

HOUSE BILL No. 4758

June 18, 2015, Introduced by Rep. Pscholka and referred to the Committee on Local Government.

A bill to amend 1956 PA 40, entitled
"The drain code of 1956,"
by amending sections 132, 221, 275, 277, 278, 280, 476, 528, and
569 (MCL 280.132, 280.221, 280.275, 280.277, 280.278, 280.280,
280.476, 280.528, and 280.569), sections 275, 278, and 280 as
amended by 2002 PA 406.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 132. ~~In cases where~~ **IF** it is determined that the
2 assessments shall be collected in more than 2 installments, the
3 drainage board, acting on behalf of the drainage district, may
4 borrow money and may issue bonds ~~therefor as~~ **IN THE MANNER** provided
5 ~~in the case of~~ **FOR** drains lying wholly within 1 county. ~~Such~~ **THE**
6 bonds shall be signed by the members of the drainage board and

1 shall be countersigned by the clerks of the counties affected.
 2 Bonds issued under this chapter shall be payable at the office of
 3 the county treasurer of the county to which the larger ~~per cent~~
 4 **PERCENTAGE** of the cost of construction is apportioned, and ~~such~~ **THE**
 5 bonds shall be deposited and safely kept by ~~such~~ **THE** treasurer
 6 until **THE BONDS ARE** sold and delivered. All installments, with
 7 **INCLUDING** interest, ~~thereon~~, of the special assessments shall be
 8 transmitted as collected by the treasurer or treasurers of the
 9 other county or counties concerned to the treasurer of ~~such~~ **THE**
 10 county **TO WHICH THE LARGER PERCENTAGE IS APPORTIONED**, who shall
 11 issue his **OR HER** receipt ~~therefor~~ and shall ~~place~~ **DEPOSIT** the
 12 ~~moneys~~ **MONEY** in the fund of the drain to be disbursed solely for
 13 the ~~retirement~~ **PAYMENT** of the bonds at maturity **OR UPON MANDATORY**
 14 **REDEMPTION** and the payment of interest ~~thereon~~ **ON THE BONDS**.

15 Sec. 221. (1) At the time and place ~~fixed~~ **ESTABLISHED** in the
 16 notice, ~~therefor~~, the commissioner shall receive bids for the
 17 construction of the drain. The commissioner may, ~~in any case~~, and
 18 shall for all drains having an estimated cost exceeding \$5,000.00,
 19 advertise for sealed proposals, to be opened on the day of letting.
 20 All sealed proposals received by the commissioner shall be publicly
 21 opened by him **OR HER** in the meeting and may be ~~there~~ examined **AT**
 22 **THE MEETING** by any person interested. As soon as practical after
 23 the opening of bids for the construction of any drain, the
 24 commissioner shall determine the lowest responsible bidder and
 25 award contracts, or ~~he~~ may reject all proposals and readvertise, ~~as~~
 26 ~~in the first instance~~, and in cases where the commissioner
 27 determined that the taxes assessed for benefits shall be collected

1 in more than 1 installment, ~~he~~ **THE COMMISSIONER** shall, subject to
 2 ~~the provisions set forth in section 275, of this act,~~ determine the
 3 amount, form, maturity, **MANDATORY REDEMPTION REQUIREMENTS, IF ANY,**
 4 and rate of interest of bonds to be issued. In counties having a
 5 board of county auditors, ~~no~~ drain bonds shall **NOT** be sold and ~~no~~
 6 drain contracts **SHALL NOT BE** let without the written consent and
 7 approval of the board of county auditors. ~~but~~ **HOWEVER,** the
 8 approval of ~~said~~ **THE** board ~~shall~~ **OF COUNTY AUDITORS IS** not be
 9 required in proceedings relative to intercounty drains.

10 (2) If ~~no~~ **A** contract ~~shall be~~ **IS NOT** let within 5 years after
 11 the date of filing the petition to locate, establish and construct,
 12 or deepen, widen, straighten, tile, extend or clean out a drain,
 13 the drain commissioner may determine that the petition shall be
 14 ~~deemed~~ **CONSIDERED** abandoned and no further action shall be taken to
 15 construct the drain. Time during which any litigation ~~shall be~~ **IS**
 16 pending to contest the validity of ~~such~~ **THE** proceedings shall not
 17 be counted as a part of such 5-year period. If the drain
 18 commissioner determines the petition shall be **CONSIDERED** abandoned,
 19 ~~he~~ **THE COMMISSIONER** shall issue ~~his~~ **AN** order to that effect. ~~and~~
 20 ~~provided, that such~~ **HOWEVER, A** determination of abandonment shall
 21 not be issued within the 5-year period. Notice of the order shall
 22 be given by publishing a notice in a newspaper of general
 23 circulation in the county. ~~The provisions of this~~ **THIS** section
 24 ~~shall apply~~ **APPLIES** to all petitions ~~which~~ **THAT** are in full force
 25 and effect on ~~the date of~~ **OR AFTER** January 1, 1973. ~~or~~
 26 ~~thereafter.~~

27 (3) The board of county road commissioners, ~~when~~ **IF** authorized

1 by a committee of ~~supervisors~~ **COMMISSIONERS** appointed by the **COUNTY**
 2 board of ~~supervisors~~, ~~is hereby authorized to~~ **COMMISSIONERS, MAY**
 3 bid for the construction, cleaning, deepening and widening of
 4 drains within the county, and, if ~~such~~ **A** bid is accepted, ~~shall be~~
 5 ~~authorized to~~ **MAY** perform the work called for therein, **IN THE BID,**
 6 and receive payment therefor. **FOR THE WORK PERFORMED.** A bid
 7 tendered by ~~such~~ **A** board of county road commissioners shall not be
 8 accepted unless ~~such~~ **THE** bid ~~shall be~~ **IS** at least 15% lower than
 9 any other bid tendered. The ~~moneys~~ **MONEY** received by the county
 10 road commission shall be credited to the county road fund, and
 11 expenditures incurred by the county road commission shall be proper
 12 disbursements ~~therefrom~~. **FROM THE COUNTY ROAD FUND.**

13 Sec. 275. ~~In cases where the issuing of~~ **IF** bonds ~~shall have~~
 14 ~~been determined upon,~~ **ARE ISSUED,** as provided in this act, ~~and~~
 15 ~~subject to the provisions of section 221 of this act,~~ the
 16 commissioner may borrow money in anticipation of the collection of
 17 the installments and may issue as evidence thereof the bonds of the
 18 drainage district. ~~as defined in this act.~~ The obligations shall
 19 specify on their face that they are payable out of the installments
 20 of drain taxes to be collected, and the amount shall not exceed the
 21 aggregate of the installments levied. Bonds issued under this act
 22 shall be signed by the commissioner on behalf of the drainage
 23 district, shall be countersigned by the county clerk and shall be
 24 payable in annual installments equal in number to the installments
 25 of taxes, shall mature **OR BE SUBJECT TO MANDATORY REDEMPTION** not
 26 earlier than March first and not later than June first of the year
 27 following the due dates of the respective installments of taxes.

1 The number of installments shall not exceed 20. ~~± Provided,~~
2 ~~however, That~~ **HOWEVER**, in any drainage district containing a closed
3 drain, any part of whose cross-section has an area exceeding 60
4 square feet, the number of installments may be, but shall not
5 exceed, 30, and the amount of each installment shall be ~~fixed~~
6 **ESTABLISHED** to correspond as near as may be to the drain
7 commissioner's estimate of the amount of taxes actually collectible
8 each year, and in no case shall bonds mature **OR BE SUBJECT TO**
9 **MANDATORY REDEMPTION** more than 2 1/2 years after the corresponding
10 installment of taxes. The commissioner shall pledge in the bond the
11 credit of the drainage district, including the lands embraced
12 within the district and the townships, cities, villages, counties,
13 and state trunk line highways assessed at large, in the proportion
14 that they are taxed for the benefits received. The bonds shall be
15 sold subject to the revised municipal finance act, 2001 PA 34, MCL
16 141.2101 to 141.2821. If any premium is received on the bonds, the
17 premium shall belong to the fund of the drain. The proceeds derived
18 from the sale of the bonds shall be deposited with the county
19 treasurer to the credit of the drain fund. The county treasurer
20 shall safely keep all the bonds until sold as ~~above provided ±~~
21 ~~Provided, however, That~~ **IN THIS SECTION. HOWEVER**, this act shall
22 not be considered to affect any bonds or refunding bonds issued
23 prior to ~~the effective date of this act~~ **MARCH 28, 1956** or any
24 refunding bonds issued to replace the same. ~~± Provided further,~~
25 ~~That no~~ **FURTHERMORE, A** county shall **NOT** advance or pay out of its
26 general funds any ~~moneys~~ **MONEY** for or on account of principal or
27 interest of any drain bonds issued before the effective date of

former ~~Act No. 331 of the Public Acts of 1927,~~ **1927 PA 331** or any refunding bonds issued to replace the ~~same.~~ **BONDS.**

Sec. 277. Whenever lands in any city, village, or township or combination thereof ~~shall be~~ **ARE** assessed for all or any part of the cost of a drain, the governing body of each ~~such~~ **OF THE** cities, villages, or townships by resolution adopted prior to the issuance of drain orders ~~and/or~~ **OR** bonds, **OR BOTH**, in anticipation of the payment of the assessments for ~~such~~ **THE** drain may agree that in the event of any delinquency in the collection of the assessments against lands in ~~such~~ **THE** cities, villages, or townships, the cities, villages, or townships shall advance the amount of ~~such~~ **THE** delinquency from unobligated funds in the general fund to the extent necessary to pay principal and interest on ~~such~~ **THE** drain orders ~~and/or~~ **OR** bonds, **OR BOTH**, as the same mature **OR ARE SUBJECT TO MANDATORY REDEMPTION.** In the event that ~~moneys are~~ **MONEY IS** so advanced, ~~then~~ the cities, villages, or townships shall be reimbursed from the collection of the ~~said~~ delinquent assessments against lands within its boundaries. If the collections from special assessments ~~shall~~ **ARE** not be sufficient to reimburse the cities, villages, or townships, the drain commissioner of ~~such~~ **THE** county shall, within a 5-year period from the date of advancement, reassess the drainage district ~~as in the first instance~~ in order to provide for the repayment of the sums so advanced. ~~+ Provided, That~~ **HOWEVER,** this act ~~shall~~ **DOES** not validate any drain orders or bonds issued prior to ~~the effective date of this act.~~ **MARCH 28, 1956.**

Sec. 278. If bonds or notes are issued and sold by the commissioner, installments of the drain taxes shall bear interest

1 ~~not to exceed~~ **AT** a rate ~~which~~ **THAT** is not greater than 1% per annum
 2 more than the average rate of interest on the bonds or notes from
 3 the date of the preparation of the assessment roll until due. The
 4 bonds or notes may provide, if the commissioner so determines, for
 5 the payment of interest semiannually. The installments and the
 6 interest shall, as collected, be paid into the county treasury and
 7 placed to the credit of the fund of the drain, to be used solely
 8 for the payment of bonds or notes as they mature **OR ARE SUBJECT TO**
 9 **MANDATORY REDEMPTION**. Money collected in anticipation of the
 10 ~~maturity~~ **PAYMENT** of the bonds or notes shall be deposited by the
 11 county treasurer in a bank or banks to be designated by the board
 12 of commissioners of the county and the interest received shall
 13 belong to the fund. Bonds or notes issued and sold by the
 14 commissioner shall bear interest at not to exceed the rate
 15 specified in the revised municipal finance act, 2001 PA 34, MCL
 16 141.2101 to 141.2821.

17 Sec. 280. (1) If there is not sufficient money in the fund in
 18 a particular drain at the time of the maturity of the bonds last to
 19 mature, or any drain orders, to pay all outstanding bonds or drain
 20 orders with interest, or to reimburse the county for money which it
 21 has been obliged to advance pursuant to section 275, whether such
 22 insufficiency is due to the anticipation of installments as
 23 provided in section 279, or to failure to sell any lands for
 24 delinquent taxes, or to any other cause, ~~it shall be the duty of~~
 25 the commissioner ~~to~~ **SHALL** at once levy an additional assessment as
 26 provided in this act ~~provided~~ in such an amount as will make up the
 27 deficiency which shall be spread in not to exceed 7 annual

installments; and if the commissioner determines that the entire amount, if spread in 1 year, would be an undue burden or create unnecessary hardship, he or she may order it spread over any number of years up to but not exceeding 7. If bonds or other evidences of indebtedness are issued pursuant to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, to refund the outstanding indebtedness of a drain district, the governing body of ~~such~~ **THE** drain district shall provide, subject to the requirements of the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, for such additional levies of assessments prior to the maturity **OR MANDATORY REDEMPTION** of the refunding obligations as necessary to prevent default in **THE** payment of interest on the obligations, and the maintenance of a sinking fund for their retirement. Every officer charged with the determination of the amount of taxes to be raised, or the levying of the taxes, shall make or cause to be made the additional levies as provided. Any surplus remaining after the payment of the bonds and interest shall remain in the county treasury and be used for the maintenance of the drain.

(2) The additional assessments shall only apply to drain orders or bonds issued after March 28, 1956 and shall be apportioned, assessed, levied, and collected as provided in the first instance. As to deficiency assessments levied for drain orders or bonds issued after March 28, 1956, there shall be no lands exempted from the levy, except ~~those which at the time of the additional assessments are owned or used as follows:~~ **LANDS THAT ARE**
1 OR MORE OF THE FOLLOWING:

1 (a) ~~Lands owned~~ **OWNED** by the United States.

2 (b) ~~Lands owned~~ **OWNED** by the state of Michigan.

3 (c) ~~Lands owned~~ **OWNED** by any county, city, village, township,
4 or school district and used for public purposes.

5 (d) ~~Lands used~~ **USED** exclusively for burial grounds.

6 (e) ~~Lands dedicated~~ **DEDICATED** to the public and actually used
7 as a highway or alley, and not used for gain.

8 (3) An additional assessment shall not be levied or collected
9 for the purpose of paying the principal or interest upon any bonds
10 or obligations which have ~~heretofore~~ been held to be invalid, and
11 any ~~such~~ additional assessment shall not be apportioned, assessed,
12 levied, or collected for the purpose of paying any bonds, interest,
13 or obligations for the payment of which assessments have been made.

14 Sec. 476. The drainage board may issue 1 or more series of
15 bonds for and on behalf of the drainage district, in anticipation
16 of the collection of any or all installments of assessments or any
17 part thereof, and pledge the full faith and credit of the drainage
18 district for the prompt payment of the principal ~~thereof~~ **OF** and the
19 interest ~~thereon~~. **ON THE BONDS**. The bonds shall mature ~~serially~~ **OR**
20 **BE SUBJECT TO MANDATORY REDEMPTION** with the last maturity not later
21 than 2 1/2 years after the due date of the last installment of the
22 assessments and there may be more than 1 principal maturity **OR**
23 **MANDATORY REDEMPTION** date during any 12-month period. The bonds
24 shall be signed by the chairman and at least 1 other member of the
25 drainage board and the facsimile signature of the chairman shall be
26 affixed to the interest coupons attached thereto. Collections of
27 both principal and interest on all installments of assessments in

1 anticipation of which bonds shall have been issued shall be kept in
2 a separate bank account by the county treasurer and used for no
3 other purpose than the payment of principal and interest on ~~such~~
4 **THE** bonds until the full payment ~~thereof~~. **OF THE PRINCIPAL AND**
5 **INTEREST ON THE BONDS.**

6 Sec. 528. The drainage board may issue 1 or more series of
7 bonds for and on behalf of the drainage district, in anticipation
8 of the collection of any or all installments of assessments, and
9 pledge the full faith and credit of the drainage district for the
10 prompt payment of the principal ~~thereof~~ **OF** and ~~the~~ interest
11 ~~thereon~~. **ON THE BONDS.** The bonds shall mature ~~serially~~ **OR BE**
12 **SUBJECT TO MANDATORY REDEMPTION** with the last maturity not later
13 than 2 1/2 years after the due date of the last installment of the
14 assessments and there may be more than 1 principal maturity **OR**
15 **MANDATORY REDEMPTION** date during any 12-month period. The bonds
16 shall be signed by the ~~chairman~~ **CHAIRPERSON** and secretary of the
17 drainage board, who shall cause their facsimile signatures to be
18 affixed to the interest coupons attached thereto. Collections of
19 both principal and interest on all installments of assessments in
20 anticipation of which bonds shall have been issued shall be kept in
21 a separate bank account by the treasurer for the drainage board and
22 used for no other purpose than the payment of principal and
23 interest on ~~such~~ **THE** bonds until the full payment ~~thereof~~. **OF THE**
24 **PRINCIPAL AND INTEREST ON THE BONDS.**

25 Sec. 569. The board may issue bonds for and on behalf of the
26 water management district, in anticipation of the collection of any
27 or all installments of assessments, and pledge the full faith and

1 credit of the water management district for the prompt payment of
2 the principal thereof ~~OF~~ and the interest thereon. ~~Such~~ **ON THE**
3 **BONDS. THE** bonds shall mature serially ~~OR BE SUBJECT TO MANDATORY~~
4 **REDEMPTION** with the last maturity not later than 2 1/2 years after
5 the due date of the last installment of the assessments. +
6 ~~Provided, That~~ **HOWEVER**, there may be more than 1 principal maturity
7 **OR MANDATORY REDEMPTION** date during any 12-month period. The bonds
8 shall be signed by the ~~chairman~~ **CHAIRPERSON** and secretary of the
9 board, who shall cause their facsimile signatures to be affixed to
10 the interest coupons attached thereto. Collections of both
11 principal and interest on all installments of assessments in
12 anticipation of which bonds shall have been issued shall be kept in
13 a separate bank account by the treasurer for the board and used for
14 no other purpose than the payment of principal and interest on ~~such~~
15 **THE** bonds until the full payment thereof. **OF THE PRINCIPAL AND**
16 **INTEREST ON THE BONDS.**