

HOUSE BILL No. 6545

September 20, 2006, Introduced by Rep. Taub and referred to the Committee on Local Government and Urban Policy.

A bill to amend 1956 PA 40, entitled
"The drain code of 1956,"
by amending section 196 (MCL 280.196), as amended by 1989 PA 149.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 196. (1) An annual inspection may be made of ~~all drains~~
2 ~~laid out and constructed~~ **A DRAIN ESTABLISHED** under this act.
3 Inspection shall also be made upon the request of the governing
4 body of a public corporation, as defined in section 461, served in
5 whole or in part by the drain to be inspected. For county drains,
6 the inspection shall be made by the drain commissioner, or a
7 competent person appointed by the drain commissioner. For
8 intercounty drains, the inspection shall be caused to be made by
9 the drainage board.

10 (2) Surplus construction funds remaining after completion of

1 construction of a drain, or funds remaining after completion of
2 work performed under a petition for maintenance or improvements
3 under this chapter, shall be deposited in the drain fund of a
4 drainage district and shall be expended for inspection, repair, and
5 maintenance of the drain.

6 (3) If at any time the drain fund of a drainage district
7 contains less than ~~-\$2,500.00-~~ **\$5,000.00 OR AN AMOUNT UP TO**
8 **\$15,000.00 AS ESTABLISHED BY RESOLUTION OF A MAJORITY OF THE COUNTY**
9 **BOARD OF COMMISSIONERS** per mile ~~of drain~~ or fraction of a mile ~~OF~~
10 **A DRAIN**, the drain commissioner or drainage board may assess the
11 drainage district for an amount not to exceed ~~-\$1,250.00-a~~
12 **\$2,500.00 OR AN AMOUNT ESTABLISHED BY RESOLUTION OF A MAJORITY OF**
13 **THE COUNTY BOARD OF COMMISSIONERS PER** mile or fraction of a mile in
14 any 1 year. The amount collected under an assessment shall be
15 deposited in the drain fund of a drainage district for necessary
16 inspection, repair, and maintenance of the drain.

17 (4) If an inspection discloses the necessity of expending
18 money for the maintenance and repair of a drain in order to keep it
19 in working order, the drain commissioner for a county drain, or the
20 drainage board for an intercounty drain, may without petition
21 expend an amount not to exceed in any 1 year ~~-\$2,500.00-~~ **\$5,000.00**
22 **OR AN AMOUNT UP TO \$15,000.00 AS ESTABLISHED BY RESOLUTION OF A**
23 **MAJORITY OF THE COUNTY BOARD OF COMMISSIONERS** per mile or fraction
24 of a mile for maintenance and repair of a drain. **THE DETERMINATION**
25 **OF THE MAXIMUM EXPENDITURE ALLOWED WITHOUT A PETITION OR RESOLUTION**
26 **SHALL BE BASED ON THE TOTAL NUMBER OF MILES OF THE DRAIN AND NOT ON**
27 **THE ACTUAL NUMBER OF MILES OR LOCATION OF THE MAINTENANCE OR**

1 **REPAIR.**

2 (5) If the drain commissioner or the drainage board finds it
3 necessary to expend funds in excess of ~~-\$2,500.00-~~ **THE AMOUNT**
4 **ESTABLISHED IN SUBSECTION (4)** per mile or fraction of a mile in any
5 1 year for the maintenance and repair of a drain, the additional
6 amounts shall not be expended until approved by resolution of the
7 governing body of each township, city, and village affected by more
8 than 20% of the cost.

9 (6) If the drain fund of a drainage district does not contain
10 sufficient funds to pay for inspection, repair, and maintenance
11 authorized by this section, the drain commissioner or the drainage
12 board shall reassess the drainage district for the inspection,
13 repair, and maintenance according to benefits received. A
14 reassessment shall be made and spread upon the city or township tax
15 assessment roll within 2 years after the completion of the
16 inspection, repair, and maintenance. If the total expenditure is
17 more than ~~-\$2,500.00-~~ **THE AMOUNT ESTABLISHED IN SUBSECTION (4)** per
18 mile or fraction of a mile, all real property owners subject to an
19 assessment within the drainage district shall be notified of the
20 assessment by publication in a newspaper of general circulation
21 within the drainage district and by first class mail to the name
22 and address that appears on the last city or township assessment
23 roll. An affidavit of mailing shall be made by the drain
24 commissioner. ~~that shall be~~ **THE AFFIDAVIT IS** conclusive proof
25 that the notices required by this subsection were mailed. The
26 failure to receive the notices by mail shall not constitute a
27 jurisdictional defect invalidating a drain tax if notice by

1 publication was given as required by this subsection.

2 (7) An assessment for the actual cost of inspection, repair,
3 and maintenance performed on a drain, or an assessment to be
4 deposited in the drain fund of a drainage district, shall be made
5 according to benefits received. The expenditure limit of ~~-\$2,500.00~~
6 **THE AMOUNT ESTABLISHED IN SUBSECTION (4)** per mile of drain or
7 fraction of a mile shall be used to calculate the maximum amount
8 that the drain commissioner or drainage board may assess in any 1
9 year without a petition or a request from a public corporation. The
10 property in a drainage district that benefits from the inspection,
11 repair, or maintenance of the drain is subject to assessment for
12 that inspection, repair, or maintenance. Determination of the
13 maximum assessment amount allowed without petition or request, or
14 of the property that is subject to assessment, shall be based on
15 the number of miles of drain and areas of the drainage district
16 receiving benefits and not on the actual number of miles or actual
17 location of the inspection, repair, or maintenance.

18 (8) If an emergency condition exists that endangers the public
19 health, crops, or property within a drainage district, the drain
20 commissioner or the drainage board may expend funds for maintenance
21 and repair to alleviate the emergency condition.

22 (9) Nothing in this section prohibits the drain commissioner
23 or the drainage board from spending funds in excess of ~~-\$2,500.00~~
24 **THE AMOUNT ESTABLISHED IN SUBSECTION (4)** per mile or fraction of a
25 mile in any 1 year for inspection, maintenance, and repair of a
26 drain when requested by a public corporation, if the public
27 corporation pays the entire cost of the inspection, maintenance,

1 and repair.

2 (10) In computing the amounts that may be expended in
3 accordance with this section, the cost of work to be performed by a
4 federal agency or public corporation that is not chargeable to the
5 county or intercounty drainage district shall not be included, nor
6 shall it be necessary for the drain commissioner or the drainage
7 board to advertise for bids for that portion of the work to be done
8 by the federal agency or public corporation.

9 (11) For purposes of this section, the costs of maintenance or
10 repair shall include the costs of maintaining the drain in working
11 order to continue a normal flow of water, including the servicing
12 or repair of necessary pumping equipment and utility charges for
13 pumping equipment; the cost of keeping the drain free from rubbish,
14 debris, siltation, or obstructions; the cost of repairing a portion
15 or all of a tile or drain to continue the normal flow of water; and
16 other costs associated with the costs enumerated in this
17 subsection.

18 (12) If the cost of maintenance and repair of a drain includes
19 utility charges or costs to service pumping stations, sewage
20 treatment facilities, or retention basins, the limitation for
21 maintenance and repair ~~shall~~ **DOES** not apply except that the drain
22 commissioner or drainage board may levy sufficient special
23 assessments to pay the charges or costs but not more than the
24 amount sufficient to pay those charges or costs.

25 (13) ~~The~~ **EXCEPT AS OTHERWISE PROVIDED IN THIS ACT, THAT**
26 **PORTION OF THE** salaries, expenses, and fringe benefits of
27 ~~clerical, administrative —, and engineering employees~~ **UNDER THE**

1 SUPERVISION of the drain commissioner ~~or drainage board working~~
2 ~~incidental to the operation, repair, or maintenance of a drain~~
3 THAT ARE DIRECTLY ATTRIBUTABLE, BUT NOT INCIDENTAL, TO A DRAIN OR
4 OTHERWISE NOT RECOVERED BY FEES ESTABLISHED BY RESOLUTION OR
5 ORDINANCE OF THE BOARD OF COMMISSIONERS shall be chargeable to ~~and~~
6 ~~paid as budgeted from the county general fund and not chargeable to~~
7 ~~or by~~ the drain fund of a drainage district.
8 ~~—— (14) A violation of this section is a misdemeanor punishable~~
9 ~~by imprisonment for not more than 1 year, or by a fine of not more~~
10 ~~than \$1,000.00, or both.~~