

Act No. 647  
Public Acts of 2018  
Approved by the Governor  
December 28, 2018  
Filed with the Secretary of State  
December 28, 2018  
EFFECTIVE DATE: March 28, 2019

**STATE OF MICHIGAN  
99TH LEGISLATURE  
REGULAR SESSION OF 2018**

**Introduced by Rep. Victory**

# **ENROLLED HOUSE BILL No. 6377**

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 101, 102, 103, 191, and 192 (MCL 280.101, 280.102, 280.103, 280.191, and 280.192), section 101 as amended by 2014 PA 551.

*The People of the State of Michigan enact:*

Sec. 101. (1) Before any action is taken on a petition to locate, establish, and construct a drain that will traverse lands in more than 1 county, or affect more than 1 county, an application must be filed with a commissioner having jurisdiction of any of the lands to lay out and designate a drainage district. The application shall tentatively describe the location and route of the proposed drain. Except as provided in subsection (2), the application shall be signed by ten or more freeholders of the cities, villages, or townships in which the proposed drain or the lands proposed to be benefitted by the drain are located. Five or more of the signers shall be the freeholders whose lands will be liable for an assessment for the construction of the proposed drain. However, if it appears to the drain commissioner to whom the application is submitted that the drainage district may not include at least 20 freeholders whose lands will be liable for an assessment, the application shall be received if at least 1 of the signers is a freeholder whose land will be liable for an assessment. The eligibility of the signers to the application shall be determined by their interest of record in the office of the register of deeds, in the probate court, or in the circuit court of the county in which the lands are located at the time the application is filed.

(2) An application under subsection (1) need only be signed by a representative of a city, village, or township who is authorized by its governing body, if both of the following apply:

(a) The proposed drain is necessary for the public health of the city, village, or township.

(b) The city, village, or township will be liable for an assessment at large for a percentage of the cost of the proposed drain.

Sec. 102. (1) Within 20 days after an application is filed under section 101, the commissioner shall send a copy of the application by certified mail to the director of the department of agriculture and rural development and the drain commissioner of each county in which lands that will benefit from the drain are located. The drain commissioners of the counties and the director of the department of agriculture and rural development or any deputy designated by the director constitute the drainage board.

(2) The director of the department of agriculture and rural development shall call a meeting of the drainage board. The meeting shall be held not less than 15 and not more than 60 days after the director's receipt of the application under subsection (1). The meeting shall be held in the immediate locality of the proposed drainage district. A notice of the meeting shall be served by the respective drain commissioner on the county clerk and a member of the board of county road commissioners of each county and the supervisor of each township and clerk of each city and village within the proposed drainage district personally or by certified mail at least 10 days before the public meeting. A notice of the meeting shall be published in each county in which lands liable for assessments for the drain are located once a week for 2 consecutive weeks before the meeting in a newspaper of general circulation in the county, if there is such a newspaper. The first publication shall be at least 10 days before the meeting.

Sec. 103. (1) The director of the department of agriculture and rural development or a deputy selected by the director shall act as chairperson at the meeting of the drainage board under section 102. The drainage board shall consider the application to lay out and designate a drainage district and do all of the following at the meeting:

(a) Determine the sufficiency of the signatures on the application. If the signatures are insufficient, no further action shall be taken on that application.

(b) Consider the route and type of construction of the proposed drain.

(c) Take testimony to determine the practicability of the proposed drain.

(2) If a member of the drainage board would be disqualified under sections 381 and 383 from making an apportionment of benefits, both of the following apply:

(a) The drainage board member is disqualified from participation in the determination of practicability.

(b) A special commissioner shall be appointed pursuant to section 381 to serve as a member of the drainage board to determine practicability.

(3) The owner of any lands that would be liable to assessment for benefits for the proposed drain or would be crossed by the drain or any city, township, or village affected may appear for or against the drain proceedings. If at the meeting or at any subsequent time before the entry of the order designating a drainage district, the drainage board determines that the drainage of the proposed drain area is not practicable, no further action shall be taken on that application within 1 year. If the proposed drain is determined to be practicable, then the drainage board shall cause a survey to be made by a licensed professional surveyor or engineer to ascertain the area that would be benefited by the proposed drain and the route and type of construction of drain or drains most serviceable for that purpose.

Sec. 191. (1) If a drain or portion of a drain traverses lands wholly in 1 county, if lands only in 1 county are subject to assessment, and if the drain needs cleaning out, relocating, widening, deepening, straightening, tiling, extending, or relocating along a highway, requires structures or mechanical devices that will properly purify or improve the flow of the drain or pumping equipment necessary to assist or relieve the flow of the drain, needs supplementing by the construction of 1 or more relief drains, which may consist of new drains or extensions, enlargements, or connections to existing drains, or needs 1 or more branches added to the drain, any 5 freeholders or at least 50% of the freeholders if there are fewer than 5 freeholders whose lands shall be liable to an assessment for benefits of the work, may make petition in writing to the commissioner setting forth the necessity of the proposed work. Upon filing of the petition, the commissioner shall proceed in the same manner provided in this act for the location, establishment, and construction of a drain.

(2) If the petition described in subsection (1) is necessary for the public health of 1 or more cities, villages, or townships, the petition may be signed solely by a representative of a city, village, or township if authorized by its governing body or by a combination of the cities, villages, or townships if each city, village, or township will be liable to assessments at large for a percentage of the total amount assessed for the cost of the proposed work.

(3) As soon as practicable after the board of determination determines the necessity for the work, as provided in section 72, and the commissioner files the final order of determination prescribed in section 151, the commissioner shall proceed as provided in chapter 7. However, if the apportionment is the same as the last recorded apportionments, a day of review is not required.

Sec. 192. (1) If a drain or portion of a drain traverses lands in more than 1 county or lands in more than 1 county are subject to assessments and if the drain needs cleaning out, relocating, widening, deepening, straightening, tiling, extending, or relocating along a highway, requires structures or mechanical devices that will properly purify or improve the flow of the drain or pumping equipment necessary to assist or relieve the flow of the drain, needs supplementing by the construction of 1 or more relief drains, which may consist of new drains or extensions, enlargements or connections to existing drains, or needs 1 or more branches added to the drain, any 5 freeholders or at least 50% of the freeholders if there are fewer than 5 freeholders whose lands shall be liable to an assessment for benefits of the work, may make a petition in writing to the commissioner of any county having lands in the drainage district setting forth the necessity of the proposed work.

(2) If the petition described in subsection (1) is necessary for the public health of 1 or more cities, villages or townships, the petition may be signed solely by a representative of a city, village, or township if authorized by its

governing body or by any combination of the cities, villages, or townships if each city, village, or township will be liable to assessments at large for a percentage of the total amount to be assessed for the cost of the proposed work. The percentage of cost apportioned to a city, village, or township shall be based upon the benefits to accrue to the city, village, or township and also the extent to which it contributes to the conditions that make the drain necessary.

(3) Upon receipt of a petition under subsection (1), the commissioner shall notify other members of the drainage board as constituted under section 122. The chairperson shall call a meeting of the drainage board within the time and in the manner prescribed in section 122. If the drainage board determines that the petition is practicable, the drainage board may cause a survey of the drain to be made by a licensed professional surveyor or engineer. After the surveyor or engineer has filed all data with the drainage board, the chairperson shall call a meeting as provided in section 122, and thereafter the drainage board shall proceed as provided under chapter 6 upon a petition for the location, establishment, and construction of a drain.

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

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