

SENATE BILL No. 217

February 26, 2003, Introduced by Senators VAN WOERKOM, JELINEK and GOSCHKA
and referred to the Committee on Agriculture, Forestry and Tourism.

A bill to amend 1956 PA 40, entitled
"The drain code of 1956,"
by amending sections 1, 2, 3, 6, 8, 10, 12, 21, 23, 24, 25, 26,
27, 28, 29, 30, 31, 32, 33, 51, 52, 53, 54, 101, 102, 103, 104,
105, 106, 151, 152, 153, 154, 155, 156, 157, 158, 161, 191, 192,
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525, 532, 540, 541, 601, 602, 626, and 627 (MCL 280.1, 280.2,
280.3, 280.6, 280.8, 280.10, 280.12, 280.21, 280.23, 280.24,
280.25, 280.26, 280.27, 280.28, 280.29, 280.30, 280.31, 280.32,
280.33, 280.51, 280.52, 280.53, 280.54, 280.101, 280.102,

280.103, 280.104, 280.105, 280.106, 280.151, 280.152, 280.153, 280.154, 280.155, 280.156, 280.157, 280.158, 280.161, 280.191, 280.192, 280.199, 280.200, 280.221, 280.222, 280.223, 280.241, 280.242, 280.243, 280.244, 280.245, 280.247, 280.261, 280.262, 280.263, 280.265, 280.266, 280.267, 280.269, 280.270, 280.273, 280.274, 280.275, 280.276, 280.277, 280.278, 280.279, 280.280, 280.282, 280.283, 280.301, 280.302, 280.303, 280.304, 280.306, 280.307, 280.322, 280.322b, 280.323, 280.324, 280.326, 280.327, 280.328, 280.391, 280.392, 280.393, 280.395, 280.421, 280.422, 280.423, 280.425, 280.429, 280.430, 280.431, 280.433, 280.463, 280.464, 280.465, 280.466, 280.467, 280.468, 280.469, 280.472, 280.473, 280.474, 280.476, 280.478, 280.483, 280.490, 280.491, 280.499, 280.513, 280.515, 280.517, 280.518, 280.519, 280.520, 280.521, 280.524, 280.525, 280.532, 280.540, 280.541, 280.601, 280.602, 280.626, and 280.627), sections 21 and 464 as amended by 1989 PA 134, section 33 as amended by 1982 PA 356, section 223 as amended by 1989 PA 61, sections 275, 278, and 280 as amended by 2002 PA 406, section 282 as amended by 1984 PA 80, sections 283 and 499 as amended by 1989 PA 149, section 323 as amended by 2002 PA 353, section 423 as amended by 1996 PA 552, and section 433 as amended by 1982 PA 449, and by adding sections 7, 7a, 7b, 7c, 13, 14, 34, 35, 53a, 55, 56, 57, 58, 59, 60, 61, 62, 63, 103a, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 201, 275a, 277a, 329, 330, 467a, 467b, 474a, 500, 519a, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 603, 604, 605, 606, 607, 615, 616, and 617; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER 1 —

~~DRAINS.~~ GENERAL PROVISIONS

Sec. 1. This act shall be known and may be cited as ~~—~~ the "drain code". ~~of 1956~~.

Sec. 2. ~~Drains including branches may be located, established, constructed and maintained, and existing drains, creeks, rivers and watercourses and their branches, or tributaries whether located, established and constructed by a county drain commissioner or drainage board or by a city, village or township, may be cleaned out, straightened, widened, deepened, extended, consolidated, relocated, tiled, connected and relocated along a highway, or there may be provided for the same structures or mechanical devices that will properly purify or improve the flow of the drain or pumping equipment necessary to assist or relieve the flow of the drain, or 1 or more branches may be added thereto, by petition under the provisions of this act, whenever the same shall be conducive to the public health, convenience and welfare.~~ As used in this act:

(a) "Agency" includes an officer, board, commission, and other body created by a public corporation or by the federal government, authorized to act in his, her, or its own name.

(b) "Benefit" or "benefits" means advantages resulting from a project to public corporations, the residents of this state, and property within this state. Benefit may include advantages that result from elimination of pollution and elimination of flood damage, or elimination of water conditions that jeopardize the

1 public health or safety; increase or decrease of the value or use
2 of lands and property resulting from the project; and the
3 positive or negative consequences of the project for individual
4 parcels of land which may include, but need not be limited to, 1
5 or more of the following:

6 (i) Increase or decrease in natural resource values.

7 (ii) Increase or decrease in flooding.

8 (iii) The amount and quality of runoff from land entering a
9 drain as determined by applicable factors including, but not
10 limited to, the following:

11 (A) The depth, character, and quality of surface and
12 subsurface soils of the land.

13 (B) The amount of impervious surface on the land.

14 (C) Whether the act or omission of a person increases or
15 decreases the need for the project.

16 (D) Whether the act or omission of a person improves or
17 degrades the water quality.

18 (c) "County drain" means a drain that provides drainage or
19 serves lands in only 1 county and has lands in only 1 county that
20 may be subject to assessment.

21 (d) "County drain commissioner", "drain commissioner", or,
22 unless the context clearly indicates otherwise, "commissioner"
23 means 1 of the following:

24 (i) The elected county drain commissioner or the person or
25 persons designated to perform the duties of the elected county
26 drain commissioner as provided by this act.

27 (ii) A public works commissioner described in section 21.

1 (iii) The official or body lawfully designated by charter to
2 exercise the powers and perform the duties of a county drain
3 commissioner in a county organized under 1966 PA 293, MCL 45.501
4 to 45.521.

5 (e) "Director of agriculture" means the director of the
6 department of agriculture or his or her designee, subject to
7 section 13.

8 (f) "Director of transportation" means the director of the
9 state transportation department or his or her designee, subject
10 to section 13.

11 (g) "Drain" means any of the following if established
12 pursuant to this act:

13 (i) The main stream or trunk or a tributary or branch of a
14 creek or river.

15 (ii) A watercourse or ditch, either open or closed.

16 (iii) A covered drain.

17 (iv) A sanitary or a combined sanitary and storm sewer or
18 storm sewer or conduit.

19 (v) A structure or mechanical device to purify or improve the
20 flow of a drain.

21 (vi) Pumping equipment necessary to assist or relieve the
22 flow of a drain.

23 (vii) Any dam, levee, dike, or barrier for drainage or to
24 purify or improve the flow of a drain.

25 (viii) Storm water storage, detention, or retention
26 facilities.

27 (h) "Drain" does not include any dam and connected flowage

1 rights used for the generation of power by a public utility
2 subject to regulation by the public service commission.

3 (i) "Drainage district" means the area described in the final
4 order of determination or, for a proposed drain for which a final
5 order of determination has not been made, the area that would be
6 drained by the proposed drain. Once established, a drainage
7 district is a body corporate with power to contract, to sue and
8 to be sued, and to hold, manage, and dispose of real and personal
9 property, in addition to any other powers conferred upon it by
10 law.

11 (j) "Engineer" means a professional engineer licensed under
12 article 20 of the occupational code, 1980 PA 299, MCL 339.2001 to
13 339.2014.

14 (k) "Improvement" means and "improve" refers to any of the
15 following with respect to the drain if the drain or that portion
16 of the drain has actually been constructed or established:

17 (i) Relocating, widening, deepening, straightening, tiling,
18 extending, or adding branches to a drain.

19 (ii) Providing dams, levees, dikes, barriers, structures, or
20 mechanical devices that will properly purify, control, or improve
21 the flow of a drain.

22 (iii) Providing pumping equipment or constructing relief
23 drains necessary to assist or relieve the flow of a drain.

24 (l) "Intercounty drain" means a drain that provides drainage
25 or serves lands in more than 1 county that may be subject to
26 assessment.

27 (m) "Landowner" means a person holding the most recent fee

1 title or a land contract vendee's interest in land as shown by
2 the records of the county register of deeds. If there is more
3 than 1 person with a fee interest or land contract vendee's
4 interest in land, each such person is a separate landowner.

5 (n) "Maintenance" and "maintain" refer to any of the
6 following if within the capacity of a drain as previously
7 established or constructed:

8 (i) Maintaining a drain or drains in working order to
9 continue a normal flow of water, including but not limited to the
10 maintenance, repair, or replacement of and utility service for
11 pumping stations, sewage treatment facilities, or mechanical
12 devices.

13 (ii) Cleaning out a drain or drains.

14 (iii) Keeping a drain or drains free from rubbish, debris,
15 siltation, or obstructions.

16 (iv) Repairing a portion or all of a tile, drain, or drains
17 to continue the normal flow of water.

18 (v) Restoration of previously established depths, bottom
19 widths, and grade based on records maintained at the office of
20 the drain commissioner.

21 (vi) Erosion repair and control.

22 (vii) Erosion and sedimentation control.

23 (viii) Maintenance, repair, or replacement of levees, dikes,
24 dams, and retention and detention basins.

25 (ix) Maintenance, repair, or replacement of structures, such
26 as bridges, culverts, or fords, that have diminished the capacity
27 of the drain or that are or may become unstable or unsafe.

(x) Removal and disposal of contaminated material.

(xi) Removal of obstructions downstream for the purpose of restoring adequate outlet for lands within an existing drainage district or districts, subject to section 422.

(xii) Activities associated with maintenance described in subparagraphs (i) through (xi).

(xiii) Activity under part 91 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.9101 to 324.9123a.

(o) "Municipality" means a county, city, village, or township, or an authority with power to levy a tax created by any of these.

(p) "Person" means an individual, partnership, corporation, association, governmental entity, or other legal entity.

(q) "Project" means work undertaken as a result of petition and an order of necessity or undertaken as maintenance on a drain pursuant to section 199.

(r) "Public corporation" means a state department or agency, including, but not limited to, a college or university described in section 4, 5, or 6 of article VIII of the state constitution of 1963; an authority created by or pursuant to state law; a junior college or community college established pursuant to section 7 of article VIII of the state constitution of 1963; a school district; or a municipality. However, in chapters 20 and 21, public corporation means a city, village, or township; with respect to a state trunk line highway, this state; or with respect to a county road, the county.

1 (s) "Roadway" means a state trunk line highway, county road,
2 city or village street, or a road under the jurisdiction of a
3 township.

4 (t) "Roadway authority" means, with respect to a state trunk
5 line highway, the state transportation commission or the director
6 of transportation; with respect to a county road, the board of
7 county road commissioners, the county executive, or other agency
8 acting as the county road commission; with respect to a city or
9 village street, the city or village; and with respect to a road
10 under township jurisdiction, the township.

11 (u) "Surveyor" means a professional surveyor licensed under
12 article 20 of the occupational code, 1980 PA 299, MCL 339.2001 to
13 339.2014.

14 Sec. 3. ~~The word "drain", whenever used in this act, shall~~
15 ~~include the main stream or trunk and all tributaries or branches~~
16 ~~of any creek or river, any watercourse or ditch, either open or~~
17 ~~closed, any covered drain, any sanitary or any combined sanitary~~
18 ~~and storm sewer or storm sewer or conduit composed of tile,~~
19 ~~brick, concrete, or other material, any structures or mechanical~~
20 ~~devices, that will properly purify the flow of such drains, any~~
21 ~~pumping equipment necessary to assist or relieve the flow of such~~
22 ~~drains and any levee, dike, barrier, or a combination of any or~~
23 ~~all of same constructed, or proposed to be constructed, for the~~
24 ~~purpose of drainage or for the purification of the flow of such~~
25 ~~drains, but shall not include any dam and flowage rights used in~~
26 ~~connection therewith which is used for the generation of power by~~
27 ~~a public utility subject to regulation by the public service~~

1 ~~commission.~~

2 (1) A drain may be established, constructed, maintained, and
3 improved consistent with the provisions of this act.

4 (2) Each commissioner, each drainage board, and the director
5 of agriculture shall, as part of any drain construction or
6 improvement project, do all of the following:

7 (a) Protect water quality, headwaters, main branches, and
8 tributaries and protect the hydraulic capacity of floodplains and
9 floodways.

10 (b) Avoid, minimize, and mitigate impacts of new drains,
11 improvements, and maintenance on land or interests in land,
12 including, but not limited to, easements, owned for preservation
13 or conservation purposes by a public corporation or private
14 nonprofit organization.

15 (c) Incorporate flow patterns into criteria for drain design
16 and storm water management.

17 (d) Make on-site retention and detention of storm water a
18 priority.

19 (e) Utilize applicable management practices adopted by the
20 commission of agriculture. The commission of agriculture shall
21 adopt management practices on or before the expiration of 2 years
22 after the effective date of the 2000 amendatory act that amended
23 this section. The commission of agriculture shall adopt and may
24 revise the management practices after doing both of the
25 following:

26 (i) Consulting with the department of natural resources, the
27 department of environmental quality, and interested drain

1 commissioners.

2 (ii) Holding at least 1 appropriately noticed public hearing
3 on the proposed management practices or revisions.

4 (f) Evaluate the impacts of the project on natural resources
5 and identify appropriate measures to minimize adverse impacts.

6 (g) Obtain any permits required under the natural resources
7 and environmental protection act, 1994 PA 451, MCL 324.101 to
8 324.90106.

9 Sec. 6. All ~~established~~ drains regularly located and
10 established ~~in pursuance of~~ **under** law ~~existing~~ **in effect** at
11 the time of ~~location and~~ establishment and visibly in
12 existence, ~~which were established as drains, and~~ **or** all drains
13 visibly in existence in written drain easements, ~~or~~
14 rights-of-way, **orders**, or other records, such as maps,
15 engineering plans, survey or construction records, or
16 apportionment, assessment, or procedural records, on file in the
17 office of the commissioner, ~~shall be deemed~~ **are** public drains
18 ~~located~~ **and shall be presumed to have been established under**
19 **law. The easements and the drains shall be presumed to have been**
20 **located** in public easements or rights-of-way which are valid and
21 binding against any ~~owners of any~~ **persons making a claim on the**
22 **basis of ownership of a** property interest who became ~~or~~
23 ~~hereafter become such~~ owners after the ~~location and~~
24 establishment of the drain or the existence of the drain became
25 visible or the written drain easement, ~~or~~ right-of-way, **or**
26 **order** was executed. ~~—, and the~~ **The** commissioner or drainage
27 board may use, enter upon, and preserve ~~such~~ **the** easement or

1 right-of-way for maintenance **and improvement** of the ~~visible~~
2 drain and any other lawful activity with respect to the ~~same~~
3 **drain** not requiring a larger or different easement or
4 right-of-way and may exercise any rights granted in the written
5 easement, ~~or~~ right-of-way, **or order** on file in the office of
6 the **drain** commissioner. Easements or rights-of-way ~~—~~ or
7 portions of easements or rights-of-way ~~—~~ no longer necessary
8 for drainage purposes may be conveyed or released to the ~~fee~~
9 ~~owners~~ **landowners** by the commissioner or drainage board on
10 behalf of the drainage district. ~~The drain commissioner or~~
11 ~~drainage board shall give at least 30 days' notice of the~~
12 ~~intention to release the excess easements by publishing a notice~~
13 ~~in a newspaper of general circulation in the county or a~~
14 ~~newspaper of general circulation where the drainage district~~
15 ~~boundaries are located. This notice shall give a general~~
16 ~~description of the excess easements to be released and the date~~
17 ~~any taxpayers may appear to protest said release. After said~~
18 ~~date if no protests are received, the drain commissioner or~~
19 ~~drainage board may release said excess easements or portions~~
20 ~~thereof not necessary for drainage purposes.~~

21 **Sec. 7. (1) For the purposes of this act, a drain**
22 **commissioner or drainage board may acquire property or a property**
23 **interest, including, but not limited to, land, easements, and**
24 **rights of way. The property or a property interest may be**
25 **acquired by gift, grant, dedication, purchase, or condemnation**
26 **under the uniform condemnation procedures act, 1980 PA 87, MCL**
27 **213.51 to 213.75.**

1 (2) A release of right-of-way negotiated by the drain
2 commissioner after the effective date of the 2000 amendatory act
3 that added this section shall describe the land to be granted or
4 conveyed including ground necessary for the deposit of drainage
5 excavations. If a portion of a drain is located within a
6 roadway, or public place, then a resolution of the roadway
7 authority or the governing body having jurisdiction over the
8 public place, respectively, granting leave to construct the drain
9 therein and designating the place to be traversed by the drain,
10 is a sufficient release of the right-of-way, under this act.

11 (3) A county drain or intercounty drain may be laid within or
12 across the right-of-way of a roadway if the drain commissioner or
13 drainage board, respectively, obtains a permit from the roadway
14 authority.

15 (4) If the federal government is participating in a project
16 under this act, property or a property interest for the project
17 may be acquired by the federal government under applicable
18 federal law. Except as provided in section 431, the cost for the
19 federal government to acquire the property or a property interest
20 shall be considered a part of the cost of the project as if the
21 property or a property interest were acquired under subsection
22 (1).

23 Sec. 7a. (1) If a drain commissioner or drainage board
24 acquires property or an interest in property after the effective
25 date of the amendatory act that amended section 1 in connection
26 with any proposed drain or drains, the drain commissioner or
27 drainage board shall record the property or interest in property

1 in the office of the register of deeds.

2 (2) Property or an interest in property acquired at any time
3 in connection with an existing drain shall be recorded in the
4 office of the register of deeds when the drain is maintained,
5 improved, or consolidated. Provided, however, the property or
6 interest in property for all established drains under the
7 jurisdiction and control of the drain commissioner shall be
8 recorded in the office of the register of deeds not later than 10
9 years after the effective date of the amendatory act that added
10 this section. If a drain is consolidated, any easements granted
11 to the separate drainage districts shall be considered to be
12 assigned to the consolidated drainage district with full force
13 and effect of law as originally granted.

14 (3) The drain commissioner may contract for services in order
15 to accomplish the recording required under this section.

16 (4) The cost of recording and contracted services under this
17 section shall be paid by the drainage district.

18 Sec. 7b. A certificate, report, or determination authorized
19 or required by this act, or the record thereof, or a certified
20 copy of any such certificate, report, or determination or record,
21 is prima facie evidence of the facts recited therein, of the
22 title to the property described or referred to, and of the right
23 of the drainage board or commissioner to take the property for
24 drain purposes.

25 Sec. 7c. The owner of any land over, through, or across
26 which a drainage district has acquired an easement or
27 right-of-way for the construction and maintenance of an open or

1 covered drain shall not use the land within the easement or
2 right-of-way in a manner that will interfere with the operation
3 of the drain, that will increase the cost to the district of
4 performing work on the drain, or that is otherwise inconsistent
5 with the easement or right-of-way of the district. A landowner
6 who violates this section is subject to section 421.

7 Sec. 8. (1) The business ~~which~~ performed by and any
8 hearing held by a board or ~~commission~~ committee created
9 pursuant to this act ~~, or a body of special commissioners~~
10 ~~appointed pursuant to this act, may perform~~ shall be conducted
11 at a public meeting of the board ~~, commission, or body of~~
12 ~~special commissioners~~ or committee held in compliance with ~~Act~~
13 ~~No. 267 of the Public Acts of 1976, being sections 15.261 to~~
14 ~~15.275 of the Michigan Compiled Laws~~ the open meetings act, 1976
15 PA 267, MCL 15.261 to 15.275. Public notice of the time, date,
16 and place of the meeting shall be given in the manner required by
17 ~~Act No. 267 of the Public Acts of 1976~~ the open meetings act,
18 1976 PA 267, MCL 15.261 to 15.275.

19 (2) In addition to the requirements of subsection (1) and
20 except as otherwise provided in this act, notice of public
21 hearings for the board of determination, day of review, or board
22 of review; hearings of practicability and necessity of the
23 drainage board, the receiving of bids, and the review of
24 apportionments; notice of an order under section 151 changing the
25 name or number of a drain or the boundaries of a drainage
26 district; and notice of an order under section 199(1) for
27 inspection of a drain at least every 3 years shall be sent by

1 first-class mail to all landowners other than public corporations
2 subject to an assessment in the drainage district or proposed
3 drainage district at the address in the last city, village, or
4 township tax assessment roll. If a public corporation other than
5 a state department may be subject to an assessment for the drain,
6 notice shall be personally delivered or sent by first-class mail
7 to the governing body of the public corporation. If a state
8 department may be subject to an assessment for the drain, notice
9 shall be personally delivered or sent by first-class mail to the
10 head of the state department. However, if the head of the state
11 department is a commission, notice shall be personally delivered
12 or sent by first-class mail to the principal executive officer of
13 the state department. Notice shall also be personally delivered
14 or sent by first-class mail to the director of transportation,
15 the director of the department of natural resources, the director
16 of the department of environmental quality, and the board of
17 county road commissioners. Notice of a change in route of the
18 drain after the first order of determination shall be delivered
19 in the manner provided in this subsection but need only be
20 delivered to landowners whose lands will be affected as a result
21 of the change of route. In addition, notice of a hearing of
22 practicability or necessity of the drainage board under chapter
23 20 shall also be sent by first-class mail to all landowners whose
24 land may be traversed or bordered by the proposed drain. The
25 notice shall be mailed as follows:

26 (a) For a hearing under section 467 or 469, not less than 21
27 days before the date of the hearing.

1 (b) For any other proceeding, not less than 14 days before
2 the date of the proceeding.

3 (c) For a change in route of the drain after the first order
4 of determination, not more than 14 days after the approval of the
5 route.

6 (d) For an order under section 151 changing the name or
7 number of a drain or the boundaries of a drainage district or an
8 order under section 199(2), not more than 14 days after entry of
9 the order.

10 (3) The person giving notice shall make an affidavit of the
11 mailing and shall recite in the affidavit that the persons to
12 whom the notice was mailed constitute all of the persons whose
13 names and addresses appear upon the tax rolls as owning land
14 within the drainage district or proposed drainage district. The
15 affidavit of mailing is conclusive proof that notice of a public
16 hearing described in subsection (2) was mailed according to this
17 act. Failure to receive a notice by mail is not a jurisdictional
18 defect invalidating a drain proceeding or special assessment if
19 notice has been sent as provided in this act.

20 (4) The notice described in subsection (2) shall be posted in
21 the office of each drain commissioner involved by the date by
22 which publication is first required.

23 (5) Notice of a public hearing described in subsection (2)
24 shall be published in a newspaper of general circulation in the
25 drainage district. The notice shall be published at least once,
26 not less than 14 days before the date of the proceeding.
27 However, for a hearing under section 467 or 469, notice shall be

1 published at least twice, with the first publication not less
2 than 21 days before the date of the hearing.

3 (6) Notice of a public hearing described in subsection (2)
4 shall be published in a newspaper of general circulation in the
5 drainage district. The notice of a hearing described in
6 subsection (2) shall set forth the time, date, place, and purpose
7 of the meeting. If the hearing is for the board of
8 determination, day of review, or board of review, the notice
9 shall include the name, address, and telephone number of the
10 drain commissioner in the county where the proceeding will take
11 place. If the hearing is a hearing of practicability and
12 necessity of the drainage board, the notice shall include the
13 name, address, and telephone number of each of the members of the
14 drainage board. The notice shall explain the consequence of any
15 of the decisions made at the hearing and shall specify any appeal
16 period for the action taken. Notice of a hearing of necessity of
17 the board of determination or drainage board shall set forth the
18 relief requested by the petition and the reasons for the relief
19 as presented in the petition.

20 (7) ~~-(2)-~~ A writing prepared, owned, used, in the possession
21 of, or retained by a board, **committee**, commission, or advisory
22 committee created pursuant to this act, or a commissioner
23 appointed pursuant to this act, in the performance of an official
24 function shall be made available to the public in compliance with
25 ~~Act No. 442 of the Public Acts of 1976, being sections 15.231 to~~
26 ~~15.246 of the Michigan Compiled Laws~~ **the freedom of information**
27 **act, 1976 PA 442, MCL 15.231 to 15.246.**

1 Sec. 10. Drains may be laid or extended into or along or
2 from any lake or other body of water surrounded wholly or in part
3 by a swamp, marsh or other low lands for the general purpose of
4 drainage contemplated by this act, but not so as to impair the
5 navigation of any navigable river, **subject to any permit required**
6 **under the natural resources and environmental protection act,**
7 **1994 PA 451, MCL 324.101 to 324.90106.**

8 ~~Any meeting called pursuant to the provisions of this act,~~
9 ~~unless otherwise provided, may be adjourned from time to time by~~
10 ~~public announcement thereof and no advertisement of the time of~~
11 ~~said adjournment shall be required.~~

12 The commissioner shall have jurisdiction over all established
13 county drains within his **or her** county, heretofore established
14 and now in the process of being established except that in the
15 case of a drain located or to be located entirely within a single
16 city or village, such jurisdiction shall be consented to by
17 resolution of the governing body of such city or village.

18 ~~If any drainage project lies entirely within the limits of a~~
19 ~~municipality less than a county, such municipality, by its~~
20 ~~governing body, shall have the power to pledge the full faith and~~
21 ~~credit of the municipality for the payment of bonds or drain~~
22 ~~orders issued in connection with such project, and if a~~
23 ~~deficiency exists in the drain fund or sinking fund for said~~
24 ~~drain 1 year after the last installment of the deficiency~~
25 ~~assessment provided for in section 280 of this act, shall have~~
26 ~~become delinquent, such municipality shall forthwith advance to~~
27 ~~the county drain fund the amount of such deficiency and~~

1 ~~thereafter all receipts of such drain fund from the sale of~~
2 ~~delinquent tax lands, which had been assessed for said drain,~~
3 ~~shall be paid to the municipality within 90 days after receipt by~~
4 ~~the county treasurer.~~

5 Sec. 12. Except as provided in section 8, ~~when~~ **if** a time
6 is specified in this act in which the drain commissioner or a
7 drainage board shall take a specified administrative action or a
8 procedural step, the specification of time ~~shall be considered~~
9 **is** directory and not mandatory, and failure to take the action or
10 step within the time specified ~~shall~~ **does** not affect the
11 legality and validity of a drain proceeding. ~~Where~~ **If** the
12 specification of time relates to the giving of notice, the filing
13 of objections, the taking of an appeal, the commencement of an
14 action in a court, the taking of an action or step in the
15 assessment, levy, or collection of drain assessments ~~, taxes~~ or
16 other charges, or to a requirement of due process, the
17 specification of time ~~shall be considered~~ **is** mandatory if so
18 provided in this act.

19 Sec. 13. (1) The director of agriculture may designate an
20 individual to act on his or her behalf with respect to the
21 exercise of powers and the performance of duties under this act.
22 If a deputy or assistant acts in the capacity of the director of
23 agriculture under this act, he or she shall be considered to have
24 been properly designated by the director of agriculture. Any
25 official proceedings may be signed by the designee in his or her
26 own name. The signature of the designee shall be followed by his
27 or her official title. If an individual is designated by the

1 director of agriculture to act in his or her stead in connection
2 with all the proceedings as to any project, then any notice
3 required to be served upon or mailed to the director of
4 agriculture may be served upon or mailed to the designee.

5 (2) Expenses incurred by the director of agriculture under
6 this act shall be assumed by the department of agriculture.

7 (3) The director of transportation may designate an employee
8 of the state transportation department to act on his or her
9 behalf with respect to the exercise of powers and the performance
10 of duties under this act. If an employee of the state
11 transportation department acts in the capacity of the director of
12 transportation under this act, the employee shall be considered
13 to have been properly designated by the director of
14 transportation. Any official proceedings may be signed by the
15 designee in his or her own name. The signature of the designee
16 shall be followed by his or her official title. Any notice
17 required to be served upon or mailed to the director of
18 transportation shall be served upon or mailed to the designee.

19 Sec. 14. (1) For a public corporation other than a state
20 department to be a petitioner under this act, the petition shall
21 be authorized by resolution of the governing body and signed on
22 behalf of the public corporation by an officer designated by the
23 governing body. A certified copy of the resolution shall be
24 attached to the petition.

25 (2) For a state department to be a petitioner under this act,
26 the petition shall be signed on behalf of the state department by
27 the head of the state department. However, if the head of the

1 state department is a commission, the petition shall be signed by
2 the principal executive officer of the state department.

3 CHAPTER 2 —

4 COUNTY DRAIN COMMISSIONER —

5 Sec. 21. (1) ~~At~~ **Subject to this section, at** the general
6 election to be held in November ~~—, 1976—~~ **2000**, and each fourth
7 year after November ~~—, 1976—~~ **2000**, a county drain commissioner
8 shall be elected in each county having a drain commissioner by
9 the qualified electors of the county. The term of office of
10 ~~the~~ **a** commissioner shall begin on the January 1 following the
11 drain commissioner's election and continue for a period of 4
12 years and until his or her successor is elected and qualified,
13 whichever occurs earlier.

14 (2) As determined by the county board of commissioners, the
15 county drain commissioner shall be covered by a blanket bond or,
16 before entering upon the duties of office, shall execute and file
17 with the county clerk a bond to the people of the state in the
18 penal sum of ~~—\$5,000.00—~~ **\$100,000.00**, issued by a surety company
19 licensed to do business in this state, conditioned upon the
20 faithful discharge of the duties of the office. The county board
21 of commissioners may fix the individual bond to be required of
22 the commissioner at a different amount if, in its judgment, that
23 is desirable.

24 (3) The county board of commissioners of a county having a
25 population of less than 12,000, by resolution of a 2/3 vote of
26 the members elect, may abolish the office of county drain
27 commissioner and transfer the powers and duties of the office to

1 the board of county road commissioners.

2 (4) If a county establishes a department of public works
3 pursuant to ~~Act No. 185 of the Public Acts of 1957, as amended,~~
4 ~~being sections 123.731 to 123.786 of the Michigan Compiled Laws~~
5 **1957 PA 185, MCL 123.731 to 123.786**, or a public improvement
6 agency with the drain commissioner designated as the county agent
7 pursuant to the county public improvement act of 1939, ~~Act~~
8 ~~No. 342 of the Public Acts of 1939, as amended, being sections~~
9 ~~46.171 to 46.188 of the Michigan Compiled Laws~~ **1939 PA 342, MCL**
10 **46.171 to 46.188**, the county board of commissioners, by
11 resolution of a 2/3 vote of the members elected and serving, may
12 combine the powers, duties, and functions set forth in ~~Act~~
13 ~~No. 185 of the Public Acts of 1957, as amended, Act No. 342 of~~
14 ~~the Public Acts of 1939, as amended~~ **1957 PA 185, MCL 123.731 to**
15 **123.786, the county public improvement act of 1939, 1939 PA 342,**
16 **MCL 46.171 to 46.188**, and this act into 1 county department
17 headed by a public works commissioner. The public works
18 commissioner shall be elected in the same manner and for the same
19 term as a drain commissioner. ~~and shall carry out the powers and~~
20 ~~duties of a drain commissioner.~~

21 (5) A resolution provided for in subsection (4) may not be
22 adopted unless the county board of commissioners has first held
23 at least 1 ~~generally publicized~~ public hearing on the
24 resolution. **Notice of the hearing shall be published as provided**
25 **in section 8(3).**

26 (6) Not less than 3 years after a county establishes the
27 office of public works commissioner pursuant to subsections (4)

1 and (5), or a public improvement agency, the county board of
2 commissioners, by resolution approved by a 2/3 vote of the
3 members elected and serving, may abolish the office of public
4 works commissioner not less than 6 months before the next primary
5 election for that office. The office of public works
6 commissioner shall be abolished in the county effective 180 days
7 after a resolution is adopted pursuant to this subsection. The
8 office shall then be referred to as the drain commissioner and
9 the person in office at the time a resolution of abolishment is
10 passed shall fulfill the remainder of the term of office until
11 the next general election.

12 (7) ~~A~~ **In a county that is organized under ~~Act No. 293 of~~**
13 ~~the Public Acts of 1966, being sections 45.501 to 45.521 of the~~
14 ~~Michigan Compiled Laws— 1966 PA 293, MCL 45.501 to 45.521, whose~~
15 charter prescribes an elected county executive, and which county
16 has a population of more than 2,000,000 at the time the charter
17 is adopted, ~~shall be governed by section 21a in place of this~~
18 ~~section~~ **the powers and duties of the drain commissioner, under**
19 **this act, shall be performed by a person or persons designated**
20 **under the county's charter.**

21 Sec. 23. The commissioner shall have jurisdiction over all
22 **county** drains within ~~his~~ **the** county, including those
23 ~~heretofore established and now~~ in **the** process of ~~construction~~
24 **being established or constructed.** Drains extending into more
25 than 1 county — or affecting lands in more than 1 county —
26 **are under the jurisdiction of the drainage board and** shall be
27 established and constructed in accordance with the provisions of

1 this act regulating the establishment and construction of drains
 2 traversing more than 1 county or affecting lands in more than 1
 3 county. ~~Nothing in this act shall be construed as depriving a~~
 4 **The drain commissioner of a county is not deprived of**
 5 jurisdiction ~~or as making any drain~~ **over a drain and the drain**
 6 **does not become** an intercounty drain, merely because ~~a~~ **the**
 7 drain extends into another county for the purpose of securing a
 8 proper outlet and not for the purpose of draining any lands in
 9 the other county, ~~:- Provided, such~~ **if the** extension is
 10 approved by the drain commissioners and **is approved by the county**
 11 board of ~~supervisors~~ **commissioners** of each affected county
 12 **after a public hearing of the county board of commissioners**
 13 **noticed and conducted in the manner provided by law for meetings**
 14 **of the county board of commissioners.** The portion of ~~any such~~
 15 **the** drain extending into another county shall not be considered
 16 in determining the number of signers required ~~to~~ **for a**
 17 petition. ~~to locate, establish and construct.~~

18 Sec. 24. (1) **The county board of commissioners may employ**
 19 **an engineer who shall perform under this act the services**
 20 **required to be performed by an engineer or surveyor as may be**
 21 **directed by the drain commissioner.**

22 (2) A commissioner may appoint a deputy or deputies ~~, if the~~
 23 ~~county board of commissioners approves,~~ and may revoke the
 24 appointment at pleasure. The appointment shall be made in
 25 writing and filed with the clerk of the county. **To the extent**
 26 **authorized by the drain commissioner, a deputy may execute the**
 27 **powers and duties of a drain commissioner under this act.** If the

1 commissioner is unable to execute the duties of office, the
2 deputy or deputies shall execute or assist in the execution of
3 the duties of the county drain commissioner. ~~assigned by the~~
4 ~~county drain commissioner. As determined by the county board of~~
5 ~~commissioners, the deputy or deputies, either shall be covered by~~
6 ~~a blanket bond or shall file a bond with and to be approved by~~
7 ~~the commissioner in a sum not to exceed \$5,000.00, conditioned~~
8 ~~upon the faithful discharge of the deputy's or deputies' duties.~~
9 If the commissioner dies during his or her term, the deputy
10 commissioner shall have all of the powers and be charged with all
11 of the duties of a commissioner until a commissioner is appointed
12 or elected.

13 **(3) As determined by the county board of commissioners, the**
14 **deputy or deputies either shall be covered by a blanket bond or**
15 **shall file with the drain commissioner a bond to be approved by**
16 **the drain commissioner in a sum not to exceed \$100,000.00,**
17 **conditioned on the faithful discharge of the duties of the deputy**
18 **or deputies.**

19 Sec. 25. **(1) The commissioner and** ~~his bondsmen shall be~~
20 **the sureties on the individual or blanket bonds covering the**
21 **commissioner and deputy are** liable for all the acts and defaults
22 of ~~the~~ **a deputy** ~~or deputies when~~ appointed as ~~herein~~
23 **provided in section 24.** After entry of the order designating
24 drainage districts as provided in section ~~54 and section~~ **55 or**
25 **105, of this act,** the drainage district as designated ~~shall be~~
26 ~~responsible for and~~ **is** liable for all acts and defaults of
27 ~~such~~ **the** commissioner ~~and his~~ **or a** deputy, ~~or deputies,~~

1 except for acts of malfeasance or misfeasance. **The commissioner**
 2 **is liable on the blanket bond or his or her individual bond for**
 3 **gross neglect of duty or a misapplication of money coming under**
 4 **his or her control as commissioner.**

5 (2) The **county** board of ~~supervisors~~ **commissioners** may adopt
 6 resolutions providing that public liability or other insurance
 7 may be purchased at the expense of the county to cover such
 8 potential liabilities of the ~~various~~ drainage districts under
 9 the supervision of the county drain commissioner.

10 Sec. 26. Each deputy commissioner shall receive ~~such~~ **the**
 11 salary or compensation ~~as the~~ **determined by the county** board of
 12 ~~supervisors shall allow~~ **commissioners** and all traveling
 13 expenses actually and necessarily spent ~~by him~~ in the discharge
 14 of his **or her** duties as prescribed in this act. ~~;~~ ~~he shall make~~
 15 ~~a report to the commissioner of all work performed by him on or~~
 16 ~~before the first Saturday of each month and an annual report on~~
 17 ~~or before the second Wednesday in September of each year.~~

18 Sec. 27. (1) ~~County clerks, or the board of auditors in~~
 19 ~~counties having such boards, shall be authorized, and it shall be~~
 20 ~~their duty to procure, at the expense of their respective~~
 21 ~~counties, the necessary books, blanks and stationery for the use~~
 22 ~~of said commissioners; and each commissioner shall furnish upon~~
 23 ~~request blank applications or petitions to any person who may~~
 24 ~~desire to file the same under this act. The~~ **At the expense of**
 25 **the county and subject to county appropriations, the** office of
 26 the **drain** commissioner shall be furnished ~~at the expense of the~~
 27 ~~county by the board of supervisors, or by the board of auditors~~

1 ~~in counties having such boards, and shall be maintained at the~~
2 ~~county seat, in which said office said commissioner shall be and~~
3 ~~remain at least 1 day per week such day to be painted on the door~~
4 ~~of the commissioner's office and printed or stamped on his~~
5 ~~stationery.~~ with all of the following as necessary to fulfill
6 the duties of this act or other acts, ordinances, or resolutions
7 specifying duties to be performed by the drain commissioner:

8 (a) Books, blanks, documents, stationery, and office
9 supplies.

10 (b) Office equipment necessary to make profiles, blueprints,
11 and specifications in any drainage district, word processing
12 equipment, and mapping and assessing equipment.

13 (c) Space and facilities to file, preserve, and retain field
14 notes, blueprints, profiles, estimates, and all other records.

15 (2) The office of the commissioner shall be maintained at an
16 official county facility.

17 (3) With the approval of the county board of commissioners, a
18 drain commissioner may add to the assessments of lands in each
19 drainage district established pursuant to chapter 3 or 20 not
20 more than 1% per year for education and training for the drain
21 commissioner and his or her staff with regard to 1 or more of the
22 following:

23 (a) Best management practices.

24 (b) Environmental protection and enhancement.

25 (c) Watershed management and planning.

26 (d) Assessing for drain projects.

27 (e) Financing for drain projects.

(f) Drain construction methods and techniques.

(g) Alternatives for on-site management of storm water.

(h) Any other matter related to the operation of the office of drain commissioner or the construction, operation, maintenance, or improvement of drains.

(4) Funds collected pursuant to subsection (3) shall be consolidated and held in a separate account for the purposes set forth in subsection (3). Interest earned on the fund shall be credited to the fund. Subsection (3) is intended to supplement, not replace, appropriations of county general fund money for the purposes set forth in subsection (3).

Sec. 28. (1) ~~Each~~ Subject to subsection (2), a drain commissioner shall receive an annual salary ~~to be paid at other county officers are paid, the~~ and fringe benefits, if any, as determined by the county board of commissioners. The amount of the salary ~~to~~ and fringe benefits, if any, shall be fixed by the county board of commissioners before November 1 of each year and shall be paid from the general fund of the county in the same manner and at the same time as the salaries and fringe benefits of other county officers are fixed and paid. ~~The~~ A drain commissioner's salary may be increased but shall not be decreased during ~~his or her~~ the term of office ~~, and in addition, each commissioner shall be allowed~~ of that drain commissioner. A drain commissioner's salary shall not be decreased during successive terms of office of the drain commissioner to a greater extent than the salaries of other county officials are decreased. A drain commissioner's fringe benefits shall not be

1 decreased during the term of office to a greater extent than the
 2 fringe benefits of elected county officials in general are
 3 decreased. The county shall pay a drain commissioner for his or
 4 her actual necessary expenses, including traveling expenses
 5 incurred in the discharge of the duties of the office. —
 6 ~~including all actual and necessary expense for clerk hire and~~
 7 ~~recording by the county board of commissioners or board of county~~
 8 ~~auditors to be paid by the county.~~ The expense account shall be
 9 an itemized account. ~~and verified by oath taken before a proper~~
 10 ~~officer.~~ The amounts paid to the commissioner for salary and
 11 expenses shall be in full for all services rendered by the
 12 commissioner and all expenses incurred in the performance of the
 13 duties of the office.

14 (2) ~~Notwithstanding subsection (1), for~~ If a county
 15 ~~which~~ has a county officers compensation commission, the
 16 compensation for ~~each~~ **the** county drain commissioner shall be
 17 determined by that commission **under 1978 PA 485, MCL 45.471 to**
 18 **45.477.** ~~A change in compensation for a county drain~~
 19 ~~commissioner of a county which has a county officers compensation~~
 20 ~~commission shall commence at the beginning of the first odd~~
 21 ~~numbered year after the determination is made by the county~~
 22 ~~officers compensation commission and is not rejected.~~

23 Sec. 29. ~~The county shall furnish the commissioner with~~
 24 ~~all necessary books and papers for use in the survey, and such~~
 25 ~~office equipment as shall be necessary in making profiles,~~
 26 ~~blueprints and specifications in any drainage district.~~ The
 27 ~~surveyor or engineer shall file with the commissioner all field~~

~~1 notes, blueprints, profiles, estimates and all other papers in~~
~~2 his possession relating to said drain. The board of supervisors~~
~~3 of any county may employ an engineer who shall perform under this~~
~~4 act the services required to be performed by an engineer or~~
~~5 surveyor. The drain commissioner's office shall furnish to any~~
~~6 person, who may so desire, documents as may be required to~~
~~7 implement the procedures of this act, and the drain commissioner~~
~~8 may assist in the preparation of such documents as may be~~
~~9 required to implement the procedures of this act.~~

10 Sec. 30. ~~It shall be the duty of each commissioner to make~~
~~11 and keep~~ **A drain commissioner shall maintain** a full financial
 12 statement of each drainage district. The commissioner shall also
 13 make and keep in ~~his~~ **the commissioner's** office ~~in a book to be~~
 14 ~~provided for that purpose~~ a complete record of each drainage
 15 district. ~~, which~~ **The** record shall include a copy of ~~the~~ **any**
 16 application for laying out and designating ~~such~~ **the** district
 17 **under former provisions of this act**, of the petition for the
 18 drain, of the minutes of the survey, of the releases of the
 19 right-of-way where the same have been released, of the orders of
 20 determination of the necessity for and of the establishment of
 21 the drain, and of the apportionment and assessment of benefits
 22 therefor. ~~Where special commissioners have been called, it~~
 23 ~~shall also contain a copy of the application to the probate~~
 24 ~~court, of the return of the special commissioners~~ and of all
 25 other ~~papers~~ **records** in ~~his~~ **the** office necessary to show a
 26 complete history of each drainage district, all of which said
 27 original ~~papers~~ **records** shall then be enrolled and filed in the

1 office of the county drain commissioner. No drain ~~tax~~
2 **assessment** shall be spread until all the records required have
3 been deposited and filed in the office of the county drain
4 commissioner.

5 Sec. 31. ~~—(1) Each commissioner shall make a report to the~~
6 ~~county board of commissioners at its annual meeting in October of~~
7 ~~the drainage districts laid out, the drains constructed,~~
8 ~~finished, or begun under his or her supervision during the year~~
9 ~~ending October 1, and the commissioner shall also submit to the~~
10 ~~board a full financial statement of each drainage district. If~~
11 ~~authorized by resolution of the county board of commissioners,~~
12 ~~the report shall be made before April 2 of each year and shall~~
13 ~~cover the preceding calendar year. The commissioner shall also~~
14 ~~make reports and furnish information as required by the director~~
15 ~~of the department of agriculture.~~

16 ~~—— (2) The reports required by subsection (1) shall include an~~
17 ~~itemized statement of the orders issued on account of each~~
18 ~~drainage district and a debit and credit balance of the district~~
19 ~~fund. The commissioner shall be liable on the blanket bond or~~
20 ~~his or her individual bond for gross neglect of duty or a~~
21 ~~misapplication of money coming under his or her control as~~
22 ~~commissioner.~~

23 (1) If requested by the legislative body of a municipality,
24 a drain commissioner shall submit an annual report to the
25 legislative body at its first regular meeting held on or after
26 October 1. The report shall cover drains established or
27 constructed by the drain commissioner during the 1-year period

1 ending September 30. Each report under this subsection shall
2 include a full financial statement for each drainage district
3 within the municipality, including, but not limited to, an
4 itemized statement of the orders issued under this act on account
5 of each drainage district and a debit and credit balance of the
6 district fund. If the municipality is a city, village, or
7 township, the report shall only apply to a drain and drainage
8 district if the drainage district lies entirely within the city,
9 village, or township.

10 (2) If requested by the legislative body, a report under
11 subsection (1) shall be submitted between January 1 and April 2
12 and shall cover the preceding calendar year.

13 (3) A drain commissioner shall submit to the director of
14 agriculture reports and information required by the director of
15 agriculture. A report under this subsection shall include an
16 itemized statement of the orders issued on account of each
17 drainage district covered by the report and a debit and credit
18 balance of the drainage district fund.

19 (4) A report under this section is advisory and is not a
20 prerequisite to the levy of any special assessments under this
21 act. The failure to submit a report under this section does not
22 invalidate a drain proceeding or special assessment.

23 Sec. 32. The **county** board of ~~supervisors of each county~~
24 ~~having a drain commissioner~~ **commissioners** may adopt a resolution
25 authorizing the county to enter into an agreement with the
26 secretary of ~~health, education and welfare pursuant to the~~
27 ~~provisions of Act No. 205 of the Public Acts of 1951, as amended,~~

1 ~~being sections 38.851 to 38.870 of the Compiled Laws of 1948,~~
 2 **the department of health and human services under 1951 PA 205,**
 3 **MCL 38.851 to 38.871,** to allow the drain commissioner and all the
 4 employees of the drain commissioner's office to obtain the
 5 benefits provided by the ~~federal~~ social security act, **chapter**
 6 **531, 49 Stat. 620.** The funds necessary for this coverage shall
 7 be appropriated from the county general fund. ~~or from the~~
 8 ~~revolving drain fund.~~

9 Sec. 33. (1) ~~The salary of the commissioner, deputy~~
 10 ~~commissioners, and clerks and employees of the drain~~
 11 ~~commissioner's office shall, except as otherwise provided in this~~
 12 ~~act, be paid from the general fund of the county in the same~~
 13 ~~manner and at the same time as other county employees are paid.~~
 14 ~~(2)~~ The drain commissioner may, with the approval of the county
 15 board of commissioners, hire drain maintenance employees. ~~Such~~
 16 ~~drain~~ **Drain** maintenance employees ~~shall be considered~~ **are**
 17 county employees and shall be compensated from the general fund
 18 of a county in the same manner and at the same time as other
 19 county employees.

20 **(2)** ~~(3)~~ The general fund of a county shall be reimbursed
 21 by the drain districts in which work is performed by drain
 22 maintenance employees hired by the commissioner pursuant to
 23 subsection (2) for compensation, including the cost of fringe
 24 benefits, paid to the drain maintenance employees by the county
 25 from its general fund. The county board of commissioners may
 26 waive the reimbursement for emergency work ~~not exceeding~~
 27 ~~\$800.00~~ performed on any 1 drain during the course of 1 year.

1 Sec. 34. (1) If a municipality determines that construction
2 or other activity that the municipality has authority to approve
3 may have a significant effect on the quantity of water entering a
4 drain or on the hydrology of a drain, the municipality shall
5 provide the drain commissioner with prior notice and opportunity
6 to review the activity before the municipality issues its
7 approval. The drain commissioner's review under this subsection
8 is limited to the ability of the drain to transport storm water
9 runoff from the proposed activities, and not a determination of
10 the propriety or impropriety of the proposed land use or zoning
11 issues. Any comments on the proposed activity shall be made by
12 the drain commissioner within 30 days of his or her receipt of
13 the plans for the proposed activity.

14 (2) The drain commissioner or drainage board may review and
15 may approve all requests to discharge into, make a connection to,
16 or construct a crossing of any established county or intercounty
17 drains. The drain commissioner may propose and the county board
18 of commissioners may adopt an ordinance to implement this
19 subsection. The ordinance may include a schedule of fees to be
20 charged for the review and inspection of any discharges,
21 connections, or crossings and penalties for noncompliance. The
22 fees shall be deposited in a revolving fund and used for reviews
23 and inspections as specified in the ordinance. If the revolving
24 fund is not sufficient to cover expenses for the reviews and
25 inspections, the expenses shall be paid from the county general
26 fund.

27 (3) The drain commissioner may establish rules and schedule

1 of fees for other reviews and inspections required of the drain
2 commissioner's office by the county board of commissioners or by
3 other statute, including but not limited to the land division
4 act, 1967 PA 288, MCL 560.101 to 560.293, the mobile home
5 commission act, 1987 PA 96, MCL 125.2301 to 125.2349, and the
6 condominium act, 1978 PA 59, MCL 559.101 to 559.276. The rules
7 and schedule of fees shall not take effect unless approved by the
8 county board of commissioners. The fees shall be deposited in a
9 revolving fund under subsection (2).

10 Sec. 35. (1) If a drain commissioner who is required to
11 apportion benefits under this act, or the spouse or child of such
12 a drain commissioner, owns lands that would be liable to an
13 assessment for the benefits, or if the commissioner is otherwise
14 disqualified to act in the making of an apportionment of
15 benefits, the commissioner shall file with the judge of probate
16 of the county a copy of the petition and a signed statement
17 showing that the drain commissioner is disqualified to act in
18 making the apportionment of benefits.

19 (2) Not more than 14 days after receiving the petition and
20 signed statement under subsection (1), the judge of probate shall
21 appoint a disinterested drain commissioner of an adjoining or
22 nearby county to make the apportionment of benefits on the
23 drain. The disinterested commissioner appointed shall make and
24 complete within a period of 28 days, or within such reasonable
25 time thereafter as may be necessary, an apportionment of the
26 benefits of the drain and file the apportionment with the
27 disqualified commissioner. The apportionment shall be adopted

1 for the drain, subject to the same rights of appeal as provided
2 in this act. The disqualified commissioner shall furnish the
3 disinterested commissioner with a copy of the final order of
4 determination on the drain.

5 (3) The salary of the commissioner appointed under subsection
6 (2) shall be the same as that received from the county of which
7 he or she is the commissioner. The salary, together with all
8 expenses actually and necessarily incurred by the commissioner,
9 shall be assessed against the drain in connection with which the
10 services were performed and shall be paid in the same manner as
11 other expenses are paid.

12 CHAPTER 3 —

13 COUNTY DRAINAGE DISTRICTS AND COUNTY DRAINS —

14 Sec. 51. (1) ~~Before a commissioner takes any action on any~~
15 ~~application to locate, establish and construct any drain, there~~
16 ~~shall first be filed with him an application to lay out and~~
17 ~~designate a drainage district with reference to a proposed drain~~
18 ~~therein; such application shall tentatively describe the location~~
19 ~~and route of such proposed drain. The application shall be~~
20 ~~signed by not less than 10 freeholders of the township or~~
21 ~~townships in which such proposed drain or the proposed lands to~~
22 ~~be drained thereby may be situated: Provided, That 5 or more of~~
23 ~~said signers shall be the owners of land liable to an assessment~~
24 ~~for the construction of such proposed drain: Provided further,~~
25 ~~If it shall appear to the drain commissioner on filing an~~
26 ~~application to lay out and designate a drainage district that~~
27 ~~said district might not include 20 freeholders whose lands would~~

~~1 be liable for such assessment, in such case such application~~
~~2 shall be received if any one of the signers is a freeholder~~
~~3 liable to an assessment for the construction of such proposed~~
~~4 drain.~~ To initiate the establishment of a drainage district and
5 the establishment and construction of a county drain, a petition
6 shall be filed with the drain commissioner of that county.
7 Subject to subsection (2), the petition shall be signed by 5
8 landowners in the proposed drainage district whose lands would be
9 liable to assessment for benefits or at least 50% of the
10 landowners if there are less than 5 landowners whose lands would
11 be liable for assessment or may be signed by landowners
12 representing 25% of the land area liable for assessment. The
13 drain commissioner shall determine the eligibility of the signers
14 to ~~such application shall be determined by the drain~~
~~15 commissioner according to their interest of record in the office~~
~~16 of the register of deeds, in the probate court or in the circuit~~
~~17 court of the county in which such lands are situated at the time~~
18 such application is the petition based on their status as
19 landowners when the petition was filed. ~~The board of~~
~~20 supervisors, by resolution, may instruct the drain commissioner~~
~~21 to refuse any application to lay out a drainage district unless a~~
~~22 cash deposit, sufficient to cover the preliminary costs,~~
~~23 accompanies the application. If the drain is completed, the cost~~
~~24 advanced shall be returned to the depositor or his personal~~
~~25 representative out of the first tax collections on the drain. If~~
~~26 uncompleted, any excess above costs shall be so returned. In~~
27 lieu of an application signed by freeholders as aforesaid, such

1 ~~an application may be signed solely by the board of health of the~~
2 ~~county~~

3 (2) Instead of landowners, a public corporation may petition
4 for the establishment of a drainage district and the
5 establishment and construction of a drain if the proposed drain
6 is necessary for ~~the~~ public health, ~~of any part of the county,~~
7 ~~or~~ **safety, or welfare or for agriculture and** may be signed
8 solely by any ~~city, village or township~~ **public corporation,**
9 when duly authorized by its governing body, if the proposed drain
10 is necessary for the public health, ~~of such municipality and if~~
11 ~~such municipality~~ **safety, or welfare or for agriculture in the**
12 **public corporation and if the public corporation** will be liable
13 for an assessment at large ~~against it~~ for a percentage of the
14 cost of the proposed drain. The entry of an order ~~designating a~~
15 ~~drainage district, as hereinafter provided,~~ **of necessity under**
16 **section 54** shall be considered a determination of the sufficiency
17 of ~~such application~~ **the petition.**

18 (3) The petition shall request the establishment of a
19 drainage district and the establishment and construction of a
20 drain and set forth the reasons for the request. The petition
21 may request that measures be undertaken which are intended both
22 to enhance or improve the natural resource values of the proposed
23 drain and which provide direct benefit to the designed function,
24 longevity, or hydraulic capacity of the proposed drain. The
25 petition may propose a location and route for the drain.

26 (4) The petition shall be accompanied by a description or tax
27 parcel number of the land in the proposed district owned by each

1 signer and by a certificate of the county treasurer as to payment
 2 of taxes and special assessments against the lands. The
 3 certificate shall be in substantially the following form:

4 I hereby certify that there are no taxes or special
 5 assessments unpaid against any of the lands described in the
 6 annexed list according to the records of the county treasurer's
 7 office for the preceding 3 years, except as follows:

8	Description	Year	Tax or assessment	Amount
9

10 (5) The name of any signer as to whose land the certificate
 11 shows taxes or assessments unpaid for the preceding 3 years shall
 12 not be counted. If it appears from the certificate that 33-1/3%
 13 or more of the lands in the proposed drainage district have been
 14 returned as tax delinquent and still remain delinquent, the
 15 commissioner shall not take further action on the petition.

16 (6) The county board of commissioners, by resolution, may
 17 instruct the drain commissioner to refuse all petitions to
 18 establish a drainage district and establish and construct a drain
 19 unless the petitions are accompanied by cash deposits. A cash
 20 deposit shall equal the drain commissioner's reasonable estimate
 21 of the costs to be incurred by the office of drain commissioner
 22 in proceedings under this chapter until the entry of an order of
 23 no necessity or an order of necessity. A cash deposit shall be
 24 applied to any liability of the petitioners under subsection
 25 (7).

26 (7) Costs incurred by the office of drain commissioner in

1 proceedings under this chapter, including any attorney fees,
2 shall be paid as follows:

3 (a) By the drainage district, if the board of determination
4 enters an order of necessity. Any deposit required under
5 subsection (6) shall be returned to the depositor out of the
6 first special assessment collections of the drainage district or
7 borrowed funds secured by special assessment collections on the
8 drain, whichever is received first.

9 (b) By the petitioners, if the board of determination enters
10 an order of no necessity and the county board of commissioners
11 required a deposit under subsection (6). However, if the board
12 of determination first enters an order of practicality, costs
13 incurred after entry of the order of practicality through entry
14 of the order of no necessity shall not be paid by the petitioners
15 but shall be apportioned as provided in chapter 7 and assessed
16 against the drainage district as described in the order of
17 practicality.

18 (c) From the county general fund, if the board of
19 determination enters an order of no necessity under section 55
20 and the county board of commissioners did not require a deposit
21 under subsection (6).

22 (8) If the petition shows, or it is determined thereafter,
23 that the proposed drain will affect lands in more than 1 county,
24 the commissioner shall proceed under chapter 5.

25 Sec. 52. ~~Upon filing of such application for a new~~
26 ~~drainage district, the commissioner shall immediately cause a~~
27 ~~survey to be made by a competent surveyor or engineer to~~

~~1 determine the area which would be drained by the proposed drain,
2 and the route and type of construction of the drain or drains
3 most serviceable for that purpose. He shall not be limited in
4 such determination to the route described in the application. In
5 any county having a board of county auditors, no survey shall be
6 ordered without the approval of such board but if the application
7 shows, or it is determined thereafter, that any such proposed
8 drainage district will affect lands in more than 1 county, the
9 commissioner shall proceed under the portions of chapter 5 of
10 this act relating to intercounty drains, and in such case the
11 approval of the board of county auditors shall not be required.
12 If upon the survey, or if before the survey is made, the
13 commissioner determines that the proposed drain is impractical,
14 he shall take no further action thereon but shall, in writing,
15 notify the persons who delivered the application to him, of that
16 fact, and his reasons for making his determination. If upon the
17 survey the commissioner determines the proposed drain to be
18 practical, he shall lay out a drainage district, prepare and file
19 in the office of the drain commissioner a description of the
20 drainage district, which may be described by its boundaries of
21 highways and streets and tracts and parcels of land including
22 therein all highways and streets, townships, cities and villages
23 or by a description of all tracts or parcels of land, highways,
24 townships, cities and villages which would be benefited by the
25 construction of the proposed drain, and which would be liable to
26 an assessment therefor, should the drain be constructed as
27 hereinafter provided. The commissioner shall obtain from the~~

~~1 county treasurer a statement showing as near as may be the amount
2 of taxes and special assessments levied against the lands in the
3 proposed drainage district on the tax rolls for the 3 years next
4 preceeding, and the amount of such taxes and assessments remaining
5 unpaid, and if it appears from the statement that 33 1/3% or more
6 of the lands in the proposed drainage district have been returned
7 as tax delinquent and still remain delinquent, no further action
8 shall be taken.~~

9 (1) If the drain commissioner determines that a petition
10 filed with the drain commissioner meets the requirements of
11 section 51, the commissioner shall promptly arrange for the
12 preparation of a preliminary analysis. Except as provided in
13 subdivision (a), an engineer shall prepare the preliminary
14 analysis. The commissioner shall select the engineer based on
15 the engineer's qualifications. The preliminary analysis shall
16 describe a drain and drainage district to address the reasons for
17 a drain and drainage district set forth in the petition. The
18 preliminary analysis shall include all of the following:

19 (a) A description of the drainage district by its boundaries
20 of streets or highways or tracts or parcels of land, or by a
21 description of all tracts or all parcels of land, including all
22 highways, townships, counties, cities, and villages which would
23 be benefited by the construction of the proposed drain. The
24 description of the drainage district may be prepared by a
25 surveyor.

26 (b) A proposed route and course for the drain.

27 (c) A proposed type of construction of the drain.

1 (d) An estimate of the cost of the proposed drain.

2 (2) Upon completion of the preliminary analysis, the drain
3 commissioner shall file a copy of the preliminary analysis in his
4 or her office and make it available for public inspection. The
5 drain commissioner shall also file the preliminary analysis with
6 the district office of the land and water management division,
7 department of environmental quality, for the district where the
8 project is located.

9 (3) As soon as practicable after the filing of the
10 preliminary analysis under section 52, the commissioner
11 authorized to act on the petition, if not disqualified under
12 section 35 to make the apportionment of benefits, may appoint a
13 board of determination composed of 3 disinterested individuals
14 and an alternate disinterested individual. If the commissioner
15 is disqualified or chooses not to appoint the board of
16 determination, the commissioner shall immediately file with the
17 chairperson of the county board of commissioners a copy of the
18 petition, together with a statement signed by the commissioner,
19 explaining why he or she is disqualified or chooses not to act in
20 appointing a board of determination. As soon as practicable
21 after receiving the copy of the petition and the statement, the
22 chairperson of the county board of commissioners, if not
23 otherwise interested as set forth in section 35, shall appoint
24 the board of determination and shall immediately notify the drain
25 commissioner of the names and addresses of those appointed. If
26 the chairperson of the county board of commissioners has a
27 private interest in the proceedings, the finance committee of the

1 county board of commissioners shall appoint the board of
2 determination.

3 (4) Each member of a board of determination shall be a
4 resident of the county, but not of a township, city, or village
5 in the proposed drainage district. A member of the board of
6 determination shall not be any of the following:

7 (a) A member of the county board of commissioners or county
8 board of road commissioners.

9 (b) The spouse, parent, child, or sibling of a member of the
10 county board of commissioners or of the drain commissioner.

11 (5) A hearing of the board of determination shall be called
12 within the drainage district at a convenient place to be
13 designated by the drain commissioner. The board of determination
14 hearing also may be held outside the drainage district at a
15 suitable public building anywhere within the city, village, or
16 township in which the drain is located or, if there is no such
17 building, at any suitable public building near the drainage
18 district. If any individual appointed to the board of
19 determination fails or refuses to serve or is disqualified, the
20 drain commissioner, the county board of commissioners, or the
21 finance committee of the county board of commissioners, whichever
22 appointed the individual, shall appoint a successor.

23 (6) The per diem compensation, mileage, and expenses of a
24 member of the board of determination shall be paid in the same
25 amount as paid to a member of the county board of commissioners
26 of the county. In a county in which members of the county board
27 of commissioners are not paid on a per diem basis, the

1 compensation, mileage, and expenses shall be fixed by the drain
2 commissioner.

3 (7) Upon request, the drain commissioner shall inform in
4 writing the state legislator who represents that portion of the
5 area in which the proposed drain improvement is to be constructed
6 of the names and addresses of the persons appointed to a board of
7 determination.

8 (8) Notice of the hearing of the board of determination
9 shall be given in the manner provided in section 8.

10 (9) The drain commissioner shall arrange for a certified
11 court reporter, stenomask reporter, or court recorder to attend
12 each hearing of the board of determination and take a verbatim
13 record of the proceedings. If proceedings are initiated in the
14 circuit court under section 56 or 58, the drain commissioner
15 shall promptly request the reporter or recorder to furnish a
16 transcript of the proceedings to the court.

17 (10) The board of determination shall meet at the time and
18 place specified in the notice. The board of determination shall
19 act by majority vote. The drain commissioner or deputy drain
20 commissioner shall attend the hearing of the board of
21 determination.

22 Sec. 53. ~~The surveyor or engineer authorized to make the~~
23 ~~survey shall ascertain the size and depth of the drains and he~~
24 ~~shall preserve all minutes with reference thereto. He shall~~
25 ~~prepare preliminary plans, drawings and profiles thereof,~~
26 ~~together with a computation of the yards of earth to be~~
27 ~~excavated, the amount of tile or pipe to be used and the~~

1 ~~necessary bridges and culverts or fords to be built in~~
2 ~~constructing such proposed drain, and his estimate of the cost of~~
3 ~~such construction, and where practicable shall recommend the~~
4 ~~leveling of the spoil banks. He shall thereupon lay out a~~
5 ~~drainage district, which district may be described by its~~
6 ~~boundaries of streets or highways or tracts or parcels of land,~~
7 ~~or by a description of all tracts or all parcels of land,~~
8 ~~including therein all highways, townships, counties, cities and~~
9 ~~villages which would be benefited by the construction of the~~
10 ~~proposed drain, all of which he shall deliver to the~~
11 ~~commissioner. The surveyor or engineer shall not be limited to~~
12 ~~the route described in the application but may recommend a route~~
13 ~~and type of construction for the drains he considers most~~
14 ~~serviceable for draining the area involved. The board of~~
15 **determination shall do all of the following at the hearing under**
16 **section 52:**

17 (a) **Elect a chairperson.**

18 (b) **Elect a secretary.**

19 (c) **Receive testimony and evidence on whether the drain is**
20 **necessary and conducive to the public health, safety, or welfare**
21 **or for agriculture.**

22 (d) **Consider the preliminary analysis.**

23 (e) **Determine 1 of the following:**

24 (i) **That the proposed drain is necessary and conducive to**
25 **public health, safety, or welfare or for agriculture.**

26 (ii) **That the proposed drain is not necessary and conducive**
27 **to public health, safety, or welfare or for agriculture.**

1 (iii) That the drain is practical, but that additional
2 information is needed to determine whether the drain is necessary
3 and conducive to the public health, safety, or welfare or for
4 agriculture, or to determine the boundaries of the drainage
5 district. If the board of determination finds that the drain is
6 practical, it shall receive testimony and evidence on the extent
7 of the lands proposed to be served by the drain and determine the
8 boundaries of the tentative drainage district, which lands will
9 be subject to assessment for costs incurred by the drain
10 commissioner in gathering the requested additional information,
11 if the drain is subsequently determined not necessary.

12 Sec. 53a. (1) After the board determines the drain
13 practical and establishes a tentative drainage district, it shall
14 recess to allow the drain commissioner to gather the additional
15 information and shall enter an order of practicality, which order
16 shall specify:

17 (a) The information from within section 60 which is needed,
18 and

19 (b) The boundaries of the tentative drainage district.

20 (2) If during the gathering of the additional information the
21 drain commissioner determines that the drain is not practical, he
22 shall reconvene the board of determination. Notice of the
23 reconvened board of determination shall be pursuant to section 8
24 and shall specify the determination by the drain commissioner and
25 the reasons therefor.

26 (3) At the hearing of the reconvened board of determination
27 under subsection (2), the board shall do the following:

1 (a) receive the determination of the drain commissioner.

2 (b) Receive testimony and evidence as to the drain
3 commissioner's determination.

4 (c) Direct the drain commissioner to complete the gathering
5 of the additional information or find the drain is not necessary
6 and conducive to the public health, safety, or welfare or for
7 agriculture and order that the costs be paid pursuant to section
8 51(7).

9 (4) If the reconvened board of determination directs the
10 drain commissioner to complete the gathering of the additional
11 information, the drain commissioner shall gather the additional
12 information.

13 (5) After gathering the additional information, the drain
14 commissioner shall call the board of determination to reconvene.
15 The drain commissioner shall give notice of the reconvening of
16 the board of determination in the manner provided in section 8.
17 The reconvened hearing of the board of determination shall do all
18 of the following:

19 (a) Receive and consider the additional information from the
20 drain commissioner.

21 (b) Receive testimony and evidence on whether the drain is
22 necessary and conducive to the public health, safety, or welfare
23 or for agriculture.

24 (c) Determine whether or not the drain is necessary and
25 conducive to the public health, safety, or welfare or for
26 agriculture.

27 (6) If the reconvened board of determination finds the drain

1 is necessary and conducive to the public health, safety, or
2 welfare or for agriculture, it shall proceed and make such orders
3 as set forth in section 54.

4 (7) If the reconvened board of determination finds the drain
5 is not necessary and conducive to the public health, safety, or
6 welfare or for agriculture, it shall enter an order to that
7 effect and order that the costs be paid pursuant to section
8 51(7).

9 Sec. 54. ~~The commissioner shall prepare and file in his~~
10 ~~office his order designating a drainage district and give it a~~
11 ~~name or number and describe therein the boundaries of the~~
12 ~~district by streets or highways or parcels of land for each of~~
13 ~~the several tracts or parcels of land included therein and the~~
14 ~~counties, townships, cities, villages and state trunk line~~
15 ~~highways which would be benefited by the construction of the~~
16 ~~drains and would be liable to assessment therefor, also a~~
17 ~~description of the drains as determined by him, showing the~~
18 ~~beginning, route, terminus, type of the proposed construction and~~
19 ~~the estimated cost of such proposed construction. The~~
20 ~~commissioner shall give notice of filing the order designating a~~
21 ~~drainage district by publishing a notice in a newspaper of~~
22 ~~general circulation in the county, or a newspaper of general~~
23 ~~circulation in the area where the drainage district boundaries~~
24 ~~are located, which notice shall give a general description of the~~
25 ~~route of the proposed drain or drains and of the drainage~~
26 ~~district as shown by the order.~~
27 ~~At any time after the order designating a drainage district~~

~~1 and giving it a name or number has been filed in the office of
2 the drain commissioner, the order may be amended as to the name
3 or number of the drain at any time by presenting to the drain
4 commissioner of the county a petition signed by no less than 5
5 land owners whose land is traversed by the drain, which petition
6 shall state the then present name or number of the drain and the
7 change or changes to be made in the name or number. Upon receipt
8 of such petition, and if in the drain commissioner's opinion it
9 is to the best interest of all concerned that the name or number
10 be changed, he shall make his order amending the name or number,
11 and thereafter the drainage district shall be known by such name
12 or number. The drain commissioner shall forthwith post such
13 signs upon the drain as he may deem advisable for public notice
14 of the new name or number.~~

15 (1) If the board of determination by a majority vote finds
16 the drain is necessary and conducive to the public health,
17 safety, or welfare or for agriculture, either at the first
18 hearing or following a reconvened hearing pursuant to section
19 53a, the board of determination shall:

20 (a) Receive testimony and other evidence on the extent of the
21 lands proposed to be served by the drain and determine the
22 boundaries of the drainage district. If the board of
23 determination at any time finds that the drain would serve lands
24 in more than 1 county, the board of determination shall file an
25 order to that effect and refer the petition to the drain
26 commissioner for proceedings under chapter 5.

27 (b) Designate a preliminary name for the drain and drainage

1 district.

2 (c) Determine whether a portion of the costs of construction
3 of the proposed drain is necessary for the public health, safety,
4 or welfare in 1 or more public corporations and identify those
5 public corporations.

6 (2) If it appears to the board of determination at any time
7 that the drainage district may include lands whose landowners
8 were not sent notice of the hearing in the manner provided in
9 section 8, the board of determination shall enter a finding to
10 that effect identifying the additional lands and file the finding
11 with the drain commissioner. The board of determination shall
12 recess the hearing. The drain commissioner shall promptly give
13 notice of the pending reconvened hearing to the landowners of the
14 additional lands and all other persons entitled to notice under
15 section 8 in the manner provided in section 8 and shall call the
16 board of determination to reconvene.

17 Sec. 55. (1) If the board of determination by a majority
18 vote finds the drain is necessary and conducive to the public
19 health, safety, or welfare or for agriculture, either at the
20 first hearing or following a reconvened hearing pursuant to
21 section 53a, the board of determination shall enter an order of
22 necessity and file the order of necessity with the commissioner.

23 (2) The order of necessity shall specify:

24 (a) The finding of necessity.

25 (b) The boundaries of the drainage district.

26 (c) The public corporations determined liable for assessment
27 at-large for a portion of the costs of the drain for public

1 health, safety, or welfare.

2 (3) The board of determination shall not determine the scope
3 of the project. The scope of the project is within the sole
4 authority of the drain commissioner in consultation with his or
5 her engineers or other qualified professionals.

6 Sec. 56. Within 7 days after the order of necessity is
7 filed, the drain commissioner shall notify by first-class mail
8 each public corporation identified in the order of necessity as
9 receiving benefits at large for public health, safety, or welfare
10 that it is liable to pay a percent of the cost of construction of
11 the drain for benefits for public health, safety, or welfare.
12 The governing body of the public corporation, within 21 days
13 after mailing of the notification from the drain commissioner,
14 may appeal the order of necessity as to the finding that all or a
15 portion of the costs is necessary for public health, safety, or
16 welfare. The appeal shall be filed with the circuit court in the
17 county in which the territory of the public corporation is
18 located.

19 Sec. 57. If the board of determination finds that the drain
20 is not necessary and conducive to the public health, safety, or
21 welfare or for agriculture, all of the following apply:

22 (a) The board of determination shall file with the
23 commissioner an order of no necessity rejecting the petition.

24 (b) Costs shall be paid as provided in section 51.

25 (c) A new petition for the drain shall not be filed within 1
26 year after the filing of the order of no necessity.

27 Sec. 58. After the board of determination files an order of

1 no necessity or files an order of necessity, a public corporation
2 or other person feeling aggrieved by the order may institute an
3 action in the circuit court for the county in which the drainage
4 district is located for a review of the order. The action shall
5 be filed within 14 days after the filing of the order. The
6 circuit court shall determine whether the order was authorized by
7 law and supported by substantial, material, and competent
8 evidence on the whole record. The review shall be made on the
9 record presented to the board of determination and no additional
10 testimony or information shall be offered except for purposes of
11 claim of fraud or error of law. After the review of the record,
12 the court may remand the matter to the board of determination and
13 order the board of determination to reconvene for purposes of
14 securing additional testimony and evidence on issues which the
15 court considers necessary to render its decision on the appeal.
16 Following the hearing on remand, the record shall be transmitted
17 to the court for hearing and decision.

18 Sec. 59. (1) After the order of necessity is filed, the
19 drain commissioner, subject to subsection (2), shall execute a
20 first order of determination and file the first order of
21 determination in his or her office. The first order of
22 determination shall do all of the following consistent with the
23 order of necessity:

24 (a) Establish the drainage district and give it a name or
25 number.

26 (b) Describe the drainage district by its boundaries or by a
27 description of all the land that would be benefited by the

1 construction of the drain and would be liable to assessment
2 therefor, including the counties, townships, cities, and
3 villages; roadways; and parcels of land identified by legal
4 description or tax code parcel number.

5 (c) Describe the beginning, route, terminus, type of the
6 proposed construction, and the estimated cost of such proposed
7 construction.

8 (2) If an appeal is not filed, the drain commissioner shall
9 satisfy the requirements of subsection (1) upon the expiration of
10 the appeal periods under section 58 and, if applicable, section
11 56. If an appeal is filed, the drain commissioner shall satisfy
12 the requirements of subsection (1) after the appeal procedures
13 are terminated.

14 Sec. 60. After the drain commissioner files the first order
15 of determination, the commissioner shall secure the services of
16 an engineer and arrange for the preparation of an engineering
17 analysis. The commissioner shall select the engineer based on
18 the engineer's qualifications. The engineering analysis shall
19 describe a drain and drainage district to address the reasons for
20 a drain and drainage district set forth in the petition and in
21 the evidence and testimony received at the hearing of the board
22 of determination. Except as provided in subdivisions (e) and
23 (j), the engineering analysis shall be prepared by an engineer
24 and shall include all of the following:

25 (a) Hydrologic and hydraulic report that includes, but is
26 not limited to, a discussion of the present drainage
27 characteristics and the impacts of the proposed project on

1 flooding characteristics downstream of the drainage district.

2 (b) Recommended route and course.

3 (c) An existing and proposed profile of the recommended
4 route and course.

5 (d) Description of the recommended work including crossings,
6 structures, and facilities.

7 (e) A description of the drainage district by its boundaries
8 of streets or highways or tracts or parcels of land, or by a
9 description of all tracts or all parcels of land, including all
10 highways, townships, counties, cities, and villages which would
11 be benefited by the construction of the proposed drain. The
12 description of the drainage district may be prepared by a
13 surveyor.

14 (f) An estimate of the cost of construction of the
15 engineer's recommendation.

16 (g) A description of alternatives considered.

17 (h) An analysis of the effectiveness of the proposed project
18 to address the conditions that it is intended to remedy, create,
19 or enhance.

20 (i) A maintenance plan for the drain.

21 (j) An evaluation of the impacts of the project on natural
22 resources that identifies appropriate practical measures to
23 minimize adverse effects. The evaluation need not be part of the
24 engineering analysis and may instead be prepared by the
25 commissioner or another qualified professional.

26 (k) Any other information requested by the commissioner.

27 Sec. 61. (1) The engineer shall prepare final plans,

1 specifications, and an estimate of costs of the proposed drain.
2 The commissioner shall secure from the engineer or a surveyor a
3 description of the lands or rights-of-way needed for the proposed
4 drain. In approving the route of the drain as furnished by the
5 engineer, the commissioner is not limited to that described in
6 the petition or in the first order of determination, if the new
7 route is more efficient and serviceable.

8 (2) If the board of determination determines that the drain
9 is necessary and conducive to the public health, safety, or
10 welfare or for agriculture, the drain commissioner shall convene
11 a meeting under section 62 to provide information or elicit
12 information and testimony with regards to the route and type of
13 construction and estimate of cost of the drain to assist the
14 drain commissioner in determining the scope of the drain project
15 to be undertaken by the commissioner. The meeting is for
16 informational purposes only.

17 (3) The drain commissioner shall obtain any permits required
18 under the natural resources and environmental protection act,
19 1994 PA 451, MCL 324.101 to 324.90106. All costs associated with
20 evaluating natural resource impacts and implementing the measures
21 to minimize those impacts shall be the responsibility of the
22 drainage district.

23 (4) Measures that are intended to enhance or improve natural
24 resource values but that will not provide benefit to the designed
25 function, longevity, or hydraulic capacity of the drain may be
26 included as part of the drainage project in the discretion of the
27 drain commissioner. The funding for such measures may only

1 include gifts, donations, grants, contracts pursuant to
2 section 431, special assessments other than special assessments
3 under this act, or any combination thereof, as considered
4 appropriate by the drain commissioner.

5 (5) If the proposed drain is located in a watershed
6 management district for which a watershed management plan has
7 been adopted under section 595, the drain commissioner shall
8 undertake the establishment and construction of the drain,
9 including, but not limited to, measures to improve or enhance
10 natural resource values, consistent with the watershed management
11 plan.

12 (6) If, after the receipt of the plans, specifications,
13 estimate of cost, and descriptions of the lands or rights-of-way
14 needed for the proposed drain, the commissioner determines that
15 the project is not feasible, the commissioner shall notify the
16 landowners and public corporations in the district by first-class
17 mail of the intent to reject the petition. The notice shall
18 specify the reasons for the proposed rejection. The notice shall
19 also specify a time, date, and place for a public hearing to hear
20 objections to the rejection of the petition. At the public
21 hearing, the commissioner shall elicit testimony and evidence
22 with regards to the proposed rejection. Following the receipt of
23 testimony, the drain commissioner shall determine whether or not
24 the petition should be rejected. If, after hearing testimony,
25 the drain commissioner determines to reject the petition, the
26 commissioner shall enter an order of rejection and apportion all
27 costs incurred to the district as if the project had been built

1 and the costs will be subsequently assessed and paid as provided
2 in chapter 7. An order of rejection does not limit the right to
3 file a subsequent petition.

4 Sec. 62. (1) Upon completion of the engineering analysis,
5 pursuant to section 60 the commissioner shall file a copy of the
6 engineering analysis in the commissioner's office and shall
7 convene a meeting to present and receive testimony and other
8 evidence on the engineering analysis and the project proposed to
9 be undertaken. The commissioner shall give notice of filing of
10 the engineering analysis and of the meeting in the manner
11 provided in section 8. The notice shall give all of the
12 following information:

13 (a) A general description of the drainage district.

14 (b) The name or number of the drainage district.

15 (c) A general map or description of the drainage district as
16 described in the engineering analysis or a general description of
17 the boundaries of that drainage district by municipal boundaries,
18 roadways, or parcels or tracts of land.

19 (d) A general description of the route and type of
20 construction and the estimated cost of the engineer's
21 recommendation.

22 (2) The drain commissioner shall consider the testimony and
23 other evidence offered at the public meeting under subsection (1)
24 and decide the route and course, type of construction, and other
25 features of the drain.

26 Sec. 63. (1) Unless the drain commissioner determines to
27 reject the petition under section 61(6), the drain commissioner

1 shall proceed to acquire property for the drain under section 7.

2 (2) After acquiring property necessary for the drain, the
3 drain commissioner shall prepare and promptly file in his or her
4 office a final order of determination establishing the drain.

5 (3) The apportionment and review of benefits, the letting of
6 contracts, and the levy and collection of drain special
7 assessments for the drain shall be as provided in chapters 7, 9,
8 and 11.

9 CHAPTER 5 —

10 INTERCOUNTY DRAINAGE DISTRICTS — AND INTERCOUNTY DRAINS

11 Sec. 101. (1) ~~Before any action is taken on any petition~~
12 ~~to locate, establish and construct any drain, which proposed~~
13 ~~drain will traverse lands in more than 1 county, or affect more~~
14 ~~than 1 county, there shall first be filed with the commissioner~~
15 ~~having jurisdiction of any such lands an application to lay out~~
16 ~~and designate a drainage district with reference to a proposed~~
17 ~~drain therein; such application shall tentatively describe the~~
18 ~~location and route of such proposed drain. The application shall~~
19 ~~be signed by a number of freeholders in said drainage district~~
20 ~~whose lands would be liable to an assessment for benefits, equal~~
21 ~~to 50% of any of the freeholders whose lands would be traversed~~
22 ~~by the drain or drains applied for or abut on any highway or~~
23 ~~street along the side of which such drain extends, between a~~
24 ~~point where such drain enters such highway and the point where it~~
25 ~~leaves such highway and which lands are within the drainage~~
26 ~~district~~ To initiate the establishment of a drainage district
27 and the establishment and construction of a drain that will

1 traverse lands in more than 1 county or affect more than 1
2 county, a petition shall be filed with the drain commissioner of
3 1 of the counties. Subject to subsection (2), the petition shall
4 be signed by 5 landowners in the intercounty drainage district
5 whose lands would be liable to assessment for benefits or at
6 least 50% of the landowners if there are less than 5 landowners
7 whose lands would be liable to assessment or may be signed by
8 landowners representing 25% of the land area liable to
9 assessment. The drain commissioner shall determine the
10 eligibility of the signers to ~~such application shall be~~
11 ~~determined by their interest of record in the office of the~~
12 ~~register of deeds, in the probate court or in the circuit court~~
13 ~~of the county in which such lands are situated at the time such~~
14 ~~petition is filed~~ the petition based on their status as
15 landowners when the petition was filed.

16 (2) Instead of landowners, a public corporation may petition
17 for the establishment of a drainage district and the
18 establishment and construction of a drain when duly authorized by
19 its governing body, if the proposed drain is necessary for public
20 health, safety, or welfare in the public corporation and if the
21 public corporation will be liable for an assessment at large for
22 a percentage of the cost of the proposed drain. The entry of an
23 order of necessity under section 104 shall be considered a
24 determination of the sufficiency of the petition.

25 (3) The petition shall request the establishment of a
26 drainage district and the establishment and construction of a
27 drain and set forth the reasons for the request. The petition

1 may request that measures be undertaken which are intended both
 2 to enhance or improve the natural resource values of the proposed
 3 drain and which provide direct benefit to the designed function,
 4 longevity, or hydraulic capacity of the proposed drain. The
 5 petition may propose a location and route for the drain.

6 (4) The petition shall be accompanied by a description or tax
 7 parcel number of the land in the proposed district owned by each
 8 signer and by a certificate of the county treasurer of each
 9 county where such land is located as to payment of taxes and
 10 special assessments against the land in that county. The
 11 certificate shall be in substantially the following form:

12 I hereby certify that there are no taxes or special
 13 assessments unpaid against any of the lands described in the
 14 annexed list according to the records of the county treasurer's
 15 office for the preceding 3 years, except as follows:

16	Description	Year	Tax or assessment	Amount
17

18 (5) The name of any signer as to whose land the certificate
 19 shows taxes or assessments unpaid for the preceding 3 years shall
 20 not be counted. If it appears from the certificate that 33-1/3%
 21 or more of the lands in the proposed drainage district have been
 22 returned as tax delinquent and still remain delinquent, the
 23 commissioner shall not take further action on the petition.

24 (6) If the petition shows, or it is determined thereafter,
 25 that the proposed drain will affect lands in only 1 county, the
 26 commissioner shall proceed under chapter 3.

1 Sec. 102. (1) ~~Upon filing of such application~~ **Not more**
2 **than 21 days after a petition is filed,** the commissioner shall
3 ~~within 20 days~~ send a copy of ~~such application~~ **the petition**
4 by ~~registered~~ **first-class** mail to the ~~state~~ director of
5 agriculture and ~~also~~ to the drain commissioner of each county
6 in which lie lands liable for assessment for benefits for the
7 construction of such proposed drain.

8 (2) The drain commissioners of such counties and the director
9 of agriculture ~~or any deputy designated by him shall be and~~
10 ~~constitute the drainage board~~ **shall constitute the drainage**
11 **board.** If at any time the drainage board determines that lands
12 should be added to the drainage district and if those lands are
13 located in a county whose drain commissioner is not a member of
14 the drainage board, the drainage board shall notify that drain
15 commissioner and he or she shall become a member of the drainage
16 board. If at any time the drainage board determines that all the
17 lands from a particular county that are part of the drainage
18 district should be deleted from the drainage district, the drain
19 commissioner from that county shall no longer be a member of the
20 drainage board.

21 (3) The director of agriculture shall serve as chairperson of
22 the drainage board and shall only vote if there is a tie. The
23 drainage board shall act by majority vote of the drainage board.

24 (4) The ~~state~~ director of agriculture shall call a meeting
25 of ~~such~~ **the** drainage board ~~, which meeting shall be held not~~
26 ~~less than 15 and not more than 60 days from the receipt of such~~
27 ~~notice. Such meeting shall be held in the immediate locality of~~

~~1 the proposed drainage district. Notices of such meeting shall be~~
~~2 posted in 5 public places within the proposed drainage district~~
~~3 within each county, and served on the county clerk of each county~~
~~4 and the supervisor of each township within the proposed drainage~~
~~5 district personally or by registered mail at least 10 days before~~
~~6 such public meeting. A notice of such meeting shall be published~~
~~7 in each county affected once a week for 2 consecutive weeks~~
~~8 before such meeting in a newspaper of general circulation in such~~
~~9 county, if there is one, the first publication to be at least 10~~
~~10 days before the meeting as soon as practical but not later than~~
~~11 63 days after the filing of a petition.~~

12 (5) At the meeting, the drainage board shall determine if the
13 petition filed meets the requirements of section 101. If the
14 drainage board determines that the petition meets the
15 requirements of section 101, the drainage board shall promptly
16 arrange for the preparation of a preliminary analysis. Except as
17 provided in subdivision (a), an engineer shall prepare the
18 preliminary analysis. The drainage board shall select the
19 engineer based on the engineer's qualifications. The preliminary
20 analysis shall describe a drain and drainage district to address
21 the reasons for a drain and drainage district set forth in the
22 petition. The preliminary analysis shall include all of the
23 following:

24 (a) A description of the drainage district by its boundaries
25 of streets or highways or tracts or parcels of land, or by a
26 description of all tracts or all parcels of land, including all
27 highways, townships, counties, cities, and villages which would

1 be benefited by the construction of the proposed drain. The
2 description of the drainage district may be prepared by a
3 surveyor.

4 (b) A proposed route and course for the drain.

5 (c) A proposed type of construction of the drain.

6 (d) An estimate of the cost of the proposed drain.

7 (6) Upon completion of the preliminary analysis, a copy of
8 the preliminary analysis shall be filed in the office of each
9 drain commissioner on the drainage board and the office of the
10 director of agriculture and made available for public
11 inspection. The drainage board shall also file the preliminary
12 analysis with the district office of the land and water
13 management division, department of environmental quality, for the
14 district where the project is located.

15 (7) As soon as practical but not later than 60 days after the
16 filing of the preliminary analysis, the director of agriculture
17 shall call a hearing of the drainage board.

18 (8) The hearing of the drainage board shall be called within
19 the drainage district at a convenient place to be designated by
20 the director of agriculture. The drainage board hearing also may
21 be held outside the drainage district at a suitable public
22 building anywhere within the city, village, or township in which
23 the drain is located or, if there is no such building, at any
24 suitable public building near the drainage district.

25 (9) Notice of the hearing of the drainage board shall be
26 given in the manner provided in section 8. To determine which
27 landowners may be subject to assessment and should be given

1 notice, the drain commissioner of each affected county shall
2 forward to the director of agriculture a tentative description of
3 the proposed drainage district within that county. The director
4 of agriculture shall prepare and file in his or her office and
5 with the drain commissioner of each affected county a composite
6 description of the lands in the drainage district.

7 (10) The drainage board shall arrange for a certified court
8 reporter, stenomask reporter, or court recorder to attend each
9 hearing of the drainage board and take a verbatim record of the
10 proceedings. If proceedings are initiated in the circuit court
11 under section 106 or 108, the drainage board shall promptly
12 request the reporter or recorder to furnish a transcript of the
13 proceedings to the court. Upon request of the drainage board,
14 the reporter or recorder shall promptly furnish the transcript to
15 the court.

16 (11) The drainage board shall meet at the time and place
17 specified in the notice.

18 Sec. 103. ~~Upon convening said meeting the state director~~
19 ~~of agriculture or any deputy selected by him shall act as~~
20 ~~chairman. The said drainage board shall consider such~~
21 ~~application, and determine the sufficiency of the signatures~~
22 ~~thereto, and shall go over the route of said proposed drain and~~
23 ~~take testimony to determine its practicability. All persons~~
24 ~~owning lands liable to assessment for benefits or whose lands~~
25 ~~shall be crossed by said drain or any municipality affected may~~
26 ~~appear for or against said drain proceedings. If at said meeting~~
27 ~~or at any subsequent time before the entry of the order~~

~~1 designating a drainage district, they shall determine that the
2 drainage of the proposed drain area is not practical, no further
3 action shall be taken thereon within 1 year. If said proposed
4 drain is determined to be practical, then the drainage board
5 shall cause a survey thereof to be made by a competent surveyor
6 or engineer to ascertain the area which would be drained by the
7 proposed drain, and the route and type of construction of drain
8 or drains most serviceable for that purpose.~~

9 (1) The drainage board shall do all of the following at the
10 hearing:

11 (a) Elect a secretary.

12 (b) Receive testimony and evidence on whether the drain is
13 necessary and conducive to the public health, safety, or welfare
14 or for agriculture.

15 (c) Consider the preliminary analysis.

16 (2) Following the receipt of testimony and evidence and
17 consideration of the preliminary analysis, the drainage board
18 shall determine 1 of the following:

19 (a) That the proposed drain is necessary and conducive to
20 public health, safety, or welfare or for agriculture.

21 (b) That the proposed drain is not necessary and conducive
22 to public health, safety, or welfare or for agriculture.

23 (c) That the drain is practical, but that additional
24 information is needed to determine whether the drain is necessary
25 and conducive to the public health, safety, or welfare or for
26 agriculture, or to determine the boundaries of the drainage
27 district. If the drainage board finds that the drain is

1 practical, it shall receive testimony and evidence on the extent
2 of the lands proposed to be served by the drain and determine the
3 boundaries of the tentative drainage district, which lands will
4 be subject to assessment for costs incurred by the drainage board
5 in gathering the requested additional information, if the drain
6 is subsequently determined not necessary.

7 (d) Preliminarily determine the percentages of the cost of
8 establishing the district and constructing the drain that each
9 county will bear. The counties affected shall pay the costs
10 described in section 302 as provided in that section.

11 Sec. 103a. (1) After the drainage board determines the
12 drain practical and establishes a tentative drainage district, it
13 shall recess to allow for the gathering of the additional
14 information and shall enter an order of practicality, which order
15 shall specify:

16 (a) The information from within section 110 which is needed,
17 and

18 (b) The boundaries of the tentative drainage district.

19 (2) If during the gathering of the additional information the
20 drainage board determines that the drain is not practical, it
21 shall reconvene. Notice of the reconvened drainage board shall
22 be pursuant to section 8 and shall specify the determination by
23 the drainage board and the reasons therefor.

24 (3) At the hearing of the reconvened drainage board under
25 subsection (2), the board shall do the following:

26 (a) Receive testimony and evidence as to the drainage board's
27 determination.

1 (b) Determine to complete the gathering of the additional
2 information or find the drain is not necessary and conducive to
3 the public health, safety, or welfare or for agriculture and
4 order the costs assessed pursuant to the tentative drainage
5 district.

6 (4) If the reconvened drainage board determines to complete
7 the gathering of the additional information, it shall gather the
8 additional information.

9 (5) After gathering the additional information, the drainage
10 board shall reconvene. The director of agriculture shall give
11 notice of the reconvening of the drainage board in the manner
12 provided in section 8. At the reconvened hearing, the drainage
13 board shall do all of the following:

14 (a) Receive and consider the additional information.

15 (b) Receive testimony and evidence on whether the drain is
16 necessary and conducive to the public health, safety, or welfare
17 or for agriculture.

18 (c) Determine whether or not the drain is necessary and
19 conducive to the public health, safety, or welfare or for
20 agriculture.

21 (6) If the reconvened drainage board finds the drain is
22 necessary and conducive to the public health, safety, or welfare
23 or for agriculture, it shall proceed and make such orders as set
24 forth in section 105.

25 (7) If the reconvened drainage board finds the drain is not
26 necessary and conducive to the public health, safety, or welfare
27 or for agriculture, it shall enter an order to that effect and

1 costs shall be apportioned to the tentative drainage district as
2 provided in chapter 7 as if the drain had been constructed.

3 Sec. 104. ~~The surveyor or engineer authorized to make the~~
4 ~~survey shall ascertain the size and depth of the drains, and~~
5 ~~shall preserve all minutes with reference thereto. He shall~~
6 ~~prepare plans, drawings and profiles thereof, together with a~~
7 ~~computation of the yards of earth to be excavated, and where~~
8 ~~practicable the leveling of the spoil banks or the amount of tile~~
9 ~~or pipe to be used and the necessary bridges and culverts or~~
10 ~~fords to be built in constructing the proposed drains, and his~~
11 ~~estimate of the cost of such construction. He shall thereupon~~
12 ~~lay out a proposed drainage district, which district may be~~
13 ~~described by its boundaries of streets and highways or tracts or~~
14 ~~parcels of land or by a description of all tracts or parcels of~~
15 ~~land, including therein all highways, townships, counties, cities~~
16 ~~and villages which would be benefited by the construction of the~~
17 ~~proposed drain, all of which he shall deliver to the drainage~~
18 ~~board. The surveyor or engineer shall not be limited to the~~
19 ~~route described in the application, but may recommend a route and~~
20 ~~type of construction for the drains he considers most serviceable~~
21 ~~for draining the area involved.~~

22 (1) If the drainage board by majority vote finds the drain
23 is necessary and conducive to the public health, safety, or
24 welfare or for agriculture, either at the first hearing or
25 following a reconvened hearing pursuant to section 103a, the
26 drainage board shall:

27 (a) Receive testimony and other evidence on the extent of the

1 lands proposed to be served by the drain and determine the
2 boundaries of the drainage district. If the drainage board at
3 any time finds that the drain would serve lands in only 1 county,
4 the drainage board shall file an order to that effect and refer
5 the petition to the drain commissioner of that county for
6 proceedings under chapter 3.

7 (b) Designate a preliminary name for the drain and drainage
8 district.

9 (c) Determine whether a portion of the costs of construction
10 of the proposed drain is necessary for the public health, safety,
11 or welfare or for agriculture in 1 or more public corporations
12 and identify those public corporations.

13 (2) If it appears to the drainage board at any time that the
14 drainage district may include lands whose landowners were not
15 sent notice of the hearing in the manner provided in section 8,
16 the drainage board shall enter a finding to that effect
17 identifying the additional lands and file the finding with the
18 director of agriculture. The drainage board shall recess the
19 hearing. The director of agriculture shall promptly give notice
20 of the pending reconvened hearing to the landowners of the
21 additional lands and all other persons entitled to notice under
22 section 8, in the manner provided in section 8 and shall call the
23 drainage board to reconvene.

24 Sec. 105. ~~The chairman of the drainage board shall~~
25 ~~thereupon prepare an order designating a drainage district,~~
26 ~~giving it a name or number and describe therein the drainage~~
27 ~~district by its boundaries of streets and highways or tracts or~~

~~1 parcels of land or by a description of all tracts or parcels of
2 land included therein and the counties, townships, cities,
3 villages and state trunk line highways including therein all
4 highways, townships, counties, cities and villages, which would
5 be benefited by the construction of such drain and would be
6 liable to an assessment therefor; also a description of the drain
7 according to the plans and specifications prepared by the
8 surveyor or engineer and determined by the drainage board,
9 showing the beginning, route, terminus, type of construction and
10 the estimated cost of the construction. Notice of filing of the
11 order shall be given by the state director of agriculture by
12 publishing a notice in a newspaper in each county affected, once
13 in each week for 2 successive weeks, which notice shall give a
14 general description of the route of the drain and of the drainage
15 district as shown by the order. A copy of the order shall within
16 10 days be filed by the state director of agriculture in the
17 office of the county drain commissioner of each county in which
18 lie lands included in the district.~~

~~19 — At any time after the order designating an intercounty
20 drainage district, giving it a name or number, has been filed in
21 the offices of the county drain commissioners of the counties
22 within the district, the order may be amended as to the name or
23 number of the drain by a written request of a drain commissioner
24 of 1 of the counties traversed by the drain, which request shall
25 state the then present name or number of the drain and the change
26 to be made in the name or number. Upon filing of the request,
27 the drain commissioner shall mail a copy of the request, to the~~

~~1 state director of agriculture and also to the drain commissioner
2 of each county in which lie lands liable for assessments for the
3 drain. The state director of agriculture shall call a meeting of
4 the drainage board and if, in the opinion of the drainage board,
5 it is found advisable to change the name or number of the drain,
6 they shall file an order designating such change. The drainage
7 board shall also designate the number of signs to be posted upon
8 the drain as they may deem advisable for public notice of the new
9 name or number. Copies of the order changing the name or number
10 of the drain shall be filed with the drain commissioner and the
11 county treasurer of each county liable for assessments of such
12 drain. If the commissioners of the counties affected cannot
13 agree as to the apportionment of costs for laying out a drainage
14 district, the director of agriculture or any deputy appointed by
15 him shall apportion the costs and the counties affected shall pay
16 the same as provided in section 302 of this act.~~

17 (1) If the drainage board by a majority vote finds the drain
18 is necessary and conducive to the public health, safety, or
19 welfare or for agriculture, either at the first hearing or
20 following a reconvened hearing pursuant to section 103a, the
21 drainage board shall enter an order of necessity and file the
22 order of necessity with the director of agriculture.

23 (2) The order of necessity shall specify:

24 (a) The finding of necessity.

25 (b) The boundaries of the drainage district.

26 (c) The public corporations determined liable for assessment
27 at-large for a portion of the costs of the drain for public

1 health, safety, or welfare.

2 (3) The drainage board shall not determine the scope of the
3 project in the order of necessity or at the hearings pursuant to
4 sections 102 and 103a. The scope of the project is within the
5 sole authority of the drainage board in consultation with its
6 engineers or other qualified professionals.

7 Sec. 106. ~~If the drain commissioner of a county involved~~
8 ~~considers the apportionment between the counties to be unfair,~~
9 ~~the commissioner shall have the right to have the apportionment~~
10 ~~reviewed by an arbitration board to be composed of drain~~
11 ~~commissioners from unaffected counties in this state. Within 20~~
12 ~~days after the order of apportionment provided in section 105,~~
13 ~~the commissioner shall file with the department of agriculture a~~
14 ~~claim for review by arbitration in which the commissioner shall~~
15 ~~state briefly in what respect he or she considers the~~
16 ~~apportionment unfair and request, over the commissioner's~~
17 ~~official signature, a review by arbitration. The commissioner~~
18 ~~shall nominate a disinterested drain commissioner as his or her~~
19 ~~choice for the arbitration board. Upon receipt of the claim for~~
20 ~~review by arbitration, the director of the department of~~
21 ~~agriculture or the director's deputy shall forward to each county~~
22 ~~drain commissioner involved, except the claimant, within 10 days,~~
23 ~~a copy of the claim for review by arbitration. The~~
24 ~~commissioners, within 10 days, shall notify the department of~~
25 ~~agriculture of their selection to the arbitration board. The~~
26 ~~director of the department of agriculture, at the earliest date,~~
27 ~~consistent with Act No. 267 of the Public Acts of 1976, but not~~

~~1 later than 30 days after the notice, shall notify the chosen
2 drain commissioners of a date and time they shall meet in the
3 commissioner's office in Lansing. At the meeting they shall
4 select 1 or 2 more unaffected drain commissioners in the state to
5 complete the board of review. Only 1 shall be selected if the
6 board members selected by the drain commissioners affected
7 constitute an even number and 2 shall be selected if the board
8 members selected by the drain commissioners affected constitute
9 an odd number. Upon selection of the final members of the board
10 of review, those members present shall set a date, time, and
11 place in an affected county for a first full meeting of the board
12 of review. Notice of the meeting shall be posted in 5 public
13 places in each county affected and be served personally or by
14 registered mail at least 10 days before the meeting on the county
15 clerk of the county and the supervisor of a township in each
16 county traversed by the drain. A notice of the meeting shall be
17 published once a week for 2 consecutive weeks before the meeting
18 in a newspaper published and of general circulation in the
19 counties affected. The first publication is to be at least 10
20 days before the meeting. The director of the department of
21 agriculture shall notify the 1 or 2 drain commissioners selected
22 of their appointment and of the date, time, and place of the next
23 meeting of the full board. The board of arbitration shall
24 convene at the time, date, and place specified, elect a
25 chairperson and secretary, and review the fairness of the
26 apportionment between the counties. The board may adjourn until
27 their review is completed. The findings shall be made and signed~~

1 ~~by all the members attesting the determination of the majority of~~
2 ~~the board and the determination by the majority of the board~~
3 ~~shall be final and conclusive as to the fairness of the~~
4 ~~apportionment.~~ Within 7 days after the order of necessity is
5 filed, the drainage board shall notify by first-class mail each
6 public corporation identified in the order of necessity as
7 receiving benefits at-large for public health, safety, or welfare
8 that it is liable to pay a percent of the cost of construction of
9 the drain for benefits for public health, safety, or welfare.
10 The governing body of the public corporation, within 21 days
11 after mailing of the notification from the drainage board, may
12 appeal the order of necessity as to the finding that all or a
13 portion of the costs is necessary for public health, safety, or
14 welfare. The appeal shall be filed with the circuit court in the
15 county in which the territory of the public corporation is
16 located.

17 Sec. 107. If the drainage board finds that the drain is not
18 necessary and conducive to the public health, safety, or welfare
19 or for agriculture, all of the following apply:

20 (a) The drainage board shall file with the director of
21 agriculture an order of no necessity rejecting the petition.

22 (b) Costs shall be paid as apportioned amongst the counties
23 as determined in section 103 and pursuant to chapter 7 as if the
24 drain had been constructed.

25 (c) A new petition for the drain shall not be filed within 1
26 year after the filing of the order of no necessity.

27 Sec. 108. After the drainage board files an order of no

1 necessity or files an order of necessity, a public corporation or
2 other person feeling aggrieved by the order may institute an
3 action in a circuit court for any county in which the drainage
4 district is located for a review of the order. The action shall
5 be filed within 14 days after the filing of the order. The
6 circuit court shall determine whether the order was authorized by
7 law and supported by substantial, material, and competent
8 evidence on the whole record. The review shall be made on the
9 record presented to the drainage board and no additional
10 testimony or information shall be offered except for purposes of
11 claim of fraud or error of law. After the review of the record,
12 the court may remand the matter to the drainage board and order
13 the drainage board to reconvene for purposes of securing
14 additional testimony and evidence on issues which the court
15 considers necessary to render its decision on the appeal.
16 Following the hearing on remand, the record shall be transmitted
17 to the court for hearing and decision.

18 Sec. 109. (1) After the order of necessity is filed, the
19 drainage board, subject to subsection (2), shall execute a first
20 order of determination and file the first order of determination
21 with the director of agriculture. The first order of
22 determination shall do all of the following consistent with the
23 order of necessity:

24 (a) Establish the drainage district and give it a name or
25 number.

26 (b) Describe the drainage district by its boundaries or by a
27 description of all the land that would be benefited by the

1 construction of the drain and would be liable to assessment
2 therefor, including the counties, townships, cities, and
3 villages; roadways; and parcels of land identified by legal
4 description or tax code parcel number.

5 (c) Describe the beginning, route, terminus, type of the
6 proposed construction, and the estimated cost of such proposed
7 construction.

8 (d) Review and establish the percentages of the whole cost
9 of construction which each county shall bear, as preliminarily
10 determined under section 103, and determine the number of
11 installments in which the drain special assessments shall be
12 collected.

13 (2) If a drain commissioner considers the apportionment
14 between the counties to be unfair, the commissioner shall request
15 the director of agriculture to review the apportionment and make
16 a recommendation of an apportionment between the counties. If
17 the recommendation is not adopted by majority vote, or if the
18 recommendation is adopted and a drain commissioner finds that the
19 apportionment is unfair, it may be reviewed pursuant to
20 subsection (3).

21 (3) If a drain commissioner considers the apportionment
22 between the counties to be unfair, the commissioner may have the
23 apportionment reviewed by an arbitration board composed of
24 disinterested drain commissioners. Within 21 days after the
25 filing of the order of necessity under section 105, the
26 commissioner shall file with the director of agriculture a signed
27 claim for review by arbitration in which the commissioner shall

1 state briefly in what respect he or she considers the
2 apportionment unfair and request a review by arbitration. The
3 commissioner shall select a disinterested drain commissioner to
4 be a member of the arbitration board. Not more than 14 days
5 after receipt of the claim for review by arbitration, the
6 director of agriculture shall forward to the drain commissioner
7 of each county to which a percentage of benefits has been
8 apportioned, except the claimant, a copy of the claim for review
9 by arbitration. Each such commissioner shall select 1
10 disinterested drain commissioner to be a member of the
11 arbitration board and, within 14 days, shall notify the
12 department of agriculture of his or her selection. The director
13 of agriculture, at the earliest date consistent with the open
14 meetings act, 1976 PA 267, MCL 15.261 to 15.275, but not later
15 than 28 days after the notice, shall notify the selected drain
16 commissioners of a date and time they shall meet in the office of
17 the director of agriculture in Lansing. At the meeting, they
18 shall complete the arbitration board by selecting 1 or 2 more
19 disinterested drain commissioners, as appropriate so the
20 arbitration board has an odd number of members.

21 (4) Upon selection of the final members of the arbitration
22 board, those members present shall set a date, time, and place in
23 an affected county for a first full meeting of the arbitration
24 board. Notice of the meeting shall be served personally or by
25 first-class mail at least 14 days before the meeting on the
26 county clerk of each affected county and the clerk of each
27 township in each affected county. The arbitration board shall

1 publish a notice of the meeting once a week for 2 consecutive
2 weeks before the meeting in a newspaper published and of general
3 circulation in the counties affected. The first publication
4 shall be at least 14 days before the meeting. The director of
5 agriculture shall notify the drain commissioners selected of
6 their appointment and of the date, time, and place of the next
7 meeting of the arbitration board.

8 (5) The arbitration board shall convene at the time, date,
9 and place specified, take testimony from the affected parties,
10 elect a chairperson and secretary, and review the fairness of the
11 apportionment between the counties. The arbitration board may
12 adjourn until the review is completed. The findings shall be
13 made and signed by all the members attesting the determination of
14 the majority of the arbitration board, and the determination by
15 the majority of the arbitration board is final and conclusive as
16 to the fairness of the apportionment. Commissioners so appointed
17 shall be compensated in the same amount and manner as members of
18 the county board of commissioners in their respective counties.
19 Other costs of the arbitration board shall be borne by the
20 district.

21 (6) If an appeal is not filed, the drainage board shall
22 satisfy the requirements of subsection (1) upon the expiration of
23 the appeal periods under section 106 and, if applicable, 108. If
24 an appeal is filed, the drainage board shall satisfy the
25 requirements of subsection (1) after the appeal procedures are
26 terminated.

27 Sec. 110. After the drainage board files the first order of

1 determination, it shall secure the services of an engineer and
2 arrange for the preparation of an engineering analysis. The
3 drainage board shall select the engineer based on the engineer's
4 qualifications. The engineering analysis shall describe a drain
5 and drainage district to address the reasons for a drain and
6 drainage district set forth in the petition and in the evidence
7 and testimony received at the hearing of the drainage board.
8 Except as provided in subdivisions (e) and (j), the engineering
9 analysis shall be prepared by an engineer and shall include all
10 of the following:

11 (a) Hydrologic and hydraulic report that includes, but is not
12 limited to, a discussion of the present drainage characteristics
13 and the impacts of the proposed project on flooding
14 characteristics downstream of the drainage district.

15 (b) Recommended route and course.

16 (c) An existing and proposed profile of the recommended route
17 and course.

18 (d) Description of the recommended work including crossings,
19 structures, and facilities.

20 (e) A description of the drainage district by its boundaries
21 of streets or highways or tracts or parcels of land, or by a
22 description of all tracts or all parcels of land, including all
23 highways, townships, counties, cities, and villages which would
24 be benefited by the construction of the proposed drain. The
25 description of the drainage district may be prepared by a
26 surveyor.

27 (f) An estimate of the cost of construction of the engineer's

1 recommendation.

2 (g) A description of alternatives considered.

3 (h) An analysis of the effectiveness of the proposed project
4 to address the conditions that it is intended to remedy, create,
5 or enhance.

6 (i) A maintenance plan for the drain.

7 (j) An evaluation of the impacts of the project on natural
8 resources that identifies appropriate practical measures to
9 minimize adverse effects. The evaluation need not be part of the
10 engineering analysis and may instead be prepared by a
11 commissioner or another qualified professional.

12 (k) Any other information requested by the drainage board.

13 Sec. 111. (1) The engineer shall prepare final plans,
14 specifications, and an estimate of costs of the proposed drain.
15 The commissioner shall secure from the engineer or a surveyor a
16 description of the lands or rights-of-way needed for the proposed
17 drain. In approving the route of the drain as furnished by the
18 engineer, the drainage board is not limited to that described in
19 the petition or in the first order of determination, if the new
20 route is more efficient and serviceable.

21 (2) If the drainage board determines that the drain is
22 necessary and conducive to the public health, safety, or welfare
23 or for agriculture, the drainage board shall convene a meeting
24 under section 112 to provide information or elicit information
25 and testimony with regards to the route and type of construction
26 and estimate of cost of the drain to assist the drainage board in
27 determining the scope of the drain project to be undertaken by

1 the board. The meeting is for informational purposes only.

2 (3) The drainage board shall obtain any permits required
3 under the natural resources and environmental protection act,
4 1994 PA 451, MCL 324.101 to 324.90106. All costs associated with
5 evaluating natural resource impacts and implementing the measures
6 to minimize those impacts shall be the responsibility of the
7 drainage district.

8 (4) Measures that are intended to enhance or improve natural
9 resource values but that will not provide benefit to the designed
10 function, longevity, or hydraulic capacity of the drain may be
11 included as part of the drainage project in the discretion of the
12 drainage board. The funding for such measures may only include
13 gifts, donations, grants, contracts pursuant to section 431,
14 special assessments other than special assessments under this
15 act, or any combination thereof, as considered appropriate by the
16 drainage board.

17 (5) If the proposed drain is located in a watershed
18 management district for which a watershed management plan has
19 been adopted under section 595, the drainage board shall
20 undertake the establishment and construction of the drain,
21 including, but not limited to, measures to improve or enhance the
22 natural resource values, consistent with the watershed management
23 plan.

24 (6) If, after the receipt of the plans, specifications,
25 estimate of cost, and descriptions of the lands or rights-of-way
26 needed for the proposed drain, the drainage board determines that
27 the project is not feasible, it shall notify the landowners and

1 public corporations in the district by first-class mail of the
2 intent to reject the petition. The notice shall specify the
3 reasons for the proposed rejection. The notice shall also
4 specify a time, date, and place for a public hearing to hear
5 objections to the rejection of the petition. At the public
6 hearing, the drainage board shall elicit testimony and evidence
7 with regards to the proposed rejection. Following the receipt of
8 testimony, the drainage board shall determine whether or not the
9 petition should be rejected. If, after hearing testimony, the
10 drainage board determines to reject the petition, it shall enter
11 an order of rejection and apportion all costs incurred to the
12 district as if the project had been built and the costs will be
13 subsequently assessed and paid as provided in chapter 7. An
14 order of rejection does not limit the right to file a subsequent
15 petition.

16 Sec. 112. (1) Upon completion of the engineering analysis,
17 pursuant to section 110 the drainage board shall file a copy of
18 the engineering analysis in the office of the director of
19 agriculture and the office of each drain commissioner on the
20 drainage board and shall convene a hearing to present and receive
21 testimony and other evidence on the engineering analysis and the
22 project proposed to be undertaken. The drainage board shall give
23 notice of filing of the engineering analysis and of the hearing
24 in the manner provided in section 8. The notice shall give all
25 of the following information:

- 26 (a) A general description of the drainage district.
27 (b) The name or number of the drainage district.

1 (c) A general map or description of the drainage district as
2 described in the engineering analysis or a general description of
3 the boundaries of that drainage district by municipal boundaries,
4 roadways, or parcels or tracts of land.

5 (d) A general description of the route and type of
6 construction and the estimated cost of the engineer's
7 recommendation.

8 (2) The drainage board shall consider the testimony and
9 other evidence offered at the public hearing under subsection (1)
10 and decide the route and course, type of construction, and other
11 features of the drain.

12 Sec. 113. (1) Unless the drainage board determines to
13 reject the petition under section 111(6), the drainage board
14 shall proceed to acquire property for the drain under section 7.

15 (2) After acquiring property necessary for the drain, the
16 drainage board shall prepare and promptly file in the office of
17 the director of agriculture a final order of determination
18 establishing the drain.

19 (3) The apportionment and review of benefits, the letting of
20 contracts, and the levy and collection of drain special
21 assessments for the drain shall be as provided in chapters 7, 9,
22 and 11.

23 Sec. 114. A full record of the drain shall be made and
24 entered by the director of agriculture and several commissioners
25 in the drain records of their respective counties, and a copy of
26 all the records relative to the establishment and construction of
27 the drain shall be delivered to the other commissioners and the

1 director of agriculture by the commissioner having the original
2 application or petition, which copies shall be filed in the
3 office of the director of agriculture and the county drain
4 commissioner of the respective counties as original records are
5 required to be filed and with the same force and effect.

6 Sec. 115. The drainage board, acting on behalf of the
7 drainage district, may borrow money and may issue bonds or notes
8 therefor as provided for drains lying wholly within 1 county.
9 The bonds or notes shall be signed by the members of the drainage
10 board and shall be countersigned by the clerks of the counties
11 affected. Bonds or notes issued under this chapter are payable
12 at the office of the county treasurer selected by the drainage
13 board to serve as the treasurer of the drainage district. The
14 bonds or notes shall be deposited and safely kept by the
15 treasurer until sold and delivered. All installments, with
16 interest thereon, of the special assessments shall be transmitted
17 as collected by the treasurer or treasurers of the other county
18 or counties concerned to the treasurer of the drainage district,
19 who shall issue a receipt therefor and shall place the money in
20 the fund of the drain to be disbursed solely for the retirement
21 of the bonds or notes at maturity and the payment of interest
22 thereon.

23 Sec. 116. If a proposed drain lies wholly or partly in an
24 adjoining state, or the lands to be drained thereby lie partly in
25 an adjoining state, a petition to establish a drainage district
26 and establish and construct a drain as specified in this act may
27 be made to any commissioner representing any county in this state

1 in which any portion of the proposed drain or lands to be
 2 affected thereby lie, and the same proceedings shall be had
 3 regarding the portion of the drain or the lands to be drained or
 4 affected thereby lying within this state as are provided in this
 5 act for drains and lands lying wholly within this state.
 6 However, before any expense is incurred in relation to the
 7 proposed drain, a voluntary release of the right-of-way to
 8 construct the drain or portion of the drain that lies without
 9 this state and an agreement to keep it or permit it to be kept,
 10 clear from obstruction shall first be obtained from the parties
 11 owning lands outside of this state through which the drain or
 12 portion thereof is to pass, and such release and agreement shall
 13 be filed with the said drain commissioner and shall form a part
 14 of the record of his or her proceedings in the premises.

15 Sec. 117. An action involving an intercounty drain may be
 16 brought in the circuit court of a county in which a part of the
 17 intercounty drainage district is established, subject to the
 18 Michigan rules of court.

19 CHAPTER 7 —

20 APPORTIONMENT AND REVIEW —

21 Sec. 151. (1) ~~Upon the release of the right-of-way and~~
 22 ~~damages, or upon the determination and return of the special~~
 23 ~~commissioners~~ after the drain commissioner, for a county drain,
 24 or drainage board, for an intercounty drain, acquires
 25 rights-of-way or easements, the commissioner or drainage board
 26 shall make ~~his~~ the final order of determination establishing
 27 the drain. ~~—, which~~ The drain ~~shall~~ project may be divided

1 ~~into convenient sections for the letting of contracts:~~
2 ~~Provided, That the commissioner may let the drain in sections or~~
3 ~~as a whole. Said~~ for the purpose of letting contracts. The
4 order of determination shall be filed with the county drain
5 commissioner ~~within 5~~ not more than 7 days after ~~such~~ the
6 order is made. ~~He shall, before~~

7 (2) The drain commissioner, for a county drain, or drainage
8 board, for an intercounty drain, may amend a final order of
9 determination by changing the name or number of the drain or the
10 boundaries of the district if there is filed with the drain
11 commissioner or drainage board a petition signed by not less than
12 5 landowners whose land is traversed by the drain, stating the
13 then present name or number of the drain and the change or
14 changes to be made in the name or number of the drain or the
15 boundaries of the district. A petition to change the boundaries
16 of the drainage district shall be accompanied by a certification
17 from an engineer or surveyor. If in the drain commissioner's or
18 drainage board's opinion it is to the best interest of all
19 concerned that the name or number of the drain or the lands be
20 changed, the drain commissioner or drainage board shall make an
21 order amending the name, number, or district boundaries, and
22 thereafter the drainage district shall be known by the name or
23 number and the boundary shall be as set forth in the amended
24 order. If such an order is made, the drain commissioner or
25 drainage board shall provide notice of such a change in the
26 manner provided in section 8 to the drainage district and convene
27 a day of review of apportionments.

1 **(3) Before** the day of ~~letting and~~ review of
2 **apportionments, the drain commissioner or drainage board shall**
3 fix the number of installments for the collection of drainage
4 ~~taxes~~ **assessments** and apportion the ~~per cent~~ **percent** of the
5 cost of construction of ~~such drain which any township, city or~~
6 ~~village traversed or benefited thereby shall be~~ **the drain that**
7 **any city, village, or township is** liable to pay by reason of the
8 benefit to the public health, ~~convenience~~ **safety**, or welfare,
9 or ~~as the means of improving any highway under the control of~~
10 ~~such township, city or village. He shall apportion the per cent~~
11 ~~of the cost of construction of such drain which any highway then~~
12 ~~under the control of the county or district road commissioners,~~
13 ~~shall be liable to pay by reason of benefits therefor, and as the~~
14 ~~means of improving such highway. He shall also apportion the per~~
15 ~~cent of the cost of construction of such drain which any state~~
16 ~~trunk line highway, under the control of the state highway~~
17 ~~commissioner, shall be liable to pay by reason of benefits~~
18 ~~therefor and as the means of improving said highway. He that~~
19 **any municipality or the state transportation department is liable**
20 **to pay by reason of benefits to or contributions from a roadway.**

21 **(4) For a county drain, the drain commissioner shall also**
22 apportion the ~~per cent~~ **percent** of benefits to accrue to any
23 piece or parcel of land **including lands owned by any public**
24 **corporation** by reason of the construction, **maintenance, or**
25 **improvement** of ~~such~~ **the** drain over and above the ~~per cent~~
26 **percent** apportioned to any ~~township, city or village at large~~
27 **public corporation** or to any ~~highway~~ **roadway** as above

1 provided. ~~Such per cent~~ **For an intercounty drain, the drain**
 2 **commissioner for each county in which lands subject to assessment**
 3 **for the drain are located shall so apportion the percent of**
 4 **benefits to accrue to those lands. The percent so apportioned**
 5 when finally approved shall be assessed ~~against such townships,~~
 6 ~~cities and villages and against the county at large by reason of~~
 7 ~~the improvement of the highways within the drainage district, and~~
 8 ~~against the state by reason of the improvement of the state trunk~~
 9 ~~line highways within such drainage district, and against all~~
 10 ~~parcels of land therein~~ according to ~~such~~ **the** apportionment of
 11 benefits. ~~as herein provided.~~ The apportionment of benefits ~~so~~
 12 ~~made shall be~~ **and addition of lands to the drainage district are**
 13 subject to review and correction and may be appealed from as
 14 **provided** in this act. ~~provided.~~ The board of ~~supervisors~~
 15 **commissioners** at its October meeting each year shall make
 16 provision by proper assessment of the amounts apportioned against
 17 any ~~highway under the control of the county and district highway~~
 18 ~~commissioners~~ **county road.**

19 Sec. 152. (1) ~~All apportionments of benefits under the~~
 20 ~~provisions of this act shall be upon the principle of~~ **Each**
 21 **apportionment shall be based upon** benefits derived. ~~All~~
 22 ~~descriptions~~

23 (2) If the act or omission of a person increases or reduces
 24 the need for maintenance or improvement of the drain, the drain
 25 commissioner may consider the act or omission in making the
 26 apportionment.

27 (3) A description of land under ~~the provisions of~~ this act

1 shall be made by giving the legal subdivision thereof, whenever
 2 practicable, and when the tract of land which is to be benefited
 3 or affected by ~~such~~ a drain is less than ~~such~~ a legal
 4 subdivision, it may be described by designation of the lot or a
 5 **part of a lot or** other boundaries, or in some way. ~~by which it~~
 6 ~~may be known.~~ **If the drain commissioner retains in his or her**
 7 **office a detailed description, map, or other specification that**
 8 **designates a parcel or portion of a parcel to be benefited by the**
 9 **drain, the commissioner, instead of providing a specific**
 10 **description of the parcel, may designate the parcel by use of the**
 11 **parcel's tax parcel identification number.**

12 (4) **The apportionment of benefits for state trunkline**
 13 **highways must be paid pursuant to section 14a of 1951 PA 51, MCL**
 14 **247.664a.**

15 Sec. 153. ~~Such~~ **The final** order of determination shall
 16 contain a description of the district to be assessed for benefits
 17 in the construction of ~~said~~ **the** drain, either by boundaries or
 18 by description **or tax parcel identification number** of the several
 19 tracts or parcels of land to be assessed. ~~, which said~~ **The**
 20 tracts or parcels and the county, townships, cities, villages,
 21 and ~~highways~~ **roadways** therein shall constitute the special
 22 assessment district. ~~, and which district shall in said order be~~
 23 ~~designated~~ **the final order of determination shall designate the**
 24 **district** by name or number.

25 Sec. 154. (1) ~~The commissioner~~ **A commissioner responsible**
 26 **for apportionment of benefits for a county or intercounty drain**
 27 **shall give notice under section 8 of a time and place for the**

1 meeting for the review of the apportionments made by that
2 commissioner. The meeting shall be held not less than 7 or more
3 than 28 days after the date set for ~~the~~ receiving ~~of~~ bids for
4 ~~the~~ construction of the drain. ~~and for the holding of a public~~
5 ~~meeting. At the meeting a review shall be made of the~~
6 ~~apportionment of benefits. The notice shall specify the time and~~
7 ~~place of receiving bids, and the time and place of the meeting~~
8 ~~for review of apportionment. The meeting shall be not less than~~
9 ~~5 nor more than 30 days after the date set for receiving bids.~~
10 ~~The notice shall be given by publication of at least 2 insertions~~
11 ~~in a newspaper published and of general circulation in the~~
12 ~~county. The first publication shall be at least 10 days before~~
13 ~~the date set for receiving bids. The drain commissioner shall~~
14 ~~send notice by first class mail of the time, date, and place of~~
15 ~~the meeting, at least 10 days before the date of the meeting, to~~
16 ~~each person whose name appears upon the last city or township tax~~
17 ~~assessment roll as owning land within the special assessment~~
18 ~~district, at the address shown on the roll. If an address does~~
19 ~~not appear on the roll, then notice need not be mailed to the~~
20 ~~person. The drain commissioner shall make an affidavit of the~~
21 ~~mailing and shall recite in the affidavit that the persons to~~
22 ~~whom the notice was mailed, constitute all of the persons whose~~
23 ~~names and addresses appear upon the tax rolls as owning land~~
24 ~~within the particular special assessment district. The affidavit~~
25 ~~shall be conclusive proof that notice was mailed to each person~~
26 ~~to whom notice is required to be mailed. If notice has been sent~~
27 ~~by first class mail as provided in this section, the failure to~~

1 ~~receive notice by mail shall not constitute a jurisdictional~~
2 ~~defect invalidating a drain proceeding or tax.~~ If the board of
3 determination determines that the drain is necessary for the
4 protection of the public health, **safety, or welfare** and that the
5 whole cost of the drain, except that part which may be
6 apportioned **to roadway authorities** for benefits to highways,
7 shall be apportioned to ~~municipalities~~ **public corporations**,
8 then mailing of individual notices to persons owning land within
9 the special assessment district as provided in this section
10 ~~shall not be~~ **is not** required.

11 ~~(2) The notice shall also contain the names of the~~
12 ~~counties, cities, townships, or villages to be assessed at large,~~
13 ~~and shall be personally served on the county clerk and 1 or more~~
14 ~~members of the road commission of a county or road district, the~~
15 ~~supervisor of a township, the mayor of a city, and the president~~
16 ~~of a village to be assessed at large. The notice shall contain a~~
17 ~~description of the land constituting the special assessment~~
18 ~~district for the drain. The description may be stated by~~
19 ~~designating the boundaries of the special assessment district by~~
20 ~~streets, highways, parcels, or tracts of land or by describing~~
21 ~~the tracts or parcels of land constituting the district. A tract~~
22 ~~or parcel need not be subdivided beyond the point where the whole~~
23 ~~of the tract or parcel is within the drainage district or to~~
24 ~~describe the drain further than by reference to it by its name or~~
25 ~~number. The notice shall also state the number and length of~~
26 ~~sections, the average depth and width of each section, and in~~
27 ~~case of closed drains, the amount and specifications of all tile~~

1 ~~or pipe required. The notice shall contain the location, number,~~
 2 ~~type, and size of all culverts and bridges and the conditions~~
 3 ~~upon which the contract will be awarded. The notice need not~~
 4 ~~contain minutes of survey or table of cuttings which shall be~~
 5 ~~kept on file in the office of the drain commissioner.~~

6 (2) ~~-(3) Bids shall be received and computation of the total~~
 7 ~~cost of the drain shall be made before the time set for~~ **A day of**
 8 **review shall be held for all projects undertaken as a result of a**
 9 **petition and an order of necessity or as a result of an order of**
 10 **determination under section 423. Before the review of the**
 11 **apportionment, ~~and~~ the drain commissioner, for a county drain,**
 12 **or drainage board, for an intercounty drain, shall prepare a**
 13 **computation of the total cost of the drain project including the**
 14 **items listed in section 261. The computation shall be open to**
 15 **inspection. If the computation is not completed before the day**
 16 **of review, the review may be adjourned from time to time, not**
 17 **more than ~~20~~ 21 days in all, for the completion of the**
 18 **computation, or a new hearing may be called with similar notice,**
 19 **by publication and service at least ~~10~~ 14 days before the**
 20 **hearing. If the contracts on which the computation was based are**
 21 **not executed and new contracts ~~shall~~ will be let at a higher**
 22 **price, a corrected computation shall be made and a new review**
 23 **held with a similar notice. At the time and place fixed in the**
 24 **notice, or at another time and place to which the county drain**
 25 **commissioner may adjourn the hearing, the apportionment of**
 26 **benefits and the lands comprised within the special assessment**
 27 **district shall be subject to review for at least 1 day. The**

1 review shall be held open from 9 a.m. until 5 p.m. On the **day of**
 2 review, the county clerk or the county road commission may appear
 3 on behalf of the county or a road district; the supervisor ~~or~~
 4 ~~commissioner of highways~~ of a township may appear on behalf of a
 5 township; the mayor or an officer of the city designated by the
 6 mayor may appear for a city; the president may appear on behalf
 7 of a village; **and a designated official may appear on behalf of**
 8 **any other public corporation.** At the review, the county drain
 9 commissioner shall hear the proofs and allegations and shall
 10 carefully reconsider and review the description of land comprised
 11 within the special assessment district, the several descriptions
 12 and apportionment of benefits, and define and equalize the land
 13 as is just and equitable.

14 **(3) —(4) When If** an apportionment of benefits is made
 15 against a state trunk line highway, unless the ~~state highway~~
 16 **director of transportation** consents in writing to the
 17 apportionment, the drain commissioner, at least ~~20~~ **21** days
 18 before the ~~review on the trunk line~~ **day of review**, shall notify
 19 **the director of transportation** by ~~registered~~ **certified** mail
 20 ~~the state highway director~~ of the percentage apportioned
 21 against the **state trunk line** highway and the date, time, and
 22 place fixed for a review of apportionment of benefits. If the
 23 ~~state highway~~ **director of transportation** desires to have the
 24 apportionment of benefits reviewed by the director of ~~the~~
 25 ~~department of~~ agriculture, the ~~state highway~~ director ~~,~~
 26 ~~within 10~~ **of transportation, then, not more than 14** days ~~from~~
 27 **after** the receipt of the notice, **the director of transportation**

1 shall file with the drain commissioner an objection to the
 2 apportionment. The drain commissioner shall notify the director
 3 ~~of the department~~ of agriculture of the date, time, and place
 4 fixed for the review of apportionments. ~~—, and at~~ **At** the
 5 meeting, the director of ~~the department of~~ agriculture ~~—, or a~~
 6 ~~deputy of the director,~~ shall review the apportionment made
 7 against the state trunk line highway, listen to the proofs and
 8 allegations of the parties, and may view the **state trunk line**
 9 highway benefited. The action and decision on the apportionment
 10 **shall be** reduced to writing ~~shall be~~ **is** final.

11 (4) The director of transportation shall notify the drain
 12 commissioner in writing whether the will pay any assessment
 13 against state trunk line highways in a single payment or in
 14 installments. If the director of transportation does not specify
 15 before the advertisement of the sale of bonds or notes whether
 16 the department will pay the assessment in full or in
 17 installments, the department is liable for the interest charges
 18 incurred as a result of the sale of bonds or notes.

19 (5) Assessments related to drainage of state trunk line
 20 highways shall be paid from funds appropriated to the state
 21 transportation department.

22 Sec. 155. The owner of any land in the drainage district or
 23 any ~~city, township, village, district or county having control~~
 24 ~~of any highway which may feel~~ **public corporation that is**
 25 aggrieved by the apportionment of benefits ~~so~~ **or addition of**
 26 **lands to the drainage district** made by the commissioner, ~~may,~~
 27 ~~within 10~~ **not more than 14** days after the day of review of ~~such~~

1 ~~apportionments, appeal therefrom and for such purpose make an~~
 2 ~~application to the probate court of the proper county for the~~
 3 ~~appointment of a board of review, the apportionment, may appeal~~
 4 **the apportionment** by filing with ~~said probate court~~ **the circuit**
 5 **court for the county where the land or public corporation is**
 6 **located** a notice of appeal **requesting the appointment of a board**
 7 **of review** and ~~at the same time filing with said court~~ a bond.
 8 **The bond shall be** in such sum as the **circuit** judge ~~of probate~~
 9 may require, with 1 or more sureties to be approved by the
 10 **circuit** judge, ~~of probate,~~ conditioned upon the payment of all
 11 costs ~~in case of the appeal, including engineering expenses,~~
 12 **attorney fees, and witness fees, allowed under the Michigan court**
 13 **rules, if the apportionment or amendment to the drainage district**
 14 **made by the commissioner** ~~shall be~~ **is** sustained. ~~Such~~ **The**
 15 **appeal may be taken by the chairperson of the county** ~~or district~~
 16 ~~road~~ **board of** commissioners in behalf of the county, **the**
 17 **chairperson of the county board of road commissioners in behalf**
 18 **of the road commission,** the mayor of any city in behalf of the
 19 city, ~~by~~ the supervisor in behalf of ~~any~~ **a** township, or ~~by~~
 20 the president of ~~any~~ **a** village in behalf of the village when
 21 authorized by the **county board of commissioners, the board of**
 22 **county road commissioners, the** village or city council, **or the**
 23 **township board,** ~~or road commission,~~ respectively. Only 1 board
 24 shall be appointed by ~~such probate~~ **the** court.

25 Sec. 156. (1) ~~The probate court upon~~ **Upon the circuit**
 26 **court's** receipt of ~~any such application as hereinbefore provided~~
 27 ~~for shall forthwith~~ **a notice of appeal under section 155, the**

1 chief or only judge of the circuit court shall immediately notify
 2 the commissioner in writing of ~~such~~ the appeal, and shall
 3 ~~thereupon~~ then make an order appointing 3 disinterested and
 4 competent ~~freeholders~~ landowners of ~~such~~ the county, not
 5 residents of the township or townships affected by said drain, as
 6 members of a board of review. ~~The persons so appointed shall~~
 7 ~~constitute the board of review. The~~ Immediately after making
 8 the appointments, the court shall, ~~thereupon,~~ with the
 9 concurrence of the commissioner, ~~immediately~~ fix the time and
 10 place ~~when and where said~~ for a meeting of the board of review
 11 ~~shall meet~~ to review ~~said~~ the apportionments. ~~, which time~~
 12 ~~shall not be~~ The meeting shall be held not less than ~~10 nor~~ 14
 13 or more than ~~15~~ 21 days ~~from~~ after the date of filing ~~such~~
 14 the notice of appeal. The ~~commissioner~~ court shall ~~thereupon~~
 15 ~~give notice to~~ then notify the persons so appointed of their
 16 appointment and of the time and place of meeting. ~~, and shall~~
 17 ~~give notice of such meeting by posting notices in at least 5~~
 18 ~~public places in each township forming a part of the drainage~~
 19 ~~district, and shall serve a like notice upon the appellant if he~~
 20 ~~be a resident of any township affected. Such notice shall be~~
 21 ~~made not less than 5 days before the day of hearing and shall be~~
 22 ~~made by personal service.~~ Consistent with section 8, the court
 23 shall also notify each landowner and public corporation liable
 24 for an assessment. Proof of service of ~~notice of appeal~~ the
 25 notices under this subsection shall be made by the person serving
 26 ~~said notice~~ the notices and be filed in the office of the
 27 ~~judge of probate~~ clerk of the circuit court. ~~At such hearing~~

~~1 the board of review shall have the right, and it shall be their
2 duty, to review all apportionments for benefits made by the
3 commissioner on such drain. The persons so appointed~~

4 **(2) At the hearing, the board of review** shall be sworn by
5 the commissioner to faithfully discharge the duties of ~~such~~ **the**
6 board of review.

7 **(3) Members of the board of review shall be compensated in**
8 **the same manner and amount as a board of determination.**

9 Sec. 157. **(1)** The board of review shall ~~proceed~~ at the
10 time, date, and place specified in the notice ~~to~~ hear the
11 proofs and allegations of the parties in respect to an appeal,
12 ~~shall~~ proceed to view the lands benefited by the drain **or**
13 **project**, and ~~shall~~ review **all of** the apportionments made by the
14 commissioner on the drain **or project**. If in ~~their~~ **the** judgment
15 **of the board of review** there is a manifest error or inequality in
16 the apportionments **or amendments to the drainage district**, ~~they~~
17 **the board of review** shall order and make the changes in the
18 apportionment as ~~they~~ **the board of review** may consider just and
19 equitable. If the board of review upon personal examination
20 finds that a land liable to be assessed for the construction of
21 the drain **or project** is not included in the drainage district
22 made by the commissioner, ~~they~~ **the board of review** shall ~~add~~
23 ~~the land to the drainage district of the drain and shall adjourn~~
24 ~~the review to another time or place as they consider proper, but~~
25 ~~not in all more than 20 days from and after the time of review~~
26 ~~first advertised. The notice of the adjournment shall contain a~~
27 ~~description of lands added to the drainage district. The notice~~

1 ~~shall be given at least 10 days before the adjourned day of~~
2 ~~review. Should the owners of land liable to an assessment be~~
3 ~~nonresidents of the county, personal notice shall be served on~~
4 ~~the owners, or a notice shall be published in a weekly newspaper~~
5 ~~published in the county, of at least 2 insertions, giving the~~
6 ~~description of the land added to the assessment district and~~
7 ~~giving the time, date, and place where the board shall meet. The~~
8 ~~action and decision of the board shall be final. prepare a~~
9 ~~proposed decision making the changes in the apportionment that~~
10 ~~the board of review considers just and equitable and shall~~
11 ~~adjourn the review for not more than 21 days from the date of the~~
12 ~~meeting specified in the first notice. The board of review shall~~
13 ~~give notice of the adjournment in the manner provided in section~~
14 ~~8(2) and (3), and by posting notice in the office of the drain~~
15 ~~commissioner by the date by which mailing of the notice is~~
16 ~~required under section 8(2). However, the board of review need~~
17 ~~only provide notice to persons that the board of review believes~~
18 ~~may be affected by its final decision.~~

19 (2) Upon reconvening, the board of review shall hear any
20 further proofs and allegations relevant to the proposed decision
21 of the board of review. The board of review may view lands and
22 shall review apportionments that are the subject of the further
23 proofs and allegations.

24 (3) The board shall make its final decision, which shall not
25 affect any person to whom notice was not provided under
26 subsection (1). The ~~action and~~ decision of the board of review
27 shall be ~~reduced to~~ in writing and signed by ~~a majority of~~

1 the board ~~making~~ **members agreeing with** the decision, and shall
2 be delivered to the commissioner **within 14 days of the close of**
3 **the meeting** together with other ~~papers~~ **records** relating to the
4 decision.

5 (4) If the board of review makes changes in the
6 apportionment, the changes shall be made by the commissioner
7 without necessity for a new day of review or notice to the
8 district of the changes made by the board of review and persons
9 aggrieved by the changes made by the board of review are not
10 entitled to additional judicial review.

11 Sec. 158. (1) ~~In case the apportionment of the~~
12 ~~commissioner shall be sustained by such board of review the~~
13 ~~appellant shall pay the whole costs and expenses of such appeal.~~
14 ~~Such~~ Following the determination by the board of review, the
15 circuit court may award costs, including engineering expenses,
16 attorney fees, and witness fees, allowed under the Michigan court
17 rules. If costs are awarded to the drainage district and there
18 are multiple appellants, the circuit court shall award from each
19 appellant a pro rata share of the costs based on the number of
20 appellants. The costs and expenses shall be ascertained and
21 determined by the **circuit** judge. ~~of probate, and if not paid the~~
22 ~~appellant shall be liable on his bond for the full amount of such~~
23 ~~costs in an action at law, to be brought by the commissioner on~~
24 ~~the bond before any court having competent jurisdiction.~~

25 (2) If the bond of an appellant is not sufficient to cover
26 the compensation, mileage, and expenses for which the appellant
27 is liable, the drain commissioner may recover the excess amount

1 by any means authorized by law.

2 (3) Subsection (2) does not limit the authority of the drain
3 commissioner to collect a rate or charge by any other means
4 authorized by law for the collection of a debt.

5 Sec. 161. (1) The proceedings ~~in establishing any drain~~
6 ~~and levying taxes therefor shall be~~ to establish a drain and
7 **levy assessments are** subject to review on ~~certiorari as herein~~
8 ~~provided~~ **superintending control**. A **complaint seeking a writ of**
9 ~~certiorari~~ **superintending control** for any error in proceedings
10 occurring before or in the final order of determination shall be
11 ~~issued within 10~~ **filed not more than 14** days after a copy of
12 ~~such~~ **the** final order is filed in the office of the drain
13 commissioner as required by section 151, ~~of this act,~~ and for
14 any error **in proceedings** occurring after ~~such~~ **the** final order
15 of determination, ~~within 10~~ **not more than 14** days after the day
16 of review, or if an appeal has been taken, ~~within 10~~ **not more**
17 **than 14** days after the filing of the report of the board of
18 review. ~~Notice of such certiorari shall be~~

19 (2) The court shall not hear the action unless a copy of the
20 **complaint for superintending control was** served upon the
21 commissioner ~~within 10~~ **not more than 14** days after the day ~~of~~
22 ~~issue in the same manner as notice is required to be given of~~
23 ~~certiorari for reviewing judgments rendered by justices of the~~
24 ~~peace and the writ shall be issued and served, and bond given and~~
25 ~~approved and the subject matter brought to issue in the same time~~
26 ~~and manner, as near as may be, as in such cases provided, except~~
27 ~~that such certiorari may be heard by the court during term, or at~~

1 ~~chambers, upon 5~~ **the complaint was filed and 7 days' notice of**
 2 **the hearing is** given to the opposite party. ~~;- and the circuit~~
 3 ~~court of the county~~ **The court** shall hear and determine the
 4 ~~same~~ **action** without unnecessary delay, and if any material
 5 defect ~~be~~ **is** found in the proceedings for establishing the
 6 drain ~~, such~~ **and levying assessments, shall set aside the**
 7 proceedings. ~~shall be set aside.~~ If issues of fact are raised
 8 by the ~~petition for such writ and the return thereto, such~~
 9 **complaint or answer, the** issues shall, on application of either
 10 party, be framed and testimony thereon taken under the direction
 11 of the court.

12 (3) If the proceedings ~~be~~ **for establishing the drain and**
 13 **levying assessments are** sustained, the party ~~bringing the~~
 14 ~~certiorari shall be~~ **seeking superintending control is** liable for
 15 the costs ~~thereof, and if they be~~ **of the superintending control**
 16 **proceedings. If the proceedings for establishing the drain and**
 17 **levying assessments are** not sustained, the parties making
 18 application for the drain ~~shall be~~ **are** liable for the costs of
 19 **the superintending control proceedings. If no certiorari be**
 20 ~~brought~~ **a complaint for superintending control is not filed**
 21 within the time ~~herein~~ prescribed, the drain shall be ~~deemed~~
 22 **considered** to have been legally established, and the ~~taxes~~
 23 ~~therefor~~ **drain assessments** legally levied, and the legality of
 24 ~~said~~ **the** drain and the ~~taxes therefor~~ **assessments** shall not
 25 thereafter be questioned in ~~any suit at law or equity;~~
 26 ~~Provided, No court shall allow any certiorari questioning the~~
 27 ~~legality of any drain by any person unless notice has been given~~

1 ~~to the commissioner in accordance with the provisions of this~~
 2 ~~chapter. Provided further, That when such proceedings are~~
 3 ~~brought~~ **court. If a complaint for superintending control is**
 4 **filed,** the commissioner shall postpone the letting of contracts
 5 and all other proceedings until after the determination of the
 6 court. ~~And if any error be found in the proceedings~~ **If the**
 7 **court finds an error in the proceedings to establish the drain**
 8 **and levy assessments,** the court shall direct the commissioner to
 9 correct ~~such~~ **the** error ~~or errors~~ and then proceed ~~the same~~
 10 as though no error had been made.

11 CHAPTER 8 —

12 ~~CLEANING, WIDENING, DEEPENING, STRAIGHTENING AND EXTENDING~~
 13 ~~— DRAINS.—~~ **MAINTAINING, IMPROVING, AND CONSOLIDATING DRAINS**

14 Sec. 191. (1) ~~When a drain or portion thereof, which~~
 15 ~~traverses lands wholly in 1 county, and lands only in 1 county~~
 16 ~~which is subject to assessment, needs cleaning out, relocating,~~
 17 ~~widening, deepening, straightening, tiling, extending, or~~
 18 ~~relocating along a highway, or requires structures or mechanical~~
 19 ~~devices that will properly purify or improve the flow of the~~
 20 ~~drain or pumping equipment necessary to assist or relieve the~~
 21 ~~flow of the drain, or needs supplementing by the construction of~~
 22 ~~1 or more relief drains which may consist of new drains or~~
 23 ~~extensions, enlargements, or connections to existing drains, or~~
 24 ~~needs 1 or more branches added thereto, any 5 or at least 50% of~~
 25 ~~the freeholders if there are less than 5 freeholders whose lands~~
 26 ~~shall be liable to an assessment for benefits of such work, may~~
 27 ~~make petition in writing to the commissioner setting forth the~~

1 ~~necessity of the proposed work and the commissioner shall proceed~~
2 ~~in the same manner provided for the location, establishment, and~~
3 ~~construction of a drain. If the project includes a tiled relief~~
4 ~~drain, or the tiling of an existing open drain or any portion~~
5 ~~thereof, with a conduit a part of which has an inside diameter in~~
6 ~~excess of 36 inches or the retiling of an existing drain with a~~
7 ~~conduit, a part of which has an inside diameter in excess of 36~~
8 ~~inches, then the petition shall comply with section 71. The~~
9 ~~preceding sentence shall not be applicable to the construction of~~
10 ~~bridges, culverts, and passageways. The word tiling as used in~~
11 ~~this and other sections of this act, means the laying of a~~
12 ~~conduit composed of tile, brick, concrete, or other material.~~
13 ~~When it is necessary for the public health of 1 or more cities,~~
14 ~~villages, and townships, the petition may be signed solely by a~~
15 ~~city, village, or township when authorized by its governing body~~
16 ~~or by a combination of the municipalities, if the municipality or~~
17 ~~municipalities are liable to assessments at large for a~~
18 ~~percentage of the total amount assessed for the cost of the~~
19 ~~proposed work. After the board of determination determines the~~
20 ~~necessity for the work, as provided in section 72, the~~
21 ~~commissioner shall, as soon as practicable after the final order~~
22 ~~of determination prescribed in section 151 has been filed by him,~~
23 ~~proceed as provided in sections 151 to 161. If the apportionment~~
24 ~~is the same as the last recorded apportionments, no day of review~~
25 ~~is necessary, but in other cases the commissioner shall proceed~~
26 ~~as provided in sections 151 to 161, including the notice of and~~
27 ~~the holding of a day of review. For a county drain, 1 or more of~~

1 the following may be done, by petition filed pursuant to this
2 section:

3 (a) The drain or portion of the drain may be maintained.

4 (b) The drain or portion of the drain may be improved
5 subject to any permit required under the natural resources and
6 environmental protection act, 1994 PA 451, MCL 324.101 to
7 324.90106.

8 (c) Measures may be undertaken that are intended both to
9 enhance or improve natural resource values of the drain and to
10 provide benefit to the designed function, longevity, or hydraulic
11 capacity of the drain.

12 (d) Consistent with part 315 of the natural resources and
13 environmental protection act, 1994 PA 451, MCL 324.31501 to
14 324.31529, a dam or structure in or adjacent to the drain may be
15 constructed, operated, and maintained to control the rate of flow
16 through or into the drain, or the level of water, or the amount
17 of seepage, or to provide for removal of drainage by pumping and
18 other mechanical operations. A petition for such a dam or
19 structure shall state that the improvement is necessary to drain,
20 protect, or irrigate land. The petition may state the desired
21 location of the dam or structure, the proposed method of
22 operation and outlet, and how historical drainage is to be
23 maintained.

24 (e) A drainage district may be consolidated with any
25 established drainage district or have lands added or deleted.
26 The consolidation, addition, or deletion shall otherwise comply
27 with section 277a relative to disposition of funds and payment of

1 outstanding debt.

2 (2) It is not necessary for the petitioners to describe the
3 drain other than by its name or by its commencement, general
4 route, and terminus. Only 1 petition and proceeding is necessary
5 for any of the measures described in subsection (1).

6 (3) The petition shall be filed with the county drain
7 commissioner. The petition shall be signed by at least 5
8 landowners in the drainage district whose lands would be liable
9 to assessment for benefits or at least 50% of the landowners if
10 there are less than 5 landowners whose lands would be liable for
11 assessment or shall be signed by landowners representing 25% of
12 the land area liable for assessment. The petition shall be
13 accompanied by a description or tax parcel code of the land in
14 the district owned by each signer and by a certificate of the
15 county treasurer as to payment of taxes and special assessments
16 against the lands in a form as described in section 51. The name
17 of any signer as to whose land the certificate shows taxes or
18 assessments unpaid for 3 years shall not be counted. The drain
19 commissioner shall determine the eligibility of the signers to
20 the petition based on their status as landowners when the
21 petition was filed. Instead of being signed by landowners, a
22 petition may be signed as provided in section 14 on behalf of at
23 least 1 public corporation, if the drain project is necessary for
24 the public health, safety, or welfare in the public corporation,
25 and if the public corporation will be liable for an assessment at
26 large against it for a percentage of the cost of the proposed
27 drain.

1 (4) For purposes of notice under section 8, the drain
2 commissioner shall evaluate the drainage district boundaries and
3 identify any additional landowners who may be subject to
4 assessments for the drain project. The landowners of any lands
5 being petitioned for consolidation, addition, or deletion and the
6 public corporations in which those lands are located shall be
7 given notice under section 8 of the proposed consolidation,
8 addition, or deletion. Proceedings shall otherwise be conducted
9 in the same manner as provided in sections 52 to 57. The
10 determinations of practicability and necessity shall be for the
11 activities petitioned under this section, not for the drain or
12 drainage district in general. The apportionment of benefits is
13 subject to section 201.

14 (5) If the drain is located in a watershed management
15 district for which a watershed management plan has been adopted
16 under section 595, the drain commissioner shall undertake the
17 activities petitioned under this section consistent with the
18 watershed management plan.

19 Sec. 192. (1) ~~Whenever a drain or portion thereof, which~~
20 ~~traverses lands in more than 1 county, and lands in more than 1~~
21 ~~county shall be subject to assessments, needs cleaning out,~~
22 ~~relocating, widening, deepening, straightening, tiling, extending~~
23 ~~or relocating along a highway, or requires structures or~~
24 ~~mechanical devices that will properly purify or improve the flow~~
25 ~~of the drain or pumping equipment necessary to assist or relieve~~
26 ~~the flow of the drain, or needs supplementing by the construction~~
27 ~~of 1 or more relief drains which may consist of new drains or~~

~~1 extensions, enlargements or connections to existing drains, or
2 needs 1 or more branches added thereto, freeholders within the
3 drainage district equal to 50% of the number of freeholders whose
4 lands are traversed by said drain or drains in said petition or
5 abut on any highway or street along either side of which such
6 drain extends, between the point where said drain enters such
7 highway and the point where it leaves such highway or street and
8 which lands are within the drainage district, may make a petition
9 in writing to the commissioner of any county having lands in such
10 district setting forth the necessity of such proposed work.
11 Whenever it is necessary for the public health of 1 or more
12 cities, villages or townships, the petition may be signed solely
13 by a city, village or township when duly authorized by its
14 governing body or by any combination of such municipalities if
15 the municipality or municipalities will be liable to assessments
16 at large for a percentage of the total amount to be assessed for
17 the cost of the proposed work. The percentage of cost
18 apportioned to the municipality or municipalities shall be based
19 upon the benefits to accrue to such municipality or
20 municipalities and also the extent to which they contribute to
21 the conditions which makes the drain necessary. Upon receipt of
22 such petition, the commissioner shall notify the state director
23 of agriculture and the commissioners of each county embracing any
24 lands in the drainage district, and the director of agriculture
25 shall call a meeting within the time and in the manner prescribed
26 in section 122. The persons so named shall constitute a drainage
27 board and if such work is then determined to be practicable, they~~

1 ~~may thereupon appoint a competent surveyor or engineer to make a~~
2 ~~survey of said drain, and lay out a drainage district according~~
3 ~~to section 104. After the surveyor or engineer has filed all~~
4 ~~data with the drainage board, the director of agriculture shall~~
5 ~~call a meeting as provided in section 122, and thereafter take~~
6 ~~all steps and perform all acts which are required to be done by~~
7 ~~said board upon a petition for the location, establishment and~~
8 ~~construction of drains as provided in sections 121 to 135. Such~~
9 ~~board and the commissioners shall exercise such power and be~~
10 ~~subject to such limitations as are provided in sections 121 to~~
11 ~~135.~~ For an intercounty drain, 1 or more of the following may be
12 done, by petition filed pursuant to this section:

13 (a) The drain or portion of the drain may be maintained.

14 (b) The drain or portion of the drain may be improved
15 subject to any permit required under the natural resources and
16 environmental protection act, 1994 PA 451, MCL 324.101 to
17 324.90106.

18 (c) Measures may be undertaken that are intended both to
19 enhance or improve natural resource values of the drain and to
20 provide benefit to the designed function, longevity, or hydraulic
21 capacity of the drain.

22 (d) Consistent with part 315 of the natural resources and
23 environmental protection act, 1994 PA 451, MCL 324.31501 to
24 324.31529, a dam or structure in or adjacent to the drain may be
25 constructed, operated, and maintained to control the rate of flow
26 through or into the drain, or the level of water, or the amount
27 of seepage, or to provide for removal of drainage by pumping and

1 other mechanical operations. A petition for such a dam or
2 structure shall state that the improvement is necessary to drain,
3 protect, or irrigate land. The petition may state the desired
4 location of the dam or structure, the proposed method of
5 operation and outlet, and how historical drainage is to be
6 maintained.

7 (e) A drainage district may be consolidated with any
8 established drainage district or have lands added or deleted.
9 The consolidation, addition, or deletion shall otherwise comply
10 with section 277a relative to disposition of funds and payment of
11 outstanding debt. The landowners of any lands being petitioned
12 for consolidation, addition, or deletion and the public
13 corporations in which those lands are located shall be given
14 notice of the proposed consolidation, addition, or deletion.

15 (2) It is not necessary for the petitioners to describe the
16 drain other than by its name or by its commencement, general
17 route, and terminus. Only 1 petition and proceeding is necessary
18 for any of the measures described in subsection (1).

19 (3) The petition shall be signed by 5 landowners in the
20 drainage district whose lands would be liable to assessment for
21 benefits or at least 50% of the landowners if there are less than
22 5 landowners whose lands would be liable for assessment or shall
23 be signed by landowners representing 25% of the land area liable
24 for assessment. The petition shall be accompanied by a
25 description or tax parcel code of the land in the district owned
26 by each signer and by a certificate of the county treasurer of
27 the county where that land is located as to payment of taxes and

1 special assessments against the land in a form described in
2 section 101. The name of any signer as to whose land a
3 certificate shows taxes or assessments unpaid for 3 years shall
4 not be counted. The drain commissioner shall determine the
5 eligibility of the signers to the petition based on their status
6 as landowners when the petition was filed. Instead of being
7 signed by landowners, a petition may be signed as provided in
8 section 14 on behalf of at least 1 public corporation, if the
9 drain project is necessary for the public health, safety, or
10 welfare in the public corporation, and if the public corporation
11 will be liable for an assessment at large against it for a
12 percentage of the cost of the proposed drain.

13 (4) For purposes of notice under section 8, the drainage
14 board shall evaluate the drainage district boundaries and
15 identify any additional landowners who may be subject to
16 assessments for the drain project. Proceedings shall otherwise
17 be conducted in the same manner as provided in sections 102 to
18 113. The determination of necessity shall be for the activities
19 petitioned under this section, not for the drain or drainage
20 district in general. The apportionment of benefits is subject to
21 section 201. After the drainage board determines the necessity
22 for the work, the commissioner shall, as soon as practicable
23 after the final order of determination prescribed in section 151
24 is filed, proceed as provided in sections 151 to 161. If the
25 apportionment is the same as the last recorded apportionments, no
26 day of review is necessary, but in other cases the commissioner
27 shall proceed as provided in sections 151 to 161, including the

1 notice of and the holding of a day of review.

2 (5) If the proposed drain is located in a watershed
3 management district for which a watershed management plan has
4 been adopted under section 595, the drainage board shall
5 undertake the activities petitioned under this section consistent
6 with the watershed management plan.

7 Sec. 199. (1) ~~In case the necessity for cleaning out any~~
8 ~~drain arises from the act or neglect of any land owner, said act~~
9 ~~or neglect shall be taken into consideration by the commissioner~~
10 ~~in making the apportionment. In case the cost of cleaning out~~
11 ~~shall be lessened by the tiling of the source of the drain under~~
12 ~~section 425 of this act, the commissioner may take that into~~
13 ~~consideration in making the apportionment of benefits against the~~
14 ~~land so tiled, but in no case shall said benefits be considered~~
15 ~~to be less than 50% of the benefits to such land if it were not~~
16 ~~tiled. Should there be a surplus in any drain fund, the~~
17 ~~commissioner or drainage board, as the case may be, may, in their~~
18 ~~discretion, without application or notice, pay out of such funds~~
19 ~~a reasonable compensation for cleaning out any obstruction that~~
20 ~~may accumulate in the particular drain for which the fund was~~
21 ~~raised. An annual inspection may be made of a drain established~~
22 ~~under this act. Inspection shall be made on a drain laid out and~~
23 ~~constructed under this act upon the request of the governing body~~
24 ~~of a public corporation served in whole or in part by the drain~~
25 ~~to be inspected. For a drain constructed, improved, or restored~~
26 ~~to the last established depth bottom width and grade after the~~
27 ~~effective date of the 2000 amendatory act that amended this~~

1 section, an inspection and report shall be made at least every 3
2 years from the date of the completion of the construction.

3 (2) Within 2 years after the effective date of the 2000
4 amendatory act that amended this section, if a drain commissioner
5 or drainage board determines that a drain substantially conforms
6 to its last established depth, bottom width, and grade, the drain
7 commissioner or drainage board may enter an order that an
8 inspection and report on the drain shall be made at least every 3
9 years from the date of the order. Notice of the order shall be
10 given in the manner provided in section 8 and shall explain that
11 the drain will be regularly inspected and maintained and that
12 landowners may be subject to assessments for drain maintenance.

13 (3) For county drains, the inspection shall be made by the
14 drain commissioner, or a competent person appointed by the drain
15 commissioner. For intercounty drains, the inspection shall be
16 caused to be made by the drainage board. The failure to inspect
17 as required by this section does not create a defect invalidating
18 the drain or an assessment.

19 (4) If the drain commissioner or drainage board determines
20 based on the inspection report that maintenance is necessary on
21 the drain, the drain commissioner or drainage board shall perform
22 maintenance in a timely manner. If the drain commissioner or
23 drainage board determines based on the inspection report that
24 deteriorated structures may have diminished the capacity of the
25 drain or become unstable or unsafe, the drain commissioner or
26 drainage board shall retain a competent engineer to evaluate the
27 deterioration and make recommendations concerning maintenance or

1 replacement of the structures.

2 (5) If at any time the drain fund of a drainage district
3 contains less than \$5,000.00 per mile or fraction of a mile of a
4 drain, the drain commissioner or drainage board may assess the
5 drainage district for an amount not to exceed \$2,500.00 per mile
6 or fraction of a mile in any 1 year based on apportionments as
7 described in section 201. The amount collected under an
8 assessment shall be deposited in the drain fund of a drainage
9 district for necessary inspection, repair, and maintenance of the
10 drain.

11 (6) If an inspection discloses the necessity of expending
12 money for the maintenance and repair of a drain in order to keep
13 it in working order, the drain commissioner for a county drain,
14 or the drainage board for an intercounty drain, may without
15 petition expend an amount not to exceed in any 1 year \$5,000.00
16 per mile or fraction of a mile for maintenance or repair of a
17 drain. The determination of the maximum expenditure allowed
18 without petition or resolution shall be based on the total number
19 of miles of the drain and not on the actual number of miles or
20 location of the maintenance or repair. The monetary amounts
21 established in this subsection shall be adjusted each January 1
22 beginning January 1, 2002 pursuant to the annual average
23 percentage increase or decrease in the Detroit consumer price
24 index-all items. The adjustment for each year shall be made by
25 comparing the percentage increase or decrease in the Detroit
26 consumer price index for the preceding August by the
27 corresponding Detroit consumer price index-all items 1 year

1 earlier. The resultant percentage change shall then be
2 multiplied by the affected monetary amounts. These results shall
3 be rounded up to the nearest \$25.00 and added to or subtracted
4 from the current monetary amounts as previously adjusted by this
5 section to obtain the new amounts for that year. The adjustments
6 shall apply only to expenditures occurring after the date of the
7 adjusting of the amounts. The director of agriculture shall
8 calculate the adjusted monetary amounts and make them available
9 upon request. If the index is unavailable, the director of
10 agriculture shall make a reasonable approximation.

11 (7) If the drain commissioner or the drainage board finds it
12 necessary to expend funds in excess of those prescribed in
13 subsection (6) in any 1 year for the maintenance or repair of a
14 drain, the additional amounts shall not be expended until 1 of
15 the following is satisfied:

16 (a) If a public corporation is affected by more than 20% of
17 the cost of the maintenance, the governing body of each such
18 public corporation approves the expenditure.

19 (b) If no public corporation is affected by more than 20% of
20 the cost of the maintenance, the drain commissioner or drainage
21 board gives notice of the maintenance to be performed and the
22 estimated cost to the persons liable for assessments for the
23 drain.

24 (c) If the maintenance or repair is requested by and the
25 entire additional cost is paid for by a public corporation,
26 private corporation, or other person.

27 (8) In determining whether or not a public corporation is

1 affected by more than 20% of the cost, the drain commissioner or
2 drainage board shall consider the total of the at large
3 percentages of the apportionment together with the total
4 percentage of land apportioned.

5 (9) If the drain fund of a drainage district does not contain
6 sufficient funds, or the district is obligated to repay
7 outstanding indebtedness to pay for inspection, repair, and
8 maintenance, the drain commissioner or drainage board shall
9 assess the drainage district according to benefits received. A
10 reassessment shall be made and spread upon the city or township
11 tax assessment rolls within 3 years after the completion of the
12 inspection, repair, and maintenance. If the total estimated
13 expenditure will exceed \$5,000.00 per mile or a fraction of a
14 mile, all landowners and public corporations within the district
15 or abutting the drain shall receive notice for the nature and
16 type of maintenance to be conducted before the commencement of
17 work by first-class mail and by publication in a newspaper of
18 general circulation. An affidavit of mailing shall be made by
19 the drain commissioner or drainage board. The affidavit is
20 conclusive proof that the notices required by this subsection
21 were mailed. The failure to receive notices by mail shall not
22 constitute a jurisdictional defect invalidating a special
23 assessment if notice by publication was given as required by this
24 subsection.

25 (10) An assessment for the actual cost of inspection, repair,
26 and maintenance performed on a drain, or an assessment to be
27 deposited in the drain fund of a drainage district, shall be made

1 according to benefits received.

2 (11) Notwithstanding any other provision of this act, if an
3 emergency condition exists within the drainage district that
4 endangers the public health, safety, or welfare, crops, or
5 property, the drain commissioner or the drainage board may expend
6 funds for maintenance and repair to alleviate the emergency
7 condition. Before the costs incurred for eliminating an
8 emergency condition are assessed, the drain commissioner or
9 drainage board shall file in the records of the drainage district
10 a written statement describing the emergency condition.

11 (12) In computing amounts under this section, the cost of
12 work to be performed by a federal agency or public corporation
13 that is not chargeable to the county or intercounty drainage
14 district shall not be included, nor shall it be necessary for the
15 drain commissioner or the drainage board to advertise for bids
16 for that portion of the work to be done by the federal agency or
17 public corporation. Inspection, engineering, legal, or
18 consultant fees shall not be included in amounts computed under
19 this section.

20 (13) For purposes of this act, the costs of maintenance
21 assessable against a drainage district include all of the
22 following:

23 (a) The costs incurred by the drain commissioner or drainage
24 board for inspection or professional consultation fees and
25 contractual services.

26 (b) Contractual expenses related to the levying and
27 collection of special assessments for the work performed.

1 (c) All other costs associated with maintenance of the
2 drain.

3 (d) Preparation and updating of maps and records used
4 directly in the development of special assessment rolls.

5 (14) If the cost of maintenance and repair of a drain
6 includes utility charges or costs to service pumping stations,
7 sewage treatment facilities, or retention basins, the limitation
8 on the amount of expenditures in subsections (6) to (9) does not
9 apply except that the drain commissioner or drainage board may
10 levy sufficient special assessments to pay the charges or costs
11 but not more than the amount sufficient to pay those charges or
12 costs.

13 (15) The salaries, expenses, and fringe benefits of clerical,
14 administrative, and engineering employees of the drain
15 commissioner or drainage board working incidental to the
16 operation, repair, or maintenance of a drain shall be chargeable
17 to and paid as budgeted from the county general fund and not
18 chargeable to or by the drain fund of a drainage district.

19 Sec. 200. (1) ~~In lieu of assessing the cost of the~~
20 ~~maintenance and repair of any drain to parcels of land in the~~
21 ~~drainage district within any city, village, township, charter~~
22 ~~township or county, the commissioner or drainage board may~~
23 ~~contract relative to such cost with any city, village, township,~~
24 ~~charter township or county in which the drain, or any part~~
25 ~~thereof, is located, or whose residents use the drain for~~
26 ~~drainage or for the transportation of sewage. In the contract~~
27 ~~any city, village, township, charter township or county may agree~~

~~(1) to pay annually to the commissioner or the drainage board certain sums for the cost of maintenance and repair of any drain and for the creation of a reserve fund therefor, or (2) to provide such sums periodically as needed, or (3) to reimburse the commissioner or drainage board for all sums expended for maintenance and repair, or (4) for any combination of the foregoing. The contract shall be approved and its execution authorized by a resolution adopted by the legislative body of the city, village, township, charter township or county and shall be executed by the commissioner or drainage board on behalf of the drainage district. The city, village, township, charter township or county may fulfill its obligation to pay in accordance with the terms of the contract out of its general funds, service charges to its residents, or any other legally available funds. The contract shall specify the manner in which the obligation to pay shall be fulfilled. If a new district is laid out and includes added lands, including lands in a county which was not a part of an original intercounty drainage district, the drain commissioner for a county drain, or the chairperson of the drainage board, shall notify the board of determination or drainage board that allowed the petition, that the land should be added to the district. The drain commissioner or chairperson of the drainage board shall call a meeting of the board of determination. If a member of the board of determination is disqualified or unable to act, then the member's place shall be filled by appointment as in the first instance. The notice shall comply with section 8, and be forwarded to the landowners and~~

1 public corporations in the district as if lands were added. All
2 expense of notification shall be paid by the drainage district.

3 (2) At the time, date, and place designated by the drain
4 commissioner or the chairperson of the drainage board, the board
5 of determination or drainage board shall reconvene. Upon
6 reconvening, if the board of determination or drainage board by a
7 majority vote of members finds the proposed addition of the land
8 to the drainage district necessary or conducive to the public
9 health, safety, or welfare or for agriculture, the board of
10 determination shall make an order to that effect and file the
11 order with the drain commissioner or drainage board.

12 Sec. 201. All apportionments under this chapter shall be
13 made according to the benefits derived and shall be subject to
14 appeal in the same manner as provided in chapter 7. If the
15 apportionment is the same as the last recorded apportionment, no
16 day of review is necessary. If the apportionment is changed, or
17 if an apportionment is made in a consolidated district which
18 apportions benefits between lands that were not previously
19 assessed by the consolidated district, the procedure shall be as
20 provided under chapter 7, including the notice of and the holding
21 of a day of review.

22 CHAPTER 9 —

23 LETTING OF CONTRACTS —

24 Sec. 221. (1) ~~At the time and place fixed in the notice~~
25 ~~therefor, the commissioner shall receive bids for the~~
26 ~~construction of the drain.~~ The commissioner or drainage board
27 shall give notice under section 8 for the receiving of bids for

1 the construction, maintenance, or improvement of the drain. The
2 notice shall specify the time and place of receiving bids. The
3 notice shall also provide a brief description of the project
4 including its general location, type of construction, and
5 estimate of the amount and type of tile or pipe required for the
6 drain. The notice shall also include information concerning
7 prequalifications required by subsection (2). The commissioner or
8 the drainage board may in any case, and shall for all ~~drains~~
9 projects having an estimated cost exceeding ~~\$5,000.00~~
10 \$10,000.00, advertise for sealed proposals, to be opened on the
11 day of letting. If the drain commissioner or drainage board does
12 not advertise for proposals, the drain commissioner or drainage
13 board shall solicit 2 or more estimates for the cost of the
14 construction, maintenance, or improvement from qualified
15 contractors. However, if the landowner or developer is paying
16 the entire cost of the construction, maintenance, or improvement
17 and the contractor chosen by the landowner or developer is
18 acceptable to the drain commissioner or drainage board, the drain
19 commissioner or drainage board is not required to advertise for
20 sealed proposals or to solicit estimates. A contractor so
21 accepted shall enter into a contract with the commissioner or
22 drainage board, and the contract shall be administered by the
23 commissioner or drainage board.

24 (2) All sealed proposals received by the commissioner or
25 drainage board shall be publicly opened by ~~him~~ the commissioner
26 or the drainage board in the meeting and may be there examined by
27 any person interested. As soon as practical after the opening of

1 bids for the construction of any drain, the commissioner shall
2 determine the lowest responsible bidder and award contracts, or
3 ~~he may~~ reject all proposals and readvertise as in the first
4 instance. ~~—, and in cases where the commissioner determined that~~
5 ~~the taxes assessed for benefits shall be collected in more than 1~~
6 ~~installment, he shall, subject to the provisions set forth in~~
7 ~~section 275 of this act, determine the amount, form, maturity and~~
8 ~~rate of interest of bonds to be issued. In counties having a~~
9 ~~board of county auditors no drain bonds shall be sold and no~~
10 ~~drain contracts let without the written consent and approval of~~
11 ~~the board of county auditors, but the approval of said board~~
12 ~~shall not be required in proceedings relative to intercounty~~
13 ~~drains.~~

14 (3) If a drain commissioner's office has the available
15 equipment and manpower to perform the necessary maintenance
16 provided pursuant to section 199, the maintenance may be
17 performed by the drain commissioner without the advertising for
18 sealed bids as set forth in subsection (1).

19 (4) The drain commissioner or drainage board, in consultation
20 with an engineer, may establish prequalifications for a
21 prospective contractor to submit a bid for the construction of
22 the drain, consistent with 1933 PA 170, MCL 123.501 to 123.508.
23 Prequalifications may include, but need not be limited to,
24 expertise, financial solvency, experience, or equipment.
25 Prequalification shall be determined before advertisement for
26 bids. The notice shall indicate that prequalifications are
27 applicable and where the prequalifications can be reviewed by the

1 prospective contractor.

2 (5) This act does not prohibit the drain commissioner or
3 drainage board from contracting with an engineer or contractor to
4 perform both the design and construction of a drain project if
5 such contracting is in the best interest of the drainage
6 district.

7 (6) If ~~no~~ a contract ~~shall be~~ **is not** let within ~~5~~ 2
8 years after the date of filing the petition to ~~locate, establish~~
9 ~~and construct, or deepen, widen, straighten, title, extend or~~
10 ~~clean out~~ **establish a drainage district and establish and**
11 **construct a drain or to maintain or improve** a drain, the drain
12 commissioner may determine that the petition shall be ~~deemed~~
13 **considered** abandoned and ~~no~~ **issue an order to that effect. No**
14 further action shall be taken to construct the drain. Time
15 during which ~~any~~ litigation ~~shall be~~ **is** pending to contest
16 the validity of such proceedings shall not be counted as a part
17 of ~~such 5-year~~ **the 2-year** period. ~~If the drain commissioner~~
18 ~~determines the petition shall be abandoned, he shall issue his~~
19 ~~order to that effect; provided, that such determination of~~
20 ~~abandonment shall not be issued within the 5-year period.~~ Notice
21 of the order shall be given by publishing a notice in a newspaper
22 of general circulation in the county. ~~The provisions of this~~
23 **This** section ~~shall apply~~ **applies** to all petitions which are in
24 full force and effect on the ~~date of January 1, 1973, or~~
25 ~~thereafter~~ **effective date of the 2000 amendatory act that**
26 **amended this section.**

27 (7) The board of county road commissioners, ~~when~~ **if**

1 authorized by ~~a committee of supervisors appointed by~~ the
 2 **county** board of ~~supervisors~~ **commissioners**, ~~is hereby~~
 3 ~~authorized to~~ **may** bid for the construction, cleaning, deepening,
 4 and widening of drains within the county, and, if ~~such~~ **the** bid
 5 is accepted, shall ~~be authorized to~~ perform the work called for
 6 ~~therein~~ **in the bid**, and **may** receive payment ~~therefor~~ **for the**
 7 **work**. ~~A bid tendered by such board of county road commissioners~~
 8 ~~shall not be accepted unless such bid shall be at least 15% lower~~
 9 ~~than any other bid tendered.~~ The ~~moneys~~ **money** received by the
 10 county road commission shall be credited to the county road fund,
 11 and expenditures incurred by the county road commission ~~shall~~
 12 **be in performing the work are** proper disbursements therefrom.

13 Sec. 222. ~~The commissioner shall first let the section at~~
 14 ~~the outlet of the drain and shall let each remaining section in~~
 15 ~~its order up stream: Provided, That the~~ **The commissioner or**
 16 **drainage board** may ~~let~~ **receive bids for** the drain in sections
 17 or as a whole, whichever appears to ~~him~~ **be** the most practical.
 18 ~~∴ Provided further, That the~~ **The commissioner or drainage**
 19 **board** shall reserve the right to reject any and all bids or
 20 proposals **for a section of the drain** and proceed to ~~let said~~
 21 **receive bid proposals for the drain** in its entirety. ~~—, and~~ **The**
 22 **commissioner or drainage board** may adjourn ~~such~~ **the** letting in
 23 ~~the~~ whole or in part ~~—, from time to time, to such other time~~
 24 ~~or place to be by him at the time of such adjournment publicly~~
 25 ~~announced as shall to him seem proper, but not in all more than~~
 26 ~~40 90 days from and after the time of letting as first~~
 27 ~~advertised.~~ **to another place or time not more than 91 days after**

1 the day of letting bids as first advertised. Notice of the
2 adjourned meeting shall be given as provided in section 8.

3 Sec. 223. (1) A deposit in the form of a **cashier's check,**
4 certified check, ~~or its equivalent~~ **cash, bank money order, or**
5 **bid bond from a surety authorized to do business in this state** in
6 the amount that the commissioner **or drainage board** considers
7 reasonable may be required with each bid, whether on opening
8 bidding or sealed proposals, as evidence of good faith and to
9 reimburse the district ~~in the event of failure on the part of~~
10 **if** the successful bidder **fails** to execute the necessary contracts
11 or to furnish the required security or indemnity insurance. **A**
12 **bid bond of the successful bidder, other than a bid bond from a**
13 **surety, shall be deposited with the treasurer of the drainage**
14 **district. If the bid bonds are held more than 63 days, the**
15 **treasurer of the drainage district shall pay to the bidder**
16 **interest actually earned from the date of deposit on a bid bond,**
17 **other than a bid bond from a surety.** If the successful bidder
18 does not execute the proper contracts or furnish the security or
19 indemnity insurance required of him or her ~~within 10~~ **not more**
20 **than 14** days after the acceptance of his or her bid, then the
21 commissioner **or drainage board** may retain the deposit as
22 stipulated damages for the nonexecution of the contract and
23 proceed to advertise for and let the job anew. If the successful
24 bidder furnishes the security or indemnity insurance required and
25 executes the required contracts, then the deposit shall be
26 returned to him or her. All money forfeited to the commissioner
27 **or drainage board** under this subsection shall be deposited with

1 the ~~county~~ treasurer **of the drainage district** to the credit of
2 the drainage district fund.

3 (2) The successful bidder shall, ~~within the time stated in~~
4 ~~subsection (1)~~ **not more than 14 days after the acceptance of his**
5 **or her bid**, file with the commissioner security considered
6 necessary by the commissioner guaranteeing that the contract will
7 be completed in accordance with the terms specified in the
8 contract. The security shall be in a sum fixed by the
9 commissioner, but shall not be less than the contract price. At
10 the option of the commissioner, the security shall consist of 1
11 or more of the following:

12 (a) Cash.

13 (b) Certified check.

14 (c) Performance bond executed by a surety company authorized
15 to do business in this state.

16 (d) Escrow agreement acceptable to the commissioner.

17 (e) Irrevocable letter of credit issued by a state or
18 federally regulated financial institution.

19 (f) Personal surety acceptable to the commissioner.

20 (3) If a personal surety is used as security, the
21 commissioner shall require all of the following: ~~conditions and~~
22 ~~limitations~~:

23 (a) That the personal surety be a contractor with the
24 experience and ability to perform and complete, in a timely
25 manner, the contract ~~in the event of a default by~~ **if** the
26 successful bidder **defaults**.

27 (b) That the personal surety not act as the personal surety

1 for more than 1 other principal during the term of the contract
2 upon which he or she is giving security.

3 (c) That no more than 2 personal sureties be utilized as
4 security on any 1 contract.

5 (d) That, the personal surety provide financial information
6 requested by the commissioner and that, after a review of this
7 information, the commissioner be satisfied with the surety's
8 ability to perform the contract upon which he or she is giving
9 security.

10 (e) That the personal surety provide to the commissioner a
11 list of contracts upon which the surety is required to perform,
12 naming the parties to each contract, the amount of each contract,
13 the work to be performed under each contract and the time during
14 which each contract is to be performed, and that the personal
15 surety revise this listing during the term of the contract upon
16 which he or she is giving security, adding or deleting
17 information as contracts are entered or completed.

18 (f) That the personal surety agree that ~~in the event~~ if the
19 successful bidder defaults on the contract, the personal surety
20 shall ~~enter onto the project and~~ complete the project pursuant
21 to the terms of the contract within the time limitations
22 specified by the commissioner or pay to the drainage district the
23 amount of money specified by the commissioner as necessary to pay
24 another contractor to complete the contract.

25 (4) If a contract is not completed in accordance with its
26 written terms, the security provided to the commissioner shall be
27 used to complete the contract.

(5) In addition to the security required in subsection (2), the commissioner **or drainage board** shall require the successful bidder to furnish ~~a bond or~~ indemnity insurance **and motor vehicle insurance** in the sum required by the commissioner **or drainage board**. This ~~bond or indemnity~~ insurance shall run to the people of ~~the state of Michigan~~ **this state** and shall be maintained in full force and effect until the contract is terminated to indemnify the commissioner **and drainage board**, the drainage district, and the county or other ~~municipality~~ **public corporation** against loss or damage resulting from injury to a worker on the drain, or the negligence or carelessness of the contractor in the construction of the drain. Indemnity insurance that terminates by expiration or cancellation shall be replaced ~~prior to~~ **before** termination in the sum then required by the commissioner **or drainage board**. The commissioner or drainage board shall also require the successful bidder to furnish worker's compensation insurance.

18 (6) The provisions of this section apply to contracts in
19 excess of \$100,000.00. For all contracts equal to or less than
20 \$100,000.00, the commissioner **or drainage board** may require
21 security that ~~he or she~~ **the commissioner or drainage board**
22 considers adequate and necessary, consistent with the provisions
23 of this section.

24 (7) The commissioner, at his or her option, may require the
25 provision of additional kinds of security.

CHAPTER 10

27 INSPECTION AND APPROVAL OF CONSTRUCTION AND PAYMENT FOR THE DRAIN

TMV

1 consistent with 1980 PA 524, MCL 125.1561 to 125.1566.

2 Sec. 242. The commissioner ~~shall have power to or~~
 3 **drainage board may** grant a reasonable extension of time for the
 4 completion of ~~any a~~ contract. ~~When any~~ **If a** contract ~~shall~~
 5 ~~not be~~ **is not** finished within the time specified, or to which it
 6 may be extended, the commissioner **or drainage board** shall declare
 7 ~~such the~~ contract forfeited and shall, within a reasonable time
 8 thereafter, relet the unfinished portion ~~thereof~~ to the lowest
 9 responsible bidder, by public letting, after not less than ~~5~~ 7
 10 days' notice ~~thereof, by posting only,~~ **in the same manner** as
 11 provided for the letting in the first instance, or by private
 12 letting, ~~when such can be done, at a price per rod for the~~
 13 ~~uncompleted portion thereof not exceeding the price per rod at~~
 14 ~~which the job was first let; and he~~ **if permitted by law, and the**
 15 **drain commissioner or drainage board** shall make contract and take
 16 security in each case as herein provided. The cost of completing
 17 such part over and above the contract price, if any, and the
 18 expense of notice and reletting shall be collected by the
 19 commissioner ~~of~~ **or drainage board from** the parties first
 20 contracting or ~~of~~ their bondsman. ~~—, which moneys, when so~~ **The**
 21 **money** collected ~~—~~ shall be deposited with the county treasurer,
 22 and placed to the credit of such drain.

23 Sec. 243. ~~Whenever~~ **If** the amount assessed for the
 24 construction of ~~any a~~ drain ~~shall not be~~ **is not** sufficient
 25 to complete the ~~same,~~ **drain** and to pay all the costs and
 26 incidental expenses or to pay the principal and interest on **any**
 27 bonds ~~if such are~~ issued, a further assessment shall be made to

1 meet the deficit or additional expense. ~~Such~~ **The** further
 2 assessment shall be apportioned, assessed, levied and collected
 3 as provided in the first instance, and on the same percentage,
 4 and shall be collected in 1 year, but there shall be no review of
 5 ~~nor~~ or appeal from ~~such~~ **the** further assessment. ~~Provided,~~
 6 ~~That whenever by reason of the~~ **However, if the deficiency is the**
 7 **result of** embezzlement, **fraud**, or other wrongful act ~~of~~ **by** any
 8 county official or ~~by reason of the conspiracy of any county~~
 9 ~~official with any other person or persons to defraud any drainage~~
 10 ~~district, township or county, there shall be any deficiency as~~
 11 ~~aforesaid, the board of supervisors~~ **the county board of**
 12 **commissioners** of any county traversed by the drain may provide
 13 for the payment, out of the general fund of the county, of all or
 14 any part of ~~such~~ **the** additional assessment as may be
 15 apportioned to that part of the drainage district within such
 16 county, or for the refunding to ~~taxpayers~~ **the persons assessed**
 17 of any such assessment which may have been paid.

18 Sec. 244. (1) ~~All orders~~ **Orders or vouchers** for the
 19 payment for services rendered and work performed shall be drawn
 20 by the commissioner **or drainage board** upon the drain fund of each
 21 particular drain. ~~In case of taxes assessed for benefits~~
 22 ~~received which~~ **If special assessments** are to be paid in 7 annual
 23 installments or less, all orders for the payment for lands for
 24 right-of-way shall be paid out of the first year's ~~taxes~~
 25 **special assessments**, and the balance of ~~such~~ **the** first year's
 26 ~~taxes~~ **special assessments**, if any, shall be applied pro rata
 27 among the ~~several~~ contractors in the payment of the contracts

1 for the construction of such drain. For the balance due upon
 2 such contracts, the commissioner **or drainage board** shall draw
 3 orders payable out of each succeeding year's assessment pro rata
 4 among the several contractors. ~~:- Provided, That no~~ **However,**
 5 **the** commissioner **or drainage board** shall **not** draw orders payable
 6 in any ~~one~~ 1 year for a larger amount than ~~said~~ **the** year's
 7 assessment, ~~except in cases where~~ **unless** bonds and notes are
 8 issued and sold as provided by law. ~~All drain~~

9 (2) **Drain** orders shall be drawn payable not sooner than the
 10 fifteenth day of April nor later than the first day of August of
 11 the year in which the drain ~~taxes for the payment thereof~~
 12 **special assessments** are required to be paid. If the drain fund
 13 is insufficient for ~~such~~ **this** purpose because of delinquency in
 14 the payment of drain ~~taxes~~ **special assessments** after the lands
 15 on which the ~~said taxes shall have become~~ **special assessments**
 16 **are** delinquent have been offered for sale ~~, in any such case~~
 17 ~~where~~ **and** payment is made by the county treasurer out of the
 18 general fund, ~~and all~~ delinquent drain ~~taxes~~ **special**
 19 **assessments subsequently** received by ~~said~~ **the** treasurer
 20 ~~thereafter~~ shall be credited to the general fund until the
 21 ~~same~~ **general fund** is reimbursed. ~~In all cases where~~ **If** bonds
 22 are issued and sold ~~as herein provided~~ and the proceeds
 23 ~~thereof~~ are deposited in the county treasury to the credit of
 24 the fund of the ~~particular~~ drain, orders presented on ~~such~~
 25 **the** fund shall be paid out of the proceeds ~~aforesaid,~~ or out of
 26 the first annual installment of the ~~taxes~~ **special assessments**.
 27 ~~In no case where~~ **If** there are outstanding bonds, ~~shall~~ an

1 order **shall not** be paid out of ~~any~~ **an** installment of ~~taxes~~
2 **special assessments** collected other than the first.

3 Sec. 245. (1) ~~All drain~~ **Drain** orders **or vouchers** made by
4 the commissioner **or drainage board** shall state the services
5 rendered in brief form ~~—~~ **and** shall be numbered and recorded and
6 signed by the commissioner **or drainage board**. ~~Such~~ **An** order,
7 when due, shall be presented to the county ~~clerk and he~~
8 **treasurer**. **The county treasurer** shall immediately ascertain
9 ~~from the county treasurer~~ if the particular fund on which
10 ~~said~~ **the** order is drawn is sufficient to pay ~~said~~ **the** order.
11 If ~~such~~ **the** fund is sufficient, the county treasurer shall so
12 certify on the back of ~~said~~ **the** drain order and the county
13 clerk **or other authorized county officer** shall thereupon issue
14 the usual county warrant upon the county treasurer for the
15 payment of ~~said~~ **the** order, taking ~~said~~ **the** order so certified
16 as his **or her** voucher. If ~~such~~ **the** particular fund is
17 insufficient when ~~such~~ **the** order is presented for payment, the
18 county treasurer shall so certify upon ~~such~~ **the** order and
19 ~~such~~ **the** order shall then draw interest at the rate ~~of 6% per~~
20 ~~annum~~ **paid on 91-day United States treasury notes** from the date
21 of presentation until ~~such~~ **the** particular fund is sufficient to
22 pay the ~~same, said interest to~~ **order**. **The interest shall** be
23 computed and paid with the principal out of the proper fund on
24 which it was drawn, when there are sufficient funds to pay the
25 ~~same~~ **principal and interest**.

26 (2) The county treasurer shall keep a record in which he **or**
27 **she** shall note each drain order presented for payment on a drain

1 account ~~which~~ **that** was insufficient to pay ~~such~~ **the** order on
2 the date of presentation. He **or she** shall note in such record
3 the amount, number, drain account, and the date of original
4 presentation for payment. When there ~~are~~ **is** sufficient
5 ~~moneys~~ **money** in the particular drain account to pay the order,
6 plus interest, the county treasurer shall note the date of ~~such~~
7 **the** sufficiency on ~~such~~ **the** record and shall transfer
8 sufficient ~~moneys~~ **money** to pay ~~such~~ **the** order and interest
9 then due from the particular drain account and drain fund to a
10 drain order redemption fund and the drain order shall cease to
11 earn interest as of that date. Transfers to the drain order
12 redemption fund shall be made in the order of priority in which
13 the drain orders were originally presented for payment. Payment
14 of ~~such~~ **the** orders, including interest, ~~earned as provided~~
15 ~~herein,~~ shall thereafter be made by the county treasurer from
16 the drain order redemption fund. Drain orders at any time during
17 the year in which such drain order becomes due and payable and
18 for a period of ~~30~~ **28** days prior to such year shall be accepted
19 for the payment of drainage ~~taxes~~ **special assessments**.

20 (3) The county treasurer shall report to the commissioner **or**
21 **drainage board** the amount paid as interest on ~~any and all such~~
22 drain orders. The county treasurer shall at the first of each
23 month furnish the drain commissioner **or drainage board** with a
24 report of ~~all~~ drain orders cashed during the preceding month,
25 including the name of the drain upon which the order was drawn,
26 the amount, the number of the order, and the date of payment.

27 Sec. 247. The county drain commissioner **or drainage board**

1 acting under the provisions of this act may employ an attorney
 2 when ~~he deems the same~~ **considered** necessary and any legal
 3 expense shall be charged to the ~~several drain districts in~~
 4 ~~behalf of which he shall be employed. All such expenses~~
 5 **drainage district. The expense** shall be paid out of the
 6 revolving drain fund which shall be reimbursed out of the first
 7 ~~moneys~~ **money** available. ~~Provided, That~~ **However,** the board
 8 of ~~supervisors~~ **commissioners** by resolution may ~~cause~~ **request**
 9 the prosecuting attorney to give such legal assistance as part of
 10 ~~his~~ **the duties of the prosecuting attorney.**

11 CHAPTER 11 —

12 LEVY AND COLLECTION OF ~~DRAIN TAXES.~~ **SPECIAL ASSESSMENTS**

13 Sec. 261. Within ~~10~~ **14** days after the letting of
 14 contracts, or in case of an appeal, ~~then forthwith~~ **immediately**
 15 after ~~such~~ **the** appeal ~~shall have been~~ **is** decided, the
 16 commissioner **or drainage board** shall make a computation of the
 17 entire cost of ~~such~~ **the** drain, ~~which shall include (1) all~~
 18 ~~the~~ **including, but not limited to, all of the following:**

19 (a) The expense of ~~laying out and designating the drainage~~
 20 ~~district, which item of expense shall include the entire~~
 21 **establishing the drainage district and establishing and**
 22 **constructing the drain, including, but not limited to, the cost**
 23 **of the survey.** ~~;(2) the~~

24 (b) The expense of ~~locating,~~ **establishing and**
 25 **constructing, maintaining, or improving** the drain. ~~;(3) the~~
 26 ~~fees and expenses of special commissioners; (4) the compensation~~
 27 ~~to be paid the board of review; (5) the~~

1 (c) The costs of acquiring property under section 7.

2 (d) The per diem compensation, mileage, and expenses to be
3 paid to members of boards under this act.

4 (e) The cost associated with evaluation of natural resource
5 impacts and the costs to minimize those impacts.

6 (f) The cost of construction of bridges and culverts. ~~—; (6) the~~

8 (g) The costs for engineers, surveyors, and other
9 professionals.

10 (h) The contracts for the construction of the drain, or
11 other work to be done on ~~said the~~ drain. ~~—; (7) the~~

12 (i) The estimated cost of an appeal in case the
13 apportionment made by the commissioner ~~shall not be or drainage~~
14 board is not sustained. ~~—; (8) the~~

15 (j) The estimated cost of inspection. ~~—; (9) the~~

16 (k) The cost of publishing all notices required. ~~—; (10) all~~
17 fees

18 (l) Fees of the probate judge, ~~—; (11) attorney if~~
19 applicable.

20 (m) Attorney fees for legal services in connection with the
21 drain ~~—; and (12) interest~~ project.

22 (n) Interest on bonds or notes for the first year, if bonds
23 or notes are to be issued. ~~—, and he shall add the whole into a~~
24 gross sum and add thereto not

25 (o) Not less than 10% ~~nor~~ or more than 15%, at the
26 discretion of the drain commissioner or drainage board, of ~~said~~
27 gross sum the sum of the costs under subdivisions (a) to (n), to

1 cover contingent expenses. ~~—, and the entire sum so ascertained~~
2 ~~shall be deemed to be the cost of construction of such drain.~~

3 Sec. 262. (1) ~~The commissioner shall thereupon make a~~
4 ~~special assessment roll for the drain for each county, township,~~
5 ~~city, or village and each state trunk line highway affected~~
6 ~~thereby, which roll shall be designated~~ **After the cost of a**
7 **county drain is computed under section 261, the drain**
8 **commissioner shall make a special assessment roll for the drain**
9 **for each municipality and roadway affected by the drain. After**
10 **the cost of an intercounty drain is computed under section 261,**
11 **the drain commissioner of each county in which lands subject to**
12 **assessment for the drain are located shall make a special**
13 **assessment roll for the drain for each municipality and roadway**
14 **affected by the drain in that drain commissioner's county. The**
15 **drain commissioner making the roll shall designate the roll,**
16 **giving name or number, "drain special assessment roll". The**
17 **commissioner shall enter on the roll a correct description of the**
18 **tracts, parcels, or subdivisions of land benefited by the drain**
19 **which description may be made by tax parcel identification number**
20 **in compliance with section 152 and place opposite each**
21 **description the amount of the percent heretofore determined upon**
22 **by ~~him~~ the commissioner or by the board of review. The**
23 **commissioner shall also enter on the roll the amount of the**
24 **percent apportioned to ~~the county, for benefits to any county~~**
25 **~~road, and to the township, city, or village and the state highway~~**
26 **~~commission, for benefits to any state trunk line highway~~ a road**
27 **authority for benefits to a roadway, and ~~in case~~ if the amount**

1 ~~be~~ **is** payable in installments, ~~he shall also enter thereon~~ a
2 memorandum of the installments and of the year or years when the
3 installments shall be spread. The commissioner shall add a
4 certificate in writing of the determination whether the ~~taxes~~
5 **special assessments** assessed for benefits shall be paid in 1 or
6 more years. The rolls shall be dated and signed by the
7 commissioner and filed on or before the last Wednesday in
8 September in each year, in the office of the county clerk.

9 (2) The commissioner shall prepare a ~~tax~~ **special** assessment
10 roll in each year for the collection of ~~taxes~~ **special**
11 **assessments** for the current year, and shall certify the ~~same~~
12 **roll** to the county clerk on or before the first day of the annual
13 meeting of the county board of commissioners. In each roll, the
14 commissioner shall add to the amount to be collected ~~—~~ interest
15 on all unpaid installments to the date of ~~tax~~ collection, and
16 shall deduct from the amount to be collected by the county,
17 village, city, or township all amounts received from the proceeds
18 or income of property or an interest in property located in the
19 county, village, city, or township and acquired ~~through~~
20 ~~condemnation or the payment of damages~~ under this act. To the
21 roll for the last year, the commissioner shall add a further
22 amount, if any, as may be necessary together with outstanding
23 uncollected ~~taxes~~ **special assessments**, to pay all outstanding
24 bonds and interest thereon to maturity. If the roll is made
25 payable in more than 1 installment, a permanent assessment roll
26 may be maintained in the office of the county treasurer, subject
27 to the direction of the ~~board of county auditors, in counties~~

1 ~~having such a board, and of the county board of commissioners in~~
 2 ~~other counties~~ **county board of commissioners**, showing the total
 3 cost, the number of installments, and the amount of each annual
 4 assessment, together with interest charges thereon, which shall
 5 be carried in a separate column.

6 (3) If the roll is made payable in more than 1 installment,
 7 and the total amount of any assessment is \$10.00 or less,
 8 exclusive of interest, then that assessment shall be payable in 1
 9 installment; but if the assessment exceeds the sum of \$10.00 and
 10 is made payable in more than 1 installment, then that
 11 installment, exclusive of interest, shall not be less than the
 12 sum of \$10.00, excepting the final installment, which shall be
 13 payable in the amount of the actual balance.

14 Sec. 263. ~~It shall be the duty of the~~ **The** supervisor ~~,~~
 15 ~~or village or city assessor~~ ~~, to~~ **shall** spread on ~~his~~ **the** roll
 16 the total amount of all drain ~~taxes~~ **special assessments**
 17 determined ~~upon~~ by the county drain commissioner to be assessed
 18 upon the county, township, city, or village at large by adding to
 19 the county, township, city, or village tax for the year in which
 20 the ~~same~~ **drain assessment** was assessed and extending ~~said tax~~
 21 **the drain assessment** in the same column with the general county,
 22 township, city, or village tax. ~~— Provided, That in such~~ **In**
 23 villages or cities, ~~of this state,~~ where the municipal taxes
 24 ~~therefor~~ are assessed and collected ~~prior to~~ **before** the
 25 October meeting of the **county** board of ~~supervisors, all taxes~~
 26 **commissioners, drain assessments** ordered to be spread against
 27 such municipalities shall be spread during the calendar year

1 following ~~such~~ **the** action by the **county** board of ~~supervisors~~
 2 ~~Provided further, That in~~ **commissioners**. In lieu of the
 3 addition of ~~such tax~~ **the drain assessment** to the county,
 4 township, city, or village tax, the ~~legislative body thereof~~
 5 **governing body of the municipality** may in any year provide for
 6 the payment thereof from the general or contingent fund of such
 7 county, township, city, or village. ~~Such~~ **The** supervisor or
 8 assessor shall also spread upon ~~said~~ **the** roll, separately, and
 9 immediately following the other descriptions, all tracts or
 10 parcels of land specified by the commissioner to be assessed for
 11 benefits, and shall place opposite each description, in a column
 12 marked, "(giving the name or number)
 13 drain ~~taxes~~ **special assessments**," the amount of ~~taxes~~
 14 **assessments** apportioned thereon, as certified ~~to him~~ by the
 15 county clerk.

16 Sec. 265. ~~All drain taxes~~ **Drain special assessments**
 17 assessed under ~~the provisions of~~ this act ~~shall be~~ **are**
 18 subject to the same interest and charges, and shall be collected
 19 in the same manner as state and other general taxes are
 20 collected, and collecting officers are hereby vested with the
 21 same power and authority in the collection of ~~such taxes~~ **the**
 22 **special assessments** as are or may be conferred by law for
 23 collecting general taxes. Drain ~~taxes~~ **special assessments**,
 24 when collected, shall be returned to the county treasurer to be
 25 disbursed ~~by him. In all cases where~~ **within 14 days of receipt**
 26 **unless waived by the drain commissioner to some other specified**
 27 **time. Any interest earned from the time of collection and**

1 accounting to the day of delivery shall be returned to each drain
 2 fund on a pro rata basis. If suit is brought against the
 3 collector arising out of the collection of ~~any drain tax~~ a
 4 drain special assessment, the county shall defend ~~such~~ the
 5 officer in the same manner ~~that he has now the right to be~~
 6 defended in as if the suit arose out of the collection of
 7 general taxes. ~~No~~ A suit shall not be instituted to recover
 8 any drain ~~tax~~ special assessment or money paid or property sold
 9 ~~therefor~~ for a drain special assessment, or for damages on
 10 account ~~thereof~~ of a drain special assessment, unless brought
 11 within ~~30~~ 28 days from the time of payment of ~~such~~ the money
 12 to, or sale of such property by, the collecting officer. ~~;~~ and
 13 ~~if such tax shall be~~ If the special assessment is paid under
 14 protest, the reasons ~~therefor~~ for the protest shall be
 15 specified, and the same procedure observed as is or may be
 16 required by the general ~~tax law.~~ All taxes property tax act,
 17 1893 PA 206, MCL 211.1 to 211.157. Special assessments levied
 18 under ~~the provisions of~~ this act, with all lawful costs,
 19 interest, and charges, ~~shall be and remain a perpetual~~ are a
 20 lien upon the lands upon which they are assessed, and a personal
 21 claim against the owner or owners of such lands until they are
 22 paid.

23 Sec. 266. If the ~~taxes~~ special assessments levied for the
 24 construction, ~~cleaning out, widening, deepening, straightening~~
 25 ~~or extending~~ maintenance, or improvement of ~~any~~ a drain are
 26 not collected by the township, city, or village treasurer, they
 27 shall ~~by him~~ be returned by that treasurer, together with the

1 lands upon which they were levied, to the county treasurer in the
 2 same return, at the same time, and in the same manner, in every
 3 respect (naming in each case the particular drain), as lands are
 4 returned for state, county, and township taxes. ~~—, and such~~
 5 ~~taxes~~ **Drain special assessments** shall follow ~~such~~ the lands,
 6 the same as ~~all such other~~ **do property** taxes, and ~~all~~ **may be**
 7 **collected in the same manner as provided by** the general
 8 provisions of law ~~now existing, or that may be hereafter~~
 9 ~~enacted~~ for enforcing the payment of township, county, and state
 10 taxes. ~~—, shall apply to such drain taxes, and to the lands~~
 11 ~~returned delinquent therefor, in the same manner and with like~~
 12 ~~effect.~~ **However, the treasurer shall notify the drain**
 13 **commissioner of all land in the county that has been returned**
 14 **delinquent and subject to sale so that the drain commissioner or**
 15 **drainage board may file an affidavit of special assessment**
 16 **pending and subject to collection before the sale or reversion.**

17 Sec. 267. After any ~~taxes~~ **special assessments** have been
 18 assessed for the ~~construction, location or establishment~~
 19 **establishment, construction, maintenance, or improvement** of any
 20 drain, ~~no injunction shall issue to restrain~~ the spreading of
 21 the ~~same~~ **assessments** upon the tax roll ~~nor to restrain~~ **or** the
 22 collection ~~thereof, nor shall the same be in any manner~~ **of the**
 23 **assessments shall not be enjoined or** stayed, unless the amount of
 24 ~~such~~ the assessment ~~shall first be~~ **has been** paid into the
 25 township treasury to be applied ~~upon such tax, in case the court~~
 26 ~~in which the suit upon which injunction is tried shall so order~~
 27 **to the assessment upon order of the court.**

1 Sec. 269. (1) The collection of a special assessment levied
2 or ordered to be levied for the payment of the establishment,
3 construction, maintenance, or improvement of a drain under this
4 act shall not be perpetually enjoined or declared absolutely void
5 for any reason. The court in which an action is brought to
6 recover a special assessment paid, or to declare void the
7 proceedings to establish and construct any drain, or to enjoin
8 any special assessment levied or ordered to be levied for the
9 payment of the labor and expense thereof, may, if there be
10 manifest error in the proceedings, allow the plaintiff in action
11 to show that he or she has been injured thereby. Any such action
12 is subject to section 161.

13 (2) The court in which such proceedings are begun shall allow
14 proof that the drain was necessary and conducive to the public
15 health, ~~convenience~~ **safety**, or welfare **or for agriculture**, and
16 that all the steps required by law have been substantially
17 complied with, notwithstanding the record required to be kept by
18 the commissioner **or drainage board**. ~~In case~~ **If** substantial
19 error is found **after hearing proof of both sides**, the court may
20 correct any gross injustice in the award of damages, or
21 assessment of benefits. ~~as may appear after hearing the proofs~~
22 ~~and allegations of both sides and~~ **the court** shall make such **an**
23 order ~~in the premises as shall be~~ just and equitable, and may
24 order ~~that such tax or~~ **any of the following:**

25 (a) That the special assessment remain on the tax roll for
26 collection. ~~, or order~~

27 (b) That the ~~same to~~ **special assessment** be relieved. ~~, or~~

1 ~~may perpetually enjoin the same or any part thereof, or if the~~
 2 ~~same~~

3 **(c) If the special assessment** has been paid under protest,
 4 ~~may order the whole that the special assessment,~~ or such part
 5 thereof as is just and equitable, ~~to~~ be refunded. ~~In all~~
 6 ~~cases where assessments shall be set aside~~

7 **(3) If the court sets aside assessments** after contracts have
 8 been let or bonds **or notes** sold, the decree shall make full
 9 provision for payment of work done and materials furnished under
 10 ~~said the~~ contracts before the commencement of suit, and for
 11 payment of ~~such the~~ bonds **or notes** and interest thereon, by
 12 reassessment according to benefits, or otherwise as equity may
 13 require. ~~The cost of such proceedings, if error or injustice be~~
 14 ~~shown, shall be apportioned among the parties, or if~~

15 **(4) If** no manifest error or injustice ~~be~~ **is** shown, ~~such~~
 16 costs **of the proceedings** shall be collected of the party bringing
 17 the action.

18 Sec. 270. ~~Whenever any~~ **If a** drain ~~has been located and~~
 19 ~~established,~~ **is established** and contracts let for its
 20 construction, **maintenance, or improvement** and the work ~~of~~
 21 ~~construction has been~~ **is** completed, or partly completed, and the
 22 commissioner **or drainage board** has made ~~his~~ **an** order
 23 establishing the drain, ~~his the~~ apportionment of benefits, and
 24 special assessment roll and filed the ~~same~~ **order** in the office
 25 of the county drain commissioner, as provided by this act, ~~and~~
 26 ~~such taxes remain a perpetual~~ **the special assessments are a lien**
 27 upon the lands assessed. ~~, and filed all of said papers in the~~

~~1 office of the county drain commissioner, and no person or~~
~~2 municipality affected by the proceedings has taken any action by~~
~~3 virtue of section 161 of this act to test the validity of the~~
~~4 proceedings, or to set the same aside, and it shall further~~
~~5 appear that the tax~~ **If the special assessment** has not been
~~6 spread on the tax roll of the municipalities affected and the~~
~~7 lien of said tax~~ **the special assessment** still remains against
~~8 such~~ **the** lands, on the application in writing of any person or
~~9 corporation who is now or were owners~~ **an owner** of the land
~~10 assessed at the time of the apportionment of benefits by the~~
~~11 commissioner~~ or any person or corporation who were the owners of
~~12 land at said~~ **the time of apportionment of benefits** and who were
~~13 assessed therefor, and who sold such land with covenants of~~
~~14 warranty, may make an application in writing to the county drain~~
~~15 commissioner~~ **or drainage board** setting forth such facts. ~~—, and~~
~~16 upon~~ **Upon** the filing of ~~such~~ **the** application, ~~it shall be the~~
~~17 duty of~~ the county drain commissioner ~~to~~ **or drainage board**
~~18 shall~~ make a certified copy of the assessment roll filed in ~~his~~
~~19 the~~ office by the commissioner and present ~~to and lay~~ it
~~20 before~~ **to** the **county** board of ~~supervisors~~ **commissioners** at
~~21 the~~ **its** first October session. ~~—, thereafter of said board, and~~
~~22 thereupon it shall be the duty of said board at said~~ **at that**
~~23 session, to~~ **the county board of commissioners shall** order and
~~24 direct such taxes~~ **the special assessments to be** spread upon the
~~25 tax roll of the municipalities affected thereby, according to the~~
~~26 said assessment filed as aforesaid, and as appears by such~~
~~27 special assessment roll, so certified to said board and~~

1 **certified.** ~~The provisions of this section shall also apply to~~
 2 ~~drains laid out and established and wholly or partly constructed~~
 3 ~~under the provisions of all drain laws in force prior to the~~
 4 ~~passage of this act, where such laws have made such drain tax a~~
 5 ~~perpetual lien upon the lands upon which they are assessed.~~

6 Sec. 273. ~~In case any drain tax heretofore or to be~~
 7 ~~hereafter assessed shall be~~ **If a drain special assessment is set**
 8 **aside, except for causes that would deprive the commissioner of**
 9 **jurisdiction to construct the drain, the commissioner may begin**
 10 **proceedings anew at the stage where** ~~they shall be correct.~~ **In**
 11 ~~case~~ **the defect occurred. If a drain** ~~tax~~ **special assessment**
 12 **can or may be set aside for error in description or other defect**
 13 **in the commissioner's or township treasurer's roll, upon**
 14 **discovery of the defect,** the commissioner shall report the ~~same~~
 15 **defect** to the **county** board of ~~supervisors at their October~~
 16 ~~session, who~~ **commissioners, which** shall order the ~~same~~ **special**
 17 **assessment to be** reassessed upon the proper description. ~~Such~~
 18 **The** report may be made at any time before the sale of the land
 19 for ~~such tax~~ **the special assessment.**

20 Sec. 274. In any ~~suit~~ **action** brought to set aside any
 21 drain ~~tax~~ **assessment,** or in any way attacking the legality of
 22 any drain proceedings, the commissioner shall be made a party to
 23 ~~said suit~~ **the action.**

24 Sec. 275. (1) ~~In cases where the issuing of bonds shall~~
 25 ~~have been determined upon, as provided in this act, and subject~~
 26 ~~to the provisions of section 221 of this act, the commissioner~~
 27 **Subject to section 221, the commissioner or drainage board may**

1 borrow money in anticipation of the collection of ~~the~~ **special**
2 **assessment** installments and may issue as evidence thereof the
3 bonds of the drainage district. ~~as defined in this act. The~~
4 ~~obligations~~ **The bonds** shall specify on their face that they are
5 payable out of the installments of drain ~~taxes~~ **special**
6 **assessments** to be collected, and the amount **of the bonds** shall
7 not exceed the aggregate of the installments levied. Bonds
8 issued under this act shall be signed by the commissioner **or**
9 **chairperson of the drainage board** on behalf of the drainage
10 district, shall be countersigned by the county clerk ~~and of~~
11 **each county in the drainage district**, shall be payable in annual
12 installments equal in number to the installments of ~~taxes~~
13 **special assessments**, and shall mature not earlier than March
14 first and not later than June first of the year following the due
15 dates of the respective installments of ~~taxes~~ **special**
16 **assessments**. The number of installments shall not exceed ~~20~~
17 ~~Provided, however, That in any drainage district containing a~~
18 ~~closed drain, any part of whose cross section has an area~~
19 ~~exceeding 60 square feet, the number of installments may be, but~~
20 ~~shall not exceed, 30, and the~~ **30**. **The** amount of each
21 installment shall be fixed to correspond as near as may be to the
22 drain commissioner's **or drainage board's** estimate of the amount
23 of ~~taxes~~ **special assessments** actually collectible each year. ~~—~~
24 ~~and in no case shall bonds~~ **Bonds shall** mature **not** more than
25 2-1/2 years after the corresponding installment of ~~taxes~~
26 **special assessments**. The commissioner **or drainage board** shall
27 pledge in the bond the credit of the drainage district, including

1 the lands embraced within the district and the townships, cities,
2 villages, counties, and ~~state trunk line highways~~ **roadways**
3 assessed at large, in the proportion that they are ~~taxed~~
4 **specially assessed** for the benefits received.

5 (2) The bonds shall be sold subject to the revised municipal
6 finance act, 2001 PA 34, MCL 141.2101 to 141.2821. If any
7 premium is received on the bonds, the premium shall belong to the
8 fund of the drain. The proceeds derived from the sale of the
9 bonds shall be deposited with the county treasurer to the credit
10 of the drain fund. The county treasurer shall safely keep all
11 the bonds until sold. ~~as above provided:~~ ~~Provided, however,~~
12 ~~That this act shall not be considered to~~ **This act does not**
13 affect any bonds or refunding bonds issued ~~prior to the~~
14 ~~effective date of this act~~ **before March 28, 1956** or any
15 refunding bonds issued to replace **such bonds.** ~~the same:~~
16 ~~Provided further, That no county shall advance or pay out of its~~
17 ~~general funds any moneys for or on account of principal or~~
18 ~~interest of any drain bonds issued before the effective date of~~
19 ~~former Act No. 331 of the Public Acts of 1927, or any refunding~~
20 ~~bonds issued to replace the same.~~

21 **Sec. 275a. (1) A drainage district may borrow money or**
22 **accept the advance of work, material, or money from a public or**
23 **private corporation, partnership, association, individual, or the**
24 **federal or state government or any agency of the federal or state**
25 **government for any of the following:**

26 (a) The payment of, or in connection with the construction,
27 maintenance, or improvement of, any part of a drain project.

1 (b) The financing and engineering or feasibility,
2 practicability, environmental assessment, or impact study of a
3 drain project.

4 (c) The costs of acquiring property under section 7.

5 (d) Engineering and legal fees.

6 (2) The borrowing by the drainage district may be with or
7 without interest as may be agreed and reimbursed, when funds are
8 available. The obligation of the drainage district to make the
9 repayment or reimbursement may be evidenced by a contract or
10 note, which contract or note may pledge the full faith and credit
11 of the drainage district and may be made payable out of the drain
12 assessments made against public corporations at large, or against
13 lands in the drainage district, or out of the proceeds of drain
14 orders, notes, or bonds issued by the drainage district pursuant
15 to this act or out of any other available funds, and the contract
16 or note shall not be considered to be an obligation with the
17 meaning of the municipal finance act, 1943 PA 202, MCL 131.1 to
18 139.3, unless the principal aggregate amount of the note or notes
19 of the district exceeds \$600,000.00. However, any projects in
20 which advances or loans are made by any public corporation, the
21 federal government, or any agency of the federal government shall
22 not be included in this aggregate amount.

23 (3) A county board of commissioners by a vote of 2/3 of its
24 total membership may pledge the full faith and credit of a county
25 for the payment of a note of the drainage district.

26 Sec. 276. (1) If bonds or notes are to be issued ~~in~~
27 ~~respect to an intracounty~~ for a county drain, the county board

1 of commissioners may, by resolution adopted by a majority of its
2 total membership, pledge the full faith and credit of the county
3 for the prompt payment of the principal of and interest on any
4 bonds or notes hereafter issued pursuant to this act. This shall
5 not validate any bonds or notes ~~heretofore~~ issued **before May**
6 **14, 1957.** ~~In the event~~ If the county ~~shall be~~ **is** required to
7 advance any money by reason of such pledge, and if the
8 collections from special assessments shall not be sufficient to
9 reimburse the county therefor, the drain commissioner of such
10 county shall, within a 2-year period from the date of
11 advancement, reassess the drainage district as in the first
12 instance in order to provide for the repayment to the county of
13 the sums so advanced. ~~The provisions of this section shall not~~
14 ~~permit the advancement or any moneys out of the general funds of~~
15 ~~any county to meet any deficiency in the collection of drain~~
16 ~~assessments confirmed prior to May 1, 1953.~~

17 (2) If a drainage project lies entirely within the limits of
18 a municipality, other than a county, the governing body of the
19 municipality may pledge the full faith and credit of the
20 municipality for the payment of bonds or drain orders issued in
21 connection with the project. If a deficiency exists in the drain
22 fund or sinking fund for the drain 1 year after the last
23 installment of the deficiency assessment provided for in section
24 280 becomes delinquent, the municipality shall immediately
25 advance to the county drain fund the amount of the deficiency.
26 After the municipality makes the advance, all receipts of the
27 drain fund from the sale of delinquent tax lands, which had been

1 assessed for the drain, shall be paid to the municipality within
2 91 days after receipt by the county treasurer.

3 Sec. 277. ~~Whenever lands in any city, village or township~~
4 ~~or combination thereof shall be assessed for all or any part of~~
5 ~~the cost of a drain, the~~ **The** governing body of each ~~such~~
6 ~~cities, villages or townships~~ **city, village, or township in**
7 **which are located lands assessed for all or part of the cost of a**
8 **drain,** by resolution adopted prior to the issuance of drain
9 orders ~~and/or~~ **or bonds, or both,** in anticipation of the payment
10 of the assessments for ~~such~~ **the** drain, may agree that in the
11 event of any delinquency in the collection of the assessments
12 against lands in ~~such~~ **the** cities, villages, or townships, the
13 cities, villages, or townships shall advance the amount of ~~such~~
14 **the** delinquency from unobligated funds in the general fund to the
15 extent necessary to pay principal and interest on ~~such~~ **the**
16 drain orders ~~and/or~~ **or bonds** as ~~the same~~ **they** mature. ~~In~~
17 ~~the event that moneys are~~ **If money is** so advanced, then the
18 cities, villages, or townships shall be reimbursed from the
19 collection of the said delinquent assessments against lands
20 within its boundaries. If the collections from special
21 assessments ~~shall~~ **are** not ~~be~~ sufficient to reimburse the
22 cities, villages, or townships, the drain commissioner of ~~such~~
23 **the** county **or drainage board** shall, within a 5-year period from
24 the date of advancement, reassess the drainage district as in the
25 first instance in order to provide for the repayment of the sums
26 so advanced. ~~Provided, That this~~ **This** act shall not validate
27 any drain orders or bonds issued ~~prior to the effective date of~~

1 ~~this act~~ before March 28, 1956.

2 Sec. 277a. (1) If drainage districts are consolidated as
3 provided for in this act, the consolidated district shall, except
4 as otherwise provided in this act, have all the rights and powers
5 and be subject to all laws applicable to county or intercounty
6 drainage districts, as applicable.

7 (2) The merging of a drainage district into a consolidated
8 district does not affect the obligation of any bonds issued or
9 contracts entered into by the district or invalidate the levy,
10 extension, or collection of any taxes or special assessments upon
11 property in the debtor district. The bonds and contracts shall
12 be taken over and assumed by the consolidated district, and all
13 outstanding special assessments shall be collected and paid over
14 to the consolidated district for the payment of the obligations
15 previously issued or contracts previously entered into by the
16 debtor district. If further funds are necessary for the payment
17 of obligations previously issued or contracts previously entered
18 into by the debtor district, the drain commissioner or drainage
19 board of the consolidated district shall continue to levy a
20 special assessment based on the special assessment roll created
21 to finance the obligations or contracts. The proceeds of the
22 special assessment shall be used only for the purpose of paying
23 the indebtedness, and the interest thereon.

24 (3) If there are funds in the drain account of any of the
25 districts to be consolidated, the funds shall be placed in a
26 separate account for the consolidated district and shall be used
27 to pay expenses incurred by the commissioner or drainage board

1 for the consolidated district, except as follows:

2 (a) If lands are added which were not previously located in a
3 petitioning district, funds from each account where there is a
4 surplus shall be paid out or prorated in the same manner as
5 provided for abandoned or vacated drains after that district's
6 indebtedness for the cost of consolidation has been satisfied.

7 (b) If 1 of the districts consolidated is specially
8 benefitted by the continued operation and maintenance of pumping
9 equipment or other mechanical operations, a separate account
10 shall be maintained to provide for payment for the operation and
11 maintenance of the pumping equipment or other mechanical
12 operation.

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

1 fund. Bonds or notes issued and sold by the commissioner **or**
2 **drainage board** shall bear interest at not to exceed the rate
3 specified in the revised municipal finance act, 2001 PA 34,
4 MCL 141.2101 to 141.2821.

5 Sec. 279. Any person liable ~~to~~ **for** the payment of special
6 assessments ~~for benefits received from the construction of a~~
7 ~~drain hereunder~~ may pay the ~~same~~ **assessment** in full with
8 interest to date at any time, subject to the right of
9 reassessment in case of a deficiency as ~~herein~~ provided.
10 **However, a prepayment made following the issuance of bonds or**
11 **notes is subject to the first-year interest on the bonds or**
12 **notes.** The ~~foregoing~~ right of prepayment ~~shall extend to the~~
13 **extends to this** state or any political subdivision thereof,
14 assessed at large for a portion of the cost of ~~a~~ **the** drain.
15 Such payment may be made to the ~~township treasurer~~ **drain**
16 **commissioner**, who shall give his **or her** receipt therefor and who
17 shall transmit the ~~same~~ **receipt** to the county treasurer. The
18 ~~latter official shall, on receipt of the same, give notice to~~
19 ~~the commissioner, who~~ **commissioner** shall make the necessary
20 changes in the rolls covering subsequent installments.

21 Sec. 280. (1) If, **for any reason**, there is not sufficient
22 money in the fund in a particular drain at the time of the
23 maturity of the bonds last to mature, or any drain orders, to pay
24 all outstanding bonds or drain orders with interest, or to
25 reimburse the county for money which it has been obliged to
26 advance pursuant to section 275, ~~whether such insufficiency is~~
27 ~~due to the anticipation of installments as provided in section~~

~~1 279, or to failure to sell any lands for delinquent taxes, or to~~
~~2 any other cause, it shall be the duty of the commissioner to the~~
~~3 commissioner or drainage board shall~~ at once levy an additional
~~4 assessment. as provided in this act provided in such an amount~~
~~5 as~~ **The additional assessment shall be in an amount that** will
~~6 make up the deficiency which and~~ shall be spread in not to
~~7 exceed 7 annual installments. ; and if the commissioner~~
~~8 determines that the entire amount, if spread in 1 year, would be~~
~~9 an undue burden or create unnecessary hardship, he or she may~~
~~10 order it spread over any number of years up to but not exceeding~~
~~11 7.~~ If bonds or other evidences of indebtedness are issued
~~12 pursuant to the revised municipal finance act, 2001 PA 34,~~
~~13 MCL 141.2101 to 141.2821, to refund the outstanding indebtedness~~
~~14 of a drain district, the governing body of such the drain~~
~~15 district shall provide, subject to the requirements of the~~
~~16 revised municipal finance act, 2001 PA 34, MCL 141.2101 to~~
~~17 141.2821, for such additional levies of assessments prior to~~
~~18 before~~ the maturity of the refunding obligations as necessary to
~~19 prevent default in payment of interest on the obligations, and~~
~~20 for~~ the maintenance of a ~~sinking~~ fund for ~~their the~~
~~21 retirement of the obligations.~~ Every officer charged with ~~the~~
~~22 determination of determining~~ the amount of ~~taxes special~~
~~23 assessments~~ to be raised, or the levying of the ~~taxes special~~
~~24 assessments~~, shall make or cause to be made the additional levies
~~25 as provided. Any surplus remaining after the payment of the~~
~~26 bonds and interest shall remain in the county treasury and be~~
~~27 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~~ **that were** held to be invalid ~~, and any such~~ **before March 28, 1956. An** 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~~ **were** made **before March 28, 1956.**

Sec. 282. (1) The drain commissioner or drainage board may direct the treasurer of any drainage district to invest any surplus funds belonging to and under the control of the drain commissioner or drainage board as provided in section 1 of ~~Act No. 20 of the Public Acts of 1943, being section 129.91 of the~~

1 ~~Michigan Compiled Laws~~ 1943 PA 20, MCL 129.91. Otherwise, the
2 funds shall be invested in secure interest bearing accounts. The
3 treasurer of the drainage district shall credit earnings from
4 investments under this section to the drainage district fund.

5 (2) If 2 or more drainage district funds ~~which are~~ under
6 control of the drain commissioner or drainage board have balances
7 of less than \$1,000.00, those drainage district funds ~~may~~ shall
8 be consolidated into 1 account for short-term investment. ~~as~~
9 ~~directed by the drain commissioner.~~ A drainage district fund
10 shall not be consolidated if there is an immediate and apparent
11 need for expending that fund on the specific drain to which the
12 fund belongs.

13 (3) The interest earned by a fund consolidated under
14 subsection (2) may be deposited in a segregated revolving
15 maintenance fund which the drain commissioner or drainage board
16 may use for temporarily financing necessary maintenance expenses
17 on ~~an intracounty~~ a county or intercounty drain within that
18 drain commissioner's or drainage board's jurisdiction. The
19 revolving maintenance fund shall be a fund separate from the
20 revolving drain fund provided for in chapter 12. The revolving
21 maintenance fund shall be accounted for, administered, and
22 reimbursed in the same manner as the revolving drain fund under
23 section 303.

24 (4) If a drainage district fund has a balance of \$1,000.00 or
25 more, the drain commissioner or drainage board may direct that
26 that fund be consolidated with other funds for investment
27 purposes. The interest earned, whether from a consolidated or

1 separate account, shall immediately be deposited in the drainage
2 district fund to which the principal belongs.

3 (5) The principal balances of each drainage district fund
4 shall be accounted for at all times and may only be spent by
5 order of the drain commissioner or drainage board on expenses
6 necessary for the operation and maintenance of the drain to which
7 the fund belongs.

8 Sec. 283. (1) The drain commissioner or drainage board
9 shall ~~use~~ **deposit in the drain fund of the drainage district**
10 any surplus construction funds remaining in the construction fund
11 after completion of the project for the inspection, repair, and
12 maintenance of the drain ~~as provided in section 196~~ or shall
13 authorize the transfer of the funds to the bond and interest
14 account, if bonds were issued, in the amounts the drain
15 commissioner or drainage board considers proper.

16 (2) The drainage board or drain commissioner ~~shall~~ **may**
17 contract with a public corporation if that public corporation has
18 been assessed for all or part of the cost of the drain or if land
19 in a ~~city, village, township, or combination thereof~~ **public**
20 **corporation** has been assessed for all or any part of the cost of
21 a drain. The contract shall provide that after all outstanding
22 drain orders or bonds are paid on a drainage district project,
23 the drain commissioner or drainage board ~~shall~~ **may** authorize
24 the ~~respective county treasurers~~ **district treasurer** to pay
25 ~~over~~ any portion of the surplus **that the drain commissioner or**
26 **drainage board considers** not needed for ~~more than~~ the cost of
27 inspection, repair, and maintenance of the drain as provided in

1 section ~~196~~ **199** to ~~the county, township, city, or village in~~
 2 ~~which the drain was located or in which assessments for benefits~~
 3 ~~have been assessed and collected~~ **such public corporations.** The
 4 payments shall be on a pro rata basis in direct proportion to the
 5 amounts assessed and collected from each ~~county, city, village,~~
 6 ~~or township~~ **public corporation.** The contract shall also provide
 7 that upon receipt of the surplus funds the ~~county, city,~~
 8 ~~village, or township~~ **public corporation** shall utilize those
 9 surplus funds to alleviate drainage problems in ~~their respective~~
 10 ~~jurisdictions~~ **its jurisdiction.**

11 (3) If state **trunk line** highway funds are involved in a
 12 project, the drain commissioner or drainage board, upon
 13 completion of a ~~construction~~ project, ~~shall~~ **and after payment**
 14 **of all outstanding bonds or notes shall return to the state**
 15 **transportation department,** on a pro rata basis, surplus
 16 construction funds in excess of the amount **considered** necessary
 17 **by the drain commissioner or drainage board** to pay for
 18 inspection, repair, and maintenance of the drain as provided in
 19 section 199. ~~196 to the state transportation department for the~~
 20 ~~construction, maintenance, and administration of state highways.~~

21 ~~—— (4) As used in this section, "public corporation" includes a~~
 22 ~~city, village, township, or county, or the state.~~

23 CHAPTER 12 —

24 REVOLVING FUNDS FOR DRAINS —

25 Sec. 301. At the October session of the **county** board of
 26 ~~supervisors~~ **commissioners of each county,** ~~each~~ **the** board
 27 shall appropriate and collect by general taxation from the

1 taxable property within ~~their respective counties~~ **the county**
 2 for the purpose of creating a revolving drain fund, ~~such sum as~~
 3 ~~said board may deem~~ **the sum that the board considers** necessary.
 4 ~~Said~~ **The** revolving fund ~~when so created~~ shall be used and
 5 disposed of solely as provided in this chapter.

6 Sec. 302. (1) The revolving fund may be used for paying **any**
 7 **of the following:**

8 (a) **The** engineer or surveyor for ~~his~~ services in laying out
 9 a drainage district. ~~, also any~~

10 (b) **Any** necessary assistance ~~therefor and to pay any and all~~
 11 ~~other~~ **for the engineer or surveyor.**

12 (c) **Other legal, engineering, natural resource impact**
 13 **assessment, or consulting** services to the date of letting the
 14 drain contract. ~~for paying members~~

15 (d) **Members** of boards of determination for services performed
 16 under this act. ~~, for necessary~~

17 (e) **Necessary** repairs on old drains. ~~, and also for paying~~
 18 ~~drain~~

19 (f) **Drain** orders that are due not in excess of ~~\$2,000.00~~
 20 **\$5,000.00** if authorized by the **county** board of ~~supervisors~~
 21 **commissioners.**

22 (2) Orders drawn by the **drain** commissioner on the revolving
 23 fund may be made payable upon the performance of services ~~herein~~
 24 ~~defined~~ **listed in subsection (1).** From ~~said~~ **the** revolving
 25 fund may be paid the services ~~herein mentioned~~ **listed in**
 26 **subsection (1)** on any drain or drainage district affecting more
 27 than 1 county. ~~Such~~ **The** total expense ~~is~~ **shall be** prorated

1 among the ~~several~~ counties affected according to the amount
 2 apportioned to be paid by and in ~~said counties respectively for~~
 3 ~~said~~ **each county for the** drain. ~~Any and all orders~~ **Orders** for
 4 services rendered or expenses incurred after the date of letting
 5 the drain contract shall be paid in the manner prescribed in
 6 chapter 10. ~~, being sections 241 to 248.~~

7 Sec. 303. The county treasurers shall carry as a separate
 8 account upon the books of their office a revolving fund and all
 9 accounts and items pertaining thereto. A record shall be kept of
 10 the amount of money paid from the revolving fund for the use and
 11 benefit of any particular drainage district and upon payment to
 12 the county treasurer of the ~~taxes assessed~~ **assessments levied**
 13 in the particular drainage district, the county treasurer, out of
 14 the moneys received, shall transfer to the revolving fund pro
 15 rata according to the number of installments of taxes the sum
 16 expended.

17 Sec. 304. The ~~said~~ revolving fund shall be deposited in
 18 ~~the bank of the county offering the highest rate of interest on~~
 19 ~~daily balances, final determination to be made by the board of~~
 20 ~~supervisors of the particular county, the~~ **an authorized**
 21 **depository for county funds.** The interest ~~so received to~~
 22 **earned on the fund shall** be paid into and become a part of ~~said~~
 23 **the** fund.

24 Sec. 306. ~~Whenever~~ **If** revolving fund ~~moneys have~~ **money**
 25 **has** been expended or a drainage district has become obligated to
 26 pay expenses for engineering, legal, ~~and~~ **or** administrative
 27 services, by action of the drain commissioner or drainage board

1 and ~~no~~ **an** improvement has **not** been completed ~~subsequent to~~
2 **after** the **drain** commissioner's order designating a drainage
3 district or entry of the first order of determination ~~as~~
4 ~~prescribed in~~ **under** section 72 ~~where~~ **for** an intracounty drain,
5 ~~is involved,~~ the drain commissioner of ~~such~~ **the** county which
6 has expended such revolving fund ~~moneys~~ **money** may report ~~such~~
7 **that** fact to the board of ~~supervisors~~ **commissioners**. If ~~no~~
8 **an** improvement ~~has been~~ **is not** completed within ~~a period of 5~~
9 ~~years subsequent to the commissioner's order designating a~~
10 ~~drainage district or~~ **2 years after** entry of the first order of
11 determination ~~as prescribed in~~ **under** section ~~72~~ **55**, the drain
12 commissioner of such county shall report ~~such~~ **that** fact to the
13 **county** board of ~~supervisors~~ **commissioners**. If the sum involved
14 is too small to justify spreading the ~~same~~ **sum** over the
15 designated **drainage** district, ~~above referred to, such~~ **the**
16 **county** board of ~~supervisors~~ **commissioners** may order the sum to
17 be spread against the property of the original petitioners
18 according to ~~such percentage as the commissioners shall deem~~
19 **the percentage that the drain commissioner considers** just and
20 equitable, based on the same benefit theory as if the improvement
21 had been completed. If the sum involved is large enough to, in
22 the opinion of the **county** board of ~~supervisors~~ **commissioners**,
23 create undue hardship on the original petitioners, the **county**
24 board of ~~supervisors~~ **commissioners** may order the ~~same~~ **sum**
25 spread over ~~such~~ **the** designated district and the **drain**
26 commissioner shall apportion the ~~cost thereof~~ **sum** to the
27 parties benefited in the district as provided in chapter 7 for

1 the purpose of permitting a review of the roll as to fairness of
2 the apportionment only.

3 Sec. 307. ~~Whenever~~ **If** revolving fund ~~moneys have~~ **money**
4 **has** been expended and ~~no improvement has been completed~~
5 ~~subsequent to the order designating a drainage district as~~
6 ~~prescribed in~~ **an improvement is not completed within 2 years**
7 **after entry of the first order of determination under** section 105
8 ~~of this act~~ where an intercounty drain is involved, ~~within a~~
9 ~~period of 5 years,~~ the drainage board created in section 102 ~~of~~
10 ~~this act~~ shall apportion the cost as between counties. Any
11 drain commissioner feeling aggrieved by ~~such~~ **the** apportionment
12 may request review by the board of review provided in section
13 ~~106 of this act, and such board shall proceed to review the~~
14 ~~same~~ **104, and the board of review shall review the apportionment**
15 as provided in this act. The decisions of the board of review
16 ~~shall be~~ **are** final. Thereafter, the amount apportioned to each
17 county shall be recovered by ~~each~~ **that** county as ~~above~~
18 ~~outlined~~ **provided** for the recovery of revolving fund ~~moneys~~
19 **money** expended for an intracounty drain in section 306. ~~of this~~
20 ~~act.~~

CHAPTER 13 22 ~~HIGHWAYS.~~ ROADWAYS, RAILROADS, UTILITIES, AND OTHER STRUCTURES

23 Sec. 322. (1) ~~When any~~ **If a** drain crosses a ~~highway~~
24 **roadway**, the necessary bridge or culvert shall be constructed on
25 the center line of the ~~highway~~ **roadway** as located by survey,
26 and in accordance with plans and specifications which shall be
27 approved by the ~~county road commission having jurisdiction, or~~

1 ~~by the state highway commissioner if such highway is a state~~
 2 ~~trunk line~~ **roadway authority under a permit under section 7.**

3 The cost of constructing the necessary bridge or culvert shall be
 4 charged in the first instance as part of the cost of construction
 5 of ~~such~~ **the** drain. The ~~board of county road commissioners or~~
 6 ~~the state highway commissioner~~ **roadway authority** shall assume
 7 and bear ~~such~~ **a** portion of the cost of construction, based upon
 8 benefits, as may be agreed upon with the drain commissioner. ~~In~~
 9 ~~such case, the~~ **The** contract for the construction of the bridge
 10 shall not be let by the drain commissioner without the written
 11 consent of the ~~state highway commissioner or the board of county~~
 12 ~~road commissioners.~~ **Thereafter such roadway authority.**

13 **(2) After construction, the** bridge or culvert ~~constructed~~
 14 ~~under the provisions of this act~~ shall be maintained by the
 15 ~~county road commission or state highway commissioner.~~ Any such
 16 **roadway authority.**

17 **(3) An** expense charged to the state ~~highway commissioner~~
 18 **transportation department under this section** shall be ~~met~~ **paid**
 19 out of any funds appropriated for the state ~~highway~~
 20 **transportation** department that may be available therefor. ~~;~~ and
 21 ~~any such expense to be borne by~~ **An expense charged to** the board
 22 of county road commissioners **under this section** shall be paid out
 23 of ~~moneys~~ **money** in the county road fund not otherwise
 24 appropriated.

25 **(4) As part of** ~~such~~ **the** drain, there shall be constructed
 26 at least 1 bridge or culvert across such drain connecting the
 27 ~~highway (except~~ **roadway with each farm entrance, unless the**

1 **roadway is a** limited access ~~highways~~ **highway** established under
 2 ~~Act No. 205 of the Public Acts of 1941, as amended, being~~
 3 ~~sections 252.51 to 252.64 of the Compiled Laws of 1948), with~~
 4 ~~each farm entrance, and when~~ **1941 PA 205, MCL 252.51 to 252.64.**
 5 **If** a drain crosses a ~~farm or any portion thereof there shall be~~
 6 ~~constructed 1 bridge, culvert or ford across the drain connecting~~
 7 ~~the portions of the farm disconnected by the drain, which~~ **parcel**
 8 **or tract of land and will diminish access to portions of the**
 9 **parcel or tract disconnected by the drain, 1 bridge, culvert, or**
 10 **ford shall be constructed across the drain to connect those**
 11 **portions of the parcel or tract so that the degree of access is**
 12 **not diminished. The cost of construction and maintenance of the**
 13 **bridge, culvert, or ford shall also be charged** ~~in the first~~
 14 ~~instance~~ **as a part of the construction and maintenance,**
 15 **respectively, of** ~~such~~ **the** drain. ~~, after which such bridge,~~
 16 ~~culvert or ford shall be maintained by the owner of the land.~~

17 (5) If the drain commissioner ~~shall make future~~ **or drainage**
 18 **board maintains or makes** improvements ~~such as widening,~~
 19 ~~deepening, straightening or relocating such drain, but not clean~~
 20 ~~out alone, there shall be constructed the~~ **to a drain,** necessary
 21 bridges, culverts, and fords **may be constructed or maintained as**
 22 ~~parts~~ **part** of ~~such improvements~~ **the drain maintenance or**
 23 **improvement.**

24 (6) The commissioner's or drainage board's engineer shall
 25 recommend methods to reduce soil erosion and sedimentation. The
 26 engineer, when necessary, shall also recommend the size and type
 27 of construction for necessary bridges, culverts, and fords.

1 Sec. 322b. If any person desires during construction or
2 reconstruction of a ~~highway~~ **roadway** to install a drain for
3 agricultural benefits in lands adjacent to any ~~highway~~ **roadway**,
4 and if a satisfactory outlet cannot be secured on the upper side
5 of the ~~highway~~ **roadway** right-of-way and the drain must be
6 projected across the right-of-way to reach an outlet which may be
7 legally utilized as an outlet and is suitable for such purpose,
8 the expense of both material and labor used in installing the
9 drain across the right-of-way shall be paid from funds available
10 for the ~~highway~~ **roadway** affected if the ~~highway~~ **roadway**
11 authority is notified of the necessity of the drain sufficiently
12 in advance of the construction or reconstruction of the ~~highway~~
13 **roadway** so that the drain may be installed and the ~~highway~~
14 **roadway** constructed or reconstructed in the same operation.

15 Sec. 323. Before a **new** drain is constructed along a ~~public~~
16 ~~highway~~ **roadway**, the drain commissioner or drainage board shall
17 consult with and obtain the written consent of the ~~highway~~
18 ~~authorities having jurisdiction over the highway,~~ **roadway**
19 **authority** as to the proposed location of the drain and the
20 disposition of all material excavated. ~~Whenever~~ **The review and**
21 **written consent for the construction shall be made by the roadway**
22 **authority within 42 days of its receipt of plans for the**
23 **construction. If written consent is not provided by the roadway**
24 **authority within the 42-day period, the construction plans shall**
25 **be considered to have been approved. If modifications are**
26 **required by the roadway authority, final plans will be provided**
27 **to the roadway authority prior to any construction activity. If**

1 an apportionment is made against a state trunk line highway, the
2 amount of the assessment based on the apportionment shall be paid
3 out of any state transportation funds on hand. ~~On or before~~
4 ~~December 1 of the year when the assessment is made, the drain~~
5 ~~commissioner or drainage board shall certify to the state~~
6 ~~treasurer the amount due from the state to the drainage district~~
7 ~~by reason of the assessment of benefits, and the state treasurer~~
8 ~~shall, if satisfied of the correctness of such certificate, cause~~
9 ~~the certificate to be paid within 30 days thereafter.~~

10 ~~—— If a ditch or drain was constructed prior to 1923 primarily~~
11 ~~for drainage of private lands, and was constructed along a public~~
12 ~~highway, and if the records including the original survey of the~~
13 ~~drain are not of public record nor turned over to the county~~
14 ~~drain commissioner, or have not been entered in the records of~~
15 ~~the county drain commissioner as a county drain, then the actual~~
16 ~~location of the drain shall be sufficient to make the drain~~
17 ~~comply with the provisions of this act with respect to the~~
18 ~~location thereof, and the drain shall be a county drain upon~~
19 ~~compliance with the other provisions of this act with respect to~~
20 ~~county drains. No proceedings shall be instituted for the~~
21 ~~widening of the drain or the deepening thereof below its original~~
22 ~~bottom.~~

23 Sec. 324. (1) ~~Whenever~~ **If** it is necessary or more
24 convenient for the proper drainage of ~~any highway~~ **a county road**
25 in this state that the surplus water be taken onto or across the
26 land adjacent thereto, the county road commission of the county
27 in which ~~said highway~~ **the county road** is situated may secure

1 the right-of-way and may open such drain or outlet for the water,
 2 and for these purposes may use ~~any highway moneys~~ **the county**
 3 **road money** of the township in which ~~said highway~~ **the county**
 4 **road** is situated, not otherwise appropriated, and ~~such~~ **any** sums
 5 ~~as may be~~ voted for that use by the electors of the townships.

6 (2) The county road commission, **the county executive, or**
 7 **other agency acting as the county road commission** shall secure
 8 the right-of-way for ~~any such~~ **the** drain by gift or purchase
 9 from the owners of the land to be crossed by ~~such~~ **the** drain. ~~;~~
 10 ~~but in case of purchase the~~ **A** purchase price must be approved by
 11 the township board whenever township funds are involved, before
 12 any ~~money be paid thereon~~ **payment is made.** ~~Such~~ **The**
 13 right-of-way shall be acquired by deed duly executed by the owner
 14 or owners of the lands ~~sought~~ to be crossed by the ~~said~~
 15 drain, and shall be taken in the name of the township ~~wherein~~
 16 ~~the same~~ **where right-of-way** is located. ~~—, and~~ **The deed shall**
 17 **be** filed in the office of the register of deeds of the county
 18 before any ~~highway~~ **county road** money shall be expended in
 19 opening ~~such~~ **the** drain outside the ~~highway~~ **county road**
 20 limits.

21 ~~Before the township board approves the purchase price of any~~
 22 ~~drain right-of-way under this section, the county road commission~~
 23 ~~shall submit to the board for its approval details of the~~
 24 ~~proposed drain, with specifications that the drain shall be~~
 25 ~~constructed in accordance with good health and sanitation~~
 26 ~~standards and in such a manner as not to constitute a hazard to~~
 27 ~~health or safety and that in construction of the drain the~~

1 ~~township board shall approve the use of the land upon which the~~
2 ~~drain is to be located.~~

3 Sec. 326. On the completion by the county road commission
4 of ~~any~~ **a** drain, ~~constructed under the provisions of this act,~~
5 ~~it shall be the duty of said~~ **the** county road commission ~~to~~
6 **shall** file in the office of the drain commissioner a detailed
7 report of the construction of ~~such~~ **the** drain, giving the date
8 of construction, the termini and general course ~~thereof,~~
9 ~~together with~~ **of the drain, and** a copy of the deed by which the
10 right-of-way therefor was secured. ~~Nothing in the provisions of~~
11 ~~the preceding sections shall be construed as giving to~~ **This**
12 **chapter does not give** the county road commission power to ~~lay~~
13 ~~out and~~ construct drains having any other purpose than the
14 drainage of ~~highways~~ **county roads.**

15 Sec. 327. (1) ~~In case it becomes~~ **If it is** necessary for
16 the construction or maintenance of ~~any highway~~ **a roadway** to
17 take the surplus water across adjacent lands, the ~~state, county~~
18 ~~or township highway commissioner or county road commissioners may~~
19 ~~make under his or their name of office an application or petition~~
20 ~~to the drain commissioner of the county in which such highway is~~
21 ~~situated to lay out and designate a drainage district, locate and~~
22 ~~establish a drain, clean out, widen, deepen, straighten or extend~~
23 ~~an established drain. Such application or petition shall conform~~
24 ~~to the law regulating applications or petitions for the laying~~
25 ~~out and designating a drainage district, locating and~~
26 ~~establishing of drains, and cleaning out, widening, deepening,~~
27 ~~straightening and extending established drains, and shall require~~

~~1 no other signature than his own as highway commissioner or county~~
~~2 road commissioners. Such application or petition shall have the~~
~~3 same force and effect, and be subject in other respects to the~~
~~4 same laws and regulations that govern other such applications or~~
~~5 petitions and shall confer the same jurisdiction and authority on~~
~~6 the county drain commissioner to lay out and designate a drainage~~
~~7 district, locate and establish a drain, or clean out, widen,~~
~~8 deepen, straighten or extend an established drain: Provided,~~
~~9 That in cases where the state highway commissioner makes such~~
~~10 application or petition he shall serve a copy of such application~~
~~11 or petition on the director of agriculture, who shall within 30~~
~~12 days hold a meeting at some place in the drainage district for~~
~~13 the purpose of determining the practicability or necessity of~~
~~14 such drain, and no board of determination shall be necessary to~~
~~15 pass on those questions. Said meeting shall be held, notice~~
~~16 given and all persons interested may be heard in the same manner~~
~~17 as provided in section 102 or section 122 of this act. The~~
~~18 determination of the director of agriculture shall be filed with~~
~~19 the drain commissioner.~~ roadway authority may file a petition
20 with the drain commissioner of the county in which the roadway is
21 situated to establish a drainage district and a county or
22 intercounty drain or to maintain or improve a drain. Except as
23 provided in subsections (2) and (3), the petition and proceedings
24 are subject to chapter 3, 5, or 8, as applicable, and other
25 provisions of this act.

26 (2) The roadway authority is the only petitioner required on
27 a petition under this section.

1 (3) If the petitioning roadway authority is the director of
2 transportation, all of the following apply:

3 (a) In addition to filing the petition with the drain
4 commissioner of the county in which the roadway is located, the
5 director of transportation shall promptly serve a copy of the
6 petition on the director of agriculture.

7 (b) The director of agriculture shall exercise the powers and
8 duties of the board of determination, for a county drain, or the
9 drainage board, for an intercounty drain, up to and including the
10 filing of the order of necessity. The director of agriculture
11 shall conduct the first hearing under chapter 3, 5, or 8, as
12 applicable, not later than 63 days after the director of
13 transportation serves the copy of the petition on the director of
14 agriculture.

15 Sec. 328. ~~Before the department of state highways may~~
16 ~~commence the construction of a state highway, the engineering~~
17 ~~plans of the state highway relative to county drains shall be~~
18 ~~forwarded to the drain commissioner of each county where the~~
19 ~~state highway is to be constructed. Before a person lays or~~
20 ~~constructs a cable, pipeline, sewer, conduit, roadway, culvert,~~
21 ~~bridge, or other structure across a county or intercounty drain,~~
22 the person shall forward relevant engineering plans to the drain
23 commissioner or drainage board, respectively, for review and
24 written approval upon terms and conditions that are reasonable
25 and proper to prevent interference. The review and written
26 approval for the construction shall be made by the drain
27 commissioner within 42 days of his or her receipt of plans for

1 the construction. In the event that approval is not provided by
2 the drain commissioner within the 42-day period, the construction
3 plans shall be approved. If modifications are required by the
4 drain commissioner, final plans will be provided to the drain
5 commissioner prior to any construction activity.

6 Sec. 329. If the roadway authority requests or orders that
7 an existing legally established drain within the right-of-way of
8 the roadway be relocated outside the roadway right-of-way, the
9 cost of relocating the drain shall be borne by the roadway
10 authority.

11 Sec. 330. (1) If it is necessary to establish, construct,
12 maintain, or improve a drain across the right-of-way or roadbed
13 of any railroad or railway company, telephone or telegraph
14 company, or dam, electric, cable, water, oil, gas, pipeline, or
15 other utility company, the drain commissioner or drainage board
16 shall give notice of the necessity to cross the right-of-way or
17 roadbed. Notice shall be provided by first-class mail to the
18 general office of the company or the office of the registered
19 agent of the company. The notice shall include the location of
20 the proposed crossing, the name of the drain, the plans and
21 specifications for the crossing and for the method of
22 constructing the crossing, and a schedule for constructing the
23 crossing. The crossing and plans for the crossing shall include
24 any infrastructure or other provision necessary to maintain the
25 company's access to its facilities and equipment. The notice
26 shall also include a statement that the company has 42 days
27 within which to object to the proposed plan and failure to do so

1 may result in a waiver of any objections.

2 (2) Within 42 days after receipt of the notice, the company
3 shall deliver to the drain commissioner or drainage board by
4 first-class mail notice whether it approves or objects to the
5 location of the crossing and the plans and specifications for the
6 crossing and for the method of constructing the crossing. The
7 notice shall state the reasons for any objection. If the company
8 approves of or fails to object to the crossing, the drain
9 commissioner or drainage board may proceed with the crossing. If
10 the company objects to the crossing, the drain commissioner or
11 drainage board may do 1 of the following:

12 (a) The drain commissioner or drainage board may give a
13 revised notice of crossing under subsection (1). The revised
14 notice of crossing shall be designed to resolve 1 or more of the
15 reasons for objection of the original notice of crossing. The
16 revised notice of crossing is subject to the same requirements
17 and procedures as the original notice of crossing under this
18 section.

19 (b) The drain commissioner or drainage board may petition the
20 circuit court of the county in which the crossing is proposed to
21 be located to order the company to allow the drain commissioner
22 or drainage board to construct the crossing. The circuit court
23 shall, if it finds that there is a legal right to the crossing
24 and also finds that the objections of the company to the plans
25 were not well founded or material to the safe operations of the
26 company, issue a writ of mandamus ordering the company to allow
27 the drain commissioner or drainage board to construct the

1 crossing. The drain commissioner or drainage board shall give
2 the company at least 14 days' notice of the petition to the
3 circuit court and the proceedings shall follow the practice of
4 circuit courts in mandamus proceedings. The matter shall be
5 heard and determined as speedily as practicable. The court may
6 award costs and attorney fees to the prevailing party.

7 (c) In lieu of proceeding to circuit court as provided in
8 subdivision (b), the drain commissioner or drainage board and the
9 company may agree to an alternative form of dispute resolution,
10 including, but not limited to, mediation or arbitration by a
11 member of the American arbitration association or its successor
12 under the commercial arbitration rules of the American
13 arbitration association or its successor. An arbitrator may
14 award attorney fees or arbitration fees to the prevailing party.
15 At the request of either party, the decision of an arbitrator may
16 be entered in and enforced by the circuit court of the county in
17 which the crossing is proposed.

18 (3) If it is necessary to construct, maintain, or improve a
19 drain across the right-of-way of any railroad or railway company,
20 telephone or telegraph company, or dam, electric cable, water,
21 oil, gas, pipeline, or other utility company, the drain
22 commissioner or drainage board may acquire property or interests
23 in property for that purpose under section 7.

24 CHAPTER 17 —

25 ABANDONED AND VACATED DRAINS--DISPOSAL OF FUNDS —

26 Sec. 391. (1) Any drain or part thereof ~~which has ceased~~
27 ~~to be of public utility and~~ **that** is no longer necessary or

1 conducive to the public health, ~~convenience and~~ **safety, or**
2 welfare **or for agriculture** may be declared to be abandoned and
3 vacated in the manner ~~herein~~ provided **in this section.**

4 **(2)** Any 5 ~~freeholders of lands~~ **owners of land** in a drainage
5 district or the governing body of any public corporation in whose
6 limits a drain or part thereof is located may petition for the
7 abandonment and vacation of ~~a~~ **the** drain or part thereof. The
8 petition shall be addressed to and filed with the **drain**
9 commissioner or drainage board having jurisdiction of ~~such~~ **the**
10 drain. The commissioner or drainage board shall hold a meeting
11 to hear objections to the petition and to the abandonment and
12 vacation of ~~a~~ **the** drain or part thereof ~~therein~~ requested **in**
13 **the petition**, and shall give notice of ~~such~~ **the** meeting ~~by~~
14 ~~posting in 5 public places in the drainage district and by~~
15 ~~publication in a newspaper of general circulation in the drainage~~
16 ~~district which posting and publication shall occur at least 10~~
17 ~~days before the date of such meeting~~ **under section 8.**

18 **(3)** Private rights of persons acquired by reason of the
19 establishment and construction of ~~such~~ **the** drain or part
20 thereof shall not be interfered with ~~—~~ or ~~in any way~~ be
21 impaired by ~~such~~ **the** abandonment and vacation. If ~~it is~~
22 ~~determined at such~~ **the commissioner or drainage board determines**
23 **at the** meeting that the drain or part thereof should be abandoned
24 and vacated, the commissioner or drainage board shall issue an
25 order to that effect. ~~and file the same with the commissioner of~~
26 ~~the county or counties involved. Easements~~ **An order of**
27 **abandonment shall not be made under this section or money**

1 disbursed under section 392 unless all debts of the drain are
2 satisfied. The drain commissioner or drainage board may levy a
3 special assessment to satisfy any such debt, including
4 reimbursement to the drain revolving fund, before an order is
5 entered or disbursements are made. Subject to subsection (4),
6 easements or rights-of-way for the drain or part thereof
7 abandoned and vacated or easements or portions thereof no longer
8 necessary for drainage purposes shall be conveyed or released by
9 the commissioner or drainage board on behalf of the drainage
10 district. ~~If it be contemplated to construct a new drain or~~
11 ~~part thereof on or near the line of an existing drain or part~~
12 ~~thereof this may be accomplished without abandonment and vacation~~
13 ~~of the~~

14 (4) The existing drain or part thereof ~~and the~~ need not be
15 abandoned or vacated if it is anticipated that a drain or part
16 thereof will be constructed or relocated on or near the line of
17 the existing drain. The easements or rights-of-way of the
18 existing drain or part thereof may be used for this purpose. ~~÷~~
19 ~~Provided, however, That~~ However, if the contemplated project
20 materially damages the property owner beyond the existing
21 easement, or if it materially burdens the existing easement, then
22 the commissioner or drainage board shall secure an additional
23 easement for the contemplated project. ~~It shall not be~~
24 ~~necessary to abandon and vacate an~~ An existing drain or part
25 thereof made unnecessary by a new drain or part thereof need not
26 be abandoned or vacated until the new drain is constructed and
27 ready for service.

1 Sec. 392. (1) ~~Whenever any~~ **If a** drain ~~shall have been~~
2 **is** declared vacated and abandoned **in its entirety**, as provided in
3 section 391, ~~it shall be the duty of~~ the **drain** commissioner
4 ~~to~~ **shall** serve notice thereof forthwith upon the county
5 treasurer of the county or counties in which the drainage
6 district, or any portion thereof, is situated. If there be any
7 money credited to or belonging to the fund of such vacated and
8 abandoned drain, ~~it shall be the duty of~~ **the drain commissioner**
9 **or drainage board** may in its discretion prepare a revised roll to
10 allocate a proportionate refund amount of any such fund to all
11 the lands that were assessed for the costs of the vacated and
12 abandoned drain. If the drain commissioner or drainage board
13 prepares such a revised roll, the county treasurer or treasurers
14 ~~to transfer and pay over the same~~ **shall pay the refund amount**
15 to the treasurer or treasurers of the township or townships in
16 which the drain was located or in which assessments for benefits
17 to be received from such drain have been assessed and collected.
18 ~~Provided, That in all cases where~~

19 (2) **If** the amount of ~~such~~ **the** money ~~belonging to~~ **in** the
20 drain fund of ~~such~~ **the** drain ~~, in the hands of the county~~
21 ~~treasurer, shall be~~ **is** insufficient to permit the refunding and
22 paying over to such township treasurers all of the ~~moneys~~ **money**
23 assessed and collected in such townships, the county treasurer
24 shall prorate the amounts so paid, ~~and each~~ **less all costs**
25 **associated with the abandonment of the drain. Each** township
26 treasurer ~~shall be~~ **is** entitled to receive such proportion of
27 the ~~moneys~~ **money** remaining in the fund of the vacated or

1 abandoned drain as the total amount of the assessments levied and
 2 collected in his **or her** township ~~and becoming a part of such~~
 3 **for the** drain fund ~~shall~~ bear to all of the ~~moneys~~ **money**
 4 assessed and collected and making up ~~such~~ **the** fund. ~~In case~~
 5 **If** it is necessary to prorate in ~~the~~ **this** manner, ~~provided,~~
 6 the county treasurer shall furnish to each township treasurer a
 7 statement showing the amount of money in the fund ~~at the time~~
 8 ~~such~~ **when the** drain was declared vacated and abandoned, and the
 9 various amounts assessed and collected for ~~such~~ **the drain** fund
 10 from the different townships entitled to share in the
 11 disbursement thereof.

12 Sec. 393. Upon receiving such money, and the accompanying
 13 statement, if required to be furnished hereby, the township
 14 treasurer shall give his **or her** receipt therefor to the county
 15 treasurer. ~~He~~ **The township treasurer** shall also serve notice
 16 upon each person, firm or corporation who, as shown by the
 17 records of his **or her** office, shall have paid a special ~~tax~~
 18 **assessment** for benefits received or to be received from the
 19 construction of such drain, that ~~such~~ **the** drain has been
 20 declared vacated and abandoned and that the payment ~~as~~
 21 ~~aforesaid~~ has been made to ~~him~~ **the township treasurer** by the
 22 county treasurer. Similar notice shall also be served upon the
 23 township board and shall be published for 2 successive weeks in
 24 ~~some~~ **a** newspaper published and circulating in ~~said~~ **the**
 25 county. ~~Thereupon, every~~ **Upon demand, the township treasurer**
 26 **shall reimburse** such person, firm, or corporation ~~shall be~~
 27 ~~entitled to demand and receive from said township treasurer for~~

1 the amount of the special assessment that ~~such~~ **the** person,
 2 firm, or corporation ~~may have so~~ paid. The amount of the
 3 special ~~tax~~ **assessment** for the construction of ~~such~~ **the** drain
 4 that may have been assessed and collected from the township at
 5 large shall be credited to and paid into the contingency fund in
 6 the township treasury. ~~∴ Provided, however, That~~ **However**, if
 7 the amount of money paid over to the township treasurer by the
 8 county treasurer ~~in the manner aforesaid~~ is less than the
 9 aggregate amount of special assessments levied and collected in
 10 such township for the construction of such drain and the ~~tax~~
 11 **assessment** levied and collected upon and from the township at
 12 large, then the township treasurer shall prorate ~~the payments~~
 13 to each such person, firm, or corporation and the amount to be
 14 paid into the general fund in the township treasury ~~∴ and each~~
 15 ~~such person, firm or corporation and the contingency fund in the~~
 16 ~~township treasury shall be entitled to receive~~ such proportion
 17 of the amount of the ~~special~~ assessment ~~or tax~~ paid thereby
 18 as the amount of money paid to the township treasurer by the
 19 county treasurer ~~shall bear~~ **bears** to the total amount of
 20 special assessments and taxes levied and collected in said
 21 township and paid into the fund for the construction of said
 22 drain.

23 Sec. 395. (1) ~~The county drain commissioner may relinquish~~
 24 ~~jurisdiction and control to a township, city or village of any~~
 25 ~~county drainage district upon which there is no outstanding~~
 26 ~~indebtedness or contract liability and which is wholly located~~
 27 ~~within the boundaries of a township, city or village, and~~

1 ~~thereafter the county drain commissioner shall be relieved of,~~
2 ~~and the township, city or village shall assume, the maintenance,~~
3 ~~jurisdiction, control and operation thereof and its future~~
4 ~~operation shall be financed in the same manner as is provided for~~
5 ~~special assessment districts within such township, city or~~
6 ~~village: Provided, That such proceeding shall have first been~~
7 ~~approved by a majority of the members elect of the county board~~
8 ~~of supervisors and by the resolution of the governing body of the~~
9 ~~township, city or village in which such drain is located. Any~~
10 ~~money which shall be in the drain fund of any such~~ The county
11 drain commissioner, for a county drain, or the drainage board,
12 for an intercounty drain, may relinquish jurisdiction over all or
13 part of a drain to a county, township, city, or village if all of
14 the following requirements are met:

15 (a) The county, township, city, or village requests or
16 consents to the relinquishment by resolution of its governing
17 body. If the relinquishment is to a county, the resolution of
18 the county board of commissioners shall specify the county
19 agency, such as the board of public works, drain commissioner,
20 board of county road commissioners, the county executive, or
21 other agency acting as the county road commission or parks and
22 recreation commission, that will exercise jurisdiction over the
23 drain or part of the drain.

24 (b) If the relinquishment is to a township, city, or village,
25 the relinquishment is approved by resolution of a majority of the
26 members of the county board of commissioners.

27 (c) The drain or part of the drain is located wholly within

1 the boundaries of the county, township, city, or village to which
2 it is to be relinquished.

3 (d) The drainage district has no outstanding indebtedness or
4 contract liability. Indebtedness or contract liability that will
5 be paid in full at the time of the relinquishment is not
6 considered to be outstanding for the purposes of this
7 subdivision.

8 (2) Upon relinquishment of jurisdiction over the drain or
9 part of the drain, the drain commissioner or drainage board is
10 relieved of, and the county, township, city, or village shall
11 assume, jurisdiction over the drain or part of the drain,
12 including responsibility for the maintenance, control, and
13 operation of the drain or part of the drain. Easements and
14 rights of way for the drain or part of the drain are transferred
15 to the county, township, city, or village to which the drain or
16 part of the drain is relinquished. If jurisdiction over the
17 entire drain is relinquished, the drainage district is
18 dissolved.

19 (3) If jurisdiction is being relinquished over all or part of
20 a drain established under chapter 3 or 5, any money in the drain
21 fund of the drainage district at the time jurisdiction ~~over it~~
22 is ~~transferred~~ **relinquished** as provided in this section shall
23 be distributed in the ~~same~~ manner ~~as is~~ provided in sections
24 ~~391- 392 to 394 , inclusive, of this act~~ in the case of
25 abandoned or vacated drains.

26 (4) If jurisdiction is being relinquished over all or part of
27 a drain established under chapter 20 or 21, any money in the

1 drain fund shall be used to pay any indebtedness or contract
 2 liability of the drainage district. If jurisdiction over the
 3 entire drain is relinquished, the balance shall be turned over to
 4 the county, township, city, or village assuming jurisdiction. If
 5 jurisdiction over part of the drain is being relinquished, there
 6 shall be turned over to the county, township, city, or village
 7 assuming jurisdiction that portion of the balance equal to the
 8 ratio of the costs of operation and maintenance of that part of
 9 the drain to the costs of operation and maintenance of the entire
 10 drain. The balance turned over to a county, township, city, or
 11 village shall be used solely with respect to the drain or part of
 12 the drain over which jurisdiction is assumed.

13 CHAPTER 18 —

14 OBSTRUCTIONS IN DRAINS, —; SEWAGE, —; AND MISCELLANEOUS
 15 PROVISIONS —

16 Sec. 421. (1) ~~Whenever any person shall obstruct any~~
 17 ~~established drain, it shall be the duty of the commissioner to~~
 18 ~~cause such obstruction to be removed. Any lessening of the area~~
 19 ~~of a drain, which area shall be a cross section of the drain,~~
 20 ~~shall be deemed to be an obstruction. The person causing such~~
 21 ~~obstruction shall be liable for the expense attendant upon the~~
 22 ~~removal thereof, together with the charges of the commissioner,~~
 23 ~~and the same shall be a lien upon the lands of the party causing~~
 24 ~~or permitting such obstruction, and all of the expense shall by~~
 25 ~~the commissioner be reported to the board of supervisors,~~
 26 ~~together with the report of his doings in the premises, and by~~
 27 ~~said board ordered spread upon the land of the offending party,~~

1 ~~should the same remain unpaid: Provided, That the offending~~
2 ~~party causing such obstruction shall be given a notice in writing~~
3 ~~of at least 5 days to remove such obstruction. If a person~~
4 obstructs or permits the obstruction of a drain, the drain
5 commissioner or drainage board shall proceed under subsection
6 (2), (3), or (4). An obstruction is any lessening of the
7 cross-section of a drain including, but not limited to, that
8 resulting from any railroad, bridge, cable, pipeline, sewer,
9 conduit, roadway, culvert, or other structure. Obstruction does
10 not include construction of a structure as approved under section
11 328.

12 (2) By first-class mail or personal service, the drain
13 commissioner or drainage board shall give the person causing or
14 permitting the obstruction a written notice to remove or modify
15 the obstruction. Beginning 14 days after the notice is delivered
16 to the person, if the person has not so removed or modified the
17 obstruction or made arrangements satisfactory to the drain
18 commissioner or drainage board for removal or modification of the
19 obstruction, the drain commissioner or drainage board may cause
20 the obstruction to be removed or modified.

21 (3) The drain commissioner or drainage board may bring an
22 action in the circuit court of the county in which the
23 obstruction is located to compel the person to remove or modify
24 the obstruction.

25 (4) If, in the opinion of the drain commissioner or drainage
26 board, the obstruction creates an emergency condition that
27 endangers the public health, safety, convenience, or welfare or

1 crops or other property, the drain commissioner or drainage
2 board, after giving reasonable notice to the person causing or
3 permitting the obstruction, may remove or modify the
4 obstruction. The notice shall specify the reasons for further
5 action.

6 (5) The person causing or permitting the obstruction is
7 liable to the drain commissioner or drainage board for the
8 expense of removal or modification of the obstruction under
9 subsection (2) or (4). If the person does not pay the drain
10 commissioner or drainage board the full amount of the expense
11 within 30 days after being billed for the amount, the drain
12 commissioner or drainage board shall report the unpaid portion of
13 the expense to the county board of commissioners, together with a
14 report of the work performed. The county board of commissioners
15 may certify the unpaid amount of the expense to the proper tax
16 collecting officer to be entered in a separate column on the next
17 tax roll against those parcels of land of the person causing or
18 permitting the obstruction that are located in whole or part
19 within the drainage district or are traversed by the drain. If
20 the county board of commissioners so certifies the unpaid amount
21 of the expense, all of the following apply:

22 (a) The unpaid amount shall accrue simple interest at the
23 same rate as charged by the department of treasury on delinquent
24 state taxes.

25 (b) There is a lien upon those parcels for the total unpaid
26 amount of the expense.

27 (c) The total unpaid amount of the expense may be collected

1 in the same manner as ad valorem property taxes under the general
2 property tax act, 1893 PA 206, MCL 211.1 to 211.157. However, a
3 parcel is not subject to sale under section 60 of the general
4 property tax act, 1893 PA 206, MCL 211.60, for nonpayment of the
5 expense unless the parcel is also subject to sale for delinquent
6 property taxes.

7 (d) Upon payment of the total amount due, the lien is
8 discharged and, if the drain commissioner or drainage board has
9 recorded the lien, the drain commissioner or drainage board shall
10 file a certificate of discharge of the lien.

11 (6) The removal or modification of the obstruction shall not
12 be considered an element of damages in proceedings to maintain or
13 improve a drain.

14 (7) This ~~provision as to obstruction of any drain shall~~
15 **section does** not apply ~~where~~ if the obstruction was caused by
16 natural causes. ~~—, but~~ **However,** the owner of ~~the stock who~~
17 ~~shall permit his horses, cattle, pigs and other stock~~ **livestock**
18 **permitted** to obstruct any drain ~~by tramping in it shall be~~
19 ~~deemed~~ **is considered** to be the party causing such obstruction.
20 ~~Nothing contained in this section shall in any way impede or bar~~
21 ~~the right of any person to make criminal complaint under any~~
22 ~~existing law for any obstruction of a drain.~~

23 (8) This section does not impede or bar the right of the
24 drain commissioner, drainage board, or any other person to seek
25 relief under any other pertinent provisions of this act including
26 but not limited to civil or criminal remedies.

27 Sec. 422. (1) ~~Railroad or railway companies, telephone,~~

~~1 telegraph, or pipeline companies and other utilities shall not
2 obstruct established drains, nor shall they lessen the area of
3 any drain through their track bed or right of way. The area
4 herein referred to is a cross section of the drain. In case any
5 such company or utility, without legal right, has constructed or
6 shall construct any bridge, culvert, pipeline or conduit over any
7 established drain whereby the area aforesaid is decreased, the
8 removal of such bridge, culvert, pipeline or conduit shall not be
9 deemed an element of damage in proceedings to deepen and widen
10 such drain through such track bed or right of way. In case it is
11 proposed to construct a pipeline, sewer or conduit within, over
12 or across any county, such construction shall be of a nature and
13 laid at such a depth at the point of crossing of any established
14 public drain as will not interfere with said established public
15 drain. The consent of the county drain commissioner or board of
16 public works of any municipality shall be obtained before the
17 work of such construction is commenced and such drain
18 commissioner is hereby authorized to grant such consent upon such
19 terms and conditions as may be reasonable and proper under the
20 circumstances then existing. In case any railroad or railway
21 company, telephone, telegraph or pipeline company or other
22 utilities shall obstruct any established drain, or has
23 constructed or shall construct any bridge, culvert, pipeline or
24 conduit, sewer or other structure over, under or through any
25 established drain, leaving less capacity to the drain than such
26 drain is legally entitled to, in accordance with the rights for
27 such drain as established by proper drain proceedings or as~~

~~1 established by other legal methods prior to the date of~~
~~2 construction of any such obstruction, the county drain~~
~~3 commissioner or the board of public works, as the case may be,~~
~~4 may, by mandamus proceedings in the circuit court of the county~~
~~5 in which such obstruction shall occur, compel the removal of such~~
~~6 obstruction. If necessary, issues of fact may be framed in such~~
~~7 proceedings. In case the court shall find such drain to have~~
~~8 been obstructed, it shall issue a preemptory mandamus compelling~~
~~9 such company to remove such obstruction. The court may award~~
~~10 costs in its discretion as in other mandamus proceedings. The~~
~~11 practice herein shall be the same as in other motions for~~
~~12 mandamus.~~ The drain commissioner or drainage board, including an
13 agent or employee of the drain commissioner or drainage board,
14 may enter upon property not within a drainage district to remove
15 or modify an obstruction in a natural watercourse that serves as
16 an outlet for a county or intercounty drain but that is not
17 itself a drain. The entry shall be made pursuant to a written
18 agreement with the landowner. The agreement shall specify that
19 the drain commissioner or drainage board shall restore the
20 property to substantially the same condition as before the entry
21 or shall specify that the drain commissioner or drainage board
22 shall make restitution for actual damage resulting from the
23 entry. The entry shall be made upon reasonable notice to the
24 landowner and at a reasonable hour. The landowner or his or her
25 representative shall be given a reasonable opportunity to
26 accompany the drain commissioner or drainage board or their
27 agents or employees during the entry upon the property. The

1 costs attendant to the access of the property, removal of the
2 obstruction, and restoration of the property may be assessed
3 against the drainage district.

4 (2) If entry under subsection (1) has been denied, the drain
5 commissioner or drainage board may commence a civil action in the
6 circuit court in the county in which the property or any part of
7 the property is located for an order permitting entry. The
8 complaint shall state the facts making the entry necessary, the
9 date on which entry is sought, and the duration and the method
10 proposed for protecting the defendant against damage. The court
11 may grant a limited license for entry upon such terms as justice
12 and equity require, including the following:

13 (a) A description of the purpose of the entry.

14 (b) The scope of activities that are permitted.

15 (c) The terms and conditions of the entry with respect to the
16 time, place, and manner of the entry.

17 (3) An entry made pursuant to this section shall be made in a
18 manner that minimizes any damage to the property and any
19 hardship, burden, or damage to a person in lawful possession of
20 the property.

21 (4) The removal or modification of an obstruction under this
22 section is subject to the expenditure limits and other procedures
23 required for necessary maintenance or repair of a drain under
24 section 199. In addition, the drain commissioner or drainage
25 board shall obtain any permits for the removal or modification
26 required under state or federal law.

27 Sec. 423. (1) A person shall not continue to discharge or

1 permit to be discharged into any county drain or intercounty
 2 drain of ~~the~~ **this** state any sewage or waste matter capable of
 3 producing in the drain detrimental deposits, objectionable odor
 4 nuisance, injury to drainage conduits or **other** structures, or
 5 capable of producing such pollution of the waters of the state
 6 receiving the flow from the ~~drains~~ **drain** as to injure
 7 livestock, destroy fish life **or aquatic habitat**, or be injurious
 8 to public health. This section does not prohibit the conveyance
 9 of sewage or other waste through drains or sewers that will not
 10 produce these injuries and that comply with section 3112 ~~of part~~
 11 ~~31 (water resources protection)~~ of the natural resources and
 12 environmental protection act, ~~Act No. 451 of the Public Acts of~~
 13 ~~1994, being section 324.3112 of the Michigan Compiled Laws~~ **1994**
 14 **PA 451, MCL 324.3112.**

15 (2) Disposal plants, filtration beds, and other mechanical
 16 devices to properly purify the flow of ~~any~~ **a** drain may be
 17 constructed as a part of ~~any established~~ **the** drain. ~~—, and the~~
 18 **The** cost of construction **of such purification facilities** shall be
 19 paid for in the same manner as provided for in this act for other
 20 drainage costs. ~~Plants, beds, or devices~~ **The purification**
 21 **facilities** may be described in the petition ~~for the location,~~
 22 ~~establishment and construction of drains or in the petition for~~
 23 ~~the cleaning, widening, deepening, straightening, or extending of~~
 24 ~~drains, or in the application for the laying out of a drainage~~
 25 ~~district~~ **to establish a drainage district and establish and**
 26 **construct a drain or to maintain or improve a drain.** Petitions
 27 for the construction of ~~plants, beds, and devices~~ **the**

1 **purification facilities** for use on any established drain may be
2 filed by the same persons and shall be received and all
3 proceedings on the petitions **shall be held** in the same manner as
4 ~~other petitions~~ for any drainage construction under this act.

5 (3) If the department of environmental quality determines
6 that sewage or wastes carried by any county or intercounty drain
7 constitutes unlawful discharge as prescribed by section 3109 or
8 3112 ~~of part 31 of Act No. 451 of the Public Acts of 1994,~~
9 ~~being sections 324.3109 and 324.3112 of the Michigan Compiled~~
10 ~~Laws~~ **the natural resources and environmental protection act,**
11 **1994 PA 451, MCL 324.3109 and 324.3112,** that 1 or more users of
12 the drain are responsible for the discharge of sewage or other
13 wastes into the drain, and that the cleaning out of the drain or
14 the construction of disposal plants, filtration beds, or other
15 mechanical devices to purify the flow of the drain is necessary,
16 the department of environmental quality may issue to the drain
17 commissioner, **for a county drain, or drainage board, for an**
18 **intercounty drain,** an order of determination identifying such
19 users and pollutants, under section 3112 of ~~Act No. 451 of the~~
20 ~~Public Acts of 1994, being section 324.3112 of the Michigan~~
21 ~~Compiled Laws~~ **the natural resources and environmental protection**
22 **act, 1994 PA 451, MCL 324.3112.** The order of determination
23 constitutes a petition ~~calling~~ for the construction of
24 ~~disposal~~ **purification** facilities or other appropriate measures
25 by which the unlawful discharge may be abated or purified. The
26 order of determination serving as a petition is in lieu of the
27 ~~determination~~ **order** of necessity by a drainage board pursuant

1 to chapter 20 or 21 or section ~~122~~ **104** or 192 or ~~a~~
 2 ~~determination~~ **an order** of necessity by a board of determination
 3 pursuant to section ~~72~~ **54** or 191, whichever is applicable. A
 4 copy of the findings of the department shall be attached to the
 5 order of determination. ~~which~~ **The order of determination** shall
 6 require ~~no other~~ **the** signature ~~than that~~ of the director of
 7 the department of environmental quality **only**.

8 **(4)** Upon receipt of the order of determination, the drain
 9 commissioner or the drainage board shall proceed as provided in
 10 this act to ~~locate, establish,~~ **establish** and construct a
 11 drain. If the responsible users of the drain are determined to
 12 be public corporations in the drainage district, the drain
 13 commissioner or the drainage board shall proceed as provided in
 14 chapters 20 and 21, as may be appropriate, using the order of
 15 determination as the final order of determination of the drainage
 16 board. If the responsible users are determined to be private
 17 persons, the drain commissioner **or drainage board** shall proceed
 18 as provided in ~~chapters 8 and 9~~ **chapter 8**, using the order of
 19 determination as the first order of determination.

20 **(5)** ~~(4)~~ Plans and specifications for the construction **of**
 21 **purification facilities** as part of a drain ~~of any disposal~~
 22 ~~plant, filtration bed, or other mechanical device to properly~~
 23 ~~purify the flow of the drain~~ shall be prepared by the drain
 24 commissioner or the drainage board. Contracts for construction
 25 shall be let in the manner provided in this act. ~~To meet~~ **The**
 26 **drain commissioner or drainage board shall apportion** the cost of
 27 any preliminary engineering studies for the construction of

1 ~~abatement or~~ purification facilities ~~, the drain commissioner~~
2 ~~or the drainage board shall apportion the cost among the several~~
3 ~~parcels of land, highways, and municipalities benefited thereby~~
4 ~~in the same manner as provided in chapter 7 or against the public~~
5 ~~corporations affected by the order of determination in the same~~
6 ~~manner as provided in chapters 20 and 21~~ **in the same manner as**
7 **provided in chapter 7, 20, or 21, as applicable.** The costs and
8 charges for maintenance shall be apportioned and assessed each
9 year. If the apportionment is the same as the last recorded
10 apportionment, a day of review or a hearing on apportionments is
11 not necessary, but if the apportionment is changed, notice of a
12 day of review or a hearing on apportionments shall be given to
13 each person whose percentage is raised.

14 **(6)** ~~—(5)—~~ Land may be acquired as a site for the construction
15 of such ~~plants, beds, and devices, and releases of land may be~~
16 ~~obtained in the same manner as provided in this act for other~~
17 ~~lands acquired for right of way~~ **purification facilities under**
18 **section 7.**

19 **(7)** ~~—(6)—~~ A person shall not connect sewage or other waste to
20 a county or intercounty drain except with the written approval of
21 the appropriate commissioner or the drainage board ~~—indorsed~~
22 **endorsed** upon a written application for such service and the
23 payment of a service fee of not to exceed \$50.00 for each
24 connection to a covered drain. The application shall include
25 information showing that all other local, state, and federal
26 approvals related to the sewage or waste have been obtained.

27 **(8)** ~~—(7)—~~ The fee provided for in subsection ~~—(6)—~~ **(7)** shall

1 be set and collected by the drain commissioner, as approved by
2 the county board of commissioners or the drainage board, and
3 deposited with the county treasurer, to be credited to the drain
4 fund set up for the maintenance or construction of the drain.
5 The commissioner or the drainage board shall keep a record of
6 applications made and the action on the applications. The
7 commissioner or the drainage board may reject applications for or
8 require such modification in requested applications for sewer
9 connections to county drains as necessary to attain the
10 objectives set forth in this section.

11 **(9)** ~~—(8) Subject to the review and approval of the department~~
12 ~~of environmental quality, the~~ **The** drain commissioner or drainage
13 board may study the ~~requirements of persons~~ **need** for flood
14 control or ~~drainage~~ **pollution control** projects ~~including for~~
15 **the protection of the public health, safety, and welfare. Such**
16 **projects may include** sewage disposal systems, storm sewers,
17 sanitary sewers, combined sanitary and storm sewers, sewage
18 treatment plants, ~~and all~~ **or** other plants, works,
19 instrumentalities, and properties useful ~~in connection with~~ **for**
20 the collection, treatment, ~~and~~ **or** disposal of sewage and
21 industrial wastes or agricultural wastes or run-off. ~~, to abate~~
22 ~~pollution or decrease the danger of flooding. The objective of~~
23 ~~such studies shall be that sewers, drains, and sewage disposal~~
24 ~~facilities are made available to persons situated within the~~
25 ~~territorial limits of any drainage district or proposed drainage~~
26 ~~district as necessary for the protection of public health and the~~
27 ~~promotion of the general welfare.~~

1 **(10) —(9)—** The drainage board or drain commissioner may
2 cooperate, negotiate, and enter into contracts with ~~—other~~
3 ~~governmental units and agencies or with any public or private~~
4 ~~corporation including the United States of America, and to take~~
5 ~~such steps and perform such acts and execute such documents as~~
6 ~~may be necessary to take advantage of any act of the congress of~~
7 ~~the United States which may make available funds—~~ **a private**
8 **corporation, public corporation, the federal government, or an**
9 **agency and may do what is necessary to obtain funds available**
10 **under federal law** for any of the purposes described in this
11 section.

12 **(11) —(10)—** Failure to comply with any of the provisions of
13 this section subjects the offender to the penalties described in
14 section ~~—602—~~ **616**. However, for each offense, a person who
15 violates subsection ~~—(6)—~~ **(7)** is guilty of a misdemeanor
16 punishable by a fine of not more than \$25,000.00 or imprisonment
17 for not more than ~~—90—~~ **93** days, or both. In addition, the person
18 may be required to pay the costs of prosecution and the costs of
19 any emergency abatement measures taken to protect public health
20 or the environment. Payment of a fine or costs under this
21 subsection does not relieve a person of liability for damage to
22 natural resources or for response activity costs under the
23 natural resources and environmental protection act, ~~—Act No. 451~~
24 ~~of the Public Acts of 1994, being sections 324.101 to 324.90106~~
25 ~~of the Michigan Compiled Laws—~~ **1994 PA 451, MCL 324.101 to**
26 **324.90106.**

27 ~~(11) As used in this section, "person" means an individual,~~

1 ~~partnership, public or private corporation, association,~~
 2 ~~governmental entity, or other legal entity.~~

3 Sec. 425. (1) ~~A landowner in the~~ **One or more landowners**
 4 **in a** drainage district whose land requires additional drainage
 5 may petition the **drain** commissioner **or drainage board** for
 6 permission to construct an open or closed drain, or a combination
 7 thereof, to a regularly established drain, and permission shall
 8 be granted by the commissioner or drainage board ~~when~~ **if**, in
 9 ~~their opinion~~ **the opinion of the commissioner or the drainage**
 10 **board,** ~~the nature of~~ the ground to be crossed ~~will admit~~
 11 ~~thereof~~ **is suitable for a drain** and the surface of the land can
 12 be restored. ~~and for~~ **For** that purpose the drain may traverse
 13 the lands of other ~~freeholders~~ **landowners** in the district.
 14 Before permission may be granted by the **drain** commissioner **or**
 15 **drainage board**, consent in writing by the owner or owners of the
 16 lands to be traversed by the proposed drain shall be obtained.
 17 **The landowner or landowners granted permission to construct the**
 18 **drain shall obtain any permits required under the natural**
 19 **resources and environmental protection act, 1994 PA 451, MCL**
 20 **324.101 to 324.90106, or any other state or federal law.**

21 (2) If permission **to construct the drain across adjoining**
 22 **properties** is refused by the owner or owners, ~~of the lands to be~~
 23 ~~traversed by the proposed drain,~~ the drain may be established
 24 ~~by following the provisions of this act governing the location,~~
 25 ~~establishment, and construction of county or intercounty drainage~~
 26 ~~districts and drains therein.~~ **as otherwise provided in this act,**
 27 **subject to all of the following:**

1 (a) A petition to establish a drainage district and establish
2 and construct a drain under this section need only be signed by
3 the petitioning landowner or owners.

4 (b) The entire expense ~~thereof~~ to design and construct a
5 drain under this section shall be borne by the ~~petitioner, and~~
6 ~~the construction of an open or closed drain or combination~~
7 ~~thereof shall be done at a time and in a manner as the~~
8 ~~commissioner or drainage board shall prescribe. When drains are~~
9 ~~constructed, the drain entrance shall be substantially protected~~
10 ~~from driftwood and debris. An application to lay out and~~
11 ~~designate a drainage district or petition to locate, establish,~~
12 ~~and construct a drain under the foregoing provisions of this~~
13 ~~section shall only require the signature of the petitioning~~
14 ~~landowner or owners, other provisions of this act~~
15 ~~notwithstanding. If permission is granted to tile the source of~~
16 ~~a drain, the commissioner shall further prescribe the amount and~~
17 ~~part of the drain to be tiled and the manner of tiling.~~
18 petitioners.

19 (c) The drain commissioner or drainage board shall prescribe
20 the nature and type of construction of the drain and the time at
21 which the drain shall be constructed by the petitioners.

22 (3) A person through whose land an open drain has been
23 ~~established and~~ constructed **under this act** may make a written
24 request to the county drain commissioner **or drainage board** to be
25 permitted, at ~~his own expense, to tile and cover with earth the~~
26 ~~whole or a part thereof that may traverse his land, and the no~~
27 **expense to the district, to enclose that part of the drain that**

1 traverses his or her land. The commissioner may grant the
 2 request **subject to receipt of a new easement**, but in doing so
 3 ~~he~~ shall prescribe the size of ~~the~~ tile **and type of**
 4 **construction** to be used. **A deposit or bond to guarantee**
 5 **construction may be required and administered as provided in**
 6 **section 433.** A permit shall not be issued to ~~tile or creek on~~
 7 ~~established drain that~~ **enclose any portion of a county or**
 8 **intercounty drain if the enclosure** will decrease the ~~area~~
 9 **design capacity** of the drain as **last** established.

10 Sec. 429. ~~Subject~~ **A county drain commissioner, subject to**
 11 ~~the consent and~~ approval of the ~~several boards of supervisors~~
 12 ~~of this state and the~~ **county board of commissioners, or the**
 13 **drainage board of an intercounty drainage district, subject to**
 14 **the approval of the county** boards of ~~supervisors~~ **commissioners**
 15 of the counties comprising **the** intercounty drainage ~~districts,~~
 16 ~~the several county drain commissioners and the drainage boards of~~
 17 ~~intercounty drainage districts are hereby authorized to grant~~
 18 ~~unto~~ **district, may grant to** the United States ~~of America~~ the
 19 right to use all the easements and rights-of-way conveyed to
 20 ~~their respective drainage districts~~ **the drainage district** or to
 21 any county or counties lying wholly or in part in ~~such~~
 22 ~~districts~~ **the drainage district**, for the construction and
 23 maintenance of ~~any~~ **a** county or intercounty drain by the United
 24 States in connection with any flood control project undertaken by
 25 the United States, ~~acting through its war department or any~~
 26 ~~other federal department or agency~~ **including any agency of the**
 27 **United States.** ~~In such cases in which~~ **If** the work is to be

1 performed at the expense of the United States, it ~~shall not be~~
2 **is not** necessary for the drain commissioner or drainage board to
3 advertise for bids or to let contracts for the construction or
4 maintenance of ~~any such~~ **the** flood control project.

5 Sec. 430. (1) ~~Whenever any~~ **If a** county or intercounty
6 drain is used for the transportation of sanitary sewage, the
7 county or counties within whose boundaries the drainage district
8 lies may contract under ~~the provisions of Act No. 129 of the~~
9 ~~Public Acts of 1943, as amended, being sections 123.231 to~~
10 ~~123.235 of the Compiled Laws of 1948,~~ **1943 PA 129, MCL 123.231**
11 **to 123.236,** or any other applicable act, for the disposal of
12 sewage therefrom, including any storm water necessarily mixed
13 therewith. ~~In such case~~ **If such a contract is entered into,**
14 the drain commissioner or the drainage board may fix and collect
15 charges to cover the cost of the treatment and disposal of
16 sanitary sewage. ~~Such~~ **The** charges shall be approved by the
17 majority vote of the members-elect of the **county** board of
18 ~~supervisors~~ **commissioners.** The charges may be made to each
19 user of the services or may be made to public corporations.
20 Contracts for periods not exceeding 50 years may be made between
21 the county and public corporations to be so served, in respect to
22 sewage disposal services, when approved by the governing bodies
23 of the several parties thereto.

24 (2) Charges for sewage disposal services furnished to ~~any a~~
25 premises shall be a lien ~~thereon~~ **on the premises** from the date
26 ~~such~~ **the** charges are due. ~~and any charges~~ **Charges** delinquent
27 for 6 months or more shall be certified annually to the proper

1 tax assessing officer or agency who shall enter the ~~same~~
2 **charges** upon the next tax roll against the premises to which
3 ~~such the~~ services ~~shall have been rendered, and the were~~
4 **rendered. The** charges shall be collected and the lien shall be
5 enforced in the same manner as provided for the collection of
6 taxes assessed upon ~~such the~~ roll and the enforcement of the
7 **tax** lien. ~~therefor.~~ The time and manner of certification and
8 the other details in respect to the collection of ~~such the~~
9 charges and the enforcement of ~~such the~~ lien shall be
10 prescribed by the governing body of the public corporation in
11 which the lands are located. The payment of charges for sewage
12 disposal services to any premises may be enforced by
13 discontinuing either the water service or the sewage disposal
14 service to ~~such the~~ premises, or both.

15 (3) The charges for sewage disposal services may also include
16 the cost of the operation and maintenance of any physical
17 structures and any administrative expenses in connection with the
18 transportation, treatment, and disposal of sanitary sewage.

19 Sec. 431. (1) ~~The drain commissioner or drainage board may~~
20 ~~contract or make agreements with the federal government,~~
21 ~~including any agency thereof, whereby the federal government will~~
22 ~~pay the whole or any part of the cost of the project or will~~
23 ~~perform the whole or any part of the work connected therewith,~~
24 ~~which contract or agreement~~ **The drain commissioner or drainage**
25 **board may contract with the federal government or any other**
26 **person with respect to the establishment, construction,**
27 **operation, improvement, maintenance, use, or services of any**

1 drain, or the payment of the cost for any drain. A contract or
2 agreement with the federal government may include any specific
3 terms required by act of congress or federal regulation, not in
4 conflict with state law, as a condition for participation on the
5 part of the federal government. ~~The drain commissioner or~~
6 ~~drainage board may contract or make agreements with any private~~
7 ~~corporation or with any public corporation, including any agency~~
8 ~~thereof, in respect to any matter connected with the~~
9 ~~construction, operation or maintenance of any flood control or~~
10 ~~drainage project or combination thereof.~~ The contract or
11 agreement may provide that any payments made or work done by
12 ~~the~~ a public corporation shall relieve it in whole or in part
13 from assessment for the cost of the project. ~~No construction~~

14 (2) Construction work shall not be undertaken by the drain
15 commissioner or drainage board until bids have been advertised
16 for and received for the performance of ~~such~~ the work, but this
17 ~~provision shall~~ requirement does not apply to work to be
18 performed solely by the federal government or a public
19 corporation at its expense.

20 (3) The drain commissioner or drainage board may ~~contract or~~
21 ~~make agreements with private and public corporations and with the~~
22 ~~federal government including any agency thereof~~ cooperate,
23 contract, or make agreements with the federal government or any
24 other person for the purpose of expanding any flood control or
25 drainage project or combination thereof to include the
26 conservation and utilization of soil and water for recreation and
27 other beneficial purposes. The contracts or agreements shall

1 provide for an equitable sharing of the costs of the expanded
2 flood control or drainage project or combination thereof and the
3 cost borne by a drainage district shall not be in excess of the
4 amount which can be attributed solely to drainage and flood
5 control. ~~The drain commissioner or drainage board, may acquire~~
6 ~~by gift or purchase the necessary lands, and rights of way for~~
7 ~~the purposes of any expanded flood control or drainage project or~~
8 ~~combination thereof. The drain commissioner or drainage board~~
9 ~~may acquire by condemnation proceedings similar to those provided~~
10 ~~in chapter 4 and chapter 6 of this act, the necessary lands and~~
11 ~~rights of way for any expanded flood control or drainage project~~
12 ~~or combination thereof which shall be undertaken jointly with a~~
13 ~~public corporation or the federal government.~~ The drain
14 commissioner or drainage board may pay for the costs of ~~lands~~
15 ~~taken by condemnation~~ **acquiring property** for an expanded flood
16 control or drainage project or combination thereof, undertaken
17 jointly with a public corporation or the federal government, but
18 the public corporation or federal government shall promptly
19 reimburse the drainage district for all costs of acquisition in
20 excess of those costs directly attributable to drainage and flood
21 control.

22 ~~The term "public corporation" includes the state, counties,~~
23 ~~cities, villages, townships, metropolitan districts and~~
24 ~~authorities created by or pursuant to state statutes.~~

25 Sec. 433. (1) ~~An existing intracounty~~ **A county** or
26 intercounty drainage district may be enlarged and ~~the~~ **an**
27 **established** drain ~~located in the district~~ may be extended or

1 have branches added to provide ~~drainage~~ service to ~~lands not~~
 2 ~~originally~~ **land** within the **existing** boundaries of ~~the~~ a
 3 drainage district **or to provide service to land contiguous to a**
 4 **drainage district**, by agreement between the drain commissioner or
 5 the drainage board and the owner of the ~~lands;~~ **land**, or if
 6 there is a developer of the lands who is not the owner, between
 7 the drain commissioner or the intercounty drainage board and the
 8 owner and the developer of the ~~lands~~ **land**. The agreement shall
 9 obligate the owner and the developer, if any, of the ~~lands to be~~
 10 ~~added to the drainage district~~ **land** to construct, in accordance
 11 with plans and specifications prepared by or approved by the
 12 drain commissioner or drainage board, the necessary and adequate
 13 drainage facilities ~~on the lands to be added and in the existing~~
 14 ~~drainage district to connect the lands to the existing drain in~~
 15 ~~the drainage district~~ and to pay the cost ~~of~~ **to construct** the
 16 drainage facilities, including right-of-way, **easements**,
 17 engineering, inspection, administration, and legal expenses
 18 incurred by the drain commissioner or the drainage board. ~~—, or~~
 19 ~~to deposit with the drain commissioner or drainage board, upon~~
 20 ~~execution of the agreement,~~ **The drain commissioner or drainage**
 21 **board may require a good faith deposit or bond equal to the**
 22 **estimated cost of the construction and expenses. The amount of**
 23 **the deposit or bond shall be refunded to the owner, or the bond**
 24 **returned, upon final acceptance of the work by the drain**
 25 **commissioner or drainage board.**

26 (2) Before ~~any~~ **an** agreement is approved and executed on
 27 behalf of a drainage district by the drain commissioner or

1 drainage board, there shall be obtained, at the expense of the
2 owner or developer of the ~~lands to be added~~ **land**, a certificate
3 ~~—~~ from a ~~registered~~ **licensed** professional engineer **and**
4 satisfactory to the drain commissioner or ~~the~~ drainage board.
5 ~~—, to the effect that~~ **The certificate shall certify both of the**
6 **following:**

7 **(a) That** the lands to be added naturally drain into the area
8 served by the existing drain or that the existing drain is the
9 only reasonably available outlet for the drainage from the lands
10 to be added. ~~and that~~

11 **(b) That** there is ~~existing~~ capacity in the existing drain
12 to serve the ~~lands to be~~ added **lands or to accommodate**
13 **additional drainage provided** without detriment to or diminution
14 of the drainage service provided or to be provided ~~—~~ in the
15 foreseeable future, to the area in the existing drainage
16 district.

17 **(3)** If the ~~existing~~ drain in the existing drainage
18 district has been financed by the levy of drain special
19 assessments on the lands in the ~~drainage~~ district and if the
20 basis of special assessment as applied to the lands to be added
21 to the drainage district would result in a drain special
22 assessment on the **added** lands ~~to be added~~ in an aggregate
23 principal amount greater than the costs and expenses to be paid
24 or incurred by the owner and developer, if any, of the ~~lands for~~
25 ~~the new~~ **land to construct adequate** drain facilities at the time
26 of entering into the agreement, then the owner or developer **of**
27 **the land** shall also pay the amount of the excess to the drainage

1 district at the time of execution of the agreement. In addition,
 2 the ~~developer or~~ owner of the added ~~lands~~ **land** shall pay a
 3 pro rata equitable share of the cost of the original construction
 4 of the drain, if any.

5 (4) ~~(3) Lands~~ **Land** added to ~~any~~ **a** drainage district by
 6 agreement shall be liable from and after the date of **the**
 7 agreement for all assessments levied ~~after the date of the~~
 8 ~~agreement~~ for operation and maintenance of the drain, including
 9 the extension of the drain pursuant to the agreement, and the
 10 ~~lands~~ **land** shall **thereafter** be a part of the drainage district
 11 for all other purposes and procedures set forth in this act. All
 12 drain facilities, ~~and all~~ rights-of-way, easements, or property
 13 in which the facilities are located, acquired, or constructed
 14 pursuant to the agreement ~~to add lands~~ shall be dedicated to
 15 public use or conveyed or transferred to the drainage district.
 16 ~~and the~~ **The** drain facilities shall be a part of the drain the
 17 same as if originally ~~located, established,~~ **established** and
 18 constructed ~~by procedures set forth in~~ **under** this act. ~~as a~~
 19 ~~part of the original drain.~~

20 (5) ~~(4) An existing intracounty or intercounty drain may be~~
 21 ~~extended or have branches added to provide additional service to~~
 22 ~~lands within the drainage district by agreement between the drain~~
 23 ~~commissioner or the drainage board and the owner of the lands; or~~
 24 ~~if there is a developer of the lands who is not the owner,~~
 25 ~~between the drain commissioner or the drainage board and the~~
 26 ~~owner and the developer of the lands, pursuant to the procedures~~
 27 ~~and conditions set forth in this section. The affected public~~

1 **Public** corporations ~~or municipalities in which the proposed~~
 2 ~~lands are to be added will~~ **affected by an agreement provided for**
 3 **in this section shall** be apprised of the agreement by the drain
 4 commissioner or drainage board ~~and who shall also publish~~
 5 ~~notice~~ **by first-class mail or personal service. Notice** of the
 6 agreement **shall also be published** in a newspaper of general
 7 circulation in the drainage district. ~~in question.~~

8 (6) ~~-(5)-~~ By agreement with a landowner, and the developer,
 9 if any, the drain commissioner or ~~intercounty~~ drainage board
 10 may establish an existing private drain ~~which~~ **that is within a**
 11 **drainage district and that** was constructed by the landowner or
 12 developer to service an area on his or her own land. ~~as a county~~
 13 ~~or intercounty drain.~~ **The landowner shall provide plans and**
 14 **easements in form acceptable to the drain commissioner or**
 15 **drainage board.**

16 (7) ~~-(6)-~~ If a drain established pursuant to subsection
 17 ~~-(5)-~~ (6) adds lands to an existing drainage district, ~~the~~
 18 ~~provisions of subsections (2) and (3) shall~~ **subsections (3) and**
 19 **(4) apply.**

20 (8) ~~-(7)-~~ If a drain established pursuant to subsection
 21 ~~-(5)-~~ (6) is independent from an existing drainage district, a
 22 certificate shall be obtained ~~—~~ **as provided in subsection (2)**
 23 **and** at the expense of the landowner or developer of the ~~lands~~
 24 **land** served by the proposed drain. ~~—, from a registered~~
 25 ~~professional engineer satisfactory to the drain commissioner or~~
 26 ~~the intercounty drainage board to the effect that the outlet for~~
 27 ~~the existing drain is the only reasonably available outlet for~~

1 ~~the drain and that there is sufficient capacity in the existing~~
 2 ~~outlet for the proposed drain to serve as an adequate outlet~~
 3 ~~without detriment to or diminution of the drainage service which~~
 4 ~~the outlet presently provides.~~ All drain facilities, ~~and all~~
 5 rights-of-way, easements, or property in which the facilities are
 6 located, acquired, or constructed pursuant to the agreement to
 7 establish the drain shall be dedicated to public use or conveyed
 8 or transferred to the drainage district. ~~and the~~ **The** drain
 9 facilities and drainage district shall be an established drain
 10 and drainage district the same as if originally ~~laid out and~~
 11 ~~designated, located, established,~~ **established** and constructed
 12 ~~by procedures set forth in~~ **under** this act. ~~All plans~~ **Plans**
 13 and specifications, including a map and a description of the
 14 drainage district, ~~pertaining to the private drain as may be~~
 15 ~~required by the drain commissioner or intercounty drainage board~~
 16 shall be furnished to the drain commissioner or ~~intercounty~~
 17 drainage board.

18 **(9)** ~~-(8)-~~ The landowner or developer who transfers a drain
 19 pursuant to ~~subsection (5)-~~ **this section** shall deposit with the
 20 drain commissioner or drainage board **funds in the amount of** 5% of
 21 the cost of the drain but not more than ~~-\$2,500.00-~~ **\$5,000.00.**
 22 The money received by the drain commissioner or intercounty
 23 drainage board pursuant to this subsection shall be deposited in
 24 ~~a special~~ **the** drain fund ~~which shall be used for the future~~
 25 ~~maintenance of the transferred drain~~ **for the drain and used as**
 26 **provided in section 196.**

27 **(10)** Before undertaking construction activity under this

1 section, a landowner or developer shall obtain any permits
 2 required under the natural resources and environmental protection
 3 act, 1994 PA 451, MCL 324.101 to 324.90106, or any other state or
 4 federal law.

5 CHAPTER 20 —

6 ~~INTRACOUNTY~~ COUNTY DRAINS; PUBLIC CORPORATIONS —

7 Sec. 463. ~~—(1) Before filing a petition under this section,~~
 8 ~~the legislative body of a public corporation shall first~~
 9 ~~determine whether the drain project contemplated may necessitate~~
 10 ~~the levy of a special assessment, fee, or charge under section~~
 11 ~~490. If the legislative body determines that a special~~
 12 ~~assessment, fee, or charge may be made under section 490, before~~
 13 ~~filing a petition under this section, the legislative body shall~~
 14 ~~proceed as provided in section 489a.~~

15 (1) ~~—(2) If it is necessary for the public health to locate,~~
 16 ~~establish, and construct a county drain, a petition for that~~
 17 ~~purpose may be filed with the county drain commissioner signed by~~
 18 ~~2 or more public corporations which will be subject to~~
 19 ~~assessments to pay the cost of the drain to initiate the~~
 20 ~~establishment of a drainage district and the establishment and~~
 21 ~~construction of a county drain that is necessary for the public~~
 22 ~~health or the maintenance and improvement of such a drain, 1 or~~
 23 ~~more cities, villages, and townships that will be subject to~~
 24 ~~assessment to pay the cost of the drain may, after complying with~~
 25 ~~section 489a, if applicable, file a petition with the county~~
 26 ~~drain commissioner as provided in section 14. The petition shall~~
 27 ~~state that it is filed pursuant to this chapter, and shall~~

1 ~~describe the location and route of the proposed drain~~
 2 ~~sufficiently to determine with reasonable certainty the areas to~~
 3 ~~be serviced by the drain.~~ **request the establishment of a**
 4 **drainage district and the establishment and construction of a**
 5 **drain, and set forth the reasons for the request. The petition**
 6 **may propose a location and route for the drain.**

7 ~~(3) Not more than 20 days after the petition is filed, the~~
 8 ~~county drain commissioner shall notify each public corporation~~
 9 ~~which may be subject to an assessment or in which is located any~~
 10 ~~of the areas to be drained, as described in the petition, that a~~
 11 ~~petition was filed.~~

12 **(2)** ~~(4) A certified copy of the resolution of the governing~~
 13 ~~body of each signer authorizing the affixing of the signature of~~
 14 ~~the governing body to the petition shall be attached to the~~
 15 ~~petition. The petition may be filed in more than 1 counterpart.~~
 16 ~~For a petition filed by a county, the county board of~~
 17 ~~commissioners shall authorize the execution of the petition, and~~
 18 ~~for a petition filed by the state, the state transportation~~
 19 ~~commission shall authorize the execution of the petition.~~ **The**
 20 **petition may be filed in more than 1 counterpart.** As provided in
 21 section 423, an order of determination of the ~~water resources~~
 22 ~~commission~~ **department of environmental quality** shall also serve
 23 as a petition made pursuant to this chapter.

24 **(3) Not more than 28 days after the petition is filed, the**
 25 **county drain commissioner shall notify each public corporation**
 26 **which may be subject to an assessment or in which is located any**
 27 **of the areas to be drained, as described in the petition, that a**

1 petition was filed.

2 Sec. 464. (1) ~~There~~ **A drainage board** is created for each
 3 project petitioned for under this chapter. ~~—, a drainage board~~
 4 ~~that, except~~ **Except** as otherwise provided in subsection (2), **the**
 5 **drainage board** shall consist of the drain commissioner of the
 6 county, the chairperson of the county board of commissioners **or a**
 7 **member of the county board of commissioners designated by that**
 8 **chairperson**, and the chairperson of the board of county
 9 auditors. If there is no board of county auditors in the county,
 10 then the chairperson of the finance committee of the county board
 11 of commissioners ~~shall act as a member of the drainage board,~~
 12 ~~and if~~ **or a member of the county board of commissioners**
 13 **designated by that chairperson shall be a member of the drainage**
 14 **board.** If there is neither a board of county auditors nor a
 15 finance committee, then the chairperson of the county board of
 16 commissioners shall select from time to time 1 member of the
 17 county board of commissioners to act as a member of the drainage
 18 board. ~~If a member of the drainage board who is a commissioner,~~
 19 ~~as provided in this section or section 487, is interested in a~~
 20 ~~project petitioned for under this chapter, by reason of his or~~
 21 ~~her holding an elected or appointed office in a public~~
 22 ~~corporation to be assessed for the cost of the project, he or she~~
 23 ~~is disqualified to act as a member of the drainage board with~~
 24 ~~respect to the project. In such case the vice chairperson or~~
 25 ~~chairperson pro tempore of the county board of commissioners or~~
 26 ~~of the finance committee of the county board of commissioners, if~~
 27 ~~not also disqualified, shall act as the member. If the~~

~~1 vice chairperson or chairperson pro tempore is disqualified, the~~
~~2 drain commissioner of the county shall designate a member of the~~
~~3 county board of commissioners who is not disqualified to act as a~~
~~4 member of the drainage board for the project. The chairperson of~~
~~5 the county board of commissioners and any member of a county~~
~~6 board of commissioners serving on~~ **A member of** the drainage board
~~7 shall receive the compensation, mileage, and expenses as~~
~~8 provided by the drainage board. However, compensation paid to a~~
~~9 member shall not exceed \$25.00 per diem, exclusive of mileage and~~
~~10 expenses, for attendance at drainage board meetings~~ **which shall**
~~11 be determined as provided in section 52 for members of a board of~~
~~12 determination.~~ The county drain commissioner shall be
~~13 chairperson of the drainage board. The chairperson shall keep~~
~~14 minutes of the proceedings of the drainage board and all records~~
~~15 and files of the board shall be kept in his or her office. In~~
~~16 counties of less than 500,000 population, the commissioner shall~~
~~17 be paid the same compensation as other members of the drainage~~
~~18 board.~~

~~19 (2) In a county organized under a charter adopted under Act~~
~~20 No. 293 of the Public Acts of 1966, being sections 45.501 to~~
~~21 45.521 of the Michigan Compiled Laws~~ **1966 PA 293, MCL 45.501 to**
~~22 45.521,~~ that has a population of more than 2,000,000 at the time
~~23 the charter is adopted and whose charter prescribes an elected~~
~~24 county executive, the drainage board shall consist of the~~
~~25 following members:~~

~~26 (a) The person designated by the charter to carry out the~~
~~27 administrative duties of the drain commissioner or that person's~~

1 designee, who shall also serve as chairperson of the drainage
2 board.

3 (b) The county commissioner whose district will be assessed
4 for the greatest portion of the cost of the project, or that
5 county commissioner's designee. The determination of which
6 county commissioner is qualified to sit under this subdivision
7 shall initially be made by the chairperson of the drainage board
8 ~~at the time~~ **when** the petition for the project is filed. After
9 the final order of apportionment is issued under section 469, the
10 county commissioner who qualifies under this section shall become
11 the county commissioner member and serve until another
12 apportionment is established requiring the seating of another
13 commissioner.

14 (c) A person appointed by the county executive with the
15 advice and consent of a majority of the members of the county
16 board of commissioners elected or appointed and serving.

17 (3) In a county described in subsection (2), the requirements
18 in this chapter for substantive actions and determinations shall
19 be followed in administering each project petitioned for under
20 this chapter, subject to and in accordance with any applicable
21 provisions of the county charter.

22 Sec. 465. (1) A meeting of the drainage board may be called
23 by the chairperson or 2 members of the board. ~~—, on notice sent~~
24 ~~by registered mail to each member, setting forth the time, date,~~
25 ~~and place of the meeting. The notice shall be mailed not less~~
26 ~~than 5 days before the time of the meeting. The affidavit of~~
27 ~~the chairman as to such mailing shall be conclusive proof~~

1 ~~thereof.~~ **Notice of the meeting shall be given as provided in**
 2 **section 8.**

3 (2) A majority of the members of the board ~~shall~~ constitute
 4 a quorum for the transaction of business, but a lesser number may
 5 adjourn from time to time. ~~A meeting may be adjourned from time~~
 6 ~~to time.~~ Unless otherwise provided in this act, an action shall
 7 not be taken by the board except by a majority vote of its
 8 members. ~~In the event of the adjournment of a hearing, it shall~~
 9 ~~not be necessary to advertise~~ **If a hearing is adjourned, it is**
 10 **not necessary to give notice of** the adjournment of the hearing.

11 (3) All orders issued by the drainage board shall be signed
 12 by the chairperson.

13 Sec. 466. Upon receipt of a petition ~~as hereinbefore~~
 14 ~~provided~~ **under this chapter**, the county drain commissioner shall
 15 call the first meeting of the drainage board **by giving notice of**
 16 **the meeting as described in section 465.** ~~In the event there be~~
 17 ~~no board of county auditors or~~ **However, if there is neither a**
 18 **board of county auditors nor a** finance committee in the county,
 19 then notice to the ~~chairman~~ **chairperson** of the **county** board of
 20 ~~supervisors~~ **commissioners** of ~~such~~ **the** county shall ~~be deemed~~
 21 ~~to be~~ **serve as** notice to the member of the **county** board of
 22 ~~supervisors~~ **commissioners** to be selected by ~~him~~ **the**
 23 **chairperson under section 464.**

24 Sec. 467. (1) The drainage board, at its first meeting,
 25 shall consider the petition for the project **under this chapter**
 26 and make a tentative determination as to the sufficiency of the
 27 petition and the practicability of the proposed ~~drain~~ **project,**

1 and shall further make a tentative determination of the public
2 corporations to be assessed. The drainage board shall give a
3 name to the drain and to the drainage district. The district
4 shall be composed of the public corporations to be assessed for
5 the cost of the project.

6 (2) After the drainage board ~~has made~~ **makes** the
7 determination, it shall fix a time, date, and place it will meet
8 to hear objections to the proposed drain and the petition for the
9 drain, and to the matter of assessing the cost of the drain to
10 the designated public corporations. Notice of the hearing shall
11 be ~~published twice in the county by inserting the notice in at~~
12 ~~least 1 newspaper published in the county, designated by the~~
13 ~~drainage board, with the first publication to be not less than 20~~
14 ~~days before the time of the hearing. The notice shall also be~~
15 ~~sent by registered mail to the clerk or secretary of each public~~
16 ~~corporation proposed to be assessed, except that a notice to the~~
17 ~~state shall be sent to the state highway director and a notice to~~
18 ~~a county shall be sent to both the county clerk and the county~~
19 ~~road commission. The mailing shall be made not less than 20 days~~
20 ~~before the time of the hearing. The notice shall be signed by~~
21 ~~the chairperson and proof of the publication and mailing of the~~
22 ~~notice shall be filed in his or her office. The drainage board~~
23 ~~may provide a form to be substantially followed in the giving of~~
24 ~~the notice.~~ **given as provided in section 8.**

25 (3) After the hearing, the drainage board shall make a
26 determination as to the sufficiency of the petition, the
27 practicability of the ~~drain, whether the drain should be~~

1 ~~constructed~~ project, whether the project is necessary and
2 conducive to public health, and if so, the public corporations to
3 be assessed, and shall issue its order accordingly. The order
4 shall be known as the final order of determination. A public
5 corporation shall not be eliminated from, or added to, those
6 tentatively determined to be assessed without a rehearing after
7 notice as provided in subsection (2).

8 Sec. 467a. (1) After the drainage board enters the final
9 order of determination, the drainage board shall secure the
10 service of an engineer. The drainage board shall select the
11 engineer based on his or her qualifications. The engineer shall
12 prepare plans, specifications, and an estimate of costs of the
13 proposed drain. The drainage board shall secure from the
14 engineer or a surveyor a description of the lands or
15 rights-of-way needed for the proposed drain. The drainage board
16 shall secure from an engineer or other qualified professional an
17 evaluation of the effects of the proposed drain on natural
18 resources that identifies appropriate practical measures to
19 minimize adverse effects. In approving the route of the drain as
20 furnished by the engineer, the drainage board is not limited to
21 that described in the petition or in the final order of
22 determination, if the new route is more efficient and
23 serviceable.

24 (2) The drainage board shall obtain any permits required
25 under the natural resources and environmental protection act,
26 1994 PA 451, MCL 324.101 to 324.90106. All costs associated with
27 evaluating natural resource impacts and implementing the measures

1 to minimize those impacts shall be the responsibility of the
2 drainage district.

3 (3) Subject to subsection (4), measures that are intended to
4 improve or enhance natural resources values may be included as
5 part of the drainage project in the discretion of the drainage
6 board. The funding for the costs of such measures may include
7 gifts, donations, grants, and contracts pursuant to section 431,
8 special assessments or any combination thereof as considered
9 appropriate by the drain commissioner.

10 (4) If the proposed drain is located in a watershed
11 management district for which a watershed management plan has
12 been adopted under section 595, the drainage board shall
13 undertake the establishment and construction of the drain,
14 including, but not limited to, measures to improve or enhance
15 natural resource values, consistent with the watershed management
16 plan.

17 Sec. 467b. If, after the receipt of the plans,
18 specifications, estimate of cost, and descriptions of the lands
19 or rights-of-way needed for the proposed drain, the drainage
20 board determines that the project is not practical, the drainage
21 board shall notify the public corporations in the district by
22 first-class mail of the intent to reject the petition. The
23 notice shall specify the reasons for the proposed rejection. The
24 notice shall also specify a time, date, and place for a public
25 hearing to hear objections to the rejection of the petition. At
26 the public hearing, the drainage board shall elicit testimony and
27 evidence with regards to the proposed rejection. Following the

1 receipt of testimony, the drainage board shall determine whether
2 or not the petition should be rejected. If the rejection is
3 determined to be practical, the drainage board shall enter an
4 order of rejection and apportion all costs incurred to the
5 district as if the project had been built and the costs shall be
6 subsequently assessed and paid as provided in this chapter. A
7 determination to reject a petition does not limit the right to
8 file another petition.

9 Sec. 468. (1) ~~The drainage board shall secure from a~~
10 ~~competent engineer, plans, specifications, and an estimate of~~
11 ~~cost of the proposed drain, which, when approved and adopted by~~
12 ~~the board, shall be filed with the chairman thereof. In~~
13 ~~approving the plans and specifications, the drainage board shall~~
14 ~~not be limited to the route of the drain described in the~~
15 ~~petition or the final order of determination. The drainage board~~
16 ~~shall tentatively establish the percentage of the cost of the~~
17 ~~drain or of the several sections or parts thereof which is to be~~
18 ~~borne by each public corporation. In making the apportionments~~
19 ~~hereunder, there shall be taken into consideration the benefits~~
20 ~~to accrue to each public corporation and also the extent to which~~
21 ~~each public corporation contributes to the conditions which make~~
22 ~~the drain necessary. Apportionments against the state shall be~~
23 ~~based upon the benefits and contributions as related solely to~~
24 ~~the drainage of state highways, and those against the county~~
25 ~~shall be based as related solely to the drainage of its county~~
26 ~~highways. to cities, villages, and townships, the drainage board~~
27 ~~shall consider the benefits to accrue to each city, village, or~~

1 township and also the extent to which each city, village, or
 2 township contributes to the conditions that make the drain
 3 necessary, subject to section 500. Apportionments against this
 4 state or a county shall relate solely to state trunk line
 5 highways or county roads, respectively. The apportionment of
 6 benefits for state trunk line highways and the portion paid by
 7 county road commissions for benefit to county roads must be paid
 8 pursuant to section 14a of 1951 PA 51, MCL 247.664a. Before a
 9 tentative apportionment ~~shall be~~ **is** made, the drainage board
 10 shall designate the area to be served by the drain project, which
 11 may or may not include all of the area in a ~~public corporation~~
 12 **city, village, or township** to be assessed and may divide the
 13 drain into sections or parts for purposes of apportionment or
 14 construction. ~~Nothing herein contained shall prohibit the~~
 15 ~~county from assuming any~~ **The county may assume an** additional
 16 cost of the drain ~~if~~ **by the vote of** 2/3 of the members elect of
 17 the county board of commissioners. ~~vote in favor thereof.~~

18 (2) The apportionment shall ~~only~~ apply to the proposed
 19 drain **construction or improvement project and separate**
 20 **maintenance apportionments for the drain may be established.** The
 21 apportionments for any extensions or other work subsequently
 22 performed under section ~~482~~ **463** shall be reestablished by the
 23 board. ~~When chapter 25 is employed in the apportionment of~~
 24 ~~costs, the above~~

25 (3) The proceedings ~~shall~~ **in this chapter may** be altered
 26 and supplemented as provided in chapter 25.

27 Sec. 469. (1) After the tentative apportionments of cost

1 have been made, the drainage board shall set a time, date, and
2 place it will meet and hear objections to the apportionments.
3 Notice of the hearing shall be ~~published twice in the county by~~
4 ~~inserting the notice in at least 1 newspaper published in the~~
5 ~~county, designated by the drainage board, the first publication~~
6 ~~to be not less than 20 days before the time of the hearing. The~~
7 ~~notice shall also be sent by registered mail to the clerk or~~
8 ~~secretary of each public corporation proposed to be assessed,~~
9 ~~except that a notice to the state shall be sent to the state~~
10 ~~highway director and a notice to the county shall be sent both to~~
11 ~~the county clerk and the county road commission. The mailing~~
12 ~~shall be made not less than 20 days before the time of hearing.~~
13 ~~The notice shall be signed by the chairperson and proof of the~~
14 ~~publication and mailing of the notice shall be filed in his or~~
15 ~~her office. The drainage board may provide a form to be~~
16 ~~substantially followed in the giving of the notice~~ **given as**
17 **provided in section 8.** The notice shall include tentative
18 apportionments to the several public corporations.

19 **(2)** After the hearing, the drainage board may confirm the
20 apportionments as tentatively made, or if it considers the
21 apportionments to be inequitable, it shall readjust the
22 apportionments. If the readjustment involves the increasing of
23 an assessment and an increase ~~shall~~ **is** not ~~be~~ consented to by
24 resolution of the governing body of the public corporation whose
25 assessment was increased, before any readjusted apportionments
26 are confirmed the drainage board shall set a time, date, and
27 place for a rehearing and shall give notice of the hearing as

1 ~~provided in the first instance~~ **subsection (1).** The notice
 2 shall also set forth the apportionments as readjusted. After
 3 confirmation, the drainage board shall issue its order setting
 4 forth the several apportionments as confirmed. The order shall
 5 be known as the final order of apportionment.

6 **(3) After issuing the final order of apportionment, the**
 7 **drainage board shall acquire under section 7 property necessary**
 8 **for the drain.**

9 Sec. 472. The county treasurer shall be the custodian of
 10 the funds of the drainage district. ~~He~~ **The county treasurer**
 11 may designate 1 or more of his **or her** deputies ~~who may~~ to act
 12 for ~~him~~ **the county treasurer** in the performance of any of his
 13 **or her** duties under this section. The drainage board may require
 14 the county treasurer and any deputy county treasurer so
 15 designated to furnish a bond payable to the drainage district, in
 16 addition to any bond payable to the county, conditioned upon the
 17 faithful discharge of his **or her** duties in respect to ~~moneys~~
 18 **money** belonging to the drainage district. ~~the~~ **The** premium
 19 ~~thereon to~~ **on the bond shall** be paid by the drainage district.
 20 ~~Moneys~~ **Money** held by ~~said~~ **the** treasurer shall be paid out
 21 only upon order of the drainage board, except that ~~no such order~~
 22 ~~shall be~~ **an order is not** required for the payment of principal
 23 and interest on bonds.

24 Sec. 473. **(1) After the confirmation of the apportionments**
 25 **by the drainage board, the chairperson of the board shall prepare**
 26 **a computation of the estimated cost of the drain project or, if**
 27 **the actual cost has been ascertained, the actual cost, including**

1 the items listed in section 261 and interest on any money
2 advanced pursuant to section 479.

3 (2) After the ~~confirmation of the apportionments by the~~
4 ~~drainage board, the chairman~~ preparation of the computation of
5 costs by the chairperson of the drainage board, the chairperson
6 of the board shall prepare a special assessment ~~roll~~ schedule
7 assessing the estimated cost of the drain, or if the actual cost
8 has been ascertained, then the actual cost and any interest on
9 bonds or other evidences of indebtedness, against the several
10 public corporations in accordance with the confirmed
11 apportionments. The drainage board may provide for the payment
12 of the special assessments in any number of annual installments,
13 not exceeding 30, but an installment shall not be less than 1/4
14 of any subsequent installment. The drainage board shall fix a
15 date, not later than 4 years after confirmation, for the payment
16 of the first installment so that each public corporation can make
17 a tax levy for the payment of the installment. Subsequent
18 installments shall become due annually on the same day and month
19 of subsequent years. A city or village may elect to spread the
20 tax levy upon the county tax roll instead of the city or village
21 tax roll.

22 (3) Installments of assessments against the state and against
23 public corporations which collect their taxes beginning
24 approximately December 1 in each year shall become due and
25 payable on or before April 1 of each year. Installments of
26 assessments against other public corporations shall become due
27 and payable on or before the dates fixed by the drainage board,

1 depending upon the times of the collection of taxes by the public
2 corporations. The drainage board shall fix the commencement date
3 of interest to be paid upon unpaid installments, not to exceed an
4 amount sufficient to pay interest on bonds or other evidences of
5 indebtedness issued or to be issued by the drainage district. —
6 ~~which~~ **The** interest shall become due annually on the day and
7 month upon which the annual installments become due but may
8 become due in years before the due date of the first
9 installment. The drainage board may provide for the payment of
10 installments in advance of their respective due dates and may
11 prescribe the terms and conditions ~~thereof.~~ ~~The drainage board~~
12 ~~shall fix the date, not later than 4 years after confirmation on~~
13 ~~which the first installment of special assessments shall become~~
14 ~~due and payable so that each public corporation can make a tax~~
15 ~~levy for the payment, and subsequent installments shall become~~
16 ~~due annually on the same day and month of subsequent years. When~~
17 ~~chapter 25 is employed in the apportionment of costs, the above~~
18 ~~proceedings shall be altered and supplemented as provided in~~
19 ~~chapter 25~~ **for advance payments.**

20 (4) The special assessment schedule shall contain all of the
21 following:

22 (a) The name of each public corporation assessed.

23 (b) The total estimated cost of the project, or the actual
24 cost if the same actual cost has been ascertained by the time of
25 the preparation of the schedule.

26 (c) The percentage apportioned to each public corporation.

27 (d) The principal amount of the assessment against each

1 public corporation based on the percentage of apportionment.

2 (e) The interest portion of the assessment sufficient to pay
3 the interest on bonds or other evidence of indebtedness based
4 upon the percentage of apportionment.

5 (f) The amount of each installment if the assessment is
6 divided into annual installments.

7 (g) The due date of each installment.

8 Sec. 474. (1) ~~The special assessment roll shall contain~~
9 ~~the name of each public corporation assessed, the total estimated~~
10 ~~cost of the project, or actual cost if the same has been~~
11 ~~ascertained at the time of the preparation of the roll, the~~
12 ~~percentage apportioned to each public corporation, the amount of~~
13 ~~the assessment against each public corporation based upon the~~
14 ~~percentage of apportionment, and the amount of each installment~~
15 ~~if the assessment is divided into annual installments. After the~~
16 ~~special assessment roll has been prepared, it shall be presented~~
17 ~~to the drainage board for approval. When the roll has been~~
18 ~~approved, then a statement to that effect, signed by the chairman~~
19 ~~of the drainage board, shall be affixed to the roll~~ chairperson
20 of the drainage board prepares the special assessment schedule,
21 the chairperson shall present the schedule to the drainage board
22 for approval. If the drainage board approves the special
23 assessment schedule, the chairperson of the drainage board shall
24 affix to the schedule a signed statement to that effect setting
25 forth the date of approval. The ~~chairman~~ chairperson of the
26 drainage board shall then certify to each public corporation
27 assessed the ~~amount of the total assessment against it, the~~

1 ~~amount of the various installments if the assessment is divided~~
 2 ~~into installments, the due date of each installment, and the rate~~
 3 ~~of interest upon installments from time to time unpaid. The~~
 4 ~~chairman each~~ **assessment information in the assessment**
 5 **schedule.**

6 (2) **Each** year, at least ~~30~~ **28** days before the time of the
 7 levying of taxes by each public corporation, **the chairperson of**
 8 **the drainage board** shall notify ~~it~~ **the public corporation** of
 9 the amount of the installment and interest next becoming due, but
 10 the failure to notify a public corporation shall not excuse it
 11 from making payment of the installment and interest.

12 (3) On or before the due date of an installment, each public
 13 corporation shall pay to the county treasurer the full amount
 14 thereof, together with interest accruing to the due date. ~~If a~~
 15 ~~public corporation fails or neglects to account to the county~~
 16 ~~treasurer for the amount of an installment and interest, then the~~
 17 ~~county treasurer shall advance the amount thereof from county~~
 18 ~~funds if bonds or other evidences of indebtedness have been~~
 19 ~~issued to finance the project, in anticipation of the collection~~
 20 ~~of the installment and interest pursuant to this chapter and the~~
 21 ~~county board of commissioners has previously acted, by a~~
 22 ~~resolution adopted by a 2/3 vote of its members elect, to pledge~~
 23 ~~the full faith and credit of the county for the prompt payment of~~
 24 ~~the principal of and interest on the bonds or evidences of~~
 25 ~~indebtedness.~~

26 ~~—— The county treasurer shall immediately notify the public~~
 27 ~~corporation of the amount advanced by the county on account of~~

~~1 the default by the public corporation in paying the installment
2 and interest assessed against it. The county treasurer shall
3 also notify the state treasurer, or other appropriate disbursing
4 official, who shall deduct the amount from moneys in his
5 possession belonging to the public corporation which are not
6 pledged to the payment of debts, but the state treasurer or other
7 official shall not withhold in any 1 year a sum greater than 25%
8 of the total amount owed by the delinquent public corporation as
9 stated in the notice from the county treasurer. Nothing in this
10 section shall permit the deduction of moneys in contravention of
11 the state constitution of 1963.~~

~~12 — The county board of commissioners of a county which has
13 advanced money for a public corporation and which has not been
14 reimbursed therefor, may order the public corporation and its
15 officers to levy upon its next tax roll an amount sufficient to
16 make the reimbursement on or before the date when its taxes
17 become delinquent; and the public corporation and its tax levying
18 and collecting officials shall levy and collect those taxes and
19 reimburse the county. The foregoing shall not prevent the county
20 from obtaining reimbursement by any other legal method.~~

~~21 Assessments against the state shall be certified to the state
22 highway commission and paid from state highway funds. The tax
23 levying officials of each of the other public corporations
24 assessed shall levy sufficient taxes to pay assessment
25 installments and interest as the same become due unless there has
26 been set aside moneys sufficient therefor. A city or village may
27 elect to spread the tax levy upon the county tax roll instead of~~

~~1 the city or village tax roll. If a special assessment roll is
2 prepared upon the basis of the estimated cost of the project,
3 then after the actual cost has been ascertained and determined by
4 the drainage board, the special assessments and the installments
5 thereof shall be corrected by adding any deficiency or deducting
6 any excess. The drainage board may order the corrections to be
7 made upon the original roll or may order that a new corrected
8 roll or a supplemental roll be prepared and submitted for
9 approval by the drainage board. When chapter 25 is employed in
10 the apportionment of costs, the above proceedings shall be
11 altered and supplemented as provided in chapter 25.~~

12 **Sec. 474a. (1) If a public corporation fails or neglects to**
13 **account to the county treasurer for the amount of an installment**
14 **and interest, then the county treasurer shall advance the amount**
15 **thereof from county funds if bonds or other evidences of**
16 **indebtedness have been issued to finance the project in**
17 **anticipation of the collection of the installment and interest**
18 **pursuant to this chapter and if the county board of commissioners**
19 **has previously acted, by a resolution adopted by a 2/3 vote of**
20 **its members elect, to pledge the full faith and credit of the**
21 **county for the prompt payment of the principal of and interest on**
22 **the bonds or evidences of indebtedness.**

23 **(2) The county treasurer shall immediately notify the county**
24 **board of commissioners and public corporation of the amount**
25 **advanced by the county on account of the default by the public**
26 **corporation in paying the installment and interest assessed**
27 **against it. The county may use any legal means to obtain**

1 reimbursement of the amount advanced.

2 (3) The tax levying officials of each of the other public
3 corporations assessed shall levy sufficient taxes to pay
4 assessment installments and interest as the same become due
5 unless there has been set aside money sufficient therefor. A
6 city or village may elect to spread the special assessment levy
7 upon the county tax roll instead of the city or village tax
8 roll. If a special assessment schedule is prepared upon the
9 basis of the estimated cost of the project, then after the actual
10 cost has been ascertained and determined by the drainage board,
11 the special assessments and the installments thereof shall be
12 corrected by adding any deficiency or deducting any excess. The
13 drainage board may order the corrections to be made upon the
14 original special assessment schedule or may order that a new
15 corrected schedule or a supplemental schedule be prepared and
16 submitted for approval by the drainage board. The proceedings in
17 this section may be altered and supplemented as provided in
18 chapter 25.

19 Sec. 476. (1) The drainage board may issue 1 or more series
20 of bonds for ~~and on behalf of~~ the drainage district, in
21 anticipation of the collection of ~~any or all~~ installments of
22 assessments, ~~or any part thereof,~~ and pledge the full faith and
23 credit of the drainage district for the prompt payment of the
24 principal thereof and the interest thereon. The bonds shall
25 mature serially with the last maturity not later than 2-1/2 years
26 after the due date of the last installment of the assessments.
27 ~~and there may be~~ **The bonds may have** more than 1 principal

1 maturity date during any 12-month period. The bonds shall be
2 signed by the ~~chairman and at least 1 other member~~ **chairperson**
3 **and secretary** of the drainage board ~~and the facsimile signature~~
4 ~~of the chairman shall~~ **who shall cause their facsimile signatures**
5 **to** be affixed to the interest coupons attached thereto.

6 (2) Collections of both principal and interest on all
7 installments of assessments in anticipation of which bonds ~~shall~~
8 ~~have been~~ **are** issued shall be kept in a separate bank account by
9 the county treasurer and, ~~used for no other purpose than~~ **until**
10 **the bonds are fully paid, shall be used solely for** the payment of
11 principal and interest on ~~such~~ **the** bonds. ~~until the full~~
12 ~~payment thereof.~~

13 Sec. 478. (1) The drainage board for each project shall
14 continue in existence with such changes in personnel as shall
15 result from changes in the officers constituting the board
16 membership. It shall be responsible for the operation and
17 maintenance of the drain. Any necessary expenses incurred in
18 administration and in the operation and maintenance of the drain
19 and not covered by contract shall be paid by the several public
20 corporations assessed for the cost of the drain. The assessments
21 shall be in the same proportion as the cost of the drain was
22 assessed unless the drainage board establishes a different
23 proportion for the assessments after notice and hearing as
24 provided in section 469.

25 (2) The drainage board ~~, by resolution duly adopted by it,~~
26 ~~may relinquish jurisdiction and control over all or any part of a~~
27 ~~drain or drain project at any time when there is no outstanding~~

~~1 indebtedness or contract liability of its drainage district, to
2 the county, township, city or village in which all or the part of
3 the drain or drain project is wholly located, if the county,
4 township, city or village requests or consents to the
5 relinquishment of jurisdiction and control by resolution duly
6 adopted by its governing body. Indebtedness or contract
7 liability of any drainage district which will be paid in full at
8 the time of consummation of relinquishment of jurisdiction and
9 control shall not be deemed to be outstanding. If relinquishment
10 of jurisdiction and control is to a county, the resolution of the
11 governing body of the county shall specify the county agency,
12 such as board of public works, drain commissioner, board of
13 county road commissioners, or parks and recreation commission,
14 which shall be thereafter responsible for exercise of such
15 jurisdiction and control. Any moneys in the drain fund of any
16 drain, over all or any part of which jurisdiction and control is
17 relinquished, shall be used to pay any indebtedness or contract
18 liability of its drainage district, and the balance shall be
19 turned over to the county, township, city or village to be used
20 solely with respect to the drain, all or part thereof, over which
21 jurisdiction and control is assumed. If the relinquishment of
22 jurisdiction and control and the turnover of drain fund relates
23 to a part of a drain or drain project, such relinquishment and
24 turnover shall not become effective until consented to by
25 resolution of the governing body of each public corporation which
26 has paid a part of the cost of the drain or drain project, and
27 for this purpose the board of county road commissioners and the~~

1 ~~state highway commission shall be deemed to be the governing body~~
2 ~~for the county and the state.~~ **may relinquish jurisdiction over**
3 **all or part of a drain as provided in section 395.**

4 Sec. 483. ~~Neither the final order of determination nor the~~
5 ~~final order of apportionment shall be subject to attack in any~~
6 ~~court, except by proceedings in certiorari brought within 20 days~~
7 ~~after the filing of such order in the office of the chairman of~~
8 ~~the board issuing the same. If no such proceeding shall be~~
9 ~~brought within the time above prescribed, the drain shall be~~
10 ~~deemed to have been legally established and the legality of the~~
11 ~~drain and the assessments therefor shall not thereafter be~~
12 ~~questioned in any suit at law or in equity, either on~~
13 ~~jurisdictional or nonjurisdictional grounds.~~ **The proceedings to**
14 **establish a drain and levy assessments are subject to review on**
15 **superintending control. A complaint seeking a writ of**
16 **superintending control for any error in proceedings occurring**
17 **before or in the final order of determination shall be filed not**
18 **more than 14 days after the final order is issued and for any**
19 **error in proceedings occurring after the final order of**
20 **determination, not more than 10 days after the hearing on**
21 **objections to apportionments. The proceedings shall be as**
22 **provided in section 161(2) and (3).**

23 Sec. 490. (1) Subject to the requirements of section 489a,
24 if the ~~legislative~~ **governing** body of a ~~public corporation~~
25 **city, village, or township**, which has been assessed under this
26 chapter, determines that a part of the lands in the public
27 corporation will be especially benefited by the drain project to

1 the extent of a portion of the amount assessed under this
2 chapter, the ~~legislative~~ **governing** body may cause that portion
3 of the assessment under this chapter to be specially assessed,
4 according to benefits, against the especially benefited lands, if
5 the special assessment method of financing is not inconsistent
6 with local financing policy for similar drains and sewers. The
7 special assessment shall be made under the statutory or charter
8 provisions governing special assessments in the ~~public~~
9 ~~corporation~~ **city, village, or township** to the extent
10 applicable. However, if there is not another drain assessment in
11 the district on this particular drain, the special assessment
12 proceedings may be initiated by resolution of the ~~legislative~~
13 **governing** body of the ~~public corporation~~ **city, village, or**
14 **township** without petition, after compliance with section 489a,
15 and a petition or written objection in opposition to the levying
16 of special assessments shall be advisory only and shall not
17 require a petition for the project, except as otherwise provided
18 in section 489a.

19 (2) After determining by resolution to proceed, the
20 ~~legislative~~ **governing** body shall cause a special assessment
21 roll to be prepared. After the special assessment roll is
22 prepared, the proceedings with respect to the special assessment
23 roll and the making and collection of the special assessments
24 shall be conducted pursuant to the statute or charter governing
25 special assessments in the ~~public corporation~~ **city, village, or**
26 **township**. However, the total assessment may be divided into not
27 more than 30 installments, and a person assessed, at the hearing

1 upon the special assessment roll prepared by the ~~public~~
 2 ~~corporation~~ **city, village, or township**, may object to the
 3 special assessment district previously established by the ~~public~~
 4 ~~corporation~~ **city, village, or township**. Due consideration shall
 5 be given to the objections. A hearing held under this section
 6 shall not take the place of a meeting required under section
 7 489a, unless notice **of the hearing** is prepared and mailed in the
 8 manner prescribed by section 489a.

9 (3) If a special assessment is levied under this section, all
 10 collections from the special assessment shall be used towards the
 11 payment of the assessment at large against the ~~public~~
 12 ~~corporation~~ **city, village, or township**. Each annual levy made
 13 for the payment of the assessment at large shall be reduced by
 14 the amount of money then on hand from special assessment
 15 collections available for this use.

16 (4) This section ~~shall not be construed to~~ **does not** prevent
 17 the assessment of ~~public corporations~~ **A city, village, or**
 18 **township** at large under this chapter. In place of or in addition
 19 to levying special assessments, the public corporation, under the
 20 same conditions and for the same purpose, may exact connection,
 21 readiness to serve, availability, or service charges to be paid
 22 by owners of land directly or indirectly connected with the drain
 23 project, or a combination of projects. ~~, subject to section~~
 24 ~~489a.~~

25 Sec. 491. (1) A petition **otherwise** meeting the requirements
 26 of this chapter ~~as to petitioners, execution and filing~~ may
 27 request, for reasons of public health, that jurisdiction be

1 assumed over all or a specified part of the bed, tributaries,
2 banks, and ~~flood plains~~ **floodplains** of a river, creek, or
3 watercourse, not part of an established drain. The petition
4 shall describe the existing or threatened conditions which cause
5 or increase the danger of flooding, pollution, ~~deseccation~~
6 **damage**, or obstruction of ~~such~~ **the** river, creek, or
7 watercourse, and shall specify, in general terms, the works,
8 property acquisition, actions, or procedures ~~deemed~~ **considered**
9 necessary to remove or lessen such danger.

10 (2) The petitioners named in a petition under subsection (1)
11 shall include in the petition an agreement to pay, or accompany
12 the petition with a deposit in the amount of, the estimated cost
13 of the planning and engineering required to describe all of the
14 following:

15 (a) In recordable form, the bed, tributaries, banks, and
16 floodplains of the river, creek, or watercourse over which
17 jurisdiction is necessary and is to be assumed under the
18 petition.

19 (b) The work to be done under the petition.

20 (c) The property to be acquired under the petition.

21 (3) Upon the filing of the petition with the agreement or
22 deposit to pay costs, the drain commissioner and drainage board
23 shall proceed under sections 466 and 467. The drainage board
24 shall hold a hearing to hear objections to the assumption of such
25 jurisdiction, to the petition and to the proposed work or
26 property as provided for other drain projects under this
27 chapter. Notice of the hearing shall contain the description as

1 approved and adopted by the drainage board.

2 (4) After the hearing, the drainage board shall issue its
3 final order of determination under section 467. The final order
4 of determination shall state whether or not the drainage board
5 will assume jurisdiction and perform the work proposed, if any.
6 The final order of determination shall contain the description of
7 the bed, tributaries, banks, and floodplains of the river, creek,
8 or watercourse over which jurisdiction has been assumed and shall
9 be recorded in the county records in the county in which any part
10 thereof is located. After the final order of determination is
11 recorded, no constructing, excavating, land filling, removing of
12 structures or vegetation, dumping, or discharging of sewers or
13 drains shall be permitted or continued in the bed, tributaries,
14 banks, or floodplains of the river, creek, or watercourse within
15 the recorded description thereof, except upon written order or
16 permit issued by the drainage board.

17 (5) The recording of the description does not appropriate,
18 terminate, or lessen any private rights in property, real or
19 personal, except property acquired under section 7. The
20 recording of the description constitutes a regulation and
21 limitation, for reasons of public health, of the use of the
22 public and private property therein described to remove or lessen
23 the danger of flooding, pollution, damage, or obstruction of the
24 river, creek, or watercourse, or part thereof, involved.

25 (6) Before any work, other than preparation of the
26 description and the approval, adoption, and recording of the
27 description, is done or rights in property are acquired by the

1 drainage board, pursuant to a petition under subsection (1), the
2 drainage board shall make a determination, following notice and a
3 hearing as provided in this chapter, as to the public
4 corporations to be assessed for the cost of the work or
5 acquisition. The hearing may be the same hearing provided for in
6 subsection (3).

7 (7) After the hearing and the determination to proceed with
8 the work, the drainage board shall proceed in the same manner and
9 have the same powers and duties as are provided for other drain
10 projects in this chapter.

11 Sec. 499. (1) After the construction of a county drain for
12 which none of the financing is obtained through special
13 assessments under section 490, the drainage board shall provide
14 for an amount from surplus construction funds sufficient to
15 inspect, repair, and maintain the drain as provided in section
16 ~~196~~ 199. After providing for inspection, repair, and
17 maintenance, the drainage board may apportion the balance of the
18 surplus construction funds to separate accounts to the credit of
19 the public corporations against which the cost of the drain is
20 assessed. The funds shall be credited in direct proportion to
21 amounts assessed and collected from the public corporations.

22 (2) Funds in an account apportioned to the credit of a public
23 corporation under this section shall be used only for the
24 following:

25 (a) To pay principal and interest on bonds issued to finance
26 the drain for which the assessment is imposed.

27 (b) If bonds are not sold, to pay assessments due from the

1 public corporation.

2 (c) At the request of the public corporation, to alleviate
3 drainage problems in that public corporation.

4 (3) A drainage board shall apply section 283 to surplus
5 construction funds instead of this section when state trunk line
6 funds are used.

7 Sec. 500. Assessments against a township shall be against
8 the township as a whole, including any village unless the
9 drainage board or the drain commissioner determines to assess a
10 village separately. In that case, all of the following apply:

11 (a) The assessment against the village shall be the
12 responsibility of the village.

13 (b) The assessment against the township shall exclude the
14 village.

15 (c) A tax or special assessment levied by the township to
16 pay the assessment against the township shall not be levied
17 against property assessable in the village.

18 CHAPTER 21 —

19 INTERCOUNTY DRAINS — AND PUBLIC CORPORATIONS —

20 Sec. 513. ~~—(1) Before filing a petition under this section,~~
21 ~~the legislative body of a public corporation shall first~~
22 ~~determine whether the drain project contemplated may necessitate~~
23 ~~the levy of a special assessment, fee, or charge under section~~
24 ~~539. If the legislative body determines that a special~~
25 ~~assessment, fee, or charge may be made under section 539, before~~
26 ~~filing a petition under this section, the legislative body shall~~
27 ~~proceed as prescribed in section 538a.~~

1 (1) ~~-(2) If it is necessary for the public health to locate,~~
2 ~~establish, and construct an intercounty drain, a petition for~~
3 ~~that purpose may be filed with the director of the department of~~
4 ~~agriculture signed by 2 or more public corporations which will be~~
5 ~~subject to assessments to pay the cost of the drain. To initiate~~
6 ~~the establishment of a drainage district and establishment and~~
7 ~~the construction of a county drain that is necessary for the~~
8 ~~public health or the maintenance and improvement of such a drain,~~
9 ~~1 or more cities, villages, or townships that will be subject to~~
10 ~~assessment to pay the cost of the drain may file a petition with~~
11 ~~the director of agriculture as provided in section 14, and the~~
12 ~~drain commissioner of the counties where the cities, villages, or~~
13 ~~townships are located. The petition shall state that it is filed~~
14 ~~pursuant to this chapter, and shall describe the location and~~
15 ~~route of the proposed drain sufficiently to determine with~~
16 ~~reasonable certainty the areas to be serviced by the drain.~~
17 ~~request the establishment of a drainage district and the~~
18 ~~establishment and construction of a drain, and set forth the~~
19 ~~reasons for the request. The petition may propose a location and~~
20 ~~route for the drain.~~

21 ~~-(3) Not more than 20 days after the petition is filed, the~~
22 ~~director of the department of agriculture shall notify all public~~
23 ~~corporations in which any of the areas to be drained are located,~~
24 ~~as described in the petition, that a petition has been filed~~
25 ~~which may affect drainage in the public corporation.~~

26 (2) ~~-(4) A certified copy of the resolution of the governing~~
27 ~~body of each signer authorizing the affixing of the signature of~~

1 ~~the governing body to the petition shall be attached to the~~
 2 ~~petition. The petition may be filed in more than 1 counterpart.~~
 3 ~~For a petition filed by a county, the county board of~~
 4 ~~commissioners shall authorize the execution, and for a petition~~
 5 ~~filed by the state, the state transportation commission shall~~
 6 ~~authorize the execution of the petition. The petition may be~~
 7 **filed in more than 1 counterpart.** As provided in section 423, an
 8 order of determination of the ~~water resources commission~~
 9 **department of environmental quality** shall also serve as a
 10 petition made pursuant to this chapter.

11 (3) Not more than 28 days after the petition is filed, the
 12 director of agriculture shall notify each public corporation
 13 which may be subject to an assessment or in which is located any
 14 of the areas to be drained, as described in the petition, that a
 15 petition was filed.

16 Sec. 515. There is created for each project petitioned for
 17 under ~~the provisions of~~ this chapter, an augmented drainage
 18 board to consist of the members of the drainage board together
 19 with the ~~chairman~~ **chairperson** of the **county** board of
 20 ~~supervisors~~ **commissioners** or a member of the county board of
 21 **commissioners** designated by that chairperson and the ~~chairman~~
 22 **chairperson** of the board of county auditors of each county
 23 involved. If there is no board of county auditors in ~~any~~ a
 24 county, then the ~~chairman~~ **chairperson** of the finance committee
 25 of the **county** board of ~~supervisors~~ shall act as a member of the
 26 ~~augmented drainage board, and if~~ **commissioners** or a member of
 27 the county board of **commissioners** designated by that chairperson

1 shall be a member of the augmented drainage board if there is
 2 neither a board of county auditors nor a finance committee, then
 3 the ~~chairman~~ **chairperson** of the **county** board of ~~supervisors~~
 4 **commissioners** shall select 1 member of the **county** board of
 5 ~~supervisors~~ **commissioners** of his **or her** county to act as a
 6 member of the augmented drainage board. ~~The chairman~~ **the**
 7 **chairperson** and secretary of the drainage board shall act as
 8 ~~chairman~~ **chairperson** and secretary, respectively, of the
 9 augmented drainage board. The ~~chairman~~ **chairperson** of the
 10 **county** board of ~~supervisors~~ **commissioners** and any member of ~~a~~
 11 **the county** board of ~~supervisors~~ **commissioners**, serving on the
 12 augmented drainage board, shall receive ~~such~~ compensation,
 13 mileage, and expenses, ~~as shall be provided by the augmented~~
 14 ~~drainage board except that such compensation shall not exceed~~
 15 ~~\$25.00 per diem exclusive of mileage and expenses for attendance~~
 16 ~~at augmented drainage board meetings~~ **which shall be determined**
 17 **as provided in section 52 for members of a board of**
 18 **determination.**

19 Sec. 517. Upon receipt of a petition ~~as hereinbefore~~
 20 ~~provided~~ **under this chapter**, the director of agriculture shall
 21 make a preliminary finding of the counties which, in his **or her**
 22 opinion, include public corporations that should be assessed
 23 under ~~the provisions of~~ this chapter for the cost of the
 24 proposed drain. ~~Upon the making of such preliminary finding,~~
 25 ~~the~~ **The** director of agriculture shall **then** give notice of the
 26 time and place of the first meeting of the drainage board and of
 27 the first meeting of the augmented drainage board, by sending a

1 copy of ~~such~~ **the** notice and of ~~such~~ **the** preliminary finding
 2 by ~~registered~~ **first-class** mail to each member thereof, and to
 3 each ~~highway agency~~ **roadway authority** having jurisdiction over
 4 any ~~highway, road and street in said~~ **roadway in the** district.
 5 ~~—, which~~ **The** notice and finding shall be mailed not less than
 6 ~~10~~ **14** days ~~prior to~~ **before** the ~~time~~ **date** of the meeting.
 7 ~~In the event~~ **If** there ~~be~~ **is** no board of county auditors or
 8 finance committee in ~~any~~ **the** county, ~~involved,~~ then notice to
 9 the ~~chairman~~ **chairperson** of the **county** board of ~~supervisors~~
 10 **commissioners** of ~~such~~ **the** county shall ~~be deemed to be~~ **serve**
 11 **as** notice to the member of the **county** board of ~~supervisors~~
 12 **commissioners** to be selected by ~~him~~ **the chairperson under**
 13 **section 515.** The drainage board shall meet first ~~—, for the~~
 14 ~~purpose of selecting~~ **to select** a secretary. Upon the selection
 15 of a secretary, the director of agriculture shall turn over to
 16 ~~such~~ **the** secretary the original petition and any other records
 17 in his **or her** office pertaining to the proposed drain.

18 Sec. 518. (1) Meetings of the drainage board, or of the
 19 augmented drainage board, may be called by the chairperson or 2
 20 members of the board. ~~—, on notice sent by registered mail to~~
 21 ~~each member. The notice shall be mailed not less than 10 days~~
 22 ~~before the time of the meeting.~~ **Notice of the meeting shall be**
 23 **given as provided in section 8.**

24 (2) A majority of the members of the board ~~shall~~ constitute
 25 a quorum for the transaction of business, but a lesser number may
 26 adjourn from time to time. A meeting may be adjourned from time
 27 to time. Unless otherwise provided herein, an action shall not

1 be taken by either of the boards except by a majority vote of a
2 **quorum of** its members.

3 (3) All orders issued by either the drainage board, or the
4 augmented drainage board, shall be signed by the chairperson and
5 secretary.

6 Sec. 519. (1) The augmented drainage board, at its first
7 meeting, shall consider the petition for the project **under this**
8 **chapter** and make a tentative determination as to the sufficiency
9 of the petition and the practicability of the proposed ~~drain~~
10 **project**, and further make a tentative determination of the public
11 corporations to be assessed. The augmented drainage board shall
12 give a name to the drain and to the drainage district. The
13 district shall be composed of the ~~public corporations~~ **cities,**
14 **villages, and townships** to be assessed for the cost of the
15 project.

16 (2) If the augmented drainage board, by resolution,
17 tentatively determines that there should be assessed a public
18 corporation in a county ~~other than those contained~~ **not** in the
19 tentative findings of the director of ~~the department of~~
20 agriculture, further proceedings shall not be taken by the
21 augmented drainage board, but the resolution shall have the
22 effect of amending the preliminary finding of the director of
23 ~~the department of~~ agriculture. The director of ~~the department~~
24 ~~of~~ agriculture shall proceed, as in the first instance, to call
25 a new meeting of the drainage board and the augmented drainage
26 board as enlarged by reason of the inclusion of the additional
27 public corporations in another county.

1 (3) After the augmented drainage board has made the
2 ~~determination specified in this section~~ **tentative determination**
3 **of the sufficiency of the petition and the practicability of the**
4 **proposed drain**, it shall fix a time, date, and place it will meet
5 to hear objections to the proposed drain and the petition for the
6 drain, and **to** the matter of assessing the cost of the drain to
7 the designated public corporations. Notice of the hearing shall
8 be ~~published twice in each county involved by inserting the~~
9 ~~notice in at least 1 newspaper published in the county,~~
10 ~~designated by the augmented drainage board. The first~~
11 ~~publication shall be made not less than 20 days before the time~~
12 ~~of hearing. The notice shall also be sent by registered mail to~~
13 ~~the clerk or secretary of each public corporation proposed to be~~
14 ~~assessed, except that a notice to the state shall be sent to the~~
15 ~~state highway director and a notice to a county shall be sent to~~
16 ~~both the county clerk and the county road commission. The~~
17 ~~mailing shall be made not less than 20 days before the time of~~
18 ~~hearing. The notice shall be signed by the secretary and proof~~
19 ~~of the publication and mailing of the notice shall be filed with~~
20 ~~the secretary. The augmented drainage board may provide a form~~
21 ~~to be substantially followed in the giving of such notice~~ **given**
22 **as provided in section 8.**

23 (4) After the hearing, the augmented drainage board shall
24 make a determination as to the sufficiency of the petition, the
25 practicability of the ~~drain, whether the drain should be~~
26 ~~constructed~~ **project, whether the project is necessary and**
27 **conducive to public health, and, if so, the public corporations**

1 to be assessed, and shall issue its order accordingly. The order
2 shall be known as the final order of determination. A public
3 corporation shall not be eliminated from, or added to, those
4 tentatively determined to be assessed without a rehearing after
5 notice **given as provided in section 8.**

6 (5) After the augmented drainage board ~~has made~~ **makes** the
7 determinations, further action in respect to the drain shall be
8 taken by the drainage board. The augmented drainage board may be
9 reconvened by its chairperson or 2 members of the board, upon
10 notice given for the purpose of making a correction or addition
11 to its proceedings.

12 **Sec. 519a. (1) After the drainage board enters the final**
13 **order of determination, the drainage board shall proceed in the**
14 **same manner as provided in section 467a.**

15 (2) If, after the receipt of the plans, specifications,
16 estimate of cost, and descriptions of the lands or rights-of-way
17 needed for the proposed drain, the drainage board determines that
18 the project is not practical, the drainage board shall notify the
19 public corporations in the district by first-class mail of the
20 intent to reject the petition. The notice shall specify the
21 reasons for the proposed rejection. The notice shall also
22 specify a time, date, and place for a public hearing to hear
23 objections to the rejection of the petition. At the public
24 hearing, the drainage board shall elicit testimony and evidence
25 with regards to the proposed rejection. Following the receipt of
26 testimony, the drainage board shall determine whether or not the
27 petition should be rejected. If the rejection is determined to

1 be practical, the drainage board shall enter an order of
2 rejection and apportion all costs incurred to the district as if
3 the project had been built and the costs shall be subsequently
4 assessed and paid as provided in this chapter. A determination
5 to reject a petition does not limit the right to file another
6 petition.

7 Sec. 520. (1) ~~The drainage board shall proceed to secure~~
8 ~~from a competent engineer, plans, specifications, and an estimate~~
9 ~~of cost of the proposed drain, which when approved and adopted by~~
10 ~~the board shall be filed with the secretary thereof. In~~
11 ~~approving the plans and specifications, the drainage board shall~~
12 ~~not be limited to the route of the drain described in the~~
13 ~~petition or the final order of determination. The~~ **For each**
14 **county affected, the** drainage board shall tentatively establish
15 the percentage of the cost of the drain or of the several
16 sections or parts thereof which is to be borne by public
17 corporations. ~~in each county affected and by the state on~~
18 ~~account of any state highway, and by the county on account of any~~
19 ~~county highway.~~ The percentage of the cost apportioned to public
20 corporations ~~in~~ **for** each county shall then be apportioned by
21 the drain commissioner among public corporations to be assessed
22 in the county, which determination shall be filed with the
23 secretary of the drainage board. In making the apportionments
24 ~~hereunder, there shall be taken into consideration the benefits~~
25 ~~to accrue to each public corporation and also the extent to which~~
26 ~~each public corporation contributes to the conditions which make~~
27 ~~the drain necessary. Apportionments against the state shall be~~

1 ~~based upon the benefits and contributions as related solely to~~
2 ~~the drainage of state highways, and those against the county~~
3 ~~shall be based as related solely to the drainage of its county~~
4 ~~highways.~~ **to cities, villages, and townships, the drainage board**
5 **shall consider the benefits to accrue to each city, village, or**
6 **township and also the extent to which each city, village, or**
7 **township contributes to the conditions that make the drain**
8 **necessary, subject to section 500. Apportionments against this**
9 **state or a county shall relate solely to state trunk line**
10 **highways or county roads, respectively. The apportionment of**
11 **benefits for state trunk line highways and the portion paid by**
12 **county road commissions for benefit to county roads must be paid**
13 **pursuant to section 14a of 1951 PA 51, MCL 247.664a. Before a**
14 **tentative apportionment** ~~shall be~~ **is** **made, the drainage board**
15 **shall designate the area to be served by the drain project, which**
16 **may or may not include all of the area in a** ~~public corporation~~
17 **city, village, or township to be assessed, and may divide the**
18 **drain into sections or parts for purposes of apportionment or**
19 **construction.** ~~Nothing herein contained shall prohibit a~~ **The**
20 **county** ~~from assuming any~~ **may assume an** additional cost of the
21 **drain** ~~if~~ **by the vote of** 2/3 of the members elect of the county
22 **board of commissioners.** ~~vote in favor thereof.~~

23 **(2) The apportionment shall apply only to the proposed drain**
24 **project, and separate concurrent maintenance apportionments for**
25 **the drain may be established. The apportionments for extensions**
26 **or other work subsequently performed under section 535 shall be**
27 **reestablished by the board.** ~~When chapter 25 is employed in the~~

1 ~~apportionment of costs, the above~~

2 **(3) The** proceedings ~~shall in this section may~~ be altered
3 and supplemented as provided in chapter 25.

4 Sec. 521. ~~After the tentative apportionments of cost have~~
5 ~~been made, the drainage board shall set a time, date, and place~~
6 ~~it will meet and hear objections to the apportionments. Notice~~
7 ~~of the hearing shall be published twice in each county involved~~
8 ~~by inserting the notice in at least 1 newspaper published in the~~
9 ~~county, designated by the drainage board. The first publication~~
10 ~~is to be not less than 20 days before the time of hearing. The~~
11 ~~notice shall also be sent by registered mail to the clerk or~~
12 ~~secretary of each public corporation proposed to be assessed,~~
13 ~~except that a notice to the state shall be sent to the state~~
14 ~~highway director and a notice to a county shall be sent both to~~
15 ~~the county clerk and the county road commission. The mailing~~
16 ~~shall be made not less than 20 days before the time of hearing.~~
17 ~~The notice shall be signed by the secretary and proof of the~~
18 ~~publication and mailing of the notice shall be filed with the~~
19 ~~secretary. The drainage board may provide a form to be~~
20 ~~substantially followed in the giving of the notice. The notice~~
21 ~~shall include tentative apportionments to the several public~~
22 ~~corporations. After the hearing, the drainage board may confirm~~
23 ~~the apportionments as tentatively made, or, if it considers the~~
24 ~~apportionments to be inequitable, it shall readjust the~~
25 ~~apportionments. Before readjusted apportionments are confirmed,~~
26 ~~the drainage board shall set a time, date, and place for a~~
27 ~~rehearing and shall give notice of the hearing. The notice shall~~

1 ~~also set forth the apportionments as readjusted. It shall then~~
 2 ~~issue its order setting forth the several apportionments as~~
 3 ~~confirmed. The order shall be known as the final order of~~
 4 ~~apportionment. The intercounty drainage board or a public~~
 5 ~~corporation has the same powers and duties with respect to an~~
 6 ~~intercounty drain under this chapter as the county drainage board~~
 7 ~~or a public corporation, respectively, under section 469.~~

8 Sec. 524. The drainage board shall designate the treasurer
 9 of 1 of the counties involved as the treasurer for ~~said board.~~
 10 ~~He the drainage district. The treasurer~~ may designate 1 or more
 11 of his **or her** deputies ~~who may~~ to act for ~~him the treasurer~~
 12 in the performance of any of his **or her** duties under this
 13 section. ~~Such The~~ treasurer and any such deputy shall serve
 14 without additional compensation. ~~He The treasurer~~ and each
 15 deputy county treasurer so designated shall furnish a bond in
 16 ~~such sum as shall be fixed the amount specified~~ by the drainage
 17 board, conditioned upon the faithful discharge of his **or her**
 18 duties. ~~, the premium thereon to The premium on the bond shall~~
 19 be paid by the drainage board. ~~Moneys Money~~ held by the
 20 treasurer shall be paid out only upon order of the drainage
 21 board, except that ~~no such order shall be an order is not~~
 22 required for the payment of principal and interest on bonds.

23 Sec. 525. (1) ~~After the confirmation of the apportionments~~
 24 ~~by the drainage board, the secretary of the board shall prepare a~~
 25 ~~special assessment roll assessing the estimated cost of the~~
 26 ~~drain, or if the actual cost has been ascertained, then the~~
 27 ~~actual cost, against the several public corporations in~~

~~1 accordance with the confirmed apportionments. The drainage board
2 may provide for the payment of the special assessments in any
3 number of annual installments, not exceeding 30, but an
4 installment shall not be less than 1/4 of any subsequent
5 installment. Installments of assessments against the state and
6 against public corporations which collect their taxes beginning
7 approximately December 1 in each year shall become due and
8 payable on or before April 1 of each year. Installments of
9 assessments against other public corporations shall become due
10 and payable on or before the dates as shall be fixed by the
11 drainage board, depending upon the times of the collection of
12 taxes by the public corporations. The drainage board shall fix
13 the commencement date of interest to be paid upon unpaid
14 installments, not to exceed an amount sufficient to pay interest
15 on bonds or other evidences of indebtedness issued or to be
16 issued by the drainage district, which interest shall become due
17 annually on the day and month upon which the annual installments
18 become due but may become due in years before the due date of the
19 first installment. The drainage board may provide for the
20 payment of installments in advance of their respective due dates
21 and may prescribe the terms and conditions of payment. The
22 drainage board shall fix the date, not later than 4 years after
23 confirmation for the payment of the first installment so that
24 each public corporation can make a tax levy for the payment
25 thereof and subsequent installments shall become due annually on
26 the same day and month of subsequent years. A city or village
27 may elect to spread the tax levy upon the county tax roll instead~~

1 ~~of the city or village tax roll. When chapter 25 is employed in~~
2 ~~the apportionment of costs, the above proceedings shall be~~
3 ~~altered and supplemented as provided in chapter 25. The drainage~~
4 ~~board and the chairperson of the drainage board shall proceed in~~
5 ~~the manner provided in section 473.~~

6 (2) After the chairperson of the drainage board prepares the
7 special assessment schedule, the chairperson shall present the
8 schedule to the drainage board for approval. If the drainage
9 board approves the special assessment schedule, the chairperson
10 of the drainage board shall affix to the schedule a statement to
11 that effect signed by the chairperson and secretary of the
12 drainage board. The chairperson of the drainage board shall then
13 certify to each public corporation assessed the assessment
14 information in the assessment schedule.

15 (3) Each year, at least 28 days before the time of the
16 levying of taxes by each public corporation, the secretary of the
17 drainage board shall notify the public corporation of the amount
18 of the installment and interest next becoming due, but the
19 failure to notify a public corporation shall not excuse it from
20 making payment of the installment and interest.

21 (4) On or before the due date of an installment, each public
22 corporation shall pay to its county treasurer the full amount
23 thereof, together with interest accruing to the due date. Not
24 more than 14 days after a public corporation pays a special
25 assessment installment to its county treasurer, the county
26 treasurer shall forward to the drainage board the amount paid.

27 (5) The intercounty drainage board, an officer of an

1 intercounty drainage board, a public corporation, or any other
2 person shall proceed in the same manner with respect to an
3 intercounty drain under this chapter as provided under sections
4 473, 474a to 479, 483 to 485, 490, 491, and 500 except as
5 follows:

6 (a) The period under section 483 to file a complaint for
7 superintending control for an error in proceedings occurring
8 before or in the final order of determination shall begin when
9 the final order is filed in the office of the secretary of the
10 intercounty drainage board.

11 (b) A petition under section 491 for assumption of
12 jurisdiction by an intercounty drainage board shall otherwise
13 meet the requirements of this chapter.

14 Sec. 532. ~~Any~~ An action arising from the provisions of
15 this chapter ~~except such actions as may be brought directly in~~
16 ~~the supreme court~~ may be brought in the circuit court of ~~any~~ a
17 county in which ~~any~~ a part of the intercounty ~~drain involved~~
18 ~~is located: Provided, That on request by any party to said~~
19 ~~action made prior to the time said action is instituted, or~~
20 ~~within 30 days after receipt of service of process, the presiding~~
21 ~~circuit judge of Michigan shall appoint a circuit judge to hear~~
22 ~~said action~~ drainage district is located, subject to the
23 Michigan rules of court.

24 Sec. 540. ~~When~~ If 2 or more public corporations,
25 constituting as a whole contiguous territory, are served by 1 or
26 more intercounty drains or by a combination of 1 or more
27 intercounty drains and 1 or more county drains, and it is

1 necessary for the public health to supplement such existing drain
2 or drains by constructing 1 or more relief drains, which may
3 consist of new drains and branches and connections thereto or
4 ~~extensions, enlargements, branches, connections or improvements~~
5 ~~described in section 535 to~~ **improvements to or consolidations of**
6 existing drains, or any combination thereof, then the entire
7 project may be constructed and financed as a whole under the
8 provisions of this chapter and the word "drain" ~~shall be deemed~~
9 ~~to include~~ **includes** such a project.

10 Sec. 541. (1) A petition **otherwise** meeting the requirements
11 of this chapter ~~as to petitioners, execution and filing~~ may
12 request, for reasons of public health, that jurisdiction be
13 assumed over all or a specified part of the bed, tributaries,
14 banks, and ~~flood plains~~ **floodplains** of a river, creek, or
15 watercourse, not part of an established drain. The petition
16 shall describe the existing or threatened conditions which cause
17 or increase the danger of flooding, pollution, ~~deseccation~~
18 **damage**, or obstruction of such river, creek, or watercourse, and
19 shall specify, in general terms, the works, property acquisition,
20 actions, or procedures, ~~deemed~~ **considered** necessary to remove
21 or lessen such danger.

22 (2) The petitioners named in a petition under subsection (1)
23 shall include in the petition an agreement to pay, or accompany
24 the petition with a deposit in the amount of, the estimated cost
25 of the planning and engineering required to describe all of the
26 following:

27 (a) In recordable form the bed, tributaries, banks, and

1 floodplains of the river, creek, or watercourse over which
2 jurisdiction is necessary and is to be assumed under the
3 petition.

4 (b) The work to be done under the petition.

5 (c) The property to be acquired under the petition.

6 (3) Upon the filing of the petition with the agreement or
7 deposit to pay costs, the drainage board shall proceed as
8 described in sections 517 and 519. The description shall be
9 obtained and approved and adopted by the drainage board. The
10 drainage board shall hold a hearing to hear objections to the
11 assumption of such jurisdiction, to the petition therefor and to
12 the proposed work or property acquisition shall be held as
13 provided for other drain projects pursuant to this chapter.
14 Notice of the hearing shall contain the description as approved
15 and adopted by the drainage board.

16 (4) After the hearing, the drainage board shall determine
17 whether or not it will assume such jurisdiction and perform the
18 work proposed, if any, and shall issue its order accordingly.
19 The order shall be known as the "final order of determination".
20 The final order of determination shall contain the description of
21 the bed, tributaries, banks, and floodplains of the river, creek,
22 or watercourse over which jurisdiction has been assumed and shall
23 be recorded in the county records in the county in which any part
24 thereof is located. After the final order of determination is
25 recorded, no constructing, excavating, land filling, removing of
26 structures or vegetation, dumping, or discharging of sewers or
27 drains shall be permitted or continued in the bed, tributaries,

1 banks, or floodplains of the river, creek, or watercourse within
 2 the recorded description thereof, except upon written order or
 3 permit issued by the drainage board.

4 (5) The recording of the description does not appropriate,
 5 terminate, or lessen any private rights in property, real or
 6 personal, except property acquired under section 7. The
 7 recording of the description constitutes a regulation and
 8 limitation, for reasons of public health, of the use of the
 9 public and private property therein described to remove or lessen
 10 the danger of flooding, pollution, damage, or obstruction of the
 11 river, creek, or watercourse, or part thereof, involved.

12 (6) Before any work, other than preparation of the
 13 description and the approval, adoption, and recording of the
 14 description, is done or rights in property are acquired by the
 15 drainage board, pursuant to a petition filed under
 16 subsection (1), the drainage board shall make a determination,
 17 following notice and a hearing as provided in this chapter, as to
 18 the public corporations to be assessed for the cost of the work
 19 or acquisition. The hearing may be the hearing provided for in
 20 subsection (2). After the hearing and the determination to
 21 proceed with the work, the drainage board shall proceed in the
 22 same manner and have the same powers and duties as are provided
 23 for other drain projects in this chapter.

24 CHAPTER 22 —

25 ~~—WATER—~~ WATERSHED MANAGEMENT —

26 ~~—DISTRICTS AND SUBDISTRICTS—~~

27 Sec. 585. As used in this chapter, unless the context

1 indicates otherwise:

2 (a) "Advisory board" means the watershed advisory board of a
3 district established under section 592.

4 (b) "Benefit" or "benefits" means the advantages resulting
5 from a plan or project to public corporations, the residents of
6 public corporations, and property within public corporations.
7 Benefits include, but are not limited to, benefits that result
8 from the management and control of water, such as elimination or
9 reduction of flood damage, elimination or reduction of water
10 quality conditions that jeopardize the public health, safety, or
11 welfare, increase of the value or use of lands and property
12 arising from improved water quality, increased usefulness of the
13 water for agricultural or recreational uses, reduction of
14 flooding, improved drainage, and remedying a public corporation's
15 contributions to the conditions that make a plan necessary.

16 (c) "Commission" means the watershed management commission
17 of a district.

18 (d) "District", unless the context clearly indicates
19 otherwise, means a watershed management district.

20 (e) "Executive committee" means the watershed management
21 district executive committee established under section 591.

22 (f) "Petition filer" means the person who filed a petition
23 under section 586 to initiate procedures to establish a
24 district.

25 (g) "Plan" means a watershed management plan adopted under
26 section 595.

27 (h) "Project" means an activity set forth in the watershed

1 management plan.

2 (i) "Public corporation" means a county, township, city, or
3 village.

4 (j) "Study" or "watershed study" means the process by which
5 the objectives of the petition or objectives identified by the
6 commission are investigated and resolved, setting forth the
7 watershed management plan.

8 (k) "Watershed" means a geographic area of any size from
9 which water seeks a common outlet, including, but not limited to,
10 a creekshed, catchment area, drainage basin, drainage district,
11 or river basin.

12 Sec. 586. (1) To initiate procedures to establish a
13 watershed management district and develop a watershed management
14 plan, a petition shall be filed with the county board of
15 commissioners in a county where all or a portion of the proposed
16 watershed management district is to be located and established.

17 (2) The petition shall state that it is filed under this
18 chapter, request the establishment of a district, state the
19 proposed name of the district, and provide information showing
20 that the district is warranted to protect the public health or
21 welfare or to protect and rehabilitate the waters of the
22 district. The petition shall identify the common outlet for the
23 proposed district. The petition shall include a general
24 description of the location of the proposed district which may
25 consist of a map generally outlining the boundaries of the
26 proposed district. The petition shall also request the
27 development of a watershed management plan and identify the

1 objectives to be investigated. The petition may specify persons
2 or entities that should be considered for membership on any
3 appointed watershed advisory board.

4 (3) A petition for the establishment of a district shall be
5 signed by 1 of the following, as applicable:

6 (a) For a district lying wholly within the boundaries of 1
7 county, by a resolution of the governing body of at least 1
8 public corporation lying wholly or partly within that county and
9 wholly or partly within the district.

10 (b) For a district lying wholly or partly within 2 or more
11 counties, by resolutions of the governing bodies of at least 2
12 public corporations lying wholly or partly within those counties
13 and wholly or partly within the district.

14 Sec. 587. The petition filer shall also file with the board
15 of county commissioners a cash deposit sufficient to pay the
16 costs, as determined by the county board of commissioners, of
17 notice upon each affected public corporation, publication of
18 notice for the first meeting of the commission, and publication
19 of the first hearing. Any unused funds from the deposit shall be
20 returned to the person filing the petition. If a district is
21 established, the balance of the deposit shall be considered a
22 cost of the watershed management district, shall be collected in
23 the first assessment, and shall be returned to the petitioner
24 upon collection of the first assessment.

25 Sec. 588. (1) Within 42 days following receipt of the
26 petition, the county board of commissioners shall review the
27 petition for sufficiency under section 586. If the petition is

1 insufficient under section 586, the county board of commissioners
2 shall return the petition to the filer of the petition with a
3 written explanation of the reasons that the petition is
4 insufficient.

5 (2) If the county board of commissioners finds that the
6 petition is sufficient, a watershed management commission is
7 established for the proposed district. The commission consists
8 of the following members:

9 (a) The drain commissioner of each county within the
10 district.

11 (b) The chief elected official or an elected official
12 designated by the chief elected official of each public
13 corporation with lands within the district.

14 (c) The director of the department of environmental quality
15 or a person designated by the director as a nonvoting member.

16 (d) The director of the department of natural resources or a
17 person designated by the director as a nonvoting member.

18 (e) Unless the district lies wholly within the boundaries of
19 1 county, the director of the department of agriculture or a
20 person designated by the director.

21 (3) Within 28 days of determining that the petition is
22 sufficient, the county board of commissioners shall do both of
23 the following:

24 (a) Make a preliminary finding of the public corporations
25 subject to assessment under this chapter.

26 (b) By first-class mail provide notice of the first meeting
27 of the watershed management commission to all of the following:

1 (i) The county clerk, drain commissioner, and chairperson of
2 each county road commission of each county subject to assessment
3 under this chapter.

4 (ii) The chairperson of each soil conservation district
5 within the proposed watershed management district.

6 (iii) The clerk of each city, village, and township having
7 lands within the proposed district.

8 (iv) The director of the department of agriculture.

9 (v) The director of the department of environmental
10 quality.

11 (vi) The director of the department of natural resources.

12 (vii) The director of transportation.

13 (viii) The chairperson of any watershed council established
14 under part 311 of the natural resources and environmental
15 protection act, 1994 PA 451, MCL 324.31101 to 324.31119, whose
16 watershed lies wholly or partly within the district.

17 (4) The notice shall include a copy of the petition and
18 shall request each notified public corporation to designate a
19 representative to the commission and state the time and place of
20 the first meeting which shall be not less than 42 and not more
21 than 63 days following the mailing of the notice. Failure of the
22 governing body of any public corporation entitled representation
23 to designate a member to the commission does not prevent the
24 inclusion of the public corporation in the watershed management
25 district or exempt it from assessment or other obligations under
26 this chapter.

27 (5) The county board of commissioners with whom the petition

1 was filed shall also publish a notice of the first meeting of the
2 commission in a newspaper of general circulation in the proposed
3 district.

4 (6) Each county board of commissioners whose county lies
5 wholly or partly within the boundaries of the district shall by
6 first-class mail deliver a copy of the notice under subsection
7 (4) to any interested party that has made a written request to be
8 notified regarding watershed management district petitions.

9 Sec. 589. (1) At the first meeting of the commission, the
10 commission shall elect a chairperson, vice-chairperson, and
11 secretary from among its members. The chairperson of the
12 commission may vote only if necessary to cast the deciding vote
13 in case of a tie.

14 (2) At its first meeting, the commission shall establish the
15 voting authority of its voting members. The voting authority of
16 members described in section 588(2)(b) shall be weighted. The
17 weighting shall be based upon a combination of the percentage of
18 total population of the proposed district that resides in the
19 public corporation represented by each member and the percentage
20 of the total acreage in the proposed district that lies in the
21 public corporation represented by each member. The commission
22 shall adjust the voting authority, if necessary, upon the
23 commission's final determination of the district boundary.

24 (3) The commission shall designate the drain commissioner of
25 1 of the counties in the district to serve as treasurer of the
26 district. Money held by the district's treasurer shall only be
27 paid out upon the order of the commission except for the payment

1 of principal and interest on notes or bonds. The commission
2 shall cause the accounts of the district's treasurer to be
3 audited annually by a certified public accountant. The expense
4 of the audit shall be paid by the watershed management district.
5 The district's treasurer shall invest the funds as directed by
6 the commission. Unless the commission directs otherwise, the
7 funds shall be invested in interest bearing accounts in the name
8 of the district.

9 (4) The commission shall adopt rules of district procedures
10 or bylaws not inconsistent with this chapter.

11 (5) The business that the commission, the executive
12 committee, if any, or the advisory board may perform shall be
13 conducted at a public meeting of the commission, the executive
14 committee, if any, or the advisory board held in compliance with
15 the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

16 (6) A meeting of the commission shall be called by the
17 chairperson or 2 or more members of the commission by sending
18 notice of the meeting by first-class mail to each member not less
19 than 20 days before the date of the meeting. A majority of the
20 members shall constitute a quorum for the transaction of
21 business, but a lesser number may adjourn from time to time.
22 Unless otherwise provided in this act, an action shall not be
23 taken except by a majority vote of the members present and
24 voting.

25 (7) The commission shall meet at least once annually before
26 April 1. The first meeting of the commission each year shall be
27 considered its annual meeting. At its annual meeting, the

1 commission shall do all of the following:

2 (a) Appoint members of the watershed advisory board and
3 executive committee and such other committees as it considers
4 appropriate.

5 (b) Approve assessments for district operation and watershed
6 management plan implementation.

7 (c) Approve an annual work plan and annual budget for the
8 district for the ensuing year, and conduct other business.

9 (d) Issue an annual report stating progress toward the
10 petition.

11 (e) Conduct other business.

12 (8) A copy of the annual report and budget shall be
13 prepared, published, and provided to all public corporations in
14 the district, the department of agriculture, the department of
15 environmental quality, and the department of natural resources.

16 (9) Orders issued by the commission shall be signed by the
17 chairperson and the secretary.

18 (10) The secretary shall prepare and sign 3 duplicate
19 originals of the minutes of the proceedings of the body. The
20 secretary shall retain 1 duplicate original, file 1 duplicate
21 original with the chairperson, and file 1 duplicate original with
22 the director of the department of agriculture. The originals of
23 all proceedings and records shall be kept on file with the
24 secretary.

25 (11) A writing prepared, owned, used, in the possession of,
26 or retained by the commission in the performance of an official
27 function is subject to the freedom of information act, 1976 PA

1 442, MCL 15.231 to 15.246.

2 Sec. 590. (1) At the first meeting, the commission shall
3 tentatively determine the practicality of the petition and
4 whether a district is warranted to protect the public health or
5 welfare or to protect and rehabilitate the waters of the
6 district. If the commission determines that the petition is not
7 practical, the commission may return the petition to the petition
8 filer for supplementation and refinement. If such refinement
9 results in the inclusion of additional public corporations which
10 are entitled to designate a member of the commission, the
11 commission shall notify the clerk of such public corporation of
12 the time and place to reconvene the commission. If the
13 commission at any time determines that the district is not
14 warranted to protect the public health or welfare or to protect
15 and rehabilitate the waters of the district, it shall order the
16 petition dismissed and proceedings under the petition shall be
17 terminated. If a petition is so dismissed, a petition that is
18 the same or substantially the same shall not be filed under this
19 chapter for 1 year after the date of dismissal.

20 (2) If the commission tentatively finds that the petition is
21 practical and that the watershed management district is warranted
22 to protect the public health or welfare or to protect and
23 rehabilitate the waters of the district, it shall promptly select
24 a name for the district and make a tentative determination of the
25 public corporations to be assessed for the cost, and fix a time,
26 date, and place to hear objections to the establishment of the
27 district and public corporations subject to assessment. The

1 hearing shall take place within 42 days of the tentative
2 determination of the public corporations to be assessed. Notice
3 of the hearing shall be published twice by inserting the notice
4 in a newspaper of general circulation in the district. The
5 publication shall not be less than 21 days before the date of the
6 hearing. The notice shall also be sent by first-class mail to
7 the clerk of each public corporation proposed to be assessed not
8 less than 21 days before the date of the hearing. The notice
9 shall be signed by the chairperson and proof of the publication
10 and mailing of the notice shall be filed in his or her office.
11 The proof will be conclusive of the publication and mailing. The
12 commission may provide a form to be substantially followed in
13 giving of notice.

14 (3) After the hearing, the commission shall determine whether
15 the petition is practical and the district is warranted to
16 protect the public health or welfare or to protect and
17 rehabilitate the waters of the district and, if so, the public
18 corporations to be assessed. The commission shall issue its
19 order accordingly. The order shall set forth the voting
20 authority of the voting members of the commission. The order
21 shall be known as the order designating the watershed management
22 district. A public corporation shall not be eliminated from or
23 added to those tentatively determined to be assessed without a
24 rehearing after notice. The commission shall publish notice of
25 the order designating the district by publishing in a newspaper
26 of general circulation in the district. The notice shall give a
27 general description of the common outlet and the location of the

1 district as shown by the order. In addition, the commission
2 shall serve a copy of the order by first-class mail on the clerks
3 of each public corporation within the district, the director of
4 agriculture, the director of the department of environmental
5 quality, the director of the department of natural resources, and
6 the secretary of each soil conservation district within the
7 proposed district.

8 (4) Any public corporation aggrieved by the decision of the
9 commission may file an appeal in the circuit court for the
10 circuit court circuit where that public corporation is located
11 within 28 days.

12 Sec. 591. (1) The commission shall function as the
13 governing body of the district. Actions taken by the commission
14 shall be taken in the name of the district.

15 (2) After the commission issues its order designating the
16 district, it may appoint a watershed management district
17 executive committee. Only members of the commission are eligible
18 to be members of the executive committee. The members of the
19 executive committee shall be elected by a vote of the majority of
20 the members of the commission. However, the drain commissioner
21 serving on the commission shall be a member of the executive
22 committee.

23 (3) The executive committee shall perform administrative and
24 ministerial duties as directed by the commission and outlined in
25 its bylaws. The executive committee's duties may include conduct
26 of meetings and public hearings for purposes of recommending a
27 watershed management plan and recommending implementation of the

1 plan. The executive committee may prepare and make
2 recommendations as to the apportionment of costs and the review
3 of expenditures. However, the adoption of the final plan,
4 implementation of the plan, final apportionment of costs,
5 adoption of an annual budget, and authorization of assessments
6 shall be approved by the majority of the commission.

7 Sec. 592. (1) After the issuance of the order designating
8 the district, the commission shall develop the tentative scope of
9 the watershed study which shall guide the development of the
10 watershed management plan.

11 (2) The commission shall appoint a watershed management
12 district advisory board. The commission shall invite the
13 department of natural resources, the department of environmental
14 quality, the state transportation department, and any watershed
15 council established under part 311 of the natural resources and
16 environmental protection act, 1994 PA 451, MCL 324.31101 to
17 324.31119, soil conservation district, or board of county road
18 commissioners whose watershed, conservation district, or county
19 lies wholly or partly within the watershed management district to
20 appoint a representative to the advisory board. The commission
21 may consider as members of the advisory board those persons or
22 entities which were specified as part of the petition, and any
23 other person or entity with an interest in the district,
24 including, but not limited to, federal, state, county, and
25 municipal agencies, regional planning agencies, property owners,
26 and interest groups. It is intended that the advisory board
27 include members who will represent a balance of the interests

1 existing in the district.

2 (3) At its first meeting, the advisory board shall elect a
3 chairperson and secretary. Minutes shall be kept at all
4 meetings, and records of all proceedings and recommendations of
5 the advisory board shall be filed in the office of the
6 chairperson of the commission.

7 (4) The watershed management commission shall appoint at
8 least 1 member of the commission to the advisory board. Once the
9 advisory board has been established, the commission shall
10 periodically review the membership based upon demographic
11 information of the watershed management district and revise the
12 membership as necessary to ensure a balance of all interests in
13 the district.

14 (5) The advisory board, in conjunction with the commission or
15 its executive committee, or both, shall further define the scope
16 of the watershed study. The watershed study or the plan may
17 include 1 or more of the following:

18 (a) Preparation of plans.

19 (b) Problem assessment.

20 (c) Special studies.

21 (d) Water quality, water quantity monitoring, or biological
22 monitoring.

23 (e) Modeling.

24 (f) Data gathering.

25 (g) Education and education programs.

26 (h) Purchase of lands, acquisition of conservation or other
27 easements or rights-of-way, or purchase of development rights.

1 (i) Development of ordinances and regulatory programs
2 recommended for consideration by public corporations.

3 (j) Mapping.

4 (k) Publications.

5 (l) Testing.

6 (m) Hydrological engineering, analysis, and modeling.

7 (n) Development and drafting of recommended management
8 practices.

9 (o) Any other component considered appropriate by the
10 commission to accomplish the purpose of this chapter, other than
11 construction activities which constitute maintenance,
12 improvement, or construction of a drain or construction
13 activities within boundaries of the watercourse.

14 (6) The advisory board shall conduct public meetings to
15 gather input on the scope of the watershed study. The advisory
16 board shall prepare its recommendation for the scope of the
17 watershed study. The recommendation shall be forwarded to the
18 commission.

19 (7) Upon receipt of the advisory board's recommendation, the
20 commission shall convene to decide whether or not to tentatively
21 adopt the scope of the watershed study. The commission shall set
22 a time, date, and place to hear any objections to the proposed
23 scope of the watershed study.

24 Sec. 593. (1) After convening a meeting of the commission
25 to hear any objections to the proposed scope of the watershed
26 study and giving the objections due consideration, the commission
27 shall convene to finalize the scope of the watershed study, adopt

1 the scope of the watershed study, and tentatively apportion
2 benefits in a first order of determination.

3 (2) Interested parties may appeal the scope of the plan or
4 the apportionment of benefits to the circuit court in the county
5 where they reside within 21 days of the issuance of the first
6 order.

7 (3) The commission shall not proceed with the preparation of
8 the watershed study while any appeals are pending.

9 Sec. 594. (1) After any appeals have been resolved, the
10 commission shall authorize the advisory board to prepare the
11 scope of the watershed study. The commission shall establish
12 operating procedures for the advisory board to complete the
13 watershed study and develop the draft plan.

14 (2) After the first order of determination has been entered,
15 the commission may contract with persons to assist in the
16 completion of the watershed study and assist the advisory board
17 in the preparation of the draft plan. The commission may hire
18 employees and determine their compensation. An employee shall
19 not be a member of the commission or any advisory board.

20 (3) The advisory board shall obtain public input on the draft
21 plan through a public participation process that may include
22 public information meetings, news releases, and other
23 activities. As a minimum, the advisory board shall convene at
24 least 1 public hearing to solicit comments on the draft plan.
25 The advisory board shall give due consideration to any
26 recommendation submitted by landowners, public corporations, and
27 other interested parties.

1 (4) Promptly after completion of the scope of the watershed
2 study and preparation of a draft watershed management plan, the
3 advisory board shall submit its report and recommendations to the
4 commission.

5 Sec. 595. (1) After receipt of the written report and
6 recommendations from the advisory board, the chairperson of the
7 commission shall forward the report and recommendations to the
8 members of the commission and set the time, date, and place for a
9 meeting to decide whether or not to tentatively adopt the draft
10 plan. If the commission tentatively adopts the draft plan, the
11 chairperson of the commission shall give notice of the time,
12 date, and place of a public hearing to hear objections to the
13 draft plan and the proposed apportionment of costs of
14 implementation of the draft plan to the designated public
15 corporations. Notice of the hearing shall be published twice in
16 a newspaper of general circulation in the district. The first
17 publication shall be not less than 21 days before the date of the
18 hearing. Notice shall also be sent by first-class mail to the
19 clerk of each public corporation proposed to be assessed not less
20 than 21 days before the date of the hearing. The chairperson of
21 the commission shall sign and file in his or her office an
22 affidavit of the published and mailed notice. The affidavit is
23 conclusive proof of the publication or mailing of the notice.

24 (2) At the hearing, the commission shall receive testimony
25 and evidence as to the practicality of the draft plan. If the
26 commission feels that additional information is needed before a
27 draft plan can be adopted, it may adjourn as it deems necessary,

1 but an adjournment shall not be for longer than 63 days. After
2 the hearing, the commission by a majority vote shall make a
3 determination of the practicality of the draft plan, shall
4 establish the final apportionments to the public corporations to
5 be assessed, and shall enter orders thereof, which orders shall
6 be known as the final order of determination and final order of
7 apportionment, respectively. The orders shall be filed in the
8 office of the secretary of the commission.

9 (3) Apportionments of benefits under this chapter shall be
10 based upon benefits to the public corporations to be assessed,
11 the extent to which the public corporation contributes to the
12 conditions that make a plan necessary and derives special benefit
13 directly related to actions proposed by the plan, and whether a
14 public corporation or owners of land in the public corporation
15 specifically requested a provision of the plan.

16 Sec. 596. If the plan as set forth in the final order of
17 determination proposes the establishment, construction,
18 maintenance, or improvement of a county or intercounty drain, the
19 establishment, construction, maintenance, or improvement shall be
20 implemented pursuant to the appropriate provisions of this act
21 and be subject to the jurisdiction of the respective drain
22 commissioner or drainage board. The commission may petition for
23 work outlined in the plan, but only pursuant to chapters 20 and
24 21.

25 Sec. 597. The commission shall at least every 5 years
26 review and reevaluate the plan and its implementation. In doing,
27 the commission shall seek the input and recommendations of the

1 advisory board. The commission may receive a petition to
2 supplement, amend, or expand the plan. If such a petition is
3 received, the commission shall proceed consistent with this
4 chapter from the point in the proceedings immediately following
5 the order designating the district.

6 Sec. 598. Public corporations may advance funds for the
7 payment of any part of the costs incurred by a district and shall
8 be repaid by the district when funds are available. Before the
9 issuance of bonds, the commission may assess preliminary costs in
10 an equitable manner against public corporations in the district
11 and collect the assessed costs. The costs of all of the
12 following are subject to assessment:

13 (a) Establishing the district.

14 (b) Development of the scope of the watershed study.

15 (c) Administrative staff, office, and other expenses of the
16 commission and advisory board.

17 (d) Implementation of the plan.

18 (e) Acquiring interest in lands.

19 (f) Engineering, legal, consultant, and other professional
20 fees.

21 (g) Service and publication of all notices.

22 (h) Interest on all bonds or notes for the first year they
23 are to be issued and all payments and interest on bonds or notes
24 issued before the assessment.

25 (i) Other items identified and allocated in the finally
26 approved annual budget.

27 (j) Possible contingent expenses, in an amount not exceeding

1 10% of the other costs which are to be assessed against public
2 corporations.

3 Sec. 599. (1) Any action arising from this chapter may be
4 brought in the circuit court of any county in which any part of
5 the district involved is located.

6 (2) Neither the final order of determination nor the final
7 order of apportionment is subject to attack in any court except
8 by proceedings and superintending control brought within 28 days
9 after the filing of such order in the office of the secretary of
10 the commission. Unless successfully challenged in proceedings
11 brought within this time, the district is legally established and
12 the legality of the plan and the assessments shall not be
13 questioned in any suit at law or equity.

14 (3) Subsection (2) does not apply unless all notices given
15 under this chapter contain a copy of subsection (2).

16 Sec. 600. (1) The commission, its advisory board, or an
17 executive committee is not authorized to perform a duty,
18 specifically delegated to a drain commissioner or drainage board
19 under this act.

20 (2) The commission, its advisory board, or an executive
21 committee is not governed by the procedural or other provisions
22 contained in this act other than this chapter except as otherwise
23 specified. However, if not contrary to the expressed provisions
24 of this chapter, any provision or provisions in other chapters of
25 this act may be incorporated by recital or by references into any
26 order or resolution of the commission.

27 ~~CHAPTER 23.~~

~~PENALTIES.~~

Sec. 601. ~~If any commissioner is interested directly or indirectly in the profits of any contract, job, work or services, other than official services, to be performed for the drainage district, he is deemed to be guilty of a misdemeanor, and the office of such commissioner shall be deemed vacant and the commissioner so convicted shall be incapable of again holding the office of county drain commissioner.~~ Any assessments made under this chapter do not constitute indebtedness of a public corporation for purposes of any charter, statutory, or constitutional debt limitation. Taxes levied by a public corporation for the payment of such assessments are not within a statutory or charter tax limitation.

Sec. 602. ~~If any person shall wilfully or maliciously remove any section or grade stake set along the line of any drain, or obstruct or injure any drain, he shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding \$100.00 and the costs of prosecution, or in default of the payment thereof, by imprisonment in the county jail not exceeding 90 days.~~ The commission may acquire the necessary lands or rights-of-way as identified in the plan. Such acquisition shall be by negotiated purchase or release, or by gift or grant.

Sec. 603. (1) The commission may enter a contract with any federal agency under which the federal agency will pay the whole or any part of the cost of the plan or will perform the whole or any part of the work connected with the plan.

1 (2) The commission may also contract with any private or
2 public corporation in respect to any matter connected with the
3 plan. Such contract with a public corporation may provide that
4 any payments made or work done by the public corporation shall be
5 in lieu of all or part of the assessments for the cost of the
6 plan.

7 Sec. 604. After the confirmation of the apportionment, the
8 commission shall direct the secretary of the commission to
9 prepare a special assessment roll assessing the estimated cost of
10 the plan, or if the actual cost has been ascertained, the actual
11 cost against the public corporations in accordance with the
12 confirmed apportionments. The commission may provide for the
13 payment of the special assessments in any number of approximately
14 equal annual installments, not exceeding 20. Installments of
15 assessments against the state and against public corporations
16 which collect their taxes beginning approximately December 1 in
17 each year are due by April 1 of each year. Installments of
18 assessments against public corporations are due by the date or
19 dates fixed by the commission depending on the time or times for
20 the collection of taxes by the public corporations. The
21 commission shall fix the rate of interest to be paid upon unpaid
22 installments at not more than 6%. Interest is due annually on
23 the day and month upon which the annual installments are due.
24 Any installment or installments may be paid in advance of the due
25 date with interest computed to the next installment due date.
26 The commission shall fix the time or times for the payment of the
27 first installment so that each public corporation may make a tax

1 levy for the payment of the installment.

2 Sec. 605. (1) The special assessment roll shall contain the
3 name of each public corporation assessed; the total estimated
4 cost of the plan, or the actual cost if the actual cost has been
5 ascertained at the time of the preparation of the roll; the
6 percentage apportioned to each public corporation; the amount of
7 the assessment for each public corporation based upon the
8 percentage of apportionment; and the amount of each installment
9 if the assessment is divided into annual installments. After the
10 secretary prepares the special assessment roll, the secretary
11 shall present the special assessment roll to the commission for
12 approval. If the commission approves the roll, a statement to
13 that effect setting forth the date of approval shall be signed by
14 the chairperson and secretary of the commission and affixed to
15 the roll.

16 (2) The chairperson of the commission shall then certify to
17 each public corporation assessed the amount of the total
18 assessment against it, the amount of the various installments if
19 the assessment is divided into installments, the due date of each
20 installment, and the rate of interest upon unpaid installments.
21 The treasurer shall also each year, at least 30 days before the
22 time of the levying of taxes by each public corporation, notify
23 the public corporation of the amount of the installment and
24 interest next becoming due. However, the failure to so notify
25 any public corporation does not excuse it from making payment of
26 the installment and interest.

27 (3) On or before the due date of an installment, each public

1 corporation shall pay to its county treasurer the amount of the
2 installment, together with interest accruing to the due date.
3 Within 15 days after receiving a payment, the county treasurer
4 shall forward the amount so paid to the treasurer of the
5 commission. If a public corporation fails or neglects to pay the
6 county treasurer the amount of the installment and interest, the
7 county treasurer shall advance the amount to the treasurer of the
8 commission from county funds and deduct the amount from any
9 funds, other than those pledged for the payment of debts, of the
10 public corporation. If a county advanced funds for a public
11 corporation under this section but had not been reimbursed, the
12 county board of commissioners may order the public corporation
13 and its officers to levy upon its next tax roll an amount
14 sufficient to make such reimbursement on or before the date when
15 its taxes become delinquent. The public corporation and its tax
16 levying and collecting officials shall levy and collect such
17 taxes and reimburse the county. Nothing in this section prevents
18 the county from obtaining reimbursement from any other legal
19 method. The tax levying officials of each of the public
20 corporations assessed shall levy sufficient taxes to pay
21 assessment installments and interest as they become due unless
22 sufficient money has been set aside.

23 (4) If a special assessment roll is prepared upon the basis
24 of the estimated cost of the plan, then after the actual cost has
25 been ascertained and determined by the commission, the special
26 assessments and the installments shall be corrected by adding any
27 deficiency or deducting any excess, or refunding the amount of

1 any prepaid assessments in excess of the assessment based upon
2 actual costs. The commission may order such corrections to be
3 made upon the original roll or may order that a new corrected
4 roll be prepared and submitted for approval by the commission.

5 Sec. 606. (1) The commission may issue bonds or notes for
6 and on behalf of the watershed management district, in
7 anticipation of the collection of any or all installments of
8 assessments, and pledge the full faith and credit of the district
9 for the prompt payment of the principal and interest.

10 (2) A district may borrow money or accept the advance of
11 work, material, or money from a public or private corporation,
12 partnership, association, individual, or any agency of the
13 federal government for payment for the preparation or
14 implementation of the plan to be reimbursed by the district, with
15 or without interest as may be agreed, when funds are available.
16 The obligation of the district to make the repayment or
17 reimbursement may be evidenced by a contract or note. The
18 contract or note may pledge the full faith and credit of the
19 district and may be made payable out of the assessments made
20 against public corporations or out of any other available funds,
21 and the contract or note shall not be considered to be an
22 obligation within the meaning of the municipal finance act, 1943
23 PA 202, MCL 131.1 to 139.3. The total amount of principal owed
24 for obligations under this section shall not exceed \$600,000.00.

25 (3) This section does not apply to advances or loans made by
26 any public corporation, the federal government, or any agency of
27 the federal government.

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

4 Sec. 607. If the original assessment is insufficient to pay
5 the principal and interest on bonds and notes issued in
6 anticipation of the collection, then the commission shall make
7 such additional assessments, as necessary. The additional
8 assessments shall be apportioned to the same public corporations
9 in the same relative amounts as the original assessments.

10 CHAPTER 23

11 SANCTIONS

12 Sec. 615. If a commissioner is interested directly or
13 indirectly in the profits of a contract, job, work, or services,
14 other than official services, to be performed for a drainage
15 district, he or she is guilty of a misdemeanor. Upon conviction,
16 his or her office is vacated and he or she is ineligible to again
17 hold the office of commissioner.

18 Sec. 616. If any person willfully or maliciously removes
19 any section or grade stake set along the line of any drain, or
20 obstructs or damages a drain, he or she is guilty of a
21 misdemeanor, punishable by a fine of not more than \$100.00 and
22 the costs of prosecution, or in default of the payment of the
23 fine, by imprisonment for not more than 93 days.

24 Sec. 617. (1) A person is guilty of a misdemeanor if the
25 person willfully prohibits, prevents, or obstructs the drain
26 commissioner or drainage board or their agents, employees, or
27 contractors from doing either of the following:

1 (a) Going upon land for the purpose of examining the land or
 2 making surveys in connection with the work of the drain
 3 commissioner or drainage board.

4 (b) Going upon a right-of-way of the district with their
 5 employees, tools, machinery, instruments, and other equipment for
 6 the purpose of constructing, reconstructing, repairing, or
 7 maintaining the work of the drain commissioner or drainage
 8 board.

9 (2) Subsection (1) does not apply unless the drain
 10 commissioner has given notice by first-class mail to the owner of
 11 the land whose name appears on the last city or township tax roll
 12 that the drain commissioner or drainage board or their agents,
 13 employees, or contractors will go upon the land or upon the
 14 right-of-way to which the land is subject.

15 (3) Subsection (2) does not apply if the address of the owner
 16 of the land does not appear on the tax roll.

17 CHAPTER 24 —

18 REPEALS AND SAVING CLAUSES —

19 CHAPTER 25

20 ALTERNATE PROCEDURES

21 Sec. 626. ~~When~~ **If** 2 or more public corporations other
 22 than the state or a county or counties are to be assessed, the
 23 drainage board, or if appropriate in chapter 21 proceedings, the
 24 drain commissioner, may determine that costs to be assessed to
 25 the public corporations, in excess of those apportioned for
 26 drainage to ~~state or county highways~~ **roadways**, shall not be
 27 apportioned by the establishment of a fixed percentage of costs

1 to be borne by each public corporation, but that the costs shall
 2 be assessed at large to all of the public corporations in the
 3 aggregate and apportioned annually between the public
 4 corporations on the basis of the relative valuations, as
 5 equalized, of each within the area served by the drain. ~~—, if~~
 6 ~~the~~ **The** drainage board or drain commissioner shall ~~determine~~
 7 ~~that~~ **base the determination on whether** this method of
 8 apportionment will more fairly result in the costs of the drain
 9 being apportioned in accordance with the benefits to be derived
 10 therefrom. Notice of tentative apportionment in the ~~foregoing~~
 11 manner **provided in this section** shall include a calculation of
 12 the apportionment of costs between public corporations assessed
 13 in the aggregate based on the latest available valuations.

14 Sec. 627. When employing this chapter, the ~~chairman~~
 15 **chairperson** of the drainage board in chapter 20 proceedings or
 16 the secretary of the drainage board in chapter 21 proceedings
 17 shall prepare a special assessment roll. ~~—which~~ **The special**
 18 **assessment roll** shall contain the name of each public corporation
 19 assessed, the total estimated or actual cost of the project, the
 20 fixed percentage of the cost, if any, apportioned to public
 21 corporations, and to ~~the state or counties~~ **roadway authorities**
 22 for drainage of ~~highways~~ **roadways**, the aggregate amount
 23 assessed at large against all other public corporations, and if
 24 the assessment is divided into annual installments, the amount of
 25 each installment, listed separately for the state and counties
 26 and for public corporations assessed a fixed percentage if
 27 applicable, and in the aggregate for all other public

1 corporations. After approval of the roll by the drainage board,
2 the ~~chairman~~ **chairperson** shall then send a certified copy of
3 the roll to each public corporation assessed.

4 Enacting section 1. Sections 4, 5, 11, 21a, and 22,
5 chapter 4, chapter 6, sections 193, 194, 195, 196, 197, 198, 246,
6 248, 268, 271, 272, 281, 321, and 325, chapters 14, 15, and 16,
7 sections 424, 426, 427, 428, 432, and 434, chapter 19, sections
8 461, 470, 471, 480, 482, 485, 492 to 498, 511, 522, 523, 526 to
9 531, 533 to 539, 542 to 549, 551 to 583, and 621 of the drain
10 code of 1956, 1956 PA 40, MCL 280.4, 280.5, 280.11, 280.21a,
11 280.22, 280.71 to 280.88, 280.121 to 280.135, 280.193, 280.194,
12 280.195, 280.196, 280.197, 280.198, 280.246, 280.248, 280.268,
13 280.271, 280.272, 280.281, 280.321, 280.325, 280.341 to 280.384,
14 280.424, 280.426, 280.427, 280.428, 280.432, 280.434, 280.441 to
15 280.448, 280.461, 280.470, 280.471, 280.480, 280.482, 280.485,
16 280.492 to 280.498, 280.511, 280.522, 280.523, 280.526 to
17 280.531, 280.533 to 280.539, 280.542 to 280.549, 280.551 to
18 280.583, and 280.621, are repealed.