

SENATE 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. **IF A DRAIN COMMISSIONER IS UNABLE TO**

1 EXECUTE THE DUTIES OF HIS OR HER OFFICE AND A DEPUTY COMMISSIONER  
2 HAS NOT BEEN APPOINTED UNDER SECTION 24, THE COUNTY CLERK AND  
3 PROSECUTING ATTORNEY OF THAT COUNTY MAY APPOINT A TEMPORARY  
4 REPLACEMENT TO HOLD THE OFFICE UNTIL THE COMMISSIONER IS ABLE TO  
5 RETURN TO HIS OR HER DUTIES OR UNTIL THE EXPIRATION OF THE  
6 COMMISSIONER'S TERM OF OFFICE. <<THE TEMPORARY REPLACEMENT SHALL PERFORM  
THE SAME DUTIES, HAVE THE SAME RESPONSIBILITIES, AND RECEIVE THE SAME  
COMPENSATION AS THE DRAIN COMMISSIONER. THE APPOINTMENT SHALL BE MADE IN  
WRITING AND FILED WITH THE CLERK OF THE COUNTY. IF A VACANCY IN THE  
OFFICE OF DRAIN COMMISSIONER ARISES WHILE AN INDIVIDUAL IS SERVING AS  
TEMPORARY DRAIN COMMISSIONER, THE TEMPORARY DRAIN COMMISSIONER SHALL HAVE  
ALL THE POWERS AND DUTIES OF A DRAIN COMMISSIONER UNTIL A DRAIN  
COMMISSIONER IS ELECTED OR APPOINTED. AS DETERMINED BY THE COUNTY BOARD  
OF COMMISSIONERS, A TEMPORARY DRAIN COMMISSIONER SHALL BE COVERED BY A  
BLANKET BOND OR SHALL FILE A BOND WITH THE COUNTY CLERK IN A SUM NOT LESS  
THAN \$100,000.00, CONDITIONED UPON THE FAITHFUL DISCHARGE OF HIS OR HER  
DUTIES.>>

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

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

22 (4) If a county establishes a department of public works  
23 pursuant to ~~Act No. 185 of the Public Acts of 1957, as amended,~~  
24 ~~being sections 123.731 to 123.786 of the Michigan Compiled Laws~~  
H01037'07 (S-1) KHS

House Bill No. 4641 as amended August 22, 2007

25 1957 PA 185, MCL 123.731 TO 123.786, or a public improvement agency  
26 with the drain commissioner designated as the county agent pursuant  
27 to the county public improvement act of 1939, ~~Act No. 342 of the~~

~~Public Acts of 1939, as amended, being sections 46.171 to 46.188 of~~  
~~the Michigan Compiled Laws 1939 PA 342, MCL 46.171 TO 46.188, the~~  
county board of commissioners, by resolution of a 2/3 vote of the  
members elected and serving, may combine the powers, duties, and  
functions set forth in ~~Act No. 185 of the Public Acts of 1957, as~~  
~~amended, Act No. 342 of the Public Acts of 1939, as amended 1957 PA~~  
**185, MCL 123.731 TO 123.786, THE COUNTY PUBLIC IMPROVEMENT ACT OF**  
**1939, 1939 PA 342, MCL 46.171 TO 46.188,** and this act into 1 county  
department headed by a public works commissioner. The public works  
commissioner shall be elected in the same manner and for the same  
term as a drain commissioner and shall carry out the powers and  
duties of a drain commissioner.

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

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

1 election.

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

8 (8) EXCEPT FOR A COUNTY SUBJECT TO SUBSECTION (7), IF A DRAIN  
9 COMMISSIONER PERFORMS FUNCTIONS OTHER THAN ACTING AS A DRAIN  
10 COMMISSIONER UNDER THIS ACT, INCLUDING, BUT NOT LIMITED TO,  
11 OPERATING SEWERS, LAKE LEVEL AND SOIL EROSION ENFORCEMENT, AND  
12 FACILITATING COMPLIANCE WITH FEDERAL CLEAN WATER ACT MANDATES, A  
13 COUNTY MAY, BY RESOLUTION OF THE MAJORITY OF THE MEMBERS ELECTED  
14 AND SERVING ON THE BOARD OF COMMISSIONERS AND WITH THE CONSENT OF  
15 THE DRAIN COMMISSIONER, CHANGE THE NAME OF THE OFFICE OF THE DRAIN  
16 COMMISSIONER TO THE OFFICE OF THE WATER RESOURCES COMMISSIONER. THE  
17 WATER RESOURCES COMMISSIONER SHALL BE ELECTED IN THE SAME MANNER AS  
18 A DRAIN COMMISSIONER AND CARRY OUT THE POWERS AND DUTIES OF A DRAIN  
19 COMMISSIONER AS PROVIDED IN THIS ACT.