

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~~

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

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

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.