

# SENATE BILL No. 816

September 15, 2009, Introduced by Senators VAN WOERKOM and McMANUS and referred to the Committee on Appropriations.

A bill to amend 1956 PA 40, entitled  
"The drain code of 1956,"  
by amending section 423 (MCL 280.423), as amended by 1996 PA 552.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 423. (1) A person shall not continue to discharge or  
2 permit to be discharged into any county drain or intercounty drain  
3 of the state any sewage or waste matter capable of producing in the  
4 drain detrimental deposits, objectionable odor nuisance, injury to  
5 drainage conduits or structures, or capable of producing such  
6 pollution of the waters of the state receiving the flow from the  
7 drains as to injure livestock, destroy fish life, or be injurious  
8 to public health. This section does not prohibit the conveyance of

1 sewage or other waste through drains or sewers that will not  
 2 produce these injuries and that comply with section 3112 of ~~part 31~~  
 3 ~~(water resources protection)~~ of the natural resources and  
 4 environmental protection act, ~~Act No. 451 of the Public Acts of~~  
 5 ~~1994, being section 324.3112 of the Michigan Compiled Laws 1994 PA~~  
 6 **451, MCL 324.3112.**

7 (2) Disposal plants, filtration beds, and other mechanical  
 8 devices to properly purify the flow of any drain may be constructed  
 9 as a part of any established drain, and the cost of construction  
 10 shall be paid for in the same manner as provided for in this act  
 11 for other drainage costs. Plants, beds, or devices may be described  
 12 in the petition for the location, establishment and construction of  
 13 drains or in the petition for the cleaning, widening, deepening,  
 14 straightening, or extending of drains, or in the application for  
 15 the laying out of a drainage district. Petitions for the  
 16 construction of plants, beds, and devices for use on any  
 17 established drain may be filed by the same persons and shall be  
 18 received and all proceedings on the petitions in the same manner as  
 19 other petitions for any drainage construction under this act.

20 (3) If the department of ~~environmental quality~~ **NATURAL**  
 21 **RESOURCES** determines that sewage or wastes carried by any county or  
 22 intercounty drain constitutes unlawful discharge as prescribed by  
 23 section 3109 or 3112 of ~~part 31 of Act No. 451 of the Public Acts~~  
 24 ~~of 1994, being sections 324.3109 and 324.3112 of the Michigan~~  
 25 ~~Compiled Laws~~ **THE NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION**  
 26 **ACT, 1994 PA 451, MCL 324.3109 AND 324.3112,** that 1 or more users  
 27 of the drain are responsible for the discharge of sewage or other

1 wastes into the drain, and that the cleaning out of the drain or  
2 the construction of disposal plants, filtration beds, or other  
3 mechanical devices to purify the flow of the drain is necessary,  
4 the department of ~~environmental quality~~ **NATURAL RESOURCES** may issue  
5 to the drain commissioner an order of determination identifying  
6 such users and pollutants, under section 3112 of ~~Act No. 451 of the~~  
7 ~~Public Acts of 1994, being section 324.3112 of the Michigan~~  
8 ~~Compiled Laws~~ **THE NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION**  
9 **ACT, 1994 PA 451, MCL 324.3112.** The order of determination  
10 constitutes a petition calling for the construction of disposal  
11 facilities or other appropriate measures by which the unlawful  
12 discharge may be abated or purified. The order of determination  
13 serving as a petition is in lieu of the determination of necessity  
14 by a drainage board pursuant to chapter 20 or 21 or section 122 or  
15 192 or a determination of necessity by a board of determination  
16 pursuant to section 72 or 191, whichever is applicable. A copy of  
17 the findings of the department shall be attached to the order of  
18 determination which shall require no other signature than that of  
19 the director of the department of ~~environmental quality~~ **NATURAL**  
20 **RESOURCES.** Upon receipt of the order of determination, the drain  
21 commissioner or the drainage board shall proceed as provided in  
22 this act to locate, establish, and construct a drain. If the  
23 responsible users of the drain are determined to be public  
24 corporations in the drainage district, the drain commissioner or  
25 the drainage board shall proceed as provided in chapters 20 and 21,  
26 as may be appropriate, using the order of determination as the  
27 final order of determination of the drainage board. If the

1 responsible users are determined to be private persons, the drain  
2 commissioner shall proceed as provided in chapters 8 and 9, using  
3 the order of determination as the first order of determination.

4 (4) Plans and specifications for the construction as part of a  
5 drain of any disposal plant, filtration bed, or other mechanical  
6 device to properly purify the flow of the drain shall be prepared  
7 by the drain commissioner or the drainage board. Contracts for  
8 construction shall be let in the manner provided in this act. To  
9 meet the cost of any preliminary engineering studies for the  
10 construction of abatement or purification facilities, the drain  
11 commissioner or the drainage board shall apportion the cost among  
12 the several parcels of land, highways, and municipalities benefited  
13 thereby in the same manner as provided in chapter 7 or against the  
14 public corporations affected by the order of determination in the  
15 same manner as provided in chapters 20 and 21. The costs and  
16 charges for maintenance shall be apportioned and assessed each  
17 year. If the apportionment is the same as the last recorded  
18 apportionment, a day of review or a hearing on apportionments is  
19 not necessary, but if the apportionment is changed, notice of a day  
20 of review or a hearing on apportionments shall be given to each  
21 person whose percentage is raised.

22 (5) Land may be acquired as a site for the construction of  
23 such plants, beds, and devices, and releases of land may be  
24 obtained in the same manner as provided in this act for other lands  
25 acquired for right of way.

26 (6) A person shall not connect sewage or other waste to a  
27 county or intercounty drain except with the written approval of the

1 appropriate commissioner or the drainage board indorsed upon a  
2 written application for such service and the payment of a service  
3 fee of not to exceed \$50.00 for each connection to a covered drain.  
4 The application shall include information showing that all other  
5 local, state, and federal approvals related to the sewage or waste  
6 have been obtained.

7 (7) The fee provided for in subsection (6) shall be set and  
8 collected by the drain commissioner, as approved by the county  
9 board of commissioners or the drainage board, and deposited with  
10 the county treasurer, to be credited to the drain fund set up for  
11 the maintenance or construction of the drain. The commissioner or  
12 the drainage board shall keep a record of applications made and the  
13 action on the applications. The commissioner or the drainage board  
14 may reject applications for or require such modification in  
15 requested applications for sewer connections to county drains as  
16 necessary to attain the objectives set forth in this section.

17 (8) Subject to the review and approval of the department of  
18 ~~environmental quality~~ **NATURAL RESOURCES**, the drain commissioner or  
19 drainage board may study the requirements of persons for flood  
20 control or drainage projects including sewage disposal systems,  
21 storm sewers, sanitary sewers, combined sanitary and storm sewers,  
22 sewage treatment plants, and all other plants, works,  
23 instrumentalities, and properties useful in connection with the  
24 collection, treatment, and disposal of sewage and industrial wastes  
25 or agricultural wastes or run-off, to abate pollution or decrease  
26 the danger of flooding. The objective of such studies shall be that  
27 sewers, drains, and sewage disposal facilities are made available

1 to persons situated within the territorial limits of any drainage  
2 district or proposed drainage district as necessary for the  
3 protection of public health and the promotion of the general  
4 welfare.

5 (9) The drainage board or drain commissioner may cooperate,  
6 negotiate, and enter into contracts with other governmental units  
7 and agencies or with any public or private corporation including  
8 the United States of America, and ~~to~~ take such steps and perform  
9 such acts and execute such documents as may be necessary to take  
10 advantage of any act of the congress of the United States which may  
11 make available funds for any of the purposes described in this  
12 section.

13 (10) Failure to comply with any of the provisions of this  
14 section subjects the offender to the penalties described in section  
15 602. However, for each offense, a person who violates subsection  
16 (6) is guilty of a misdemeanor punishable by a fine of not more  
17 than \$25,000.00 or imprisonment for not more than 90 days, or both.  
18 In addition, the person may be required to pay the costs of  
19 prosecution and the costs of any emergency abatement measures taken  
20 to protect public health or the environment. Payment of a fine or  
21 costs under this subsection does not relieve a person of liability  
22 for damage to natural resources or for response activity costs  
23 under the natural resources and environmental protection act, ~~Act~~  
24 ~~No. 451 of the Public Acts of 1994, being sections 324.101 to~~  
25 ~~324.90106 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 Enacting section 1. This amendatory act does not take effect  
4 unless Senate Bill No. 807  
5 of the 95th Legislature is enacted into law.