

# Legislative Analysis

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## DRAIN CODE REVISIONS

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**House Bill 5684 (Substitute H-1)**

**House Bill 5685 (Substitute H-1)**

**House Bill 5686 without amendment**

**Sponsor: Rep. Al Pscholka**

**Committee: Local Government**

**Complete to 11-12-14**

## A SUMMARY OF HOUSE BILLS 5684(H-1), 5685 (H-1) & 5686 AS REPORTED FROM COMMITTEE

The bills would amend sections of the Drain Code of 1956 to (1) authorize acquisitions in real or personal property by a drainage district; (2) modify the application process for inter-county drainage districts; and (3) authorize the creation of a drainage district to address issues caused by highway construction or maintenance. A more detailed description of each bill follows.

House Bill 5684 (H-1) (MCL 280.5) specifies that a drainage district is a body corporate with power to acquire interests in real or personal property by gift, purchase, lease, grant, trade, or any other lawful method, including condemnation under the Uniform Condemnation Procedures Act 1980.

Currently under the law, a drainage district has the power to contract, to sue and to be sued, and to hold, manage, and dispose of real and personal property. House Bill 5684 would retain these provisions.

House Bill 5685(H-1) (MCL 280.101 and 280.121) specifies that an application to establish and construct a drain on lands located in more than one county, or a drain that affects more than one county, could be signed by a representative of the city, village, or township if so authorized by its governing body. Such authorization would be allowed if the proposed drain was necessary for the public health, and the city, village, or township would be liable for an assessment to cover a percentage of the proposed drain's cost.

Now under the law, an application to establish an inter-county drainage district must be signed by at least 50 percent of the freeholders whose lands would be traversed by the proposed drain.

The bill would also define "municipality" to mean a city, village, or township.

House Bill 5686 (MCL 280.327) acknowledges that sometimes it becomes necessary during highway construction to take surplus water across adjacent lands. When that occurs the bill specifies that any of the following leaders could submit an application to the drain commissioner of the county or counties where the highway is situated, asking

the drain commissioner to designate a county or inter-county drain: the director of the State Transportation Department; a board of county road commissioners; or a county board of commissioners, if a resolution had been adopted transferring to them the powers and duties of an appointed road commission under Section 6 of 1909 Public Act 283 of 1909.

Now under the law, an application for a single county drainage district may be filed by the state, county or township highway commissioner, or county road commissioners. No provision is made for a county board of commissioners or for an inter-county drain.

House Bill 5686 also specifies that if the director of the State Transportation Department submitted an application for a drain (either a new drain, or for cleaning out or extending an existing drain), the transportation director would have to send a copy to the director of the Department of Agriculture and Rural Development. The director of that department would then have 60 days to hold a public meeting in the vicinity of the drainage district, to hear all interested people speak. Currently the law requires that public hearing within 30 days. After the hearing, the director of the Department of Agriculture and Rural Development would be required to offer a determination concerning the proposed drain's practicability and necessity to the local drain commissioner or the drainage board.

#### **FISCAL IMPACT:**

A fiscal analysis is in process.

#### **POSITIONS:**

The Michigan Association of County Drain Commissioners supports the bills. (10-2-14)

The Michigan Department of Agriculture and Rural Development supports the bills. (9-18-14)

The Michigan Municipal League supports the bills. (10-2-14)

The Michigan Association of Counties supports the bills. (10-2-14)

The Michigan Farm Bureau supports the bills in concept. (10-2-14)

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.