

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

**280.395 County or intercounty drain; transfer of jurisdiction and control; conditions; approval; transfer of drain fund.**

Sec. 395. (1) The county drain commissioner or the intercounty drainage board may relinquish to a county, township, city, village, authority, or board of county road commissioners or to the state transportation department jurisdiction and control of all or part of any county or intercounty drain if all of the following requirements are met:

(a) The drainage district has no outstanding indebtedness or contract liability. Indebtedness or contract liability that will be paid in full when jurisdiction and control is relinquished is not considered to be outstanding.

(b) The drain or part of the drain to be relinquished and the area the drain or part of the drain services is wholly located within the boundaries of the county, township, city, village, or authority or within the public right-of-way of the board of county road commissioners or the state transportation department that is to accept jurisdiction and control of the drain or part of the drain.

(c) The relinquishment is approved by both of the following:

(i) A majority of the members of the county board of commissioners for a county drain or of the drainage board for an intercounty drain.

(ii) The governing body of the county, township, city, village, or authority, the board of county road commissioners, or the director of the state transportation department, that is to accept jurisdiction and control of the drain or part of the drain. If relinquishment of jurisdiction and control is to a county, the resolution of the governing body of the county shall specify the county agency, such as board of public works, road department, or parks and recreation commission, that shall be thereafter responsible for the exercise of jurisdiction and control.

(2) Upon relinquishment of all or part of a drain under subsection (1), the following apply:

(a) The county drain commissioner or drainage board is relieved of, and the county, township, city, village, board of county road commissioners, or authority or the state transportation department shall assume, the maintenance, jurisdiction, control, and operation of the drain or part of the drain relinquished and its future operation shall be financed in the same manner as is provided for special assessment districts within the county, township, city, or village or as otherwise provided by law.

(b) If jurisdiction and control is relinquished over all of a drain, any money in the drain fund of the drain shall be turned over to the county, township, city, village, authority, or board of county road commissioners or to the state transportation department that accepted jurisdiction and control, to be used solely with respect to that drain.

**History:** 1956, Act 40, Imd. Eff. Mar. 28, 1956;—Am. 1957, Act 120, Imd. Eff. May 24, 1957;—Am. 2018, Act 645, Eff. Mar. 28, 2019.

**Popular name:** Act 40