

## DRAINAGE DISTRICT BOUNDARIES

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### House Bill 4622

**Sponsor: Rep. Al Pscholka**

**Committee: Local Government**

**Complete to 10-2-13**

## A REVISED SUMMARY OF HOUSE BILL 4622 AS INTRODUCED 4-24-13

House Bill 4622 would amend the Drain Code of 1956 (MCL 280.197) to modify the procedures for changing the boundaries of county drainage districts. A detailed description of the bill follows.

Now under the law, if, after a survey, the boundaries of a county drainage district need to be changed, the chairman of the drainage board (in the instance of an inter-county drain) or the drain commissioner (in the instance of a single-county drain) notifies the *board of determination* that received the petition proposing the survey and boundary changes. That board of determination publishes notice of a public hearing; notifies landowners by mail; convenes the hearing; and makes a decision concerning the drainage district's boundaries.

House Bill 4622 would retain but modify this process, eliminating all references to a board of determination, and allowing a review and decision by the Michigan Department of Agriculture and Rural Development when such a review is requested by the Michigan Department of Transportation.

More specifically under the bill, if, after a survey is made in accordance with the Drain Code, or upon receipt of a petition, it appears that the boundaries of a drainage district should be revised, then the drain commissioner for a county drain, or the drainage board for an inter-county drain, may, after notice and review, revise the boundaries of the draining district to include all lands benefited by the drain.

Under the bill, the lands making up the drainage district must be subject to review for not less than one day from 9 a.m. until 5 p.m. That review would be conducted at a location designated by the drainage commissioner or the drainage board. At the review, the drain commissioner or drainage board would hear proofs and allegations, and carefully reconsider and review the description of land within the drainage district. If they found that the addition or deletion of lands would more accurately define the boundaries of a district that benefited by the drain, and that it would be just and equitable, then the drain commission or drainage board would issue an order to describe and establish the revised drainage district boundaries.

Generally, House Bill 4622 retains the public review that is now required in the law when drainage district boundaries are revised. The bill describes in detail how and when landowners who live within the proposed drainage district must be notified.

In addition, a new provision in the law is proposed by the bill to specify that if a revision to a drainage district would affect a state trunk line highway, then unless the state Department of Transportation consented in writing to the revision, the drain commissioner or drainage board would be required, at least 20 days before the review, to notify by registered mail the director of the department of the revisions, and of the time and place of the review.

If the transportation director wanted to have the revision of the drainage district reviewed by the director of the Department of Agriculture and Rural Development, then an objection would be filed by the transportation director with the drainage board or drain commissioner. They, in turn, would be required to notify the director of the Department of Agriculture and Rural Development of the time and location of the public review. At the review, the director of the Department of Agriculture and Rural Development (or a deputy) would be required to review the revisions made to the drainage district that affected a state trunk line highway, listen to the proofs and allegations of the parties, and could also view the state highway that is involved. The bill then specifies that the written decision of the director of the Department of Agriculture and Rural Development (or a deputy) concerning the revision of drainage district boundaries that affect a state highway would be final.

Finally, the bill specifies that the owner of any land in the drainage district, or any city, village, township, district, or county having control of any highway in the drainage district that is aggrieved by a determination to revise or not revise drainage district boundaries could, within 10 days after the day of review, institute an action in the circuit court for the county in which the real property was located, for a determination of whether the decision to add or delete property to or from the drainage district had been supported by substantial, material, and competent evidence.

#### **FISCAL IMPACT:**

House Bill 4622 as introduced may create costs for the Michigan Department of Agriculture and Rural Development (MDARD). The department indicates that it does not anticipate savings from the removal of the board of determination from certain procedures related to the department's responsibilities for administration of intercounty drain proceedings and decisions. There may be additional costs to the department related to the new provisions for review by the MDARD Director if requested by the Director of the Department of Transportation. Four positions and \$468,300 of state general funds currently support MDARD functions related to intercounty drains.

The bill may increase costs of counties to carry out responsibilities for county drains.

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