

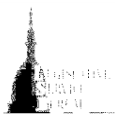
HOUSE BILL NO. 5060

October 08, 2019, Introduced by Reps. Garza, Eisen, Coleman, Kennedy, Hood, Brenda Carter, Bolden, Sowerby, Brixie and Stone and referred to the Committee on Local Government and Municipal Finance.

A bill to amend 1956 PA 40, entitled
"The drain code of 1956,"
by amending section 196 (MCL 280.196), as amended by 2008 PA 509.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 196. (1) ~~An annual inspection may be made of a drain~~
2 ~~established under this act. Inspection shall also be made~~ **A drain**
3 **may be inspected annually. A drain shall be inspected** upon the
4 request of the governing body of a public corporation, as defined
5 in section 461, served in whole or in part by the drain to be
6 inspected. ~~For county drains, the inspection shall be made by the~~



1 **The** drain commissioner ~~or a competent person appointed by the~~
 2 drain commissioner ~~. For intercounty drains, the inspection shall~~
 3 ~~be caused to be made by the~~ **shall inspect a county drain. The**
 4 drainage board **shall arrange for the inspection of an intercounty**
 5 **drain.**

6 (2) Surplus construction funds remaining after completion of
 7 construction of a drain, or funds remaining after completion of
 8 work performed under a petition for maintenance or improvements
 9 under this chapter, shall be deposited in the drain fund of a
 10 drainage district and shall be expended for inspection, repair, and
 11 maintenance of the drain.

12 (3) If at any time the drain fund of a drainage district
 13 contains less than ~~\$5,000.00~~ **\$10,000.00** per mile or fraction of a
 14 mile of a drain, the drain commissioner or drainage board may
 15 assess the drainage district for an amount not to exceed ~~\$2,500.00~~
 16 **\$5,000.00** per mile or fraction of a mile in any 1 year. The amount
 17 collected under an assessment shall be deposited in the drain fund
 18 ~~of a drainage district~~ for necessary inspection, repair, and
 19 maintenance of the drain.

20 (4) If an inspection discloses the necessity of expending
 21 money for the maintenance and repair of a drain ~~in order~~ to keep it
 22 in working order, the drain commissioner for a county drain ~~or~~
 23 the drainage board for an intercounty drain ~~may~~, without
 24 petition, expend an amount not to exceed in any 1 year ~~\$5,000.00~~
 25 **\$10,000.00** per mile or fraction of a mile for maintenance and
 26 repair of ~~a the~~ drain, ~~exclusive of~~ **not including** inspection and
 27 engineering fees, ~~and the cost of publication and mailing, or costs~~
 28 **described in subsection (10).** The determination of the maximum
 29 expenditure allowed without a petition or resolution shall be based



1 on the total number of miles of the drain and not on the actual
 2 number of miles or location of the maintenance or repair.

3 (5) If the drain commissioner or the drainage board finds it
 4 necessary to expend funds in excess of the amount established in
 5 subsection (4) per mile or fraction of a mile in any 1 year for the
 6 maintenance and repair of a drain, the additional amounts shall not
 7 be expended until approved by resolution of the governing body of
 8 each township, city, and village affected by more than 20% of the
 9 cost.

10 (6) If the drain fund of a drainage district does not contain
 11 sufficient funds to pay for inspection, repair, and maintenance
 12 authorized by this section, the drain commissioner or the drainage
 13 board shall reassess the drainage district for the inspection,
 14 repair, and maintenance according to benefits received. A
 15 reassessment shall be made and spread upon the city or township tax
 16 assessment roll within 2 years after the completion of the
 17 inspection, repair, and maintenance. If the total expenditure is
 18 more than the amount established in subsection (4) per mile or
 19 fraction of a mile, all real property owners subject to an
 20 assessment within the drainage district shall be notified of the
 21 assessment by publication in a newspaper of general circulation
 22 within the drainage district and by first-class mail to the name
 23 and address that appears on the last city or township assessment
 24 roll. ~~An~~ **The drain commissioner shall make an** affidavit of mailing.
 25 ~~shall be made by the drain commissioner.~~ The affidavit is
 26 conclusive proof that the notices required by this subsection were
 27 mailed. The failure **of a real property owner** to receive the ~~notices~~
 28 **notice** by mail ~~shall~~ **does** not constitute a jurisdictional defect
 29 invalidating a drain tax if notice by publication was given as



1 required by this subsection.

2 (7) An assessment ~~for the actual cost of inspection, repair,~~
 3 ~~and maintenance performed on a drain, or an assessment to be~~
 4 ~~deposited in the drain fund of a drainage district,~~ **under this**
 5 **section** shall be made according to benefits received. The
 6 expenditure limit ~~of the amount established in~~ subsection (4) per
 7 mile ~~of drain or~~ fraction of a mile shall be used to calculate the
 8 maximum amount that the drain commissioner or drainage board may
 9 assess in any 1 year without a petition or a request from a public
 10 corporation. The property in a drainage district that benefits from
 11 the inspection, repair, or maintenance of the drain is subject to
 12 assessment for that inspection, repair, or maintenance.
 13 ~~Determination of the~~ **The** maximum assessment amount allowed without
 14 petition or request ~~, or of~~ **and** the property that is subject to
 15 assessment ~~, shall be~~ **determined** based on the number of miles of
 16 drain and areas of the drainage district receiving benefits and not
 17 on the actual number of miles or actual location of the inspection,
 18 repair, or maintenance.

19 (8) If an emergency condition exists that endangers the public
 20 health, crops, or property within a drainage district, the drain
 21 commissioner or the drainage board may expend funds for maintenance
 22 and repair to alleviate the emergency condition.

23 (9) Nothing in this section prohibits the drain commissioner
 24 or the drainage board from spending funds in excess of the ~~amount~~
 25 ~~established~~ **expenditure limit** in subsection (4) per mile or
 26 fraction of a mile in any 1 year for inspection, maintenance, and
 27 repair of a drain ~~when~~ **if** requested by a public corporation ~~, and~~
 28 if the public corporation pays the entire cost of the inspection,
 29 maintenance, and repair.



1 ~~(10) In computing the amounts that may be expended in~~
2 ~~accordance with~~ **For purposes of** this section, **the costs of**
3 **maintenance or repair do not include** the cost of work to be
4 performed by a federal agency or public corporation that is not
5 chargeable to the ~~county or intercounty~~ drainage district. ~~shall~~
6 ~~not be included, nor shall it be necessary for the~~ **The** drain
7 commissioner or the drainage board **is not required** to advertise for
8 bids for that portion of the work to be done by the federal agency
9 or public corporation.

10 (11) For purposes of this section, the costs of maintenance or
11 repair ~~shall~~ include the costs of maintaining the drain in working
12 order to continue a normal flow of water, including the servicing
13 or repair of necessary pumping equipment and utility charges for
14 pumping equipment; the cost of keeping the drain free from rubbish,
15 debris, siltation, or obstructions; the cost of repairing a portion
16 or all of a tile or drain to continue the normal flow of water; and
17 other costs associated with the costs enumerated in this
18 subsection.

19 (12) If the cost of maintenance and repair of a drain includes
20 utility charges or costs to service pumping stations, sewage
21 treatment facilities, or retention basins, the limitation for
22 maintenance and repair does not apply except that the drain
23 commissioner or drainage board may levy sufficient special
24 assessments to pay the charges or costs but not more than the
25 amount sufficient to pay those charges or costs.

26 (13) Except as otherwise provided in this act, that portion of
27 the salaries, expenses, and fringe benefits of administrative and
28 engineering employees under the supervision of the drain
29 commissioner that are directly attributable, but not incidental, to



- 1 a drain or otherwise not recovered by fees established by
- 2 resolution or ordinance of the **county** board of commissioners may be
- 3 ~~chargeable~~**charged** to the drain fund of a drainage district.

