

NOTICE REQUIREMENTS AND PETITIONS TO AMEND DRAINAGE DISTRICTS

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House Bill 5126 as referred to second committee

Sponsor: Rep. Steven Johnson

1st Committee: Local Government and Municipal Finance

2nd Committee: Ways and Means

Complete to 6-9-20

SUMMARY:

House Bill 5126 would amend Chapter 6 (Intercounty Drains) and Chapter 7 (Apportionment and Review) of the Drain Code.

Section 135: Petition signatures needed to amend a drainage district

Currently, if a county or intercountry drain needs to be extended (resulting in the addition of a county to the district) or contracted (resulting in the removal of a county), one way to add or remove that land is to present to an applicable drain commissioner a petition that is signed by 50% of the landowners affected by the drain or proposed drain.

The bill would instead require the signatures of at least five freeholders or at least 50% of the freeholders if there are fewer than five freeholders whose lands would be liable for an assessment for benefits from the drain. (The petition is and would continue to be one of several ways to amend the drainage district.)

These changes mirror those existing for other petitions regarding drainage districts, with the latest implemented in 2018.¹

Section 154: Notice requirements

Currently, a drain commissioner must give notice in a newspaper at least 10 days before that bids for the construction of a drain are being received. The bill would instead require that the commissioner advertise for the receipt of bids at least 10 days before the due date, either on the commissioner's website, if applicable, or on the county website. The posting would have to be on a portion of the website fully accessible to the public and would have to remain up until the due date for the receipt of bids.

Notice of the public meeting for reviewing apportionment of benefits would still have to be published in a newspaper in general circulation in the county at least 10 days before the due date, although under the bill it would not have to be published at least twice. Additionally, the bill would specify that the notice that must be served on certain officials at least 10 days before the review of the apportionment, and that it may be served either personally or by certified mail. (Currently, personal service is required.)

¹ House Bill 6377/2018 PA 647: <http://www.legislature.mi.gov/documents/2017-2018/billanalysis/House/pdf/2017-HLA-6374-3F28BA4E.pdf>

In addition to current requirements, the notice before the meeting to review the apportionment of benefits would have to include the following:

- A statement describing how comments on the apportionment of benefits may be submitted and how they will be considered.
- For notices mailed to individuals within the district, the estimated percentage and dollar amount apportioned to that person's land, the estimated annual dollar amount apportioned to that person's land, and the estimated project assessment duration.
- The name or number of the drain.
- The address of the drain commissioner's website or county website, as applicable, and the information that will be available on the site.

Under the bill, the drain commissioner could subsequently make adjustments to any of the following that the commissioner or drainage board considered necessary, without further notice or an additional meeting to review the apportionment of benefits:

- The estimated apportionment percentage.
- The estimated annual project assessment.
- The estimated project assessment duration.

The bill would take effect 90 days after its enactment.

MCL 280.135 and 280.154

FISCAL IMPACT:

The bill would reduce some current drain notice and meeting requirements. This may result in some administrative savings to county drain commissioners. The amount of potential savings cannot be readily determined at this time. The bill does not appear to have a direct impact on state government.

POSITIONS:

Representatives of the Michigan Association of County Drain Commissioners testified in support of the bill. (5-28-20)

The Michigan Department of Agriculture and Rural Development indicated support for the bill. (6-3-20)

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.