

# Legislative Analysis



## DRAIN CODE REVISIONS

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**House Bill 5504 as introduced**

**Sponsor: Rep. James A. Lower**

**Committee: Local Government and Municipal Finance**

**Complete to 2-26-20**

Analysis available at  
<http://www.legislature.mi.gov>

## SUMMARY:

House Bill 5504 would amend Chapter 8 (Cleaning, Widening, Deepening, Straightening and Extending Drains) and Chapter 18 (Obstructions in Drains; Sewage; Miscellaneous Provisions) of the Michigan Drain Code.

Currently, section 196 allows for annual inspections and requires inspections upon request by the governing body of the state or local unit of government. If an inspection indicates the necessity of repair or maintenance to keep the drain in working order, the drain commissioner (for county drains) or drainage board (for an intercountry drain) may without petition expend up to \$5,000 per mile or fraction of a mile in any given year.

The bill would specify that costs incurred for this inspection, maintenance, and repair of a drain could be financed and assessed for up to 10 years. (It would also state that the cap of \$5,000 per mile would not include legal fees.)

Additionally, the bill would allow the drain commissioner or drainage board to levy an assessment on the drainage district for up to 10 years if the district's drain fund did not contain sufficient funds to pay for the inspection, repair, and maintenance. (Currently, the commissioner or board may reassess the district, but there is not a specified time period for the assessment.)

Section 434 of the code states that when a drainage district borrows money or accepts certain advance work as payment for the maintenance and repair of drains or the costs of certain studies, the obligation may be evidenced by a contract or note. Currently, if the principal amount of the obligation is less than \$300,000, it is subject to the Agency Financing Reporting Act, and if it is more than \$300,000 it is subject to the Revised Municipal Finance Act.

The bill would raise the dividing line between the two acts to \$600,000. (Now and under the act, projects in which advances or loans are made by a public corporation or the federal government are not subject to either act.)

MCL 280.196 and 280.434

## FISCAL IMPACT:

The bill is permissive—it allows a drain commissioner or drainage board (with respect to intercounty drains) to finance and assess non-petitioned drain inspection, maintenance, and repair costs over a period of not more than 10 years. The bill does not impose new requirements on drain commissioners or drainage boards. The bill provides additional authority for financing of non-petitioned drain projects and does not appear to have a material fiscal impact on local units of government or on state government.

## BACKGROUND:

To learn more about drain commissioners, visit the website of the Michigan Association of County Drain Commissioners: <http://macdc.us/>

There, an FAQ factsheet describes the commissioners' work.<sup>1</sup> Among the questions asked and answered are:

### What is a drain commissioner?

Drain commissioners, sometimes called water resources commissioners, are county-level officials responsible for administering laws involving flood protection, stormwater management, and soil erosion. Some specific duties performed by the drain commissioner include: establishing, improving, and maintaining county drains; reviewing stormwater drainage plans for construction that may impact a county drain; and maintaining lake levels, where applicable.

### What is a drain?

Drains come in various forms, including natural or artificial creeks or ditches, as well as pipes that carry stormwater.

### What is a drainage district?

Each established county drain has a legally established area of land known as a drainage district. Drainage district boundaries are typically determined by a drain's watershed. A watershed is an area of land that captures rainwater and eventually carries it to the nearest lake, river, stream, or drain. Watershed boundaries are based on topography of the land and, where applicable, storm sewer infrastructure. Within a drainage district, each drop of rainwater soaks in the ground, flows across the land, or enters a storm sewer eventually making it to that district's established drain.

### What is a drain special assessment?

Special assessments on property owners and governmental units pay for constructing and maintaining drains. Special assessments are the sole source of funding for drainage districts. Each drainage district has a separate financial account so property owners only pay for costs incurred for the drainage district in which their property is located.

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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.

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<sup>1</sup> <http://macdc.us/wp-content/uploads/2016/10/03-MACDC-FAQ.pdf>