



**Senate Fiscal Agency**  
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House Bill 5684 (Substitute H-1 as passed by the House)  
House Bill 5685 (Substitute H-1 as passed by the House)  
House Bill 5686 (as passed by the House)  
Sponsor: Representative Al Pscholka  
House Committee: Local Government  
Senate Committee: Local Government and Elections

Date Completed: 12-10-14

### **CONTENT**

**Each of the bills would amend the Drain Code.**

**House Bill 5684 (H-1) would allow a drainage district to acquire interest in property by various methods, including condemnation.**

**House Bill 5685 (H-1) would allow a representative of a city, village, or township to sign an application filed with the drain commissioner to locate, establish, and construct an intercounty drain.**

**House Bill 5686 would designate the officials authorized to apply or petition for the location of a drain, or a drain improvement, necessary for the construction or maintenance of a highway. The bill also would require a hearing on such an application or petition within 60 days, rather than within 30 days, after the Director of the Department of Transportation has served a copy on the Director of the Department of Agriculture and Rural Development.**

A more detailed description of the bills follows.

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

The Code specifies that a drainage district is a corporate body with the power to contract, sue and be sued, and hold, manage, and dispose of real and personal property, in addition to any other powers conferred upon it by law. Under the bill, a drainage district also would be authorized to acquire interests in real or personal property by gift, purchase, lease, grant, trade, or any other lawful method, including condemnation pursuant to the Uniform Condemnation Procedures Act.

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

Under the Code, before any action is taken on a petition to locate, establish, and construct a drain that will traverse land in more than one county or affect more than one county, an application must be filed with a drain commissioner having jurisdiction of any of that land to lay out and designate a drainage district. The application must be signed by 50% of the freeholders in the drainage district whose land would be liable to assessment for the benefits of the drain.

The bill also would allow such an application to be signed by a representative of the city, village, or township, if authorized by its governing body, if the proposed drain were necessary

for the public health of that municipality and if the city, village, or township would be liable for an assessment at large against it for a percentage of the cost of the proposed drain.

### **House Bill 5686**

Under the Code, if it is necessary for the construction or maintenance of any highway to take the surplus water across adjacent land, the State, county or township highway commissioner, or county road commissioners may submit an application or petition to the drain commissioner of the county in which the highway is situated to lay out and designate a drainage district, locate and establish a drain, or clean out, widen, deepen, straighten, or extend an established drain. Under the bill, the following officials could submit such an application:

- The Director of the State Transportation Department.
- A board of county road commissioners.
- A county board of commissioners, if a resolution were adopted pursuant to law, transferring the powers, duties, and functions otherwise provided by law for an appointed board of county road commissioners.

In addition, the bill would refer to an intercounty drainage district or drain, as well as a county drainage district or drain.

Under the Code, in cases in which the State highway commissioner submits an application or petition described above, he or she must serve a copy on the Director of Agriculture, who must hold a public meeting in the drainage district with 30 days to determine the practicability or necessity of the drain. The bill would refer to the Director of the State Transportation Department rather than the State highway commissioner, and the Director of the Department of Agriculture and Rural Development rather than the Director of Agriculture, and would require the hearing to be held within 60 days in the vicinity of the proposed or established county or intercounty drainage district.

MCL 280.5 (H.B. 5684)  
280.101 & 280.121 (H.B. 5685)  
280.327 (H.B. 5686)

Legislative Analyst: Patrick Affholter

### **FISCAL IMPACT**

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

The bill would have no fiscal impact because acquisition of property for rights-of-way, including acquisition by condemnation, already is permitted by the Drain Code.

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

The bill would simplify the application process for a proposed drain that is necessary for the public health and for which the municipality will be liable for a percentage of the cost, and for intercounty drains. Allowing a representative of the city, village, or township to sign the application and avoiding the petition process in those cases would tend to reduce local costs of the application process.

### **House Bill 5686**

The bill would simplify the application process for a proposed intercounty drain, which would tend to reduce local costs of the application process.

Fiscal Analyst: Elizabeth Pratt

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.