



Senate Fiscal Agency  
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## BILL ANALYSIS



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House Bill 5189 (as passed by the House)  
Sponsor: Representative Robert J. Bezotte  
House Committee: Local Government and Municipal Finance  
Senate Committee: Local Government

Date Completed: 11-12-24

**CONTENT**

**The bill would amend the Drain Code to do the following:**

- **Modify the notice requirements if a petition to add or remove a county or counties to or from a drainage district were filed.**
- **Modify the requirements of an order issued by a drain commissioner or drainage board if it determined the boundaries of a drainage district should be revised.**
- **Allow a drain commissioner to appeal a drainage district's apportionments between counties or the addition or removal of a county or counties to or from the drainage district to an arbitration board.**

Notice of Modification of Drainage District

Currently, any time a drain is constructed, a county or counties may be added to the drainage district or removed from an existing intercounty drainage district.<sup>1</sup> This is commenced by presenting a petition for the addition or removal of the county or counties to the drain commissioner of one of the affected counties. When the petition is received by the drain commissioner, the commissioner must provide notice to the Director of the Department of Agriculture and Rural Development (MDARD) and the other affected drain commissioners. Notices of the meeting and all other proceedings must be provided pursuant to Section 197, which contains requirements affecting the notice, meeting, and order for modification of the boundaries of a drainage district.

Instead, under the bill, notice would have to be provided pursuant to Section 122, which contains notice requirements for a petition to locate, establish, and construct an intercounty drain. The notice would have to identify the county or counties proposed to be added or removed and include a general description or map of the lands expected to constitute the drainage district.

The Code requires a drainage board to consider a petition and any evidence offered, and if it determines that the extension of the drainage district or the removal of lands from the district is necessary for public health, convenience, or welfare, it must determine the just percentage of the whole cost of construction that each county should bear. If the commissioners cannot agree on a just percentage, the chairperson must determine apportionments.

Instead, under the bill, after considering a petition and any evidence, if a drainage board determined by *majority vote* that the addition or removal of a county was necessary for public health, convenience, or welfare, it would have to issue an order to that effect described below.

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<sup>1</sup> Drainage districts are legally established areas of land that drain to a common outlet.

### Modify Order to Amend Drainage District Boundaries

Currently, if a drain commissioner or drainage board determines the boundaries of a drainage district should be revised, the order to modify the boundaries must do the following:

- Give the drain a name or number.
- Designate the drainage district.
- Describe the route and course of the drain and drainage district boundaries.
- 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.

Under the bill, the order also would have to do the identify each county being added to or removed from the drainage district.

Currently, the addition or removal of a county or counties to or from the drainage district is subject to review in the manner provided in Section 106. Instead, the bill specifies that a drain commissioner could appeal the apportionments between the counties or the addition or removal of a county or counties to or from the drainage district, as set forth in an order described above, to an arbitration board in the manner provided in Section 106.

(Section 106 generally governs the arbitration process if a drain commissioner of a county considers the apportionment between the counties to be unfair.)

MCL 280.135 & 280.197

Legislative Analyst: Alex Krabill

### **FISCAL IMPACT**

The bill would have no fiscal impact on State or local government.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.