

**THE DRAIN CODE OF 1956 (EXCERPT)**  
**Act 40 of 1956**

**280.121 Intercounty drains; petition to establish; filing, signatures; certificate of county treasurer; eligibility of signers; "municipality" defined.**

Sec. 121. (1) After an intercounty drainage district has been established and the order establishing the intercounty drainage district has been filed as provided in this act, a petition to locate, establish, and construct a drain may be filed with any commissioner having jurisdiction of any of the lands designated in the order as constituting the drainage district. The petition shall ask for the location, establishment, and construction of the drain or drains, or any part of the drain or drains, as described in the order.

(2) Subject to subsection (3), the petition under subsection (1) shall be signed by a number of freeholders in the drainage district, whose lands would be liable to an assessment for benefits, equal to 1/2 of the number of freeholders whose lands would be traversed by the drain or drains applied for, or abut on the part of any highway or street along the side of which the drain extends, between the point where the drain enters the highway and the point where it leaves the highway and which lands are within the drainage district. The petition shall be accompanied by a description of the land in the district owned by each signer and by a certificate of the county treasurer as to payment of taxes and special assessments against the lands. The certificate shall be in substantially the following form:

I hereby certify that there are no taxes or special assessments unpaid against any of the lands described in the annexed list according to the records of the county treasurer's office for the past 3 years, except as follows:

| Description | Year  | Tax or assessment | Amount |
|-------------|-------|-------------------|--------|
| .....       | ..... | .....             | .....  |

(3) For purposes of determining the number of freeholders needed for a petition under subsection (2), the name of any signer as to whose land the certificate under subsection (2) shows taxes or special assessments unpaid for 3 years shall not be counted. The eligibility of the signers to the petition 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 counties in which the lands are situated at the time the petition is filed. In determining the number of owners whose lands are traversed by the drain, or abut the drain, the drain commissioner shall investigate the records of the register of deeds, of the probate court, and of the circuit court of the county, and shall make diligent inquiry in the community, including inquiry of anyone in possession of all of the lands traversed by the drain or abutting the drain, as to the ownership of the lands.

(4) In lieu of a petition signed by freeholders under subsection (2), the petition may be signed solely by a municipality, if authorized by its governing body, or by any combination of such municipalities, if each petitioning municipality will be liable to assessment at large for public health for any part of the cost of the proposed drain. A petition signed under this subsection is not subject to subsection (2) or (3).

(5) As used in this section, "municipality" means a city, village, or township.

**History:** 1956, Act 40, Imd. Eff. Mar. 28, 1956;—Am. 1968, Act 79, Eff. Nov. 15, 1968;—Am. 2014, Act 551, Imd. Eff. Jan. 15, 2015.

**Popular name:** Act 40