

Act No. 27  
Public Acts of 2016  
Approved by the Governor  
March 1, 2016  
Filed with the Secretary of State  
March 1, 2016  
EFFECTIVE DATE: March 1, 2016

**STATE OF MICHIGAN  
98TH LEGISLATURE  
REGULAR SESSION OF 2016**

**Introduced by Rep. Pscholka**

# **ENROLLED HOUSE BILL No. 4758**

AN ACT to amend 1956 PA 40, entitled "An act to codify the laws relating to the laying out of drainage districts, the consolidation of drainage districts, the construction and maintenance of drains, sewers, pumping equipment, bridges, culverts, fords, and the structures and mechanical devices to properly purify the flow of drains; to provide for flood control projects; to provide for water management, water management districts, and subdistricts, and for flood control and drainage projects within drainage districts; to provide for the assessment and collection of taxes; to provide for the investment of funds; to provide for the deposit of funds for future maintenance of drains; to authorize public corporations to impose taxes for the payment of assessments in anticipation of which bonds are issued; to provide for the issuance of bonds by drainage districts and for the pledge of the full faith and credit of counties for payment of the bonds; to authorize counties to impose taxes when necessary to pay principal and interest on bonds for which full faith and credit is pledged; to validate certain acts and bonds; and to prescribe penalties," 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:*

Sec. 132. If it is determined that the assessments shall be collected in more than 2 installments, the drainage board, acting on behalf of the drainage district, may borrow money and may issue bonds in the manner provided for drains lying wholly within 1 county. The bonds shall be signed by the members of the drainage board and shall be countersigned by the clerks of the counties affected. Bonds issued under this chapter shall be payable at the office of the county treasurer of the county to which the larger percentage of the cost of construction is apportioned, and the bonds shall be deposited and safely kept by the treasurer until the bonds are sold and delivered. All installments, including interest, of the special assessments shall be transmitted as collected by the treasurer or treasurers of the other county or counties concerned to the treasurer of the county to which the larger percentage is apportioned, who shall issue his or her receipt and shall deposit the money in the fund of the drain to be disbursed solely for the payment of the bonds at maturity or upon mandatory redemption and the payment of interest on the bonds.

Sec. 221. (1) At the time and place established in the notice, the commissioner shall receive bids for the construction of the drain. The commissioner may, and shall for all drains having an estimated cost exceeding \$5,000.00, advertise for sealed proposals, to be opened on the day of letting. All sealed proposals received by the commissioner shall be publicly opened by him or her in the meeting and may be examined at the meeting by any person interested. As soon as practical after the opening of bids for the construction of any drain, the commissioner shall determine the lowest responsible bidder and award contracts, or may reject all proposals and readvertise, and in cases where the commissioner determined that the taxes assessed for benefits shall be collected in more than 1 installment, the commissioner shall, subject to section 275, determine the amount, form, maturity, mandatory redemption requirements, if any, and rate of interest of bonds to be issued. In counties having a board of county auditors, drain bonds shall not be sold and drain contracts shall not be let without the written consent and approval of the board of county auditors. However, the approval of the board of county auditors is not required in proceedings relative to intercounty drains.

(2) If a contract is not let within 5 years after the date of filing the petition to locate, establish and construct, or deepen, widen, straighten, tile, extend or clean out a drain, the drain commissioner may determine that the petition shall be considered abandoned and no further action shall be taken to construct the drain. Time during which any litigation is pending to contest the validity of the proceedings shall not be counted as a part of such 5-year period. If the drain commissioner determines the petition shall be considered abandoned, the commissioner shall issue an order to that effect. However, a determination of abandonment shall not be issued within the 5-year period. Notice of the order shall be given by publishing a notice in a newspaper of general circulation in the county. This section applies to all petitions that are in full force and effect on or after January 1, 1973.

(3) The board of county road commissioners, if authorized by a committee of commissioners appointed by the county board of commissioners, may bid for the construction, cleaning, deepening and widening of drains within the county, and, if a bid is accepted, may perform the work called for in the bid, and receive payment for the work performed. A bid tendered by a board of county road commissioners shall not be accepted unless the bid is at least 15% lower than any other bid tendered. The money received by the county road commission shall be credited to the county road fund, and expenditures incurred by the county road commission shall be proper disbursements from the county road fund.

Sec. 275. If bonds are issued, as provided in this act, the commissioner may borrow money in anticipation of the collection of the installments and may issue as evidence thereof the bonds of the drainage district. The obligations shall specify on their face that they are payable out of the installments of drain taxes to be collected, and the amount shall not exceed the aggregate of the installments levied. Bonds issued under this act shall be signed by the commissioner on behalf of the drainage district, shall be countersigned by the county clerk and shall be payable in annual installments equal in number to the installments of taxes, shall mature or be subject to mandatory redemption not earlier than March first and not later than June first of the year following the due dates of the respective installments of taxes. The number of installments shall not exceed 20. However, in any drainage district containing a closed drain, any part of whose cross-section has an area exceeding 60 square feet, the number of installments may be, but shall not exceed, 30, and the amount of each installment shall be established to correspond as near as may be to the drain commissioner's estimate of the amount of taxes actually collectible each year, and in no case shall bonds mature or be subject to mandatory redemption more than 2 1/2 years after the corresponding installment of taxes. The commissioner shall pledge in the bond the credit of the drainage district, including the lands embraced within the district and the townships, cities, villages, counties, and state trunk line highways assessed at large, in the proportion that they are taxed for the benefits received. The bonds shall be sold subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. If any premium is received on the bonds, the premium shall belong to the fund of the drain. The proceeds derived from the sale of the bonds shall be deposited with the county treasurer to the credit of the drain fund. The county treasurer shall safely keep all the bonds until sold as provided in this section. However, this act shall not be considered to affect any bonds or refunding bonds issued prior to March 28, 1956 or any refunding bonds issued to replace the same. Furthermore, a county shall not advance or pay out of its general funds any money for or on account of principal or interest of any drain bonds issued before the effective date of former 1927 PA 331 or any refunding bonds issued to replace the bonds.

Sec. 277. Whenever lands in any city, village, or township or combination thereof are assessed for all or any part of the cost of a drain, the governing body of each of the cities, villages, or townships by resolution adopted prior to the issuance of drain orders or bonds, or both, in anticipation of the payment of the assessments for the drain may agree that in the event of any delinquency in the collection of the assessments against lands in the cities, villages, or townships, the cities, villages, or townships shall advance the amount of the delinquency from unobligated funds in the general fund to the extent necessary to pay principal and interest on the drain orders or bonds, or both, as the same mature or are subject to mandatory redemption. In the event that money is so advanced, the cities, villages, or townships shall be reimbursed from the collection of the delinquent assessments against lands within its boundaries. If the collections from special assessments are not sufficient to reimburse the cities, villages, or townships, the drain commissioner of the county shall, within a 5-year period from the date of advancement, reassess the drainage district in order to provide for the repayment of the sums so advanced. However, this act does not validate any drain orders or bonds issued prior to March 28, 1956.

Sec. 278. If bonds or notes are issued and sold by the commissioner, installments of the drain taxes shall bear interest at a rate that is not greater than 1% per annum more than the average rate of interest on the bonds or notes from the date of the preparation of the assessment roll until due. The bonds or notes may provide, if the commissioner so determines, for the payment of interest semiannually. The installments and the interest shall, as collected, be paid into the county treasury and placed to the credit of the fund of the drain, to be used solely for the payment of bonds or notes as they mature or are subject to mandatory redemption. Money collected in anticipation of the payment of the bonds or notes shall be deposited by the county treasurer in a bank or banks to be designated by the board of commissioners of the county and the interest received shall belong to the fund. Bonds or notes issued and sold by the commissioner shall bear interest at not to exceed the rate specified in the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

Sec. 280. (1) If there is not sufficient money in the fund in a particular drain at the time of the maturity of the bonds last to mature, or any drain orders, to pay all outstanding bonds or drain orders with interest, or to reimburse the county for money which it has been obliged to advance pursuant to section 275, whether such insufficiency is due to the anticipation of installments as provided in section 279, or to failure to sell any lands for delinquent taxes, or to any other cause, the commissioner shall at once levy an additional assessment as provided in this act in such an amount as will make up the 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 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 lands that are 1 or more of the following:

- (a) Owned by the United States.
- (b) Owned by the state of Michigan.
- (c) Owned by any county, city, village, township, or school district and used for public purposes.
- (d) Used exclusively for burial grounds.
- (e) Dedicated to the public and actually used as a highway or alley, and not used for gain.

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

Sec. 476. The drainage board may issue 1 or more series of bonds for and on behalf of the drainage district, in anticipation of the collection of any or all installments of assessments or any part thereof, and pledge the full faith and credit of the drainage district for the prompt payment of the principal of and interest on the bonds. The bonds shall mature or be subject to mandatory redemption with the last maturity not later than 2 1/2 years after the due date of the last installment of the assessments and there may be more than 1 principal maturity or mandatory redemption date during any 12-month period. The bonds shall be signed by the chairman and at least 1 other member of the drainage board and the facsimile signature of the chairman shall be affixed to the interest coupons attached thereto. Collections of both principal and interest on all installments of assessments in anticipation of which bonds shall have been issued shall be kept in a separate bank account by the county treasurer and used for no other purpose than the payment of principal and interest on the bonds until the full payment of the principal and interest on the bonds.

Sec. 528. The drainage board may issue 1 or more series of bonds for and on behalf of the drainage district, in anticipation of the collection of any or all installments of assessments, and pledge the full faith and credit of the drainage district for the prompt payment of the principal of and interest on the bonds. The bonds shall mature or be subject to mandatory redemption with the last maturity not later than 2 1/2 years after the due date of the last installment of the assessments and there may be more than 1 principal maturity or mandatory redemption date during any 12-month period. The bonds shall be signed by the chairperson and secretary of the drainage board, who shall cause their facsimile signatures to be affixed to the interest coupons attached thereto. Collections of both principal and interest on all installments of assessments in anticipation of which bonds shall have been issued shall be kept in a separate bank account by the treasurer for the drainage board and used for no other purpose than the payment of principal and interest on the bonds until the full payment of the principal and interest on the bonds.

Sec. 569. The board may issue bonds for and on behalf of the water management district, in anticipation of the collection of any or all installments of assessments, and pledge the full faith and credit of the water management district for the prompt payment of the principal of and interest on the bonds. The bonds shall mature or be subject to mandatory redemption with the last maturity not later than 2 1/2 years after the due date of the last installment of the assessments. However, there may be more than 1 principal maturity or mandatory redemption date during any 12-month period. The bonds shall be signed by the chairperson and secretary of the board, who shall cause their facsimile signatures to be affixed to the interest coupons attached thereto. Collections of both principal and interest on all installments of

assessments in anticipation of which bonds shall have been issued shall be kept in a separate bank account by the treasurer for the board and used for no other purpose than the payment of principal and interest on the bonds until the full payment of the principal and interest on the bonds.

This act is ordered to take immediate effect.



-----  
Clerk of the House of Representatives



-----  
Secretary of the Senate

Approved .....

-----  
Governor