENTATIVELY ADOPT THE DRAFT PLAN. AFTER THE
2 COMMISSION TENTATIVELY ADOPTS THE DRAFT PLAN, THE CHAIRPERSON OF
3 THE COMMISSION SHALL GIVE NOTICE OF THE TIME, DATE, AND PLACE OF
4 A PUBLIC HEARING TO HEAR OBJECTIONS TO THE DRAFT PLAN AND THE
5 PROPOSED APPORTIONMENT OF COSTS OF IMPLEMENTATION OF THE DRAFT
6 PLAN TO THE DESIGNATED PUBLIC CORPORATIONS. NOTICE OF THE HEAR-
7 ING SHALL BE PUBLISHED TWICE IN A NEWSPAPER OF GENERAL CIRCULA-
8 TION IN THE DISTRICT. THE FIRST PUBLICATION SHALL BE NOT LESS
9 THAN 21 DAYS BEFORE THE DATE OF THE HEARING. NOTICE SHALL ALSO
10 BE SENT BY FIRST-CLASS MAIL TO THE CLERK OF EACH PUBLIC CORPORA-
11 TION PROPOSED TO BE ASSESSED NOT LESS THAN 21 DAYS BEFORE THE
12 DATE OF THE HEARING. THE CHAIRPERSON OF THE COMMISSION SHALL
13 SIGN AND FILE IN HIS OR HER OFFICE AN AFFIDAVIT OF THE PUBLISHED
14 AND MAILED NOTICE. THE AFFIDAVIT IS CONCLUSIVE PROOF OF THE PUB-
15 LICATION OR MAILING OF THE NOTICE.

16 (2) AT THE HEARING, THE COMMISSION SHALL RECEIVE TESTIMONY
17 AND EVIDENCE AS TO THE PRACTICALITY OF THE DRAFT PLAN. IF THE
18 COMMISSION FEELS THAT ADDITIONAL INFORMATION IS NEEDED BEFORE A
19 DRAFT PLAN CAN BE ADOPTED, IT MAY ADJOURN AS IT DEEMS NECESSARY,
20 BUT AN ADJOURNMENT SHALL NOT BE FOR LONGER THAN 63 DAYS. AFTER
21 THE HEARING, THE COMMISSION BY A MAJORITY VOTE SHALL MAKE A
22 DETERMINATION OF THE PRACTICALITY OF THE DRAFT PLAN, SHALL ESTAB-
23 LISH THE FINAL APPORTIONMENTS TO THE PUBLIC CORPORATIONS TO BE
24 ASSESSED, AND SHALL ENTER ORDERS THEREOF, WHICH ORDERS SHALL BE
25 KNOWN AS THE FINAL ORDER OF DETERMINATION AND FINAL ORDER OF
26 APPORTIONMENT, RESPECTIVELY. THE ORDERS SHALL BE FILED IN THE
27 OFFICE OF THE SECRETARY OF THE COMMISSION.

1 (3) APPORTIONMENTS OF BENEFITS UNDER THIS CHAPTER SHALL BE
2 BASED UPON BENEFITS TO THE PUBLIC CORPORATIONS TO BE ASSESSED,
3 THE EXTENT TO WHICH THE PUBLIC CORPORATION CONTRIBUTES TO THE
4 CONDITIONS THAT MAKE A PLAN NECESSARY AND DERIVES SPECIAL BENEFIT
5 DIRECTLY RELATED TO ACTIONS PROPOSED BY THE PLAN, AND WHETHER A
6 PUBLIC CORPORATION OR OWNERS OF LAND IN THE PUBLIC CORPORATION
7 SPECIFICALLY REQUESTED A PROVISION OF THE PLAN.

8 SEC. 596. IF THE PLAN AS SET FORTH IN THE FINAL ORDER OF
9 DETERMINATION PROPOSES THE ESTABLISHMENT, CONSTRUCTION, MAINTENANCE,
10 NANCE, OR IMPROVEMENT OF A COUNTY OR INTERCOUNTY DRAIN, THE
11 ESTABLISHMENT, CONSTRUCTION, MAINTENANCE, OR IMPROVEMENT SHALL BE
12 IMPLEMENTED PURSUANT TO THE APPROPRIATE PROVISIONS OF THIS ACT
13 AND BE SUBJECT TO THE JURISDICTION OF THE RESPECTIVE DRAIN COM-
14 MISSIONER OR DRAINAGE BOARD. THE COMMISSION MAY PETITION FOR
15 WORK OUTLINED IN THE PLAN, BUT ONLY PURSUANT TO CHAPTERS 20 AND
16 21.

17 SEC. 597. THE COMMISSION SHALL AT LEAST EVERY 5 YEARS
18 REVIEW AND REEVALUATE THE PLAN AND ITS IMPLEMENTATION. IN DOING,
19 THE COMMISSION SHALL SEEK THE INPUT AND RECOMMENDATIONS OF THE
20 ADVISORY BOARD. THE COMMISSION MAY RECEIVE A PETITION TO SUPPLE-
21 MENT, AMEND, OR EXPAND THE PLAN. IF SUCH A PETITION IS RECEIVED,
22 THE COMMISSION SHALL PROCEED CONSISTENT WITH THIS CHAPTER FROM
23 THE POINT IN THE PROCEEDINGS IMMEDIATELY FOLLOWING THE ORDER DES-
24 IGNATING THE DISTRICT.

25 SEC. 598. PUBLIC CORPORATIONS MAY ADVANCE FUNDS FOR THE
26 PAYMENT OF ANY PART OF THE COSTS INCURRED BY A DISTRICT AND SHALL
27 BE REPAYED BY THE DISTRICT WHEN FUNDS ARE AVAILABLE. BEFORE THE

1 ISSUANCE OF BONDS, THE COMMISSION MAY ASSESS PRELIMINARY COSTS IN
2 AN EQUITABLE MANNER AGAINST PUBLIC CORPORATIONS IN THE DISTRICT
3 AND COLLECT THE ASSESSED COSTS. THE COSTS OF ALL OF THE FOLLOW-
4 ING ARE SUBJECT TO ASSESSMENT:

5 (A) ESTABLISHING THE DISTRICT.

6 (B) DEVELOPMENT OF THE SCOPE OF THE WATERSHED STUDY.

7 (C) ADMINISTRATIVE STAFF, OFFICE, AND OTHER EXPENSES OF THE
8 COMMISSION AND ADVISORY BOARD.

9 (D) IMPLEMENTATION OF THE PLAN.

10 (E) ACQUIRING INTEREST IN LANDS.

11 (F) ENGINEERING, LEGAL, CONSULTANT, AND OTHER PROFESSIONAL
12 FEES.

13 (G) SERVICE AND PUBLICATION OF ALL NOTICES.

14 (H) INTEREST ON ALL BONDS OR NOTES FOR THE FIRST YEAR THEY
15 ARE TO BE ISSUED AND ALL PAYMENTS AND INTEREST ON BONDS OR NOTES
16 ISSUED BEFORE THE ASSESSMENT.

17 (I) OTHER ITEMS IDENTIFIED AND ALLOCATED IN THE FINALLY
18 APPROVED ANNUAL BUDGET.

19 (J) POSSIBLE CONTINGENT EXPENSES, IN AN AMOUNT NOT EXCEEDING
20 10% OF THE OTHER COSTS WHICH ARE TO BE ASSESSED AGAINST PUBLIC
21 CORPORATIONS.

22 SEC. 599. (1) ANY ACTION ARISING FROM THIS CHAPTER MAY BE
23 BROUGHT IN THE CIRCUIT COURT OF ANY COUNTY IN WHICH ANY PART OF
24 THE DISTRICT INVOLVED IS LOCATED.

25 (2) NEITHER THE FINAL ORDER OF DETERMINATION NOR THE FINAL
26 ORDER OF APPORTIONMENT IS SUBJECT TO ATTACK IN ANY COURT EXCEPT
27 BY PROCEEDINGS AND SUPERINTENDING CONTROL BROUGHT WITHIN 28 DAYS

1 AFTER THE FILING OF SUCH ORDER IN THE OFFICE OF THE SECRETARY OF
 2 THE COMMISSION. UNLESS SUCCESSFULLY CHALLENGED IN PROCEEDINGS
 3 BROUGHT WITHIN THIS TIME, THE DISTRICT IS LEGALLY ESTABLISHED AND
 4 THE LEGALITY OF THE PLAN AND THE ASSESSMENTS SHALL NOT BE QUES-
 5 TIONED IN ANY SUIT AT LAW OR EQUITY.

6 (3) SUBSECTION (2) DOES NOT APPLY UNLESS ALL NOTICES GIVEN
 7 UNDER THIS CHAPTER CONTAIN A COPY OF SUBSECTION (2).

8 SEC. 600. (1) THE COMMISSION, ITS ADVISORY BOARD, OR AN
 9 EXECUTIVE COMMITTEE IS NOT AUTHORIZED TO PERFORM A DUTY, SPECIFI-
 10 CALLY DELEGATED TO A DRAIN COMMISSIONER OR DRAINAGE BOARD UNDER
 11 THIS ACT.

12 (2) THE COMMISSION, ITS ADVISORY BOARD, OR AN EXECUTIVE COM-
 13 MITTEE IS NOT GOVERNED BY THE PROCEDURAL OR OTHER PROVISIONS CON-
 14 TAINED IN THIS ACT OTHER THAN THIS CHAPTER EXCEPT AS OTHERWISE
 15 SPECIFIED. HOWEVER, IF NOT CONTRARY TO THE EXPRESSED PROVISIONS
 16 OF THIS CHAPTER, ANY PROVISION OR PROVISIONS IN OTHER CHAPTERS OF
 17 THIS ACT MAY BE INCORPORATED BY RECITAL OR BY REFERENCES INTO ANY
 18 ORDER OR RESOLUTION OF THE COMMISSION.

19 ~~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.~~ ANY ASSESSMENTS MADE UNDER

1 THIS CHAPTER DO NOT CONSTITUTE INDEBTEDNESS OF A PUBLIC
2 CORPORATION FOR PURPOSES OF ANY CHARTER, STATUTORY, OR CONSTITU-
3 TIONAL DEBT LIMITATION. TAXES LEVIED BY A PUBLIC CORPORATION FOR
4 THE PAYMENT OF SUCH ASSESSMENTS ARE NOT WITHIN A STATUTORY OR
5 CHARTER TAX LIMITATION.

6 Sec. 602. ~~If any person shall wilfully or maliciously~~
7 ~~remove any section or grade stake set along the line of any~~
8 ~~drain, or obstruct or injure any drain, he shall be deemed guilty~~
9 ~~of a misdemeanor, and upon conviction thereof shall be punished~~
10 ~~by a fine not exceeding \$100.00 and the costs of prosecution, or~~
11 ~~in default of the payment thereof, by imprisonment in the county~~
12 ~~jail not exceeding 90 days.~~ THE COMMISSION MAY ACQUIRE THE NEC-
13 ESSARY LANDS OR RIGHTS-OF-WAY AS IDENTIFIED IN THE PLAN. SUCH
14 ACQUISITION SHALL BE BY NEGOTIATED PURCHASE OR RELEASE, OR BY
15 GIFT OR GRANT.

16 SEC. 603. (1) THE COMMISSION MAY ENTER A CONTRACT WITH ANY
17 FEDERAL AGENCY UNDER WHICH THE FEDERAL AGENCY WILL PAY THE WHOLE
18 OR ANY PART OF THE COST OF THE PLAN OR WILL PERFORM THE WHOLE OR
19 ANY PART OF THE WORK CONNECTED WITH THE PLAN.

20 (2) THE COMMISSION MAY ALSO CONTRACT WITH ANY PRIVATE OR
21 PUBLIC CORPORATION IN RESPECT TO ANY MATTER CONNECTED WITH THE
22 PLAN. SUCH CONTRACT WITH A PUBLIC CORPORATION MAY PROVIDE THAT
23 ANY PAYMENTS MADE OR WORK DONE BY THE PUBLIC CORPORATION SHALL BE
24 IN LIEU OF ALL OR PART OF THE ASSESSMENTS FOR THE COST OF THE
25 PLAN.

26 SEC. 604. AFTER THE CONFIRMATION OF THE APPORTIONMENT, THE
27 COMMISSION SHALL DIRECT THE SECRETARY OF THE COMMISSION TO

1 PREPARE A SPECIAL ASSESSMENT ROLL ASSESSING THE ESTIMATED COST OF
2 THE PLAN, OR IF THE ACTUAL COST HAS BEEN ASCERTAINED, THE ACTUAL
3 COST AGAINST THE PUBLIC CORPORATIONS IN ACCORDANCE WITH THE CON-
4 FIRMED APPORTIONMENTS. THE COMMISSION MAY PROVIDE FOR THE PAY-
5 MENT OF THE SPECIAL ASSESSMENTS IN ANY NUMBER OF APPROXIMATELY
6 EQUAL ANNUAL INSTALLMENTS, NOT EXCEEDING 20. INSTALLMENTS OF
7 ASSESSMENTS AGAINST THE STATE AND AGAINST PUBLIC CORPORATIONS
8 WHICH COLLECT THEIR TAXES BEGINNING APPROXIMATELY DECEMBER 1 IN
9 EACH YEAR ARE DUE BY APRIL 1 OF EACH YEAR. INSTALLMENTS OF
10 ASSESSMENTS AGAINST PUBLIC CORPORATIONS ARE DUE BY THE DATE OR
11 DATES FIXED BY THE COMMISSION DEPENDING ON THE TIME OR TIMES FOR
12 THE COLLECTION OF TAXES BY THE PUBLIC CORPORATIONS. THE COMMIS-
13 SION SHALL FIX THE RATE OF INTEREST TO BE PAID UPON UNPAID
14 INSTALLMENTS AT NOT MORE THAN 6%. INTEREST IS DUE ANNUALLY ON
15 THE DAY AND MONTH UPON WHICH THE ANNUAL INSTALLMENTS ARE DUE.
16 ANY INSTALLMENT OR INSTALLMENTS MAY BE PAID IN ADVANCE OF THE DUE
17 DATE WITH INTEREST COMPUTED TO THE NEXT INSTALLMENT DUE DATE.
18 THE COMMISSION SHALL FIX THE TIME OR TIMES FOR THE PAYMENT OF THE
19 FIRST INSTALLMENT SO THAT EACH PUBLIC CORPORATION MAY MAKE A TAX
20 LEVY FOR THE PAYMENT OF THE INSTALLMENT.

21 SEC. 605. (1) THE SPECIAL ASSESSMENT ROLL SHALL CONTAIN THE
22 NAME OF EACH PUBLIC CORPORATION ASSESSED; THE TOTAL ESTIMATED
23 COST OF THE PLAN, OR THE ACTUAL COST IF THE ACTUAL COST HAS BEEN
24 ASCERTAINED AT THE TIME OF THE PREPARATION OF THE ROLL; THE PER-
25 CENTAGE APPORTIONED TO EACH PUBLIC CORPORATION; THE AMOUNT OF THE
26 ASSESSMENT FOR EACH PUBLIC CORPORATION BASED UPON THE PERCENTAGE
27 OF APPORTIONMENT; AND THE AMOUNT OF EACH INSTALLMENT IF THE

1 ASSESSMENT IS DIVIDED INTO ANNUAL INSTALLMENTS. AFTER THE
2 SECRETARY PREPARES THE SPECIAL ASSESSMENT ROLL, THE SECRETARY
3 SHALL PRESENT THE SPECIAL ASSESSMENT ROLL TO THE COMMISSION FOR
4 APPROVAL. IF THE COMMISSION APPROVES THE ROLL, A STATEMENT TO
5 THAT EFFECT SETTING FORTH THE DATE OF APPROVAL SHALL BE SIGNED BY
6 THE CHAIRPERSON AND SECRETARY OF THE COMMISSION AND AFFIXED TO
7 THE ROLL.

8 (2) THE CHAIRPERSON OF THE COMMISSION SHALL THEN CERTIFY TO
9 EACH PUBLIC CORPORATION ASSESSED THE AMOUNT OF THE TOTAL ASSESS-
10 MENT AGAINST IT, THE AMOUNT OF THE VARIOUS INSTALLMENTS IF THE
11 ASSESSMENT IS DIVIDED INTO INSTALLMENTS, THE DUE DATE OF EACH
12 INSTALLMENT, AND THE RATE OF INTEREST UPON UNPAID INSTALLMENTS.
13 THE TREASURER SHALL ALSO EACH YEAR, AT LEAST 30 DAYS BEFORE THE
14 TIME OF THE LEVYING OF TAXES BY EACH PUBLIC CORPORATION, NOTIFY
15 THE PUBLIC CORPORATION OF THE AMOUNT OF THE INSTALLMENT AND
16 INTEREST NEXT BECOMING DUE. HOWEVER, THE FAILURE TO SO NOTIFY
17 ANY PUBLIC CORPORATION DOES NOT EXCUSE IT FROM MAKING PAYMENT OF
18 THE INSTALLMENT AND INTEREST.

19 (3) ON OR BEFORE THE DUE DATE OF AN INSTALLMENT, EACH PUBLIC
20 CORPORATION SHALL PAY TO ITS COUNTY TREASURER THE AMOUNT OF THE
21 INSTALLMENT, TOGETHER WITH INTEREST ACCRUING TO THE DUE DATE.
22 WITHIN 15 DAYS AFTER RECEIVING A PAYMENT, THE COUNTY TREASURER
23 SHALL FORWARD THE AMOUNT SO PAID TO THE TREASURER OF THE
24 COMMISSION. IF A PUBLIC CORPORATION FAILS OR NEGLECTS TO PAY THE
25 COUNTY TREASURER THE AMOUNT OF THE INSTALLMENT AND INTEREST, THE
26 COUNTY TREASURER SHALL ADVANCE THE AMOUNT TO THE TREASURER OF THE
27 COMMISSION FROM COUNTY FUNDS AND DEDUCT THE AMOUNT FROM ANY

1 FUNDS, OTHER THAN THOSE PLEDGED FOR THE PAYMENT OF DEBTS, OF THE
2 PUBLIC CORPORATION. IF A COUNTY ADVANCED FUNDS FOR A PUBLIC COR-
3 PORATION UNDER THIS SECTION BUT HAD NOT BEEN REIMBURSED, THE
4 COUNTY BOARD OF COMMISSIONERS MAY ORDER THE PUBLIC CORPORATION
5 AND ITS OFFICERS TO LEVY UPON ITS NEXT TAX ROLL AN AMOUNT SUFFI-
6 CIENT TO MAKE SUCH REIMBURSEMENT ON OR BEFORE THE DATE WHEN ITS
7 TAXES BECOME DELINQUENT. THE PUBLIC CORPORATION AND ITS TAX
8 LEVYING AND COLLECTING OFFICIALS SHALL LEVY AND COLLECT SUCH
9 TAXES AND REIMBURSE THE COUNTY. NOTHING IN THIS SECTION PREVENTS
10 THE COUNTY FROM OBTAINING REIMBURSEMENT FROM ANY OTHER LEGAL
11 METHOD. THE TAX LEVYING OFFICIALS OF EACH OF THE PUBLIC CORPORA-
12 TIONS ASSESSED SHALL LEVY SUFFICIENT TAXES TO PAY ASSESSMENT
13 INSTALLMENTS AND INTEREST AS THEY BECOME DUE UNLESS SUFFICIENT
14 MONEY HAS BEEN SET ASIDE.

15 (4) IF A SPECIAL ASSESSMENT ROLL IS PREPARED UPON THE BASIS
16 OF THE ESTIMATED COST OF THE PLAN, THEN AFTER THE ACTUAL COST HAS
17 BEEN ASCERTAINED AND DETERMINED BY THE COMMISSION, THE SPECIAL
18 ASSESSMENTS AND THE INSTALLMENTS SHALL BE CORRECTED BY ADDING ANY
19 DEFICIENCY OR DEDUCTING ANY EXCESS, OR REFUNDING THE AMOUNT OF
20 ANY PREPAID ASSESSMENTS IN EXCESS OF THE ASSESSMENT BASED UPON
21 ACTUAL COSTS. THE COMMISSION MAY ORDER SUCH CORRECTIONS TO BE
22 MADE UPON THE ORIGINAL ROLL OR MAY ORDER THAT A NEW CORRECTED
23 ROLL BE PREPARED AND SUBMITTED FOR APPROVAL BY THE COMMISSION.

24 SEC. 606. (1) THE COMMISSION MAY ISSUE BONDS OR NOTES FOR
25 AND ON BEHALF OF THE WATERSHED MANAGEMENT DISTRICT, IN ANTICIPA-
26 TION OF THE COLLECTION OF ANY OR ALL INSTALLMENTS OF ASSESSMENTS,

1 AND PLEDGE THE FULL FAITH AND CREDIT OF THE DISTRICT FOR THE
2 PROMPT PAYMENT OF THE PRINCIPAL AND INTEREST.

3 (2) A DISTRICT MAY BORROW MONEY OR ACCEPT THE ADVANCE OF
4 WORK, MATERIAL, OR MONEY FROM A PUBLIC OR PRIVATE CORPORATION,
5 PARTNERSHIP, ASSOCIATION, INDIVIDUAL, OR ANY AGENCY OF THE FED-
6 ERAL GOVERNMENT FOR PAYMENT FOR THE PREPARATION OR IMPLEMENTATION
7 OF THE PLAN TO BE REIMBURSED BY THE DISTRICT, WITH OR WITHOUT
8 INTEREST AS MAY BE AGREED, WHEN FUNDS ARE AVAILABLE. THE OBLIGA-
9 TION OF THE DISTRICT TO MAKE THE REPAYMENT OR REIMBURSEMENT MAY
10 BE EVIDENCED BY A CONTRACT OR NOTE. THE CONTRACT OR NOTE MAY
11 PLEDGE THE FULL FAITH AND CREDIT OF THE DRAINAGE DISTRICT AND MAY
12 BE MADE PAYABLE OUT OF THE ASSESSMENTS MADE AGAINST PUBLIC CORPO-
13 RATIONS OR OUT OF ANY OTHER AVAILABLE FUNDS, AND THE CONTRACT OR
14 NOTE SHALL NOT BE CONSIDERED TO BE AN OBLIGATION WITHIN THE MEAN-
15 ING OF THE MUNICIPAL FINANCE ACT, 1943 PA 202, MCL 131.1 TO
16 139.3. THE TOTAL AMOUNT OF PRINCIPAL OWED FOR OBLIGATIONS UNDER
17 THIS SECTION SHALL NOT EXCEED \$600,000.00.

18 (3) THIS SECTION DOES NOT APPLY TO ADVANCES OR LOANS MADE BY
19 ANY PUBLIC CORPORATION, THE FEDERAL GOVERNMENT, OR ANY AGENCY OF
20 THE FEDERAL GOVERNMENT.

21 (4) A COUNTY BOARD OF COMMISSIONERS BY A MAJORITY VOTE OF
22 2/3 OF ITS MEMBERS MAY PLEDGE THE FULL FAITH AND CREDIT OF A
23 COUNTY FOR THE PAYMENT OF A NOTE OF THE DISTRICT.

24 SEC. 607. IF THE ORIGINAL ASSESSMENT IS INSUFFICIENT TO PAY
25 THE PRINCIPAL AND INTEREST ON BONDS AND NOTES ISSUED IN ANTICIPA-
26 TION OF THE COLLECTION, THEN THE COMMISSION SHALL MAKE SUCH
27 ADDITIONAL ASSESSMENTS, AS NECESSARY. THE ADDITIONAL ASSESSMENTS

1 SHALL BE APPORTIONED TO THE SAME PUBLIC CORPORATIONS IN THE SAME
2 RELATIVE AMOUNTS AS THE ORIGINAL ASSESSMENTS.

3 CHAPTER 23

4 SANCTIONS

5
6 SEC. 615. IF A COMMISSIONER IS INTERESTED DIRECTLY OR INDI-
7 RECTLY IN THE PROFITS OF A CONTRACT, JOB, WORK, OR SERVICES,
8 OTHER THAN OFFICIAL SERVICES, TO BE PERFORMED FOR A DRAINAGE DIS-
9 TRICT, HE OR SHE IS GUILTY OF A MISDEMEANOR. UPON CONVICTION,
10 HIS OR HER OFFICE IS VACATED AND HE OR SHE IS INELIGIBLE TO AGAIN
11 HOLD THE OFFICE OF COMMISSIONER.

12 SEC. 616. IF ANY PERSON WILLFULLY OR MALICIOUSLY REMOVES
13 ANY SECTION OR GRADE STAKE SET ALONG THE LINE OF ANY DRAIN, OR
14 OBSTRUCTS OR DAMAGES A DRAIN, HE OR SHE IS GUILTY OF A MISDEMEAN-
15 OR, PUNISHABLE BY A FINE OF NOT MORE THAN \$100.00 AND THE COSTS
16 OF PROSECUTION, OR IN DEFAULT OF THE PAYMENT OF THE FINE, BY
17 IMPRISONMENT FOR NOT MORE THAN 93 DAYS.

18 SEC. 617. (1) A PERSON IS GUILTY OF A MISDEMEANOR IF THE
19 PERSON WILLFULLY PROHIBITS, PREVENTS, OR OBSTRUCTS THE DRAIN COM-
20 MISSIONER OR DRAINAGE BOARD OR THEIR AGENTS, EMPLOYEES, OR CON-
21 TRACTORS FROM DOING EITHER OF THE FOLLOWING:

22 (A) GOING UPON LAND FOR THE PURPOSE OF EXAMINING THE LAND OR
23 MAKING SURVEYS IN CONNECTION WITH THE WORK OF THE DRAIN COMMIS-
24 SIONER OR DRAINAGE BOARD.

25 (B) GOING UPON A RIGHT-OF-WAY OF THE DISTRICT WITH THEIR
26 EMPLOYEES, TOOLS, MACHINERY, INSTRUMENTS, AND OTHER EQUIPMENT FOR
27 THE PURPOSE OF CONSTRUCTING, RECONSTRUCTING, REPAIRING, OR

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 —

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

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, and 22, chapter 4,
26 chapter 6, sections 193, 194, 195, 196, 197, 198, 246, 248, 268,
27 271, 272, 281, 321, and 325, chapters 14, 15, and 16, sections

1 424, 426, 427, 428, 432, and 434, chapter 19, sections 461, 470,
2 471, 480, 482, 485, 489a, 492 to 498, 511, 522, 523, 526 to 531,
3 533 to 539, 542 to 549, 551 to 583, and 621 of the drain code of
4 1956, 1956 PA 40, MCL 280.4, 280.5, 280.11, 280.22, 280.71 to
5 280.88, 280.121 to 280.135, 280.193, 280.194, 280.195, 280.196,
6 280.197, 280.198, 280.246, 280.248, 280.268, 280.271, 280.272,
7 280.281, 280.321, 280.325, 280.341 to 280.384, 280.424, 280.426,
8 280.427, 280.428, 280.432, 280.434, 280.441 to 280.448, 280.461,
9 280.470, 280.471, 280.480, 280.482, 280.485, 280.489a, 280.492 to
10 280.498, 280.511, 280.522, 280.523, 280.526 to 280.531, 280.533
11 to 280.539, 280.542 to 280.549, 280.551 to 280.583, and 280.621,
12 are repealed.