

# HOUSE BILL No. 5713

(As passed the Senate, May 9, 2002)

February 21, 2002, Introduced by Rep. Julian and referred to the Committee on House Oversight and Operations.

A bill to amend 1956 PA 40, entitled  
"The drain code of 1956,"  
by amending sections 271 and 323 (MCL 280.271 and 280.323).

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1        Sec. 271. Any drain taxes that may have been assessed and  
2 returned upon any lands under ~~and by virtue of the provisions~~  
3 ~~of~~ any drain law ~~heretofore~~ enacted BEFORE THIS ACT and  
4 remaining unpaid, may be sued for by the commissioner of the  
5 county in which ~~such~~ THE delinquent lands are situated in ~~an~~  
6 ~~action of assumpsit before~~ any court of competent jurisdiction  
7 and collected from the owner of ~~such~~ THE lands or ~~such~~ THE  
8 taxes, if properly returned to the county treasurer, may be  
9 ordered charged back by the ~~board of supervisors~~ COUNTY BOARD  
10 OF COMMISSIONERS and reassessed upon ~~such~~ THE lands in the same  
11 manner that unpaid or rejected taxes may be charged back by the

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1 ~~auditor general~~ STATE TREASURER and reassessed under the  
2 general provisions of law.

3       Sec. 323. Before a drain ~~shall be~~ IS constructed along a  
4 public highway, THE DRAIN COMMISSIONER OR DRAINAGE BOARD SHALL  
5 CONSULT WITH AND OBTAIN THE WRITTEN CONSENT OF the highway  
6 authorities having jurisdiction over the highway, ~~shall be con-~~  
7 ~~sulted and their consent shall be obtained in writing,~~ as to the  
8 proposed location ~~and what disposition shall be made~~ OF THE  
9 DRAIN AND THE DISPOSITION of all material excavated. Whenever an  
10 apportionment is made against a state trunk line highway, the  
11 amount of the assessment based on ~~such~~ THE apportionment shall  
12 be paid out of any state ~~trunk line highway~~ TRANSPORTATION  
13 funds on hand. ~~in the state treasury.~~ On or before December 1  
14 of the year when ~~such~~ THE assessment is made, the drain commis-  
15 sioner OR DRAINAGE BOARD shall certify to the ~~auditor general~~  
16 STATE TREASURER the amount due from the state to ~~such~~ THE  
17 drainage district by reason of the assessment of benefits, and  
18 the ~~auditor general~~ STATE TREASURER shall, if satisfied of the  
19 correctness of such certificate, cause the ~~same~~ CERTIFICATE to  
20 be paid within 30 days thereafter.

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

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1 be sufficient to make ~~such~~ THE drain comply with the provisions  
2 of this act with respect to the location thereof, and ~~such~~ THE  
3 drain shall be a county drain upon compliance with the other pro-  
4 visions of this act with respect to county drains. No proceed-  
5 ings shall be instituted for the widening of ~~such~~ THE drain or  
6 the deepening thereof below its original bottom.