

SUBSTITUTE FOR
HOUSE BILL NO. 4641

A bill to amend 1956 PA 40, entitled
"The drain code of 1956,"
by amending section 21 (MCL 280.21), as amended by 1989 PA 134.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 21. (1) At the general election to be held in November,
2 1976, and each fourth year after November, 1976, a county drain
3 commissioner shall be elected in each county having a drain
4 commissioner by the qualified electors of the county. The term of
5 office of ~~the~~**A** commissioner shall begin on the January 1 following
6 the drain commissioner's election and continue for a period of 4
7 years and until his or her successor is elected and qualified,
8 whichever occurs earlier.

9 (2) As determined by the county board of commissioners, the
10 county drain commissioner shall be covered by a blanket bond or

1 before entering upon the duties of office, shall execute and file
2 with the county clerk a bond to the people of the state in the
3 penal sum of ~~\$5,000.00~~ **\$100,000.00**, issued by a surety company
4 licensed to do business in this state, conditioned upon the
5 faithful discharge of the duties of the office. The county board of
6 commissioners may fix the individual bond to be required of the
7 commissioner at a different amount if, in its judgment, that is
8 desirable.

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

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

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

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

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

21 (7) A county that is organized under ~~Act No. 293 of the Public~~
22 ~~Acts of 1966, being sections 45.501 to 45.521 of the Michigan~~
23 ~~Compiled Laws 1966 PA 293, MCL 45.501 TO 45.521~~, whose charter
24 prescribes an elected county executive, and which county has a
25 population of more than 2,000,000 at the time the charter is
26 adopted, shall be governed by section 21a in place of this section.

27 (8) **EXCEPT FOR A COUNTY SUBJECT TO SUBSECTION (7), IF A DRAIN**

House Bill No. 4641 (H-1) as amended July 25, 2007

1 COMMISSIONER PERFORMS FUNCTIONS OTHER THAN ACTING AS A DRAIN
2 COMMISSIONER UNDER THIS ACT, [INCLUDING, BUT NOT LIMITED TO, OPERATING
SEWERS, LAKE LEVEL AND SOIL EROSION ENFORCEMENT, AND FACILITATING
COMPLIANCE WITH FEDERAL CLEAN WATER ACT MANDATES,] A COUNTY MAY, BY
3 RESOLUTION OF THE
MAJORITY OF THE MEMBERS ELECTED AND SERVING ON THE BOARD OF
4 COMMISSIONERS AND WITH THE CONSENT OF THE DRAIN COMMISSIONER,
5 CHANGE THE NAME OF THE OFFICE OF THE DRAIN COMMISSIONER TO THE
6 OFFICE OF THE WATER RESOURCES COMMISSIONER. THE WATER RESOURCES
7 COMMISSIONER SHALL BE ELECTED IN THE SAME MANNER AS A DRAIN
8 COMMISSIONER AND CARRY OUT THE POWERS AND DUTIES OF A DRAIN
9 COMMISSIONER AS PROVIDED IN THIS ACT.