

Act No. 62  
Public Acts of 2017  
Approved by the Governor  
June 28, 2017  
Filed with the Secretary of State  
June 28, 2017  
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**STATE OF MICHIGAN  
99TH LEGISLATURE  
REGULAR SESSION OF 2017**

**Introduced by Rep. Victory**

# **ENROLLED HOUSE BILL No. 4286**

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 135 and 197 (MCL 280.135 and 280.197), section 197 as amended by 2013 PA 261.

*The People of the State of Michigan enact:*

Sec. 135. If at any time after a county or intercounty drain is constructed, it appears that it is necessary to extend the drain or drainage district into a county that was not a part of the original drainage district or to remove lands from the original drainage district resulting in the removal of a county from an intercounty drainage district, the lands may be added to or removed from the drainage district pursuant to section 197(3) or by presenting to the drain commissioner of 1 of the counties traversed or affected by the drain, a petition signed by 50% of the landowners whose land is traversed by the drain or proposed extended drain, or abuts on the part of a highway or street along the side of which the drain or proposed extended drain runs, between the point where the drain enters the highway and the point where it leaves the highway. Instead of landowners, the petition may be signed solely by a city, village, or township if authorized by its governing body or by any combination of municipalities, if the petitioning municipality or municipalities are or will be liable to assessment at large for a percentage of the cost of the drain. The petition shall state the name or number of the drain, and identify the lands proposed to be added to or removed from the drainage district. Upon receipt of the petition, the drain commissioner shall mail a copy of the petition to the director of the department of agriculture and rural development and also to the drain commissioner of each county where the original or proposed revised drainage district is located. The director of agriculture and rural development shall call a meeting of the drainage board, which shall include the commissioner of each county where the original or proposed revised drainage district is located. Notices of the meeting and all other proceedings shall be provided pursuant to section 197. At the meeting, all persons owning lands in the drainage district or proposed revised drainage district liable to assessment for benefits, or any municipality affected, may appear for or against the addition or removal of the lands. The board shall consider the petition and any evidence offered. If the board determines that the extension of the drain or drainage district or the removal of lands from the drainage district is necessary for the public health, convenience, or welfare, it shall then proceed to determine the just percentage of the whole cost of construction that each county shall bear and the number of installments in which the drain taxes shall be collected. If the commissioners cannot agree on the

apportionment between counties or the number of installments, the chairperson shall determine these, subject to appeal under section 106. If, in the opinion of the drainage board, it is necessary to revise the drainage district boundaries, the board shall also enter an order to that effect. Copies of the order shall be filed with the drain commissioner of each county in the revised drainage district. Copies of an order adding the lands to the drainage district shall also be served upon all persons whose lands have been added to the drainage district in the same manner as provided in section 154(3). After the order is filed, the revised drainage board constitutes the drainage board for the revised drainage district and has all the powers and duties of drainage boards under this act.

Sec. 197. (1) Upon receipt of a petition filed under this chapter, the drain commissioner or the drainage board may retain the services of a licensed professional surveyor or engineer to make a survey of the drain and may review the drainage district boundaries, or a portion of the drain or drainage district, or if necessary, lay out a revised drainage district including the land benefited, or make profiles, plans, or estimates of the work and file all data concerning the revisions, profiles, plans, or estimates with the drain commissioner or the chairperson of the drainage board.

(2) If, after a survey of the drain or a review of the drainage district boundaries under subsection (1) or after an inspection under section 196, it appears that the boundaries of the drainage district should be revised, the drain commissioner for a county drain, or the drainage board for an intercounty drain, shall either convene the board of determination pursuant to subsection (4) or hold a day of review of district boundaries pursuant to subsection (5) and, after notice and review as provided in this section, revise the boundaries of the drainage district to include all lands benefited by the drain as recommended by a licensed professional surveyor or engineer.

(3) If, after an inspection under section 196 and a review of the drainage district boundaries, a drain commissioner or drainage board determines that the boundaries should be revised and that lands, in a county or counties not part of the original drainage district, should be added to the drainage district or lands in an intercounty drainage district should be removed resulting in the removal of a county from the intercounty drainage district, the drain commissioner or drainage board shall serve notice on the director of agriculture and rural development and the drain commissioner of each county where there are lands proposed to be added to or removed from the drainage district. The director of the department of agriculture and rural development shall call a meeting of the drainage board, which shall include the commissioner of each county where the drainage district or proposed revised drainage district is located. At least 10 days before the date of the meeting, the drainage board shall send notice of the meeting by first-class mail to each city, village, and township in the original or proposed revised district and each person whose name appears on the last city or township tax assessment roll as owning lands in the original or proposed revised drainage district, at the address shown on the roll. If an address does not appear on the roll, notice need not be mailed to that person. At the meeting, all persons owning lands in the drainage district or proposed revised drainage district liable to assessment for benefits, or any municipality affected, may appear for or against the addition or removal of the lands. The drainage board shall consider any evidence offered and determine whether the addition or removal of the lands is just and equitable. If the addition or removal of the lands is just and equitable, the board shall file an order to that effect. The order shall give the drain a name or number, designate the drainage district, describe the route and course of the drain and drainage district boundaries, and, if the drainage district as revised is an intercounty drainage district, designate the members constituting the revised drainage board and determine the apportionment between counties. A copy of the order shall be filed with the drain commissioner of each county liable for assessments of the drainage district. If the drainage district as revised is an intercounty drainage district, after the order is filed, the revised drainage board constitutes the drainage board for the revised drainage district and has all the powers and duties of drainage boards under this act. If the drainage district as revised is an intercounty drainage district, the revised drainage board shall revise the drainage district boundaries during the hearing of necessity as provided in subsection (4) or hold a day of review of drainage district boundaries as provided in subsection (5). If the drainage district as revised is a county drainage district, the original drainage board shall revise the drainage district boundaries during the hearing of necessity as provided in subsection (4) or hold a day of review of drainage district boundaries as provided in subsection (5) and, following the order revising the drainage district boundaries, the drain commissioner shall have all the powers and duties for a county drain established under this act.

(4) If, before the hearing of necessity for a petition, the drain commissioner or drainage board determines that the boundaries of the drainage district should be revised, the drain commissioner for a county drain, or the chairperson of the drainage board for an intercounty drain, may request that the board of determination revise the drainage district boundaries during the hearing of necessity as provided in section 72 or 122. If the board of determination by a majority vote of members finds that the addition or deletion of lands will more accurately define the boundaries of the land benefited by the drain and it would be just and equitable, the board shall describe the revised drainage district boundaries in the order of necessity for the drain.

(5) If the drain commissioner or drainage board determines to hold a day of review of drainage district boundaries, the lands comprising the drainage district revised under this section shall be subject to review for not less than 1 day from 9 a.m. until 5 p.m. The review shall be conducted at a location designated by the drain commissioner or drainage board. At the review, the drain commissioner or drainage board or its designee shall hear the proofs and allegations and shall carefully reconsider and review the description of land comprised within the drainage district. If the drain

commissioner or drainage board finds that the addition or deletion of lands will more accurately define the boundaries of the land benefited by the drain and it would be just and equitable, the drain commissioner or drainage board shall issue an order describing and establishing the revised drainage district boundaries supported by substantial, material, and competent evidence.

(6) A notice for review of revised drainage district boundaries under subsection (5) shall specify the date, time, and place at which the review will take place and provide a general description of the lands proposed in whole or in part to be added or removed from the drainage district. This notice shall be sent by first-class mail at least 10 days before the date of the review to each city, village, and township in the revised district, and each person whose name appears on the last city or township tax assessment roll as owning lands within the revised drainage district, at the address shown on the roll. If an address does not appear on the roll, then notice need not be mailed to that person. The drain commissioner or drainage board shall make an affidavit of the mailing and shall recite in the affidavit that the persons to whom the notice was mailed constitute all of the persons whose names and addresses appear on the tax rolls as owning lands within the revised drainage district. The affidavit is conclusive proof that notice was mailed to each person to whom notice is required to be mailed by this section. Failure to receive a notice by mail is not a jurisdictional defect invalidating a drain proceeding or assessment, if notice was sent by first-class mail as provided in this section. The drain commissioner or chairperson of the drainage board shall also cause the notice to be published once in a newspaper of general circulation in the county or counties in which the drainage district is located at least 10 days before the review. All expense of notification shall be paid by the drainage district.

(7) The owner of any land in the drainage district, the state transportation department, or any city, village, township, or county having control of any highway in the drainage district, that is aggrieved by a determination to revise, or not to revise, drainage district boundaries as provided for in this section may, within 10 days after the order to revise the drainage district boundaries is entered, institute an action in the circuit court for the county in which the real property is located for a determination of whether the decision to revise, or not to revise, the drainage district boundaries is supported by substantial, material, and competent evidence. The addition or removal of a county or counties to or from the drainage district under subsection (3) is subject to review in the manner provided in section 106.

This act is ordered to take immediate effect.



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Clerk of the House of Representatives



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Secretary of the Senate

Approved .....

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Governor