

SUBSTITUTE FOR
HOUSE BILL NO. 5685

A bill to amend 1956 PA 40, entitled
"The drain code of 1956,"
by amending sections 101 and 121 (MCL 280.101 and 280.121).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 101. (1) Before any action is taken on ~~any~~**A** petition
2 to locate, establish, and construct ~~any~~**A** drain ~~, which proposed~~
3 ~~drain~~**THAT** will traverse lands in more than 1 county, or affect
4 more than 1 county, ~~there~~**AN APPLICATION** shall ~~first~~ be filed
5 with ~~the~~**A** commissioner having jurisdiction of any ~~such~~**OF THE**
6 lands ~~an application~~ to lay out and designate a drainage
7 district. ~~with reference to a proposed drain therein; such~~**THE**
8 application shall tentatively describe the location and route of
9 ~~such~~**THE** proposed drain. ~~The~~**EXCEPT AS PROVIDED IN SUBSECTION**
10 (2), **THE** application shall be signed by a number of freeholders
11 in ~~said~~**THE** drainage district whose lands would be liable to an

1 assessment for benefits, equal to 50% of any of the freeholders
 2 whose lands would be traversed by the drain or drains applied for
 3 or **THAT** abut on any highway or street along the side of which
 4 ~~such-**THE**~~ drain extends, between a point where ~~such-**THE**~~ drain
 5 enters ~~such-**THE**~~ highway and the point where it leaves ~~such-**THE**~~
 6 highway and which lands are within the drainage district. The
 7 eligibility of the signers to ~~such-**THE**~~ application shall be
 8 determined by their interest of record in the office of the
 9 register of deeds, in the probate court, or in the circuit court
 10 of the county in which ~~such-**THE**~~ lands are situated at the time
 11 ~~such-**THE**~~ petition is filed.

12 (2) AN APPLICATION UNDER SUBSECTION (1) MAY BE SIGNED BY A
 13 REPRESENTATIVE OF THE CITY, VILLAGE, OR TOWNSHIP IF AUTHORIZED BY
 14 ITS GOVERNING BODY, IF THE PROPOSED DRAIN IS NECESSARY FOR THE
 15 PUBLIC HEALTH OF THE CITY, VILLAGE, OR TOWNSHIP, AND IF THE CITY,
 16 VILLAGE, OR TOWNSHIP WILL BE LIABLE FOR AN ASSESSMENT AT LARGE
 17 AGAINST IT FOR A PERCENTAGE OF THE COST OF THE PROPOSED DRAIN.

18 Sec. 121. (1) After an intercounty drainage district has
 19 been established and the order ~~therefor filed as hereinbefore~~
 20 ~~provided,~~ **ESTABLISHING THE INTERCOUNTY DRAINAGE DISTRICT HAS BEEN**
 21 **FILED AS PROVIDED IN THIS ACT**, a petition to locate, establish,
 22 and construct a drain may be filed with any commissioner having
 23 jurisdiction of any of the lands designated in ~~such-**THE**~~ order as
 24 constituting the drainage district. ~~Such-**THE**~~ petition shall ask
 25 for the location, establishment, and construction of the drain or
 26 drains, or any part ~~thereof,~~ **OF THE DRAIN OR DRAINS**, as described
 27 in ~~said-**THE**~~ order. The

1 (2) **SUBJECT TO SUBSECTION (3), THE** petition **UNDER SUBSECTION**
2 (1) shall be signed by a number of freeholders in ~~said-**THE**~~
3 drainage district, whose lands would be liable to an assessment
4 for benefits, equal to 1/2 of the number of freeholders whose
5 lands would be traversed by the drain or drains applied for, or
6 abut on the part of any highway or street along the side of which
7 ~~such-**THE**~~ drain extends, between the point where ~~such-**THE**~~ drain
8 enters ~~such-**THE**~~ highway and the point where it leaves ~~such-**THE**~~
9 highway and which lands are within the drainage district. ~~Such~~
10 **THE** petition shall be accompanied by a description of the land in
11 ~~said-**THE**~~ district owned by each signer and by a certificate of
12 the county treasurer as to payment of taxes and special
13 assessments against ~~such-**THE**~~ lands. ~~Such-**THE**~~ certificate shall
14 be in substantially the following form:

15 I hereby certify that there are no taxes or special
16 assessments unpaid against any of the lands described in the
17 annexed list according to the records of the county treasurer's
18 office for the past 3 years, except as follows:

19	Description	Year	Tax or assessment	Amount
20				

21 (3) ~~The-**FOR PURPOSES OF DETERMINING THE NUMBER OF**~~
22 **FREEHOLDERS NEEDED FOR A PETITION UNDER SUBSECTION (2), THE** name
23 of any signer as to whose land ~~such-**THE**~~ certificate **UNDER**
24 **SUBSECTION (2)** shows taxes or special assessments unpaid for 3
25 years shall not be counted. The eligibility of the signers to

1 ~~such~~**THE** petition shall be determined by their interest of record
 2 in the office of the register of deeds, in the probate court, or
 3 **IN** the circuit court of the counties in which ~~such~~**THE** lands are
 4 situated at the time ~~such~~**THE** petition is filed. In determining
 5 the number of owners whose lands are traversed by ~~such~~**THE** drain,
 6 or abut thereon ~~as hereinbefore prescribed,~~**THE DRAIN**, the drain
 7 commissioner shall investigate the records of the register of
 8 deeds, of the probate court, and of the circuit court of the
 9 county, and shall make diligent inquiry in the community,
 10 including inquiry of anyone in possession of all of ~~such~~**THE**
 11 lands ~~so~~ traversed **BY THE DRAIN** or ~~so~~ abutting **THE DRAIN**, as to
 12 the ownership thereof.**OF THE LANDS.**

13 (4) In lieu of a petition signed by freeholders ~~, UNDER~~
 14 **SUBSECTION (2)**, the petition may be signed solely by a ~~city,~~
 15 ~~village or township in each county involved, when duly~~
 16 **MUNICIPALITY, IF** authorized by its governing body, or by any
 17 combination of such municipalities, if each petitioning
 18 municipality will be liable to assessment at large for public
 19 health for any part of the cost of the proposed drain. ~~In the~~
 20 ~~event of a municipally signed~~**A** petition ~~, then the foregoing~~
 21 ~~provisions of this section, other than the first 2 sentences and~~
 22 ~~these last 2 sentences thereof, shall not be applicable.~~**SIGNED**
 23 **UNDER THIS SUBSECTION IS NOT SUBJECT TO SUBSECTION (2) OR (3).**

24 (5) **AS USED IN THIS SECTION, "MUNICIPALITY" MEANS A CITY,**
 25 **VILLAGE, OR TOWNSHIP.**