

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

CHAPTER 11.

LEVY AND COLLECTION OF DRAIN TAXES.

280.261 Computation of cost; items included; contingent expenses.

Sec. 261. Within 10 days after the letting of contracts, or in case of an appeal, then forthwith after such appeal shall have been decided, the commissioner shall make a computation of the entire cost of such drain, which shall include (1) all the expense of laying out and designating the drainage district, which item of expense shall include the entire cost of the survey; (2) the expense of locating, establishing and constructing the drain; (3) the fees and expenses of special commissioners; (4) the compensation to be paid the board of review; (5) the cost of construction of bridges and culverts; (6) the contracts for the construction of the drain, or other work to be done on said drain; (7) the estimated cost of an appeal in case the apportionment made by the commissioner shall not be sustained; (8) the estimated cost of inspection; (9) the cost of publishing all notices required; (10) all fees of the probate judge; (11) attorney fees for legal services in connection with the drain; and (12) interest on bonds for the first year, if bonds are to be issued, and he shall add the whole into a gross sum and add thereto not less than 10% nor more than 15%, at the discretion of the drain commissioner, of said gross sum to cover contingent expenses, and the entire sum so ascertained shall be deemed to be the cost of construction of such drain.

History: 1956, Act 40, Imd. Eff. Mar. 28, 1956.

Popular name: Act 40

280.262 Special assessment roll and tax assessment roll; contents; installment payments.

Sec. 262. (1) The commissioner shall thereupon make a special assessment roll for the drain for each county, township, city, or village and each state trunk line highway affected thereby, which roll shall be designated, giving name or number, "drain special assessment roll". The commissioner shall enter on the roll a correct description of the tracts, parcels, or subdivisions of land benefited by the drain and place opposite each description the amount of the percent heretofore determined upon by him or by the board of review. The commissioner shall also enter on the roll the amount of the percent apportioned to the county, for benefits to any county road, and to the township, city, or village and the state highway commission, for benefits to any state trunk line highway, and in case the amount be payable in installments he shall also enter thereon a memorandum of the installments and of the year or years when the installments shall be spread. The commissioner shall add a certificate in writing of the determination whether the taxes assessed for benefits shall be paid in 1 or more years. The rolls shall be dated and signed by the commissioner and filed on or before the last Wednesday in September in each year, in the office of the county clerk.

(2) The commissioner shall prepare a tax assessment roll in each year for the collection of taxes for the current year, and shall certify the same to the county clerk on or before the first day of the annual meeting of the county board of commissioners. In each roll the commissioner shall add to the amount to be collected, interest on all unpaid installments to the date of tax collection, and shall deduct from the amount to be collected by the county, village, city, or township all amounts received from the proceeds or income of property or an interest in property located in the county, village, city, or township and acquired through condemnation or the payment of damages under this act. To the roll for the last year the commissioner shall add a further amount, if any, as may be necessary together with outstanding uncollected taxes, to pay all outstanding bonds and interest thereon to maturity. If the roll is made payable in more than 1 installment, a permanent assessment roll may be maintained in the office of the county treasurer, subject to the direction of the board of county auditors, in counties having such a board, and of the county board of commissioners in other counties, showing the total cost, the number of installments and the amount of each annual assessment, together with interest charges thereon, which shall be carried in a separate column.

(3) If the roll is made payable in more than 1 installment, and the total amount of any assessment is \$10.00 or less, exclusive of interest, then that assessment shall be payable in 1 installment; but if the assessment exceeds the sum of \$10.00 and is made payable in more than 1 installment, then that installment, exclusive of interest, shall not be less than the sum of \$10.00, excepting the final installment, which shall be payable in the amount of the actual balance.

History: 1956, Act 40, Imd. Eff. Mar. 28, 1956;—Am. 1963, Act 82, Eff. Sept. 6, 1963;—Am. 1976, Act 338, Imd. Eff. Dec. 15, 1976.

Popular name: Act 40

280.263 Spread of drain taxes on rolls; time.

Sec. 263. It shall be the duty of the supervisor, village or city assessor, to spread on his roll the total amount of all drain taxes determined upon by the county drain commissioner to be assessed upon the county, township, city or village at large by adding to the county, township, city or village tax for the year in which the same was assessed and extending said tax in the same column with the general county, township, city or village tax: Provided, That in such villages or cities of this state, where the municipal taxes therefor are assessed and collected prior to the October meeting of the board of supervisors, all taxes ordered to be spread against such municipalities shall be spread during the calendar year following such action by the board of supervisors: Provided further, That in lieu of the addition of such tax to the county, township, city or village tax, the legislative body thereof may in any year provide for the payment thereof from the general or contingent fund of such county, township, city or village. Such supervisor or assessor shall also spread upon said roll, separately, and immediately following the other descriptions, all tracts or parcels of land specified by the commissioner to be assessed for benefits, and shall place opposite each description, in a column marked, "(giving the name or number) drain taxes," the amount of taxes apportioned thereon, as certified to him by the county clerk.

History: 1956, Act 40, Imd. Eff. Mar. 28, 1956.

Popular name: Act 40

280.264 Statement of assessments upon township at large furnished township treasurer.

Sec. 264. The supervisor shall, at the time of the delivery of his assessment roll to the township treasurer, also furnish him with an itemized statement of the several amounts assessed upon the township at large for each particular drain, naming the drain.

History: 1956, Act 40, Imd. Eff. Mar. 28, 1956.

Popular name: Act 40

280.265 Drain taxes; general tax law applicable, payment under protest, action, lien, personal claim.

Sec. 265. All drain taxes assessed under the provisions of this act shall be subject to the same interest and charges, and shall be collected in the same manner as state and other general taxes are collected, and collecting officers are hereby vested with the same power and authority in the collection of such taxes as are or may be conferred by law for collecting general taxes. Drain taxes, when collected, shall be returned to the county treasurer to be disbursed by him. In all cases where suit is brought against the collector arising out of the collection of any drain tax, the county shall defend such officer in the same manner that he has now the right to be defended in the collection of general taxes. No suit shall be instituted to recover any drain tax or money paid or property sold therefor, or for damages on account thereof, unless brought within 30 days from the time of payment of such money to, or sale of such property by, the collecting officer; and if such tax shall be paid under protest the reasons therefor shall be specified, and the same procedure observed as is or may be required by the general tax law. All taxes levied under the provisions of this act, with all lawful costs, interest and charges, shall be and remain a perpetual lien upon the lands upon which they are assessed, and a personal claim against the owner or owners of such lands until they are paid.

History: 1956, Act 40, Imd. Eff. Mar. 28, 1956.

Popular name: Act 40

280.266 Return of delinquent drain taxes; general tax law applicable.

Sec. 266. If the taxes levied for the construction, cleaning out, widening, deepening, straightening or extending of any drain are not collected by the township, city or village treasurer, they shall by him be returned, together with the lands upon which they were levied, to the county treasurer in the same return, at the same time, and in the same manner, in every respect (naming in each case the particular drain), as lands are returned for state, county and township taxes, and such taxes shall follow such lands, the same as all such other taxes, and all the general provisions of law now existing, or that may be hereafter enacted for enforcing the payment of township, county and state taxes, shall apply to such drain taxes, and to the lands returned delinquent therefor, in the same manner and with like effect.

History: 1956, Act 40, Imd. Eff. Mar. 28, 1956.

Popular name: Act 40

280.267 Injunction after assessment.

Sec. 267. After any taxes have been assessed for the construction, location or establishment of any drain, no injunction shall issue to restrain the spreading of the same upon the tax roll nor to restrain the collection

thereof, nor shall the same be in any manner stayed, unless the amount of such assessment shall first be paid into the township treasury to be applied upon such tax, in case the court in which the suit upon which injunction is tried shall so order.

History: 1956, Act 40, Imd. Eff. Mar. 28, 1956.

Popular name: Act 40

280.268 Perpetual injunction not allowed for informalities; plaintiff may show injury.

Sec. 268. The collection of no tax levied or ordered to be levied for the payment of the location or construction of any drain laid out under this act shall be perpetually enjoined or declared absolutely void in consequence of any error or informality of any officer in the location and establishment thereof, nor by reason of any error or informality appearing in the record of the proceedings by which any such drain shall have been located and established, nor on account of any irregularity or informality in the condemnation of right of way, nor for want of any record thereof; but the court in which any action may be brought to recover any tax or assessment paid, or to declare void the proceedings to locate and establish any drain, or to enjoin any tax or assessment levied or ordered to be levied for the payment of the labor and expense thereof, shall, if there be manifest error in the proceedings, allow the plaintiff in action to show that he has been injured thereby.

History: 1956, Act 40, Imd. Eff. Mar. 28, 1956.

Popular name: Act 40

280.269 Invalidation proceedings; proofs, correction of damages or assessment, order, costs.

Sec. 269. The court in which such proceedings are begun shall allow proof that the drain was necessary and conducive to the public health, convenience or welfare, and that all the steps required by law have been substantially complied with, notwithstanding the record required to be kept by the commissioner. In case substantial error is found, the court may correct any gross injustice in the award of damages, or assessment of benefits as may appear after hearing the proofs and allegations of both sides and shall make such order in the premises as shall be just and equitable, and may order that such tax or assessment remain on the tax roll for collection, or order the same to be relieved, or may perpetually enjoin the same, or any part thereof, or if the same has been paid under protest, may order the whole, or such part thereof as is just and equitable, to be refunded. In all cases where assessments shall be set aside after contracts have been let or bonds sold, the decree shall make full provision for payment of work done and materials furnished under said contracts before the commencement of suit, and for payment of such bonds and interest thereon, by reassessment according to benefits, or otherwise as equity may require. The cost of such proceedings, if error or injustice be shown, shall be apportioned among the parties, or if no manifest error or injustice be shown, such costs shall be collected of the party bringing the action.

History: 1956, Act 40, Imd. Eff. Mar. 28, 1956.

Popular name: Act 40

280.270 Tax lien; proceeding to compel spread of tax; established drains.

Sec. 270. Whenever any drain has been located and established, and contracts let for its construction, and the work of construction has been completed, or partly completed, and the commissioner has made his order establishing the drain, his apportionment of benefits and special assessment roll and filed the same in the office of the county drain commissioner, as provided by this act, and such taxes remain a perpetual lien upon the lands assessed, and filed all of said papers in the office of the county drain commissioner, and no person or municipality affected by the proceedings has taken any action by virtue of section 161 of this act to test the validity of the proceedings, or to set the same aside, and it shall further appear that the tax has not been spread on the tax roll of the municipalities affected and the lien of said tax still remains against such lands, on the application in writing of any person or corporation who is now or were owners of the land assessed at the time of the apportionment of benefits by the commissioner or any person or corporation who were the owners of land at said time and who were assessed therefor, and who sold such land with covenants of warranty, may make an application in writing to the county drain commissioner setting forth such facts, and upon the filing of such application it shall be the duty of the county drain commissioner to make a certified copy of the assessment roll filed in his office by the commissioner and present to and lay it before the board of supervisors at the first October session thereafter of said board, and thereupon it shall be the duty of said board at said session to order and direct such taxes spread upon the tax roll of the municipalities affected thereby, according to the said assessment filed as aforesaid, and as appears by such special assessment roll, so certified to said board. The provisions of this section shall also apply to drains laid out and established and wholly or partly constructed under the provisions of all drain laws in force prior to the passage of this act,

where such laws have made such drain tax a perpetual lien upon the lands upon which they are assessed.

History: 1956, Act 40, Imd. Eff. Mar. 28, 1956.

Popular name: Act 40

280.271 Tax collection suits; tax reassessment.

Sec. 271. Any drain taxes that may have been assessed and returned upon any lands under any drain law enacted before this act and remaining unpaid, may be sued for by the commissioner of the county in which the delinquent lands are situated in any court of competent jurisdiction and collected from the owner of the lands or the taxes, if properly returned to the county treasurer, may be ordered charged back by the county board of commissioners and reassessed upon the lands in the same manner that unpaid or rejected taxes may be charged back by the state treasurer and reassessed under the general provisions of law.

History: 1956, Act 40, Imd. Eff. Mar. 28, 1956;—Am. 2002, Act 353, Imd. Eff. May 23, 2002.

Popular name: Act 40

280.272 Tax collection suits; assumpsit; prima facie evidence, judgment based on benefits; authority to sue.

Sec. 272. In any suit brought for the collection of any unpaid drain taxes by virtue of section 271, the commissioner bringing such suit may declare in an action of assumpsit against the defendant; proof of the amount of the tax, and that it is unpaid, either oral or by the production of the tax roll, shall be prima facie evidence of the plaintiff's right to recover; but the defendant may plead the general issue and give evidence in reduction of damages, and the plaintiff may offer evidence in rebuttal, and if it shall appear from such evidence that the actual benefits to the land by reason of the construction of the drain were less than the amount of the tax, judgment shall be only for the amount of the benefits as proven, with interest and costs: Provided, That no such proceedings shall be instituted by the commissioner at the expense of the county unless he shall be authorized to do so by the board of supervisors.

History: 1956, Act 40, Imd. Eff. Mar. 28, 1956.

Popular name: Act 40

280.273 New proceedings when tax set aside; report of defects to supervisors, reassessment.

Sec. 273. In case any drain tax heretofore or to be hereafter assessed shall be set aside, except for causes that would deprive the commissioner of jurisdiction to construct the drain, the commissioner may begin proceedings anew at the stage where they shall be correct. In case a drain tax can or may be set aside for error in description or other defect in the commissioner's or township treasurer's roll, the commissioner shall report the same to the board of supervisors at their October session, who shall order the same reassessed upon the proper description. Such report may be made at any time before the sale of the land for such tax.

History: 1956, Act 40, Imd. Eff. Mar. 28, 1956.

Popular name: Act 40

280.274 Invalidation proceedings; commissioner as party.

Sec. 274. In any suit brought to set aside any drain tax, or in any way attacking the legality of any drain proceedings, the commissioner shall be made a party to said suit.

History: 1956, Act 40, Imd. Eff. Mar. 28, 1956.

Popular name: Act 40

280.275 Drainage district bonds; issuance; terms; sale subject to revised municipal finance act; premium; limitation on payment from county general fund.

Sec. 275. If bonds are issued, as provided in this act, the commissioner may borrow money in anticipation of the collection of the installments and may issue as evidence thereof the bonds of the drainage district. The obligations shall specify on their face that they are payable out of the installments of drain taxes to be collected, and the amount shall not exceed the aggregate of the installments levied. Bonds issued under this act shall be signed by the commissioner on behalf of the drainage district, shall be countersigned by the county clerk and shall be payable in annual installments equal in number to the installments of taxes, shall mature or be subject to mandatory redemption not earlier than March first and not later than June first of the year following the due dates of the respective installments of taxes. The number of installments shall not exceed 20. However, in any drainage district containing a closed drain, any part of whose cross-section has an area exceeding 60 square feet, the number of installments may be, but shall not exceed, 30, and the amount of each installment shall be established to correspond as near as may be to the drain commissioner's estimate of

the amount of taxes actually collectible each year, and in no case shall bonds mature or be subject to mandatory redemption more than 2 1/2 years after the corresponding installment of taxes. The commissioner shall pledge in the bond the credit of the drainage district, including the lands embraced within the district and the townships, cities, villages, counties, and state trunk line highways assessed at large, in the proportion that they are taxed for the benefits received. The bonds shall be sold subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. If any premium is received on the bonds, the premium shall belong to the fund of the drain. The proceeds derived from the sale of the bonds shall be deposited with the county treasurer to the credit of the drain fund. The county treasurer shall safely keep all the bonds until sold as provided in this section. However, this act shall not be considered to affect any bonds or refunding bonds issued prior to March 28, 1956 or any refunding bonds issued to replace the same. Furthermore, a county shall not advance or pay out of its general funds any money for or on account of principal or interest of any drain bonds issued before the effective date of former 1927 PA 331 or any refunding bonds issued to replace the bonds.

History: 1956, Act 40, Imd. Eff. Mar. 28, 1956;—Am. 2002, Act 406, Imd. Eff. June 3, 2002;—Am. 2016, Act 27, Imd. Eff. Mar. 1, 2016.

Compiler's note: Act 331 of 1927, referred to in this section, was repealed by Act 247 of 1949, Act 40 of 1953, and Act 40 of 1956.

Popular name: Act 40

280.276 County drainage district bonds or notes; intracounty drains; faith and credit; advancement by county, reassessment.

Sec. 276. If bonds or notes are to be issued in respect to an intracounty drain, the county board of commissioners may, by resolution adopted by a majority of its total membership, pledge the full faith and credit of the county for the prompt payment of the principal of and interest on any bonds or notes hereafter issued pursuant to this act. This shall not validate any bonds or notes heretofore issued. In the event the county shall be required to advance any money by reason of such pledge, and if the collections from special assessments shall not be sufficient to reimburse the county therefor, the drain commissioner of such county shall, within a 2-year period from the date of advancement, reassess the drainage district as in the first instance in order to provide for the repayment to the county of the sums so advanced. The provisions of this section shall not permit the advancement or any moneys out of the general funds of any county to meet any deficiency in the collection of drain assessments confirmed prior to May 1, 1953.

History: 1956, Act 40, Imd. Eff. Mar. 28, 1956;—Am. 1957, Act 37, Imd. Eff. May 14, 1957;—Am. 1959, Act 10, Imd. Eff. May 20, 1959;—Am. 1970, Act 112, Imd. Eff. July 23, 1970.

Popular name: Act 40

280.277 Drainage district bonds; delinquent assessments, advance by cities, villages, or townships; reimbursement; reassessment; validation of drain orders or bonds.

Sec. 277. Whenever lands in any city, village, or township or combination thereof are assessed for all or any part of the cost of a drain, the governing body of each of the cities, villages, or townships by resolution adopted prior to the issuance of drain orders or bonds, or both, in anticipation of the payment of the assessments for the drain may agree that in the event of any delinquency in the collection of the assessments against lands in the cities, villages, or townships, the cities, villages, or townships shall advance the amount of the delinquency from unobligated funds in the general fund to the extent necessary to pay principal and interest on the drain orders or bonds, or both, as the same mature or are subject to mandatory redemption. In the event that money is so advanced, the cities, villages, or townships shall be reimbursed from the collection of the delinquent assessments against lands within its boundaries. If the collections from special assessments are not sufficient to reimburse the cities, villages, or townships, the drain commissioner of the county shall, within a 5-year period from the date of advancement, reassess the drainage district in order to provide for the repayment of the sums so advanced. However, this act does not validate any drain orders or bonds issued prior to March 28, 1956.

History: 1956, Act 40, Imd. Eff. Mar. 28, 1956;—Am. 2016, Act 27, Imd. Eff. Mar. 1, 2016.

Popular name: Act 40

280.278 Interest on installments of drain taxes; payment of interest; disposition and use of installments and interest; bank deposits; interest on bonds or notes.

Sec. 278. If bonds or notes are issued and sold by the commissioner, installments of the drain taxes shall bear interest at a rate that is not greater than 1% per annum more than the average rate of interest on the bonds or notes from the date of the preparation of the assessment roll until due. The bonds or notes may provide, if the commissioner so determines, for the payment of interest semiannually. The installments and the interest

shall, as collected, be paid into the county treasury and placed to the credit of the fund of the drain, to be used solely for the payment of bonds or notes as they mature or are subject to mandatory redemption. Money collected in anticipation of the payment of the bonds or notes shall be deposited by the county treasurer in a bank or banks to be designated by the board of commissioners of the county and the interest received shall belong to the fund. Bonds or notes issued and sold by the commissioner shall bear interest at not to exceed the rate specified in the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

History: 1956, Act 40, Imd. Eff. Mar. 28, 1956;—Am. 1962, Act 191, Eff. Mar. 28, 1963;—Am. 1965, Act 249, Imd. Eff. July 21, 1965;—Am. 1978, Act 231, Imd. Eff. June 14, 1978;—Am. 2002, Act 406, Imd. Eff. June 3, 2002;—Am. 2016, Act 27, Imd. Eff. Mar. 1, 2016.

Popular name: Act 40

280.279 Special assessments; payment in full; notice to commissioner; deficiency assessment.

Sec. 279. Any person liable to the payment of special assessments for benefits received from the construction of a drain hereunder may pay the same in full with interest to date at any time, subject to the right of reassessment in case of deficiency as herein provided. The foregoing right of prepayment shall extend to the state or any political subdivision thereof, assessed at large for a portion of the cost of a drain. Such payment may be made to the township treasurer, who shall give his receipt therefor and who shall transmit the same to the county treasurer. The latter official shall, on receipt of the same, give notice to the commissioner, who shall make the necessary changes in the rolls covering subsequent installments.

History: 1956, Act 40, Imd. Eff. Mar. 28, 1956.

Popular name: Act 40

280.280 Additional assessments; levy; surplus; exemption of certain lands from deficiency assessments; purpose.

Sec. 280. (1) If there is not sufficient money in the fund in a particular drain at the time of the maturity of the bonds last to mature, or any drain orders, to pay all outstanding bonds or drain orders with interest, or to reimburse the county for money which it has been obliged to advance pursuant to section 275, whether such insufficiency is due to the anticipation of installments as provided in section 279, or to failure to sell any lands for delinquent taxes, or to any other cause, the commissioner shall at once levy an additional assessment as provided in this act in such an amount as will make up the deficiency which shall be spread in not to exceed 7 annual installments; and if the commissioner determines that the entire amount, if spread in 1 year, would be an undue burden or create unnecessary hardship, he or she may order it spread over any number of years up to but not exceeding 7. If bonds or other evidences of indebtedness are issued pursuant to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, to refund the outstanding indebtedness of a drain district, the governing body of the drain district shall provide, subject to the requirements of the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, for such additional levies of assessments prior to the maturity or mandatory redemption of the refunding obligations as necessary to prevent default in the payment of interest on the obligations, and the maintenance of a sinking fund for their retirement. Every officer charged with the determination of the amount of taxes to be raised, or the levying of the taxes, shall make or cause to be made the additional levies as provided. Any surplus remaining after the payment of the bonds and interest shall remain in the county treasury and be used for the maintenance of the drain.

(2) The additional assessments shall only apply to drain orders or bonds issued after March 28, 1956 and shall be apportioned, assessed, levied, and collected as provided in the first instance. As to deficiency assessments levied for drain orders or bonds issued after March 28, 1956, there shall be no lands exempted from the levy, except lands that are 1 or more of the following:

- (a) Owned by the United States.
- (b) Owned by the state of Michigan.
- (c) Owned by any county, city, village, township, or school district and used for public purposes.
- (d) Used exclusively for burial grounds.
- (e) Dedicated to the public and actually used as a highway or alley, and not used for gain.

(3) An additional assessment shall not be levied or collected for the purpose of paying the principal or interest upon any bonds or obligations which have been held to be invalid, and any additional assessment shall not be apportioned, assessed, levied, or collected for the purpose of paying any bonds, interest, or obligations for the payment of which assessments have been made.

History: 1956, Act 40, Imd. Eff. Mar. 28, 1956;—Am. 1983, Act 176, Imd. Eff. Oct. 14, 1983;—Am. 2002, Act 406, Imd. Eff. June 3, 2002;—Am. 2016, Act 27, Imd. Eff. Mar. 1, 2016.

Popular name: Act 40

280.281 Special drain assessment; definition of municipal corporation.

Sec. 281. Any municipal corporation may contract to pay all or any part of a special drain assessment for drain improvements made by any county agency or drainage district benefiting property of the municipal corporation, but in no event shall such payment exceed its proportionate share of the expenses of the improvements. For the purposes of this section, "municipal corporation" means any county, township, charter township, city, village, metropolitan district, public authority or a drainage district.

History: Add. 1961, Act 41, Imd. Eff. May 18, 1961.

Popular name: Act 40

280.282 Investment of surplus funds; consolidation of drainage district funds; disposition and use of interest; revolving maintenance fund; consolidation with other funds for investment purposes; disposition of interest earned; accounting for principal balances; expenditures.

Sec. 282. (1) The drain commissioner or drainage board may direct the treasurer of any drainage district to invest any surplus funds belonging to and under the control of the drain commissioner or drainage board as provided in section 1 of Act No. 20 of the Public Acts of 1943, being section 129.91 of the Michigan Compiled Laws.

(2) If 2 or more drainage district funds which are under control of the drain commissioner or drainage board have balances of less than \$1,000.00, those drainage district funds may be consolidated into 1 account for short term investment as directed by the drain commissioner. A drainage district fund shall not be consolidated if there is an immediate and apparent need for expending that fund on the specific drain to which the fund belongs.

(3) The interest earned by a fund consolidated under subsection (2) may be deposited in a segregated revolving maintenance fund which the drain commissioner or drainage board may use for temporarily financing necessary maintenance expenses on an intracounty or intercounty drain within that drain commissioner's or drainage board's jurisdiction. The revolving maintenance fund shall be a fund separate from the revolving drain fund provided for in chapter 12. The revolving maintenance fund shall be accounted for, administered, and reimbursed in the same manner as the revolving drain fund under section 303.

(4) If a drainage district fund has a balance of \$1,000.00 or more, the drain commissioner or drainage board may direct that that fund be consolidated with other funds for investment purposes. The interest earned, whether from a consolidated or separate account, shall immediately be deposited in the drainage district fund to which the principal belongs.

(5) The principal balances of each drainage district fund shall be accounted for at all times and may only be spent by order of the drain commissioner or drainage board on expenses necessary for the operation and maintenance of the drain to which the fund belongs.

History: Add. 1970, Act 144, Imd. Eff. Aug. 1, 1970;—Am. 1984, Act 80, Imd. Eff. Apr. 18, 1984.

Popular name: Act 40

280.283 Use or transfer of surplus construction funds; contract with public corporation; provisions of contract; return of surplus construction funds to state transportation department; definitions.

Sec. 283. (1) The drain commissioner or drainage board shall use any surplus construction funds remaining in the construction fund after completion of the project for the inspection, repair, and maintenance of the drain as provided in section 196 or shall authorize the transfer of the funds to the bond and interest account, if bonds were issued, in the amounts the drain commissioner or drainage board considers proper.

(2) The drainage board or drain commissioner shall contract with a public corporation if that public corporation has been assessed for all or part of the cost of the drain or if land in a city, village, township, or combination thereof has been assessed for all or any part of the cost of a drain. The contract shall provide that after all outstanding drain orders or bonds are paid on a drainage district project, the drain commissioner or drainage board shall authorize the respective county treasurers to pay over any portion of the surplus not needed for more than the cost of inspection, repair, and maintenance of the drain as provided in section 196 to the county, township, city, or village in which the drain was located or in which assessments for benefits have been assessed and collected. The payments shall be on a pro rata basis in direct proportion to the amounts assessed and collected from each county, city, village, or township. The contract shall also provide that upon receipt of the surplus funds the county, city, village, or township shall utilize those surplus funds to alleviate drainage problems in their respective jurisdictions.

(3) If state highway funds are involved in a project, the drain commissioner or drainage board, upon

completion of a construction project, shall return, on a pro rata basis, surplus construction funds in excess of the amount necessary to pay for inspection, repair, and maintenance of the drain as provided in section 196 to the state transportation department for the construction, maintenance, and administration of state highways.

(4) As used in this section, "public corporation" includes a city, village, township, or county, or the state.

History: Add. 1970, Act 144, Imd. Eff. Aug. 1, 1970;—Am. 1989, Act 149, Imd. Eff. July 14, 1989.

Popular name: Act 40