

# SENATE BILL No. 870

November 29, 2001, Introduced by Senator MC MANUS and referred to the Committee on Finance.

A bill to amend 1956 PA 40, entitled  
"The drain code of 1956,"  
by amending sections 275, 278, 280, 434, 435, 479, and 531  
(MCL 280.275, 280.278, 280.280, 280.434, 280.435, 280.479, and  
280.531), section 280 as amended by 1983 PA 176 and section 434  
as amended by 1980 PA 297.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 275. In cases where the issuing of bonds shall have  
2 been determined upon, as ~~herein~~ provided IN THIS ACT, and  
3 subject to the provisions of section 221 of this act, the commis-  
4 sioner may borrow money in anticipation of the collection of  
5 ~~such~~ THE installments and may issue as evidence thereof the  
6 bonds of the drainage district as ~~herein~~ defined IN THIS ACT.  
7 ~~Such~~ THE obligations shall specify on their face that they are  
8 payable out of the installments of drain taxes to be ~~thereafter~~

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1 collected, and the amount ~~thereof~~ shall not exceed the  
2 aggregate of the installments levied. Bonds issued ~~hereunder~~  
3 UNDER THIS ACT shall be signed by the commissioner on behalf of  
4 the drainage district, shall be countersigned by the county clerk  
5 and shall be payable in annual installments equal in number to  
6 the installments of taxes, shall mature not earlier than March  
7 first ~~nor~~ AND NOT later than June first of the year following  
8 the due dates of the respective installments of taxes. The  
9 number of installments shall not exceed 20: Provided, however,  
10 That in any drainage district containing a closed drain, any part  
11 of whose cross-section has an area exceeding 60 square feet, the  
12 number of installments may be, but shall not exceed, 30, and the  
13 amount of each installment shall be fixed to correspond as near  
14 as may be to the drain commissioner's estimate of the amount of  
15 taxes actually collectible each year, and in no case shall bonds  
16 mature more than 2 1/2 years after the corresponding installment  
17 of taxes. The commissioner shall ~~therein~~ pledge IN THE BOND  
18 the credit of the drainage district, including the lands embraced  
19 within ~~such~~ THE district and the townships, cities, villages,  
20 counties, and state trunk line highways assessed at large, in the  
21 proportion that they are taxed for the benefits received.  
22 ~~thereby. Such~~ THE bonds shall be advertised and sold by the  
23 drain commissioner after the manner provided for the advertise-  
24 ment and sale of municipal bonds by ~~Act No. 202 of the Public~~  
25 ~~Acts of 1943, as amended, being sections 131.1 to 138.2, inclu-~~  
26 ~~sive, of the Compiled Laws of 1948~~ THE REVISED MUNICIPAL FINANCE  
27 ACT, 2001 PA 34, MCL 141.2101 TO 141.2821. If any premium is

1 received ~~thereon, such~~ ON THE BONDS, THE premium shall belong  
2 to the fund of the drain. The proceeds derived from the sale of  
3 ~~such~~ THE bonds shall be deposited with the county treasurer to  
4 the credit of the drain fund. The county treasurer shall safely  
5 keep all ~~such~~ THE bonds until sold as above provided:  
6 Provided, however, That this act shall not be considered to  
7 affect any bonds or refunding bonds issued prior to the effective  
8 date ~~hereof and subsequent to the effective date of Act No. 331~~  
9 ~~of the Public Acts of 1927,~~ OF THIS ACT or any refunding bonds  
10 ~~hereafter~~ issued to replace the same: Provided further, That  
11 no county shall advance or pay out of its general funds any  
12 moneys for or on account of principal or interest of any drain  
13 bonds issued ~~prior to~~ BEFORE the effective date of FORMER Act  
14 No. 331 of the Public Acts of 1927, or any refunding bonds issued  
15 to replace the same.

16       Sec. 278. If bonds or notes are issued and sold by the com-  
17 missioner, installments of the drain taxes shall bear interest  
18 not to exceed a rate which is not greater than 1% per annum more  
19 than the average rate of interest on the bonds or notes from the  
20 date of the preparation of the assessment roll until due. The  
21 bonds or notes may provide, if the commissioner so determines,  
22 for the payment of interest semiannually. The installments and  
23 the interest ~~thereon~~ shall, as collected, be paid into the  
24 county treasury and placed to the credit of the fund of the  
25 drain, to be used solely for the payment of bonds or notes as  
26 they mature. Money collected in anticipation of the maturity of  
27 the bonds or notes shall be deposited by the county treasurer in

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1 a bank or banks to be designated by the board of commissioners of  
2 the county and the interest received shall belong to the fund.  
3 Bonds or notes issued and sold by the commissioner shall bear  
4 interest at not to exceed the rate specified in ~~section 2 of~~  
5 ~~chapter 3 of Act No. 202 of the Public Acts of 1943, as amended,~~  
6 ~~being section 133.2 of the Michigan Compiled Laws~~ THE REVISED  
7 MUNICIPAL FINANCE ACT, 2001 PA 34, MCL 141.2101 TO 141.2821.

8       Sec. 280. (1) If there is not sufficient money in the fund  
9 in a particular drain at the time of the maturity of the bonds  
10 last to mature, or any drain orders, to pay all outstanding bonds  
11 or drain orders with interest, or to reimburse the county for  
12 money which it has been obliged to advance pursuant to section  
13 275, whether such insufficiency is due to the anticipation of  
14 installments as provided in section 279, or to failure to sell  
15 any lands for delinquent taxes, or to any other cause, it shall  
16 be the duty of the commissioner to at once levy an additional  
17 assessment as ~~hereinbefore~~ PROVIDED IN THIS ACT provided in  
18 such an amount as will make up the deficiency which shall be  
19 spread in not to exceed 7 annual installments; and if the commis-  
20 sioner determines that the entire amount, if spread in 1 year,  
21 would be an undue burden or create unnecessary hardship, he or  
22 she may order it spread over any number of years up to but not  
23 exceeding 7. If bonds or other evidences of indebtedness are  
24 issued pursuant to the ~~municipal finance act, Act No. 202 of the~~  
25 ~~Public Acts of 1943, as amended, being sections 131.1 to 139.3 of~~  
26 ~~the Michigan Compiled Laws~~ REVISED MUNICIPAL FINANCE ACT, 2001  
27 PA 34, MCL 141.2101 TO 141.2821, to refund the outstanding

1 indebtedness of a drain district, the governing body of such  
2 drain district shall provide, subject to the ~~directions of the~~  
3 ~~department of treasury or to the~~ requirements of ~~Act No. 202 of~~  
4 ~~the Public Acts of 1943~~ THE REVISED MUNICIPAL FINANCE ACT, 2001  
5 PA 34, MCL 141.2101 TO 141.2821, for such additional levies of  
6 assessments prior to the maturity of ~~such~~ THE refunding obliga-  
7 tions as necessary to prevent default in payment of interest on  
8 ~~such~~ THE obligations, and the maintenance of a sinking fund for  
9 their retirement. Every officer charged with the determination  
10 of the amount of taxes to be raised, or the levying of ~~such~~ THE  
11 taxes, shall make or cause to be made the additional levies as  
12 provided. Any surplus remaining after the payment of the bonds  
13 and interest shall remain in the county treasury and be used for  
14 the maintenance of the drain.

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

23 (a) Lands owned by the United States.

24 (b) Lands owned by the state of Michigan. ~~, except licensed~~  
25 ~~homestead lands, and except lands held under land contracts~~  
26 ~~issued pursuant to Act No. 155 of the Public Acts of 1937, as~~

1 ~~amended, being sections 211.355a to 211.364, of the Michigan~~  
2 ~~Compiled Laws.~~

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

5 (d) Lands used exclusively for burial grounds.

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

8 (3) An additional assessment shall not be levied or col-  
9 lected for the purpose of paying the principal or interest upon  
10 any bonds or obligations which have heretofore been held to be  
11 invalid, and any such additional assessment shall not be appor-  
12 tioned, assessed, levied, or collected for the purpose of paying  
13 any bonds, interest, or obligations for the payment of which  
14 assessments have ~~heretofore~~ been made.

15 Sec. 434. (1) A drainage district may borrow money or  
16 accept the advance of work, material, or money from a public or  
17 private corporation, partnership, association, individual, or the  
18 federal government or any agency of the federal government for  
19 the payment of, or in connection with the construction of, any  
20 part of a drain project or for financing a feasibility, practica-  
21 bility, environmental assessment, or impact study of a drain  
22 project which may include the payment for easement or land acqui-  
23 sition or engineering and legal fees, or an engineering, environ-  
24 ment impact, or assessment study, and be reimbursed by the drain-  
25 age district, with or without interest as may be agreed, when  
26 funds are available. The obligation of the drainage district to  
27 make the repayment or reimbursement may be evidenced by a

1 contract or note, which contract or note may pledge the full  
2 faith and credit of the drainage district and may be made payable  
3 out of the drain assessments made against public corporations at  
4 large, or against lands in the drainage district, or out of the  
5 proceeds of drain orders, notes, or bonds issued by the drainage  
6 district pursuant to this act or out of any other available  
7 funds, and the contract or note shall not be considered to be an  
8 obligation within the meaning of ~~Act No. 202 of the Public Acts~~  
9 ~~of 1943, as amended, being sections 131.1 to 138.2 of the~~  
10 ~~Michigan Compiled Laws~~ THE REVISED MUNICIPAL FINANCE ACT, 2001  
11 PA 34, MCL 141.2101 TO 141.2821, unless the principal amount  
12 ~~thereof~~ OF THE OBLIGATION shall exceed \$300,000.00.

13 (2) However, any projects in which advances or loans made by  
14 any public corporation, the federal government, or any agency of  
15 the federal government shall not be limited by this section.  
16 This section shall apply to a drain or other project instituted  
17 pursuant to any section in this act including a feasibility,  
18 practicability, environmental assessment, or impact study.

19 (3) A county board of commissioners by a majority vote of  
20 2/3 of its members may pledge the full faith and credit of a  
21 county for the payment of a note of the drainage district.

22 Sec. 435. (1) The drain commissioner or drainage board may  
23 contract or make agreements with the federal government, or any  
24 agency of the federal government, for the financing of a flood  
25 control or drainage project or combination ~~thereof~~ OF THESE  
26 including the conservation and utilization of soil and water for  
27 recreation and other beneficial purposes.

1       (2) A contract or agreement may include an advance payment  
2 of funds from the federal government or any agency ~~thereof~~ OF  
3 THE FEDERAL GOVERNMENT for financing a feasibility, practicabili-  
4 ty, environmental assessment, or impact study of a drain or flood  
5 control project, or any combination ~~thereof~~ OF THESE including  
6 the conservation and utilization of soil and water for recreation  
7 and other beneficial purposes. The contract or agreement may  
8 include the payment for easements, rights of way, land acquisi-  
9 tion, engineering services, legal fees, and any fees or costs for  
10 environmental impact statements or assessments studies for the  
11 projects.

12       (3) After the necessity of a project is determined and the  
13 first order of determination is filed, the drain commissioner or  
14 drainage board may issue notes of indebtedness to the federal  
15 government, or any agency of the federal government, to evidence  
16 a preliminary advance and may pay those notes from drain assess-  
17 ments made against public corporations at large and against lands  
18 in the drainage district, out of the proceeds of drain orders or  
19 bonds issued by the drain commissioner or drainage board  
20 ~~pursuant to~~ UNDER this act or out of any other available  
21 funds. Bonds of the drainage district issued for the project may  
22 be substituted for notes including the interest ~~thereon~~ ON THE  
23 NOTES. The bonds may be repaid by special assessments in any  
24 number of annual installments not exceeding 30.

25       (4) The drain commissioner or drainage board shall not be  
26 required to offer for public sale any notes issued ~~pursuant to~~  
27 UNDER a contract with the federal government, or any agency of



1 the federal government, for the financing of any project as set  
2 forth in this section.

3 (5) The notes issued in evidence of advance payments ~~shall~~  
4 ARE not ~~be deemed to be~~ obligations within the meaning of ~~Act~~  
5 No. 202 of the Public Acts of 1943, as amended, being sections  
6 131.1 to 138.2 of the Michigan Compiled Laws, and the drain com-  
7 missioner or drainage board shall not be required to apply to the  
8 municipal finance commission for its approval to issue notes in  
9 evidence of advance payments THE REVISED MUNICIPAL FINANCE ACT,  
10 2001 PA 34, MCL 141.2101 TO 141.2821.

11 ~~(6) If the drain commissioner or drainage board issues~~  
12 ~~bonds of the drainage district to pay all or a part of the cost~~  
13 ~~of the financing such a project, the drain commissioner or drain-~~  
14 ~~age board, in its application to the municipal finance commission~~  
15 ~~for approval of the issuance of the bonds, shall inform the~~  
16 ~~municipal finance commission of the issuance of the notes in evi-~~  
17 ~~dence of advance payments and its intention to either substitute~~  
18 ~~bonds for the notes or pay the notes from the proceeds of the~~  
19 ~~sale of the bonds or other assessments or funds.~~

20 (6) ~~(7)~~ All notes or bonds issued under this section shall  
21 be ~~deemed~~ CONSIDERED to be obligations of the drainage dis-  
22 trict, and the drain commissioner or drainage board may pledge  
23 the full faith and credit of the drainage district for the repay-  
24 ment ~~thereof~~ OF THE NOTES OR BONDS.

25 Sec. 479. Any public or private corporation, firm, or indi-  
26 vidual may advance ~~moneys~~ MONEY for the payment of any part of  
27 the cost of a project ~~hereunder~~ UNDER THIS ACT, in which event

1 it shall be reimbursed by the drainage district, with or without  
2 interest as may be agreed, when funds are available. ~~therefor.~~  
3 The obligation of the drainage district to make the reimbursement  
4 may be evidenced by a contract or note, which contract or note  
5 may pledge the full faith and credit of the drainage district and  
6 may be made payable out of the assessments made against public  
7 corporations or out of the proceeds of drain orders or bonds  
8 issued by the drainage district pursuant to this act or out of  
9 any other available funds, but the contract or note ~~shall~~ IS  
10 not ~~be deemed to be~~ an obligation within the meaning of the  
11 ~~provisions of Act No. 202 of the Public Acts of 1943, as~~  
12 ~~amended, being sections 131.1 to 138.2 of the Compiled Laws of~~  
13 ~~1948~~ REVISED MUNICIPAL FINANCE ACT, 2001 PA 34, MCL 141.2101 TO  
14 141.2821.

15       Sec. 531. Any public or private corporation, firm, or indi-  
16 vidual may advance ~~moneys~~ MONEY for the payment of any part of  
17 the cost of a project ~~hereunder~~ UNDER THIS ACT, in which event  
18 it shall be reimbursed by the drainage district, with or without  
19 interest as may be agreed, when funds are available. ~~therefor.~~  
20 The obligation of the drainage district to make the reimbursement  
21 may be evidenced by a contract or note, which contract or note  
22 may pledge the full faith and credit of the drainage district and  
23 may be made payable out of the assessments made against public  
24 corporations or out of the proceeds of drain orders or bonds  
25 issued by the drainage district pursuant to this act or out of  
26 any other available funds, but the contract or note ~~shall~~ IS  
27 not ~~be deemed to be~~ an obligation within the meaning of the

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1 ~~provisions of Act No. 202 of the Public Acts of 1943, as~~  
2 ~~amended, being sections 131.1 to 138.2 of the Compiled Laws of~~  
3 ~~1948~~ REVISED MUNICIPAL FINANCE ACT, 2001 PA 34, MCL 141.2101 TO  
4 141.2821.