

# HOUSE BILL No. 4686

May 1, 2001, Introduced by Reps. George, Vear, Toy, Drolet, Gilbert and Richner and referred to the Committee on Agriculture and Resource Management.

A bill to amend 1956 PA 40, entitled  
"The drain code of 1956,"  
by amending sections 4, 21, and 22 (MCL 280.4, 280.21, and  
280.22), sections 4 and 21 as amended by 1989 PA 134.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 4. As used in this act, "commissioner", "drain  
2 commissioner", or "county drain commissioner" means the ~~elected~~  
3 county drain commissioner or the person or persons designated to  
4 perform the duties of the ~~elected~~ county drain commissioner as  
5 provided in sections 21 and 21a.

6       Sec. 21. (1) At the general election to be held in  
7 November, ~~1976~~ 2004, and each fourth year after November,  
8 ~~1976~~ 2004, a county drain commissioner shall be elected ~~in~~  
9 ~~each county having a drain commissioner~~ by the qualified  
10 electors of ~~the county~~ EACH COUNTY HAVING A DRAIN COMMISSIONER,

1 UNLESS THE DRAIN COMMISSIONER IS APPOINTED IN THAT COUNTY UNDER  
2 SUBSECTION (2). The term of office of the commissioner shall  
3 begin on the January 1 following the drain commissioner's elec-  
4 tion and continue for a period of 4 years and until his or her  
5 successor is elected, OR APPOINTED UNDER SUBSECTION (2), and  
6 qualified, whichever occurs earlier.

7 (2) THE COUNTY BOARD OF COMMISSIONERS OF A COUNTY MAY ADOPT  
8 A RESOLUTION PROVIDING THAT THE COUNTY BOARD OF COMMISSIONERS  
9 SHALL APPOINT THE DRAIN COMMISSIONER IN THAT COUNTY. BEGINNING  
10 WITH THE NEXT TERM OF OFFICE, THE OFFICE OF DRAIN COMMISSIONER  
11 SHALL BE AN APPOINTIVE OFFICE IN THAT COUNTY. THE COUNTY BOARD  
12 OF COMMISSIONERS IN SUCH A COUNTY MAY SUBSEQUENTLY ADOPT A RESO-  
13 LUTION PROVIDING THAT THE DRAIN COMMISSIONER SHALL AGAIN BE  
14 ELECTED. BEGINNING WITH THE NEXT TERM OF OFFICE, THE OFFICE OF  
15 DRAIN COMMISSIONER SHALL BE AN ELECTIVE OFFICE IN THAT COUNTY. A  
16 RESOLUTION UNDER THIS SUBSECTION SHALL BE ADOPTED NOT LATER THAN  
17 THE SIXTH TUESDAY BEFORE THE DEADLINE FOR FILING NOMINATING PETI-  
18 TIONS FOR THE OFFICE OF DRAIN COMMISSIONER UNDER THE MICHIGAN  
19 ELECTION LAW, 1954 PA 116, MCL 168.1 TO 168.992. THE TERMS OF  
20 OFFICE OF APPOINTED DRAIN COMMISSIONERS SHALL CORRESPOND TO THE  
21 TERMS OF OFFICE OF ELECTED DRAIN COMMISSIONERS UNDER SUBSECTION  
22 (1).

23 (3) A DRAIN COMMISSIONER SHALL BE A REGISTERED ELECTOR OF  
24 THE COUNTY IN WHICH HE OR SHE SERVES AS DRAIN COMMISSIONER.

25 (4) ~~-(2)-~~ As determined by the county board of commission-  
26 ers, the county drain commissioner shall be covered by a blanket  
27 bond or before entering upon the duties of office, shall execute

1 and file with the county clerk a bond to the people of the state  
2 in the penal sum of \$5,000.00, issued by a surety company  
3 licensed to do business in this state, conditioned upon the  
4 faithful discharge of the duties of the office. The county board  
5 of commissioners may fix the individual bond to be required of  
6 the commissioner at a different amount if, in its judgment, that  
7 is desirable.

8       (5) ~~-(3)-~~ The county board of commissioners of a county  
9 having a population of less than 12,000, by resolution of a 2/3  
10 vote of the members ~~-elect-~~ ELECTED, may abolish the office of  
11 county drain commissioner and transfer the powers and duties of  
12 the office to the board of county road commissioners.

13       (6) ~~-(4)-~~ If a county establishes a department of public  
14 works pursuant to ~~Act No. 185 of the Public Acts of 1957, as~~  
15 ~~amended, being sections 123.731 to 123.786 of the Michigan~~  
16 ~~Compiled Laws~~ 1957 PA 185, MCL 123.731 TO 123.786, or a public  
17 improvement agency with the drain commissioner designated as the  
18 county agent pursuant to the county public improvement act of  
19 1939, ~~Act No. 342 of the Public Acts of 1939, as amended, being~~  
20 ~~sections 46.171 to 46.188 of the Michigan Compiled Laws~~ 1939 PA  
21 342, MCL 46.171 TO 46.188, the county board of commissioners, by  
22 resolution of a 2/3 vote of the members elected and serving, may  
23 combine the powers, duties, and functions set forth in ~~Act~~  
24 ~~No. 185 of the Public Acts of 1957, as amended, Act No. 342 of~~  
25 ~~the Public Acts of 1939, as amended~~ 1957 PA 185, MCL 123.731 TO  
26 123.786, THE COUNTY PUBLIC IMPROVEMENT ACT OF 1939, 1939 PA 342,  
27 MCL 46.171 TO 46.188, and this act into 1 county department

1 headed by a public works commissioner. The public works  
 2 commissioner shall be elected OR APPOINTED in the same manner and  
 3 for the same term as a drain commissioner and shall carry out the  
 4 powers and duties of a drain commissioner.

5 (7) ~~-(5)-~~ A resolution provided for in subsection ~~-(4)-~~ (6)  
 6 may not be adopted unless the county board of commissioners has  
 7 first held at least 1 generally publicized public hearing on the  
 8 resolution.

9 (8) ~~-(6)-~~ Not less than 3 years after a county establishes  
 10 the office of public works commissioner pursuant to subsections  
 11 ~~-(4)-~~ (6) and ~~-(5)-~~, or a public improvement agency (7), the  
 12 county board of commissioners, by resolution approved by a 2/3  
 13 vote of the members elected and serving, may abolish the office  
 14 of public works commissioner not less than 6 months before the  
 15 DATE OF THE next primary election for ~~that office~~ DRAIN COMMIS-  
 16 SIONERS UNDER SUBSECTION (1). The office of public works commis-  
 17 sioner shall be abolished in the county effective 180 days after  
 18 a resolution is adopted pursuant to this subsection. The office  
 19 shall then be referred to as the drain commissioner and the  
 20 person in office at the time a resolution of abolishment is  
 21 passed shall fulfill the remainder of the term of office until  
 22 ~~the next general election~~ A DRAIN COMMISSIONER IS NEXT ELECTED  
 23 OR APPOINTED UNDER SUBSECTION (1) OR (2).

24 (9) ~~-(7)-~~ A county that is organized under ~~Act No. 293 of~~  
 25 ~~the Public Acts of 1966, being sections 45.501 to 45.521 of the~~  
 26 ~~Michigan Compiled Laws~~ 1966 PA 293, MCL 45.501 TO 45.521, whose  
 27 charter prescribes an elected county executive, and which county

1 has a population of more than 2,000,000 at the time the charter  
2 is adopted, shall be governed by section 21a in place of this  
3 section.

4       Sec. 22. ~~All commissioners holding such office when this~~  
5 ~~act takes effect shall continue to be such commissioners until~~  
6 ~~their respective successors are elected and qualified in accord-~~  
7 ~~ance with the provisions of the foregoing section.~~ The majority  
8 of the board of county commissioners may establish or reestablish  
9 the office of county drain commissioner in counties not having a  
10 ~~county~~ drain commissioner by resolution of a majority of mem-  
11 bers ~~elect~~ ELECTED.

12       Enacting section 1. This amendatory act does not take  
13 effect unless Senate Bill No. \_\_\_\_\_ or House Bill No. \_\_\_\_\_  
14 (request no. 00790'01 a \*) of the 91st Legislature is enacted  
15 into law.