

# HOUSE BILL No. 5685

June 12, 2014, Introduced by Reps. Pscholka, Price, LaVoy, Dianda, Haveman, Foster and Schmidt and referred to the Committee on Local Government.

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 lands ~~an~~  
6       ~~application~~ to lay out and designate a drainage district. ~~with~~  
7       ~~reference to a proposed drain therein; such~~**THE** application shall  
8       tentatively describe the location and route of ~~such~~**THE** proposed  
9       drain. ~~The~~**EXCEPT AS PROVIDED IN SUBSECTION (2), THE** application

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

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

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

1 drains, or any part thereof, ~~OF THE DRAIN OR DRAINS~~, as described  
 2 in ~~said~~ ~~THE~~ order. The

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

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

21 Description	Year	Tax or assessment	Amount
22 .....	.....	.....	.....

23       (3) ~~The~~ **FOR PURPOSES OF DETERMINING THE NUMBER OF LANDOWNERS**  
 24 **NEEDED FOR A PETITION UNDER SUBSECTION (2), THE** name of any  
 25 signer as to whose land ~~such~~ **THE** certificate **UNDER SUBSECTION (2)**  
 26 shows taxes or special assessments unpaid for 3 years shall not

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

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

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