

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

280.221 Construction of drain; advertisement and receipt of bids; sealed bids; contracts; bonds; abandonment of petition; order; notice; affidavit; board of county road commissioners authorized to bid.

Sec. 221. (1) The drain commissioner or drainage board shall advertise for sealed bids for projects petitioned for under section 71, 121, 191, or 192. The drain commissioner or drainage board shall receive sealed bids. All sealed bids received by the drain commissioner or drainage board shall be publicly opened at a meeting held at a time and place established by the notice under this act and may be examined at the meeting by any person interested. As soon as practical after the opening of bids, the drain commissioner or drainage board shall do the following:

(a) Determine the lowest responsible bidder and award contracts, or reject all proposals and readvertise.

(b) If the drain commissioner or drainage board determined that the special assessments for benefits shall be collected in more than 1 installment, subject to section 275, determine the amount, form, maturity, mandatory redemption requirements, if any, and rate of interest of bonds to be issued.

(2) The drain commissioner or drainage board shall also receive sealed bids as provided in subsection (1) for nonpetitioned maintenance work under section 196, unless the drain commissioner or drainage board utilizes 1 of the following to perform the work:

(a) County staff, including staff of the board of county road commissioners.

(b) A prequalified contractor. To proceed under this subdivision, the drain commissioner or drainage board must maintain a list of all prequalified contractors for nonpetitioned maintenance work under section 196. The determination whether to list a contractor shall comply with prequalification criteria adopted by the drain commissioner or drainage board. The drain commissioner or drainage board shall make the list and criteria available on request. If a drain commissioner maintains an official internet presence, the drain commissioner shall post and maintain the drain commissioner's or drainage board's list and criteria on a portion of the website that is fully accessible to the public. If the drain commissioner does not maintain an official internet presence, the list shall be so posted and maintained on the county website.

(3) If a contract is not let within 5 years after the date of filing the petition to locate, establish, and construct, or deepen, widen, straighten, tile, extend or clean out a drain, the drain commissioner or drainage board may determine that the petition shall be considered abandoned and no further action shall be taken to construct the drain. The running of the 5-year period is suspended during any litigation to contest the validity of the proceedings. If, after the 5-year period, the drain commissioner or drainage board determines that the petition shall be considered abandoned, the drain commissioner or drainage board shall issue an order to that effect. Notice of the order shall be published in a newspaper of general circulation in the drainage district or sent by first-class mail to each person whose name appears on the last city, village, or township tax roll as owning land within the drainage district. The respective drain commissioner shall make an affidavit of the mailing and shall recite in the affidavit that the notice was mailed to all of the persons whose names and addresses appear upon the tax rolls as owning land within the drainage district in that county. The affidavit is conclusive proof that notice was mailed to each person to whom notice is required to be mailed by that drain commissioner under this subsection. The failure to receive a notice by mail is not a jurisdictional defect invalidating the abandonment of a petition if notice was sent by first-class mail as provided in this subsection.

(4) The board of county road commissioners may bid on projects as provided in this section and, if a bid is accepted, may perform the work described in the bid and receive payment for the work performed. A bid tendered by a board of county road commissioners shall not be accepted unless the bid is at least 15% lower than any other bid tendered. The money received by the board of county road commissioners shall be credited to the county road fund. Expenditures incurred by the board of county road commissioners in performing work under this subsection are proper disbursements from the county road fund.

History: 1956, Act 40, Imd. Eff. Mar. 28, 1956;—Am. 1960, Act 4, Imd. Eff. Mar. 8, 1960;—Am. 1973, Act 16, Imd. Eff. Apr. 30, 1973;—Am. 2016, Act 27, Imd. Eff. Mar. 1, 2016;—Am. 2020, Act 291, Eff. Mar. 24, 2021.

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