

HOUSE BILL No. 5935

May 8, 2018, Introduced by Rep. Hughes and referred to the Committee on Local Government.

A bill to amend 1956 PA 40, entitled
"The drain code of 1956,"
by amending section 221 (MCL 280.221), as amended by 2016 PA 27.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 221. (1) At the time and place established in the notice
2 **UNDER SECTION 154**, the commissioner shall receive bids for the
3 construction of the drain. The commissioner may, and shall for all
4 drains having an estimated cost exceeding \$5,000.00, advertise for
5 sealed proposals, to be opened on the day of letting. All sealed
6 proposals received by the commissioner shall be publicly opened by
7 him or her in the meeting and may be examined at the meeting by any
8 person interested. As soon as practical after the opening of bids
9 for the construction of any drain, the commissioner shall ~~determine~~
10 ~~the lowest responsible bidder and award contracts, or may~~ **SHALL**

1 reject all proposals and readvertise. ~~and in cases where~~ **IF THE**
2 **COMMISSIONER AWARDS A CONTRACT, THE CONTRACT SHALL BE AWARDED TO**
3 **THE RESPONSIVE AND RESPONSIBLE BIDDER WHO SUBMITS THE LOWEST BID.**
4 **HOWEVER, THE COMMISSIONER MAY AWARD THE CONTRACT TO ANOTHER**
5 **RESPONSIVE AND RESPONSIBLE BIDDER IF BOTH OF THE FOLLOWING APPLY:**

6 (A) **THE COMMISSIONER DETERMINES THAT THAT BIDDER'S PROPOSAL**
7 **PROVIDES THE BEST VALUE.**

8 (B) **THE COMMISSIONER FILES IN HIS OR HER OFFICE A WRITTEN**
9 **EXPLANATION OF THE REASONS WHY THAT BIDDER'S PROPOSAL PROVIDES THE**
10 **BEST VALUE.**

11 (2) **IF** the commissioner determined that the taxes assessed for
12 benefits shall be collected in more than 1 installment, the
13 commissioner shall, **AS SOON AS PRACTICAL AFTER THE OPENING OF BIDS**
14 **FOR THE CONSTRUCTION OF THE DRAIN AND** subject to section 275,
15 determine the amount, form, maturity, mandatory redemption
16 requirements, if any, and rate of interest of bonds to be issued.
17 In counties having a board of county auditors, drain bonds shall
18 not be sold and drain contracts shall not be let without the
19 written consent and approval of the board of county auditors.
20 However, the approval of the board of county auditors is not
21 required in proceedings relative to intercounty drains.

22 (3) ~~(2)~~ If a contract is not let within 5 years after the date
23 of filing the petition to locate, establish and construct, or
24 deepen, widen, straighten, tile, extend, or clean out a drain, the
25 drain commissioner may determine that the petition ~~shall be~~
26 ~~considered abandoned and~~ **IS ABANDONED. IN THAT CASE,** no further
27 action shall be taken to construct the drain. ~~Time during which~~ **THE**

1 **5-YEAR PERIOD IS TOLLED DURING** any litigation ~~is pending to contest~~
 2 the validity of the proceedings. ~~shall not be counted as a part of~~
 3 ~~such 5-year period.~~ If the drain commissioner determines the
 4 ~~petition shall be considered~~ **THAT THE PETITION IS** abandoned, the
 5 commissioner shall issue an order to that effect. ~~However, a~~
 6 ~~determination of abandonment shall not be issued within the 5-year~~
 7 ~~period.~~ Notice of the order shall be given by ~~publishing a notice~~
 8 **PUBLICATION** in a newspaper of general circulation in the county.
 9 ~~This section applies to all petitions that are in full force and~~
 10 ~~effect on or after January 1, 1973.~~

11 (4) ~~(3)~~ The board of county road commissioners, if authorized
 12 by a committee of commissioners appointed by the county board of
 13 commissioners, may bid for the construction, cleaning, deepening,
 14 ~~and OR~~ widening of drains within the county, and, if a ~~a~~ **THE** bid is
 15 accepted, may perform the work called for in the bid, and receive
 16 payment for the work performed. A bid tendered by a board of county
 17 road commissioners shall not be accepted **AND IS NOT CONSIDERED TO**
 18 **BE THE LOWEST BID FROM A RESPONSIVE AND RESPONSIBLE BIDDER** unless
 19 the bid is at least 15% lower than any other bid tendered **BY A**
 20 **RESPONSIVE AND RESPONSIBLE BIDDER.** The money received by the county
 21 road commission **UNDER THE CONTRACT** shall be credited to the county
 22 road fund. ~~and expenditures~~ **EXPENDITURES** incurred by the county
 23 road commission ~~shall be~~ **IN THE PERFORMANCE OF THE CONTRACT ARE**
 24 proper disbursements from the county road fund.

25 (5) **AS USED IN THIS SECTION, "RESPONSIVE AND RESPONSIBLE**
 26 **BIDDER" MEANS A BIDDER WHO MEETS ALL THE FOLLOWING REQUIREMENTS:**

27 (A) **COMPLIES WITH ALL BID SPECIFICATIONS AND REQUIREMENTS.**

(B) HAS BEEN DETERMINED BY THE COMMISSIONER TO BE RESPONSIBLE
BY ALL OF THE FOLLOWING CRITERIA:

(i) FINANCIAL RESOURCES.

(ii) TECHNICAL CAPABILITIES.

(iii) PROFESSIONAL EXPERIENCE.

(iv) PAST PERFORMANCE.

(v) INSURANCE AND BONDING CAPACITY.

(vi) BUSINESS INTEGRITY.

Enacting section 1. This amendatory act takes effect 90 days
after the date it is enacted into law.