

HOUSE BILL No. 6375

September 25, 2018, Introduced by Rep. Victory and referred to the Committee on Local Government.

A bill to amend 1956 PA 40, entitled "The drain code of 1956," by amending sections 395, 478, and 530 (MCL 280.395, 280.478, and 280.530).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 395. **(1)** The county drain commissioner **OR THE INTERCOUNTY**
2 **DRAINAGE BOARD** may relinquish ~~jurisdiction and control~~ to a **COUNTY,**
3 township, city, ~~or~~ village, **OR AUTHORITY OR TO THE STATE**
4 **TRANSPORTATION DEPARTMENT JURISDICTION AND CONTROL OF ALL OR PART**
5 of any county ~~drainage district upon which there is~~ **OR INTERCOUNTY**
6 **DRAIN IF ALL OF THE FOLLOWING REQUIREMENTS ARE MET:**

7 **(A) THE DRAINAGE DISTRICT HAS** no outstanding indebtedness or
8 contract liability. ~~and which~~ **INDEBTEDNESS OR CONTRACT LIABILITY**
9 **THAT WILL BE PAID IN FULL WHEN JURISDICTION AND CONTROL IS**

1 RELINQUISHED IS NOT CONSIDERED TO BE OUTSTANDING.

2 (B) THE DRAIN OR PART OF THE DRAIN TO BE RELINQUISHED AND THE
3 AREA THE DRAIN OR PART OF THE DRAIN SERVICES is wholly located
4 within the boundaries of ~~a~~THE COUNTY, township, city, ~~or~~village,
5 OR AUTHORITY OR WITHIN THE PUBLIC RIGHT-OF-WAY OF THE STATE
6 TRANSPORTATION DEPARTMENT THAT IS TO ACCEPT JURISDICTION AND
7 CONTROL OF THE DRAIN OR PART OF THE DRAIN. ~~and thereafter the~~

8 (C) THE RELINQUISHMENT IS APPROVED BY BOTH OF THE FOLLOWING:

9 (i) A MAJORITY OF THE MEMBERS OF THE COUNTY BOARD OF
10 COMMISSIONERS FOR A COUNTY DRAIN OR OF THE DRAINAGE BOARD FOR AN
11 INTERCOUNTY DRAIN.

12 (ii) THE GOVERNING BODY OF THE COUNTY, TOWNSHIP, CITY,
13 VILLAGE, OR AUTHORITY, OR THE DIRECTOR OF THE STATE TRANSPORTATION
14 DEPARTMENT, THAT IS TO ACCEPT JURISDICTION AND CONTROL OF THE DRAIN
15 OR PART OF THE DRAIN. IF RELINQUISHMENT OF JURISDICTION AND CONTROL
16 IS TO A COUNTY, THE RESOLUTION OF THE GOVERNING BODY OF THE COUNTY
17 SHALL SPECIFY THE COUNTY AGENCY, SUCH AS BOARD OF PUBLIC WORKS,
18 BOARD OF COUNTY ROAD COMMISSIONERS, OR PARKS AND RECREATION
19 COMMISSION, THAT SHALL BE THEREAFTER RESPONSIBLE FOR THE EXERCISE
20 OF JURISDICTION AND CONTROL.

21 (2) UPON RELINQUISHMENT OF ALL OR PART OF A DRAIN UNDER
22 SUBSECTION (1), THE FOLLOWING APPLY:

23 (A) THE county drain commissioner ~~shall be~~OR DRAINAGE BOARD
24 IS relieved of, and the COUNTY, township, city, ~~or~~village, OR
25 AUTHORITY OR THE STATE TRANSPORTATION DEPARTMENT shall assume, the
26 maintenance, jurisdiction, control, and operation ~~thereof~~OF THE
27 DRAIN OR PART OF THE DRAIN RELINQUISHED and its future operation

1 shall be financed in the same manner as is provided for special
2 assessment districts within ~~such~~ **THE COUNTY**, township, city, or
3 village **OR AS OTHERWISE PROVIDED BY LAW.** ~~÷ Provided, That such~~
4 ~~proceeding shall have first been approved by a majority of the~~
5 ~~members elect of the county board of supervisors and by the~~
6 ~~resolution of the governing body of the township, city or village~~
7 ~~in which such drain is located.~~

8 ~~— Any money which shall be in the drain fund of any such~~
9 ~~drainage district at the time jurisdiction over it is transferred~~
10 ~~as provided in this section shall be distributed in the same manner~~
11 ~~as is provided in sections 391 to 394, inclusive, of this act in~~
12 ~~the case of abandoned or vacated drains.~~

13 **(B) IF JURISDICTION AND CONTROL IS RELINQUISHED OVER ALL OF A**
14 **DRAIN, ANY MONEY IN THE DRAIN FUND OF THE DRAIN SHALL BE TURNED**
15 **OVER TO THE COUNTY, TOWNSHIP, CITY, VILLAGE, AUTHORITY, OR STATE**
16 **TRANSPORTATION DEPARTMENT THAT ACCEPTED JURISDICTION AND CONTROL,**
17 **TO BE USED SOLELY WITH RESPECT TO THAT DRAIN.**

18 Sec. 478. **(1)** The drainage board for each project shall
19 continue in existence with ~~such~~ changes in personnel as shall ~~THAT~~
20 result from changes in the officers constituting the board
21 membership. ~~It shall be~~ **THE DRAINAGE BOARD IS** responsible for the
22 operation and maintenance of the drain.

23 **(2)** Any necessary expenses incurred in administration and in
24 the operation and maintenance of the drain and not covered by
25 contract shall be paid by the several public corporations assessed
26 for the cost of the drain. The assessments shall be in the same
27 proportion as the cost of the drain was assessed unless the

1 drainage board establishes a different proportion for the
2 assessments after notice and hearing as provided in section 469.

3 **(3)** The drainage board, by resolution, ~~duly adopted by it,~~ may
4 relinquish jurisdiction and control over all or ~~any~~ part of a drain
5 or drain project ~~at any time when~~ **IF** there is no outstanding
6 indebtedness or contract liability of its drainage district, to the
7 county ~~, OR A~~ township, city, ~~or~~ village, **OR AUTHORITY** in which all
8 or the part of the drain or drain project is wholly located **OR TO**
9 **THE STATE TRANSPORTATION DEPARTMENT**, if the county, township, city,
10 ~~or~~ village, **OR AUTHORITY OR THE DIRECTOR OF THE STATE**
11 **TRANSPORTATION DEPARTMENT, AS APPLICABLE**, requests or consents to
12 the relinquishment of jurisdiction and control by resolution ~~duly~~
13 ~~adopted by~~ **OF** its governing body. Indebtedness or contract
14 liability of any drainage district ~~which~~ **THAT** will be paid in full
15 ~~at the time of consummation of relinquishment of~~ **WHEN** jurisdiction
16 and control ~~shall not be deemed~~ **IS RELINQUISHED IS NOT CONSIDERED**
17 to be outstanding. If relinquishment of jurisdiction and control is
18 to a county, the resolution of the governing body of the county
19 shall specify the county agency, such as board of public works,
20 drain commissioner, board of county road commissioners, or parks
21 and recreation commission, ~~which shall be~~ **THAT WILL** thereafter **BE**
22 responsible for exercise of ~~such~~ jurisdiction and control.

23 **(4)** ~~Any moneys~~ **IF JURISDICTION AND CONTROL IS RELINQUISHED**
24 **OVER ALL OF A DRAIN, ANY MONEY** in the drain fund of ~~any~~ **THE** drain ~~,~~
25 ~~over all or any part of which jurisdiction and control is~~
26 ~~relinquished,~~ shall be used to pay any indebtedness or contract
27 liability of its drainage district, and the balance shall be turned

1 over to the county, township, city, or village to be used solely
2 with respect to the drain ~~, all or part thereof,~~ over which
3 jurisdiction and control is assumed.

4 (5) If the relinquishment of jurisdiction and control ~~and the~~
5 ~~turnover of drain fund~~ relates to a part of a drain or drain
6 project, ~~such~~ **THE** relinquishment and turnover ~~shall~~ **DOES** not become
7 effective until consented to by resolution of the governing body of
8 each public corporation ~~which~~ **THAT** has paid a part of the cost of
9 the drain or drain project, and for this purpose the board of
10 county road commissioners and the state highway commission ~~shall be~~
11 ~~deemed~~ **ARE CONSIDERED** to be the governing body for the county and
12 the state, **RESPECTIVELY**.

13 Sec. 530. (1) The drainage board for each project shall
14 continue in existence with ~~such~~ changes in personnel ~~as shall~~ **THAT**
15 result from changes in the offices of director of **THE DEPARTMENT OF**
16 agriculture **AND RURAL DEVELOPMENT** and drain commissioners. ~~It shall~~
17 ~~be~~ **THE DRAINAGE BOARD IS** responsible for the operation and
18 maintenance of the drain.

19 (2) Any necessary expenses incurred in administration and in
20 the operation and maintenance of the drain and not covered by
21 contract shall be paid by the several public corporations assessed
22 for the cost of the drain. The assessments shall be in the same
23 proportion as the cost of the drain was assessed unless the
24 drainage board establishes a different proportion for the
25 assessments after notice and hearing as provided in section 521.

26 (3) The drainage board, by resolution, ~~duly adopted by it,~~ may
27 relinquish jurisdiction and control over ~~any~~ **ALL OR** part of a drain

1 or drain project ~~at any time when~~ **IF** there is no outstanding
 2 indebtedness or contract liability of its drainage district, to ~~the~~
 3 **A** county, township, city, ~~or~~ village, **OR AUTHORITY** in which **ALL OF**
 4 the part of the drain or drain project is wholly located **OR TO THE**
 5 **STATE TRANSPORTATION DEPARTMENT**, if the county, township, city, ~~or~~
 6 village, **OR AUTHORITY OR THE DIRECTOR OF THE STATE TRANSPORTATION**
 7 **DEPARTMENT, AS APPLICABLE**, requests or consents to the
 8 relinquishment of jurisdiction and control by resolution ~~duly~~
 9 ~~adopted by~~ **OF** its governing body. Indebtedness or contract
 10 liability of any drainage district ~~which~~ **THAT** will be paid in full
 11 ~~at the time of consummation of relinquishment of~~ **WHEN** jurisdiction
 12 and control ~~shall not be deemed~~ **IS RELINQUISHED IS NOT CONSIDERED**
 13 to be outstanding. If relinquishment of jurisdiction and control is
 14 to a county, the resolution of the governing body of the county
 15 shall specify the county agency, such as board of public works,
 16 drain commissioner, board of county road commissioners, or parks
 17 and recreation commission, ~~which shall be~~ **THAT WILL** thereafter **BE**
 18 responsible for exercise of ~~such~~ jurisdiction and control.

19 (4) ~~Any moneys~~ **IF JURISDICTION AND CONTROL IS RELINQUISHED**
 20 **OVER ALL OF DRAIN, MONEY** in the drain fund of ~~any~~ **THE** drain, ~~over~~
 21 ~~any part of which jurisdiction and control is relinquished,~~ shall
 22 be used to pay any indebtedness or contract liability of its
 23 drainage district, and the balance shall be turned over to the
 24 county, township, city, or village to be used solely with respect
 25 to the drain, ~~all or part thereof,~~ over which jurisdiction and
 26 control is assumed.

27 (5) If the relinquishment of jurisdiction and control ~~and the~~

1 ~~turnover of drain fund~~ relates to a part of a drain or drain
2 project, ~~such~~ **THE** relinquishment and turnover ~~shall~~ **DOES** not become
3 effective until consented to by resolution of the governing body of
4 each public corporation ~~which~~ **THAT** has paid a part of the cost of
5 the drain or drain project, and for this purpose the board of
6 county road commissioners and the state highway commission ~~shall be~~
7 ~~deemed~~ **ARE CONSIDERED** to be the governing body for the county and
8 the state, **RESPECTIVELY**.

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