

Act No. 406
Public Acts of 2002
Approved by the Governor
June 3, 2002
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**STATE OF MICHIGAN
91ST LEGISLATURE
REGULAR SESSION OF 2002**

Introduced by Senator McManus

ENROLLED SENATE BILL No. 870

AN ACT to amend 1956 PA 40, entitled "An act to codify the laws relating to the laying out of drainage districts, the consolidation of drainage districts, the construction and maintenance of drains, sewers, pumping equipment, bridges, culverts, fords, and the structures and mechanical devices to properly purify the flow of drains; to provide for flood control projects; to provide for water management, water management districts, and subdistricts, and for flood control and drainage projects within drainage districts; to provide for the assessment and collection of taxes; to provide for the investment of funds; to provide for the deposit of funds for future maintenance of drains; to authorize public corporations to impose taxes for the payment of assessments in anticipation of which bonds are issued; to provide for the issuance of bonds by drainage districts and for the pledge of the full faith and credit of counties for payment of the bonds; to authorize counties to impose taxes when necessary to pay principal and interest on bonds for which full faith and credit is pledged; to validate certain acts and bonds; and to prescribe penalties," 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:

Sec. 275. In cases where the issuing of bonds shall have been determined upon, as provided in this act, and subject to the provisions of section 221 of this act, the commissioner may borrow money in anticipation of the collection of the installments and may issue as evidence thereof the bonds of the drainage district as defined in this act. The obligations shall specify on their face that they are payable out of the installments of drain taxes to be collected, and the amount shall not exceed the aggregate of the installments levied. Bonds issued under this act shall be signed by the commissioner on behalf of the drainage district, shall be countersigned by the county clerk and shall be payable in annual installments equal in number to the installments of taxes, shall mature not earlier than March first and not later than June first of the year following the due dates of the respective installments of taxes. The number of installments shall not exceed 20: Provided, however, That in any drainage district containing a closed drain, any part of whose cross-section has an area exceeding 60 square feet, the number of installments may be, but shall not exceed, 30, and the amount of each installment shall be fixed to correspond as near as may be to the drain commissioner's estimate of the

amount of taxes actually collectible each year, and in no case shall bonds mature more than 2 1/2 years after the corresponding installment of taxes. The commissioner shall pledge in the bond the credit of the drainage district, including the lands embraced within the district and the townships, cities, villages, counties, and state trunk line highways assessed at large, in the proportion that they are taxed for the benefits received. The bonds shall be sold subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. If any premium is received on the bonds, the premium shall belong to the fund of the drain. The proceeds derived from the sale of the bonds shall be deposited with the county treasurer to the credit of the drain fund. The county treasurer shall safely keep all the bonds until sold as above provided: Provided, however, That this act shall not be considered to affect any bonds or refunding bonds issued prior to the effective date of this act or any refunding bonds issued to replace the same: Provided further, That no county shall advance or pay out of its general funds any moneys for or on account of principal or interest of any drain bonds issued before the effective date of former Act No. 331 of the Public Acts of 1927, or any refunding bonds issued to replace the same.

Sec. 278. If bonds or notes are issued and sold by the commissioner, installments of the drain taxes shall bear interest not to exceed a rate which is not greater than 1% per annum more than the average rate of interest on the bonds or notes from the date of the preparation of the assessment roll until due. The bonds or notes may provide, if the commissioner so determines, for the payment of interest semiannually. The installments and the interest shall, as collected, be paid into the county treasury and placed to the credit of the fund of the drain, to be used solely for the payment of bonds or notes as they mature. Money collected in anticipation of the maturity of the bonds or notes shall be deposited by the county treasurer in a bank or banks to be designated by the board of commissioners of the county and the interest received shall belong to the fund. Bonds or notes issued and sold by the commissioner shall bear interest at not to exceed the rate specified in the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

Sec. 280. (1) If there is not sufficient money in the fund in a particular drain at the time of the maturity of the bonds last to mature, or any drain orders, to pay all outstanding bonds or drain orders with interest, or to reimburse the county for money which it has been obliged to advance pursuant to section 275, whether such insufficiency is due to the anticipation of installments as provided in section 279, or to failure to sell any lands for delinquent taxes, or to any other cause, it shall be the duty of the commissioner to at once levy an additional assessment as provided in this act provided in such an amount as will make up the deficiency which shall be spread in not to exceed 7 annual installments; and if the commissioner determines that the entire amount, if spread in 1 year, would be an undue burden or create unnecessary hardship, he or she may order it spread over any number of years up to but not exceeding 7. If bonds or other evidences of indebtedness are issued pursuant to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, to refund the outstanding indebtedness of a drain district, the governing body of such drain district shall provide, subject to the requirements of the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, for such additional levies of assessments prior to the maturity of the refunding obligations as necessary to prevent default in payment of interest on the obligations, and the maintenance of a sinking fund for their retirement. Every officer charged with the determination of the amount of taxes to be raised, or the levying of the taxes, shall make or cause to be made the additional levies as provided. Any surplus remaining after the payment of the bonds and interest shall remain in the county treasury and be used for the maintenance of the drain.

(2) The additional assessments shall only apply to drain orders or bonds issued after March 28, 1956 and shall be apportioned, assessed, levied, and collected as provided in the first instance. As to deficiency assessments levied for drain orders or bonds issued after March 28, 1956, there shall be no lands exempted from the levy, except those which at the time of the additional assessments are owned or used as follows:

- (a) Lands owned by the United States.
- (b) Lands owned by the state of Michigan.
- (c) Lands owned by any county, city, village, township, or school district and used for public purposes.
- (d) Lands used exclusively for burial grounds.
- (e) Lands dedicated to the public and actually used as a highway or alley, and not used for gain.

(3) An additional assessment shall not be levied or collected for the purpose of paying the principal or interest upon any bonds or obligations which have heretofore been held to be invalid, and any such additional assessment shall not be apportioned, assessed, levied, or collected for the purpose of paying any bonds, interest, or obligations for the payment of which assessments have been made.

Sec. 434. (1) A drainage district may borrow money or accept the advance of work, material, or money from a public or private corporation, partnership, association, individual, or the federal government or any agency of the federal government for the payment of, or in connection with the construction of, any part of a drain project or for financing a feasibility, practicability, environmental assessment, or impact study of a drain project which may include the payment for easement or land acquisition or engineering and legal fees, or an engineering, environment impact, or assessment

study, and be reimbursed by the drainage district, with or without interest as may be agreed, when funds are available. The obligation of the drainage district to make the repayment or reimbursement may be evidenced by a contract or note, which contract or note may pledge the full faith and credit of the drainage district and may be made payable out of the drain assessments made against public corporations at large, or against lands in the drainage district, or out of the proceeds of drain orders, notes, or bonds issued by the drainage district pursuant to this act or out of any other available funds, and the contract or note shall not be subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, unless the principal amount of the obligation shall exceed \$300,000.00. However, if the principal amount of the obligation is \$300,000.00 or less, then the issuance of the obligation under this section is subject to the agency financing reporting act.

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

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

Sec. 435. (1) The drain commissioner or drainage board may contract or make agreements with the federal government, or any agency of the federal government, for the financing of a flood control or drainage project or combination of these including the conservation and utilization of soil and water for recreation and other beneficial purposes.

(2) A contract or agreement may include an advance payment of funds from the federal government or any agency of the federal government for financing a feasibility, practicability, environmental assessment, or impact study of a drain or flood control project, or any combination of these including the conservation and utilization of soil and water for recreation and other beneficial purposes. The contract or agreement may include the payment for easements, rights of way, land acquisition, engineering services, legal fees, and any fees or costs for environmental impact statements or assessments studies for the projects.

(3) After the necessity of a project is determined and the first order of determination is filed, the drain commissioner or drainage board may issue notes of indebtedness to the federal government, or any agency of the federal government, to evidence a preliminary advance and may pay those notes from drain assessments made against public corporations at large and against lands in the drainage district, out of the proceeds of drain orders or bonds issued by the drain commissioner or drainage board under this act or out of any other available funds. Bonds of the drainage district issued for the project may be substituted for notes including the interest on the notes. The bonds may be repaid by special assessments in any number of annual installments not exceeding 30.

(4) The drain commissioner or drainage board shall not be required to offer for public sale any notes issued under a contract with the federal government, or any agency of the federal government, for the financing of any project as set forth in this section.

(5) The notes issued in evidence of advance payments are not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(6) All notes or bonds issued under this section shall be considered to be obligations of the drainage district, and the drain commissioner or drainage board may pledge the full faith and credit of the drainage district for the repayment of the notes or bonds.

Sec. 479. Any public or private corporation, firm, or individual may advance money for the payment of any part of the cost of a project under this act, in which event it shall be reimbursed by the drainage district, with or without interest as may be agreed, when funds are available. The obligation of the drainage district to make the reimbursement may be evidenced by a contract or note, which contract or note may pledge the full faith and credit of the drainage district and may be made payable out of the assessments made against public corporations or out of the proceeds of drain orders or bonds issued by the drainage district pursuant to this act or out of any other available funds, but the contract or note is not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

Sec. 531. Any public or private corporation, firm, or individual may advance money for the payment of any part of the cost of a project under this act, in which event it shall be reimbursed by the drainage district, with or without interest as may be agreed, when funds are available. The obligation of the drainage district to make the reimbursement may be evidenced by a contract or note, which contract or note may pledge the full faith and credit of the drainage district and may be made payable out of the assessments made against public corporations or out of the proceeds of drain orders or bonds issued by the drainage district pursuant to this act or out of any other available funds, but the contract or note is not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate.

Sam E. Randall

Clerk of the House of Representatives.

Approved _____

Governor.