

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

**280.135 County or intercounty drain; extension into county not in original drainage district; adding to or removing lands from district; procedure; apportionment of cost; order.**

Sec. 135. (1) If at any time after a county or intercounty drain is constructed, it appears that it is necessary to extend the drainage district into a county that was not a part of the original drainage district or to remove lands from the original drainage district resulting in the removal of a county from an intercounty drainage district, the lands may be added to or removed from the drainage district pursuant to section 197(3) or by presenting a petition to the drain commissioner of 1 of the counties traversed or affected by the drain. The petition must be signed by either of the following:

(a) By any 5 freeholders or at least 50% of the freeholders if there are fewer than 5 freeholders whose lands will be liable for an assessment for benefits from the drain.

(b) By a municipality if authorized by its governing body or by any combination of municipalities, if the petitioning municipality or municipalities are or will be liable for an assessment at large for benefits from the drain.

(2) The petition shall state the name or number of the drain and identify the lands proposed to be added to or removed from the drainage district. A petition under this section may be combined with a petition under section 192.

(3) Upon receipt of the petition, the drain commissioner shall mail a copy of the petition to the director of the department of agriculture and rural development and to the drain commissioner of each county where the original or proposed revised drainage district is located. The director of the department of agriculture and rural development shall call a meeting of the drainage board, which shall include the commissioner of each county where the original or proposed revised drainage district is located. Notices of the meeting and all other proceedings shall be provided pursuant to section 197.

(4) At the meeting of the drainage board, all persons owning lands in the drainage district or proposed revised drainage district liable to assessment for benefits, or any municipality affected, may appear for or against the addition or removal of the lands. The drainage board shall consider the petition and any evidence offered. If the drainage board determines that the extension of the drainage district or the removal of lands from the drainage district is necessary for the public health, convenience, or welfare, it shall then determine the just percentage of the whole cost of construction that each county shall bear. If the commissioners cannot agree on the apportionment between counties, the chairperson shall determine that apportionment, subject to review under section 106.

(5) If, in the opinion of the drainage board, it is necessary to revise the drainage district boundaries, the board shall also enter an order to that effect. Copies of the order shall be filed with the drain commissioner of each county in the revised drainage district. After the order is filed, the revised drainage board constitutes the drainage board for the revised drainage district and has all the powers and duties of drainage boards under this act.

**History:** Add. 1957, Act 97, Imd. Eff. May 24, 1957;—Am. 2017, Act 62, Imd. Eff. June 28, 2017;—Am. 2020, Act 281, Eff. Mar. 29, 2021.

**Popular name:** Act 40