

THE DRAIN CODE OF 1956 (EXCERPT)

Act 40 of 1956

CHAPTER 3.

COUNTY DRAINAGE DISTRICTS.

280.51 County drainage districts; application, signers, eligibility, sufficiency; deposit for costs.

Sec. 51. Before a commissioner takes any action on any application to locate, establish and construct any drain, there shall first be filed with him an application to lay out and designate a drainage district with reference to a proposed drain therein; such application shall tentatively describe the location and route of such proposed drain. The application shall be signed by not less than 10 freeholders of the township or townships in which such proposed drain or the proposed lands to be drained thereby may be situated: Provided, That 5 or more of said signers shall be the owners of land liable to an assessment for the construction of such proposed drain: Provided further, If it shall appear to the drain commissioner on filing an application to lay out and designate a drainage district that said district might not include 20 freeholders whose lands would be liable for such assessment, in such case such application shall be received if any one of the signers is a freeholder liable to an assessment for the construction of such proposed drain. The eligibility of the signers to such application shall be determined by the drain commissioner according to their interest of record in the office of the register of deeds, in the probate court or in the circuit court of the county in which such lands are situated at the time such application is filed. The board of supervisors, by resolution, may instruct the drain commissioner to refuse any application to lay out a drainage district unless a cash deposit, sufficient to cover the preliminary costs, accompanies the application. If the drain is completed, the cost advanced shall be returned to the depositor or his personal representative out of the first tax collections on the drain. If uncompleted, any excess above costs shall be so returned. In lieu of an application signed by freeholders as aforesaid, such an application may be signed solely by the board of health of the county if the proposed drain is necessary for the public health of any part of the county, or may be signed solely by any city, village or township when duly authorized by its governing body, if the proposed drain is necessary for the public health of such municipality and if such municipality will be liable for an assessment at large against it for a percentage of the cost of the proposed drain. The entry of an order designating a drainage district, as hereinafter provided, shall be deemed a determination of the sufficiency of such application.

History: 1956, Act 40, Imd. Eff. Mar. 28, 1956;—Am. 1957, Act 119, Imd. Eff. May 24, 1957.

Popular name: Act 40

280.52 County drainage districts; practicability of drainage; survey, determination; tax delinquency.

Sec. 52. Upon filing of such application for a new drainage district, the commissioner shall immediately cause a survey to be made by a competent surveyor or engineer to determine the area which would be drained by the proposed drain, and the route and type of construction of the drain or drains most serviceable for that purpose. He shall not be limited in such determination to the route described in the application. In any county having a board of county auditors, no survey shall be ordered without the approval of such board but if the application shows, or it is determined thereafter, that any such proposed drainage district will affect lands in more than 1 county, the commissioner shall proceed under the portions of chapter 5 of this act relating to intercounty drains, and in such case the approval of the board of county auditors shall not be required. If upon the survey, or if before the survey is made, the commissioner determines that the proposed drain is impractical, he shall take no further action thereon but shall, in writing, notify the persons who delivered the application to him, of that fact, and his reasons for making his determination. If upon the survey the commissioner determines the proposed drain to be practical, he shall lay out a drainage district, prepare and file in the office of the drain commissioner a description of the drainage district, which may be described by its boundaries of highways and streets and tracts and parcels of land including therein all highways and streets, townships, cities and villages or by a description of all tracts or parcels of land, highways, townships, cities and villages which would be benefited by the construction of the proposed drain, and which would be liable to an assessment therefor, should the drain be constructed as hereinafter provided. The commissioner shall obtain from the county treasurer a statement showing as near as may be the amount of taxes and special assessments levied against the lands in the proposed drainage district on the tax rolls for the 3 years next preceding, and the amount of such taxes and assessments remaining unpaid, and if it appears from the statement that 33 1/3% or more of the lands in the proposed drainage district have been returned as tax delinquent and still remain delinquent, no further action shall be taken.

History: 1956, Act 40, Imd. Eff. Mar. 28, 1956;—Am. 1961, Act 212, Imd. Eff. June 6, 1961.

Popular name: Act 40

280.53 County drains; surveyor, duties; route.

Sec. 53. The surveyor or engineer authorized to make the survey shall ascertain the size and depth of the drains and he shall preserve all minutes with reference thereto. He shall prepare preliminary plans, drawings and profiles thereof, together with a computation of the yards of earth to be excavated, the amount of tile or pipe to be used and the necessary bridges and culverts or fords to be built in constructing such proposed drain, and his estimate of the cost of such construction, and where practicable shall recommend the leveling of the spoil banks. He shall thereupon lay out a drainage district, which district may be described by its boundaries of streets or highways or tracts or parcels of land, or by a description of all tracts or all parcels of land, including therein all highways, townships, counties, cities and villages which would be benefited by the construction of the proposed drain, all of which he shall deliver to the commissioner. The surveyor or engineer shall not be limited to the route described in the application but may recommend a route and type of construction for the drains he considers most serviceable for draining the area involved.

History: 1956, Act 40, Imd. Eff. Mar. 28, 1956;—Am. 1961, Act 212, Imd. Eff. June 6, 1961;—Am. 1968, Act 79, Eff. Nov. 15, 1968.

Popular name: Act 40

280.54 Order designating county drainage district; contents; notice of filing; amendment of name or number of drain; procedure.

Sec. 54. The commissioner shall prepare and file in his office his order designating a drainage district and give it a name or number and describe therein the boundaries of the district by streets or highways or parcels of land for each of the several tracts or parcels of land included therein and the counties, townships, cities, villages and state trunk line highways which would be benefited by the construction of the drains and would be liable to assessment therefor, also a description of the drains as determined by him, showing the beginning, route, terminus, type of the proposed construction and the estimated cost of such proposed construction. The commissioner shall give notice of filing the order designating a drainage district by publishing a notice in a newspaper of general circulation in the county, or a newspaper of general circulation in the area where the drainage district boundaries are located, which notice shall give a general description of the route of the proposed drain or drains and of the drainage district as shown by the order.

At any time after the order designating a drainage district and giving it a name or number has been filed in the office of the drain commissioner, the order may be amended as to the name or number of the drain at any time by presenting to the drain commissioner of the county a petition signed by no less than 5 land owners whose land is traversed by the drain, which petition shall state the then present name or number of the drain and the change or changes to be made in the name or number. Upon receipt of such petition, and if in the drain commissioner's opinion it is to the best interest of all concerned that the name or number be changed, he shall make his order amending the name or number, and thereafter the drainage district shall be known by such name or number. The drain commissioner shall forthwith post such signs upon the drain as he may deem advisable for public notice of the new name or number.

History: 1956, Act 40, Imd. Eff. Mar. 28, 1956;—Am. 1961, Act 212, Imd. Eff. June 6, 1961.

Popular name: Act 40