

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

280.422 Obstructions; public utility companies; removal, mandamus.

Sec. 422. Railroad or railway companies, telephone, telegraph, or pipeline companies and other utilities shall not obstruct established drains, nor shall they lessen the area of any drain through their track bed or right of way. The area herein referred to is a cross section of the drain. In case any such company or utility, without legal right, has constructed or shall construct any bridge, culvert, pipeline or conduit over any established drain whereby the area aforesaid is decreased, the removal of such bridge, culvert, pipeline or conduit shall not be deemed an element of damage in proceedings to deepen and widen such drain through such track bed or right of way. In case it is proposed to construct a pipeline, sewer or conduit within, over or across any county, such construction shall be of a nature and laid at such a depth at the point of crossing of any established public drain as will not interfere with said established public drain. The consent of the county drain commissioner or board of public works of any municipality shall be obtained before the work of such construction is commenced and such drain commissioner is hereby authorized to grant such consent upon such terms and conditions as may be reasonable and proper under the circumstances then existing. In case any railroad or railway company, telephone, telegraph or pipeline company or other utilities shall obstruct any established drain, or has constructed or shall construct any bridge, culvert, pipeline or conduit, sewer or other structure over, under or through any established drain, leaving less capacity to the drain than such drain is legally entitled to, in accordance with the rights for such drain as established by proper drain proceedings or as established by other legal methods prior to the date of construction of any such obstruction, the county drain commissioner or the board of public works, as the case may be, may, by mandamus proceedings in the circuit court of the county in which such obstruction shall occur, compel the removal of such obstruction. If necessary, issues of fact may be framed in such proceedings. In case the court shall find such drain to have been obstructed, it shall issue a preemptory mandamus compelling such company to remove such obstruction. The court may award costs in its discretion as in other mandamus proceedings. The practice herein shall be the same as in other motions for mandamus.

History: 1956, Act 40, Imd. Eff. Mar. 28, 1956;—Am. 1959, Act 261, Imd. Eff. Aug. 21, 1959.

Popular name: Act 40