

HOUSE BILL No. 5088

August 22, 1991, Introduced by Rep. Bryant and referred to the Committee on Agriculture, Forestry and Minerals.

A bill to amend sections 514, 515, 517, 519, and 530 of Act No. 40 of the Public Acts of 1956, entitled as amended "The drain code of 1956," being sections 280.514, 280.515, 280.517, 280.519, and 280.530 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 514, 515, 517, 519, and 530 of Act
2 No. 40 of the Public Acts of 1956, being sections 280.514,
3 280.515, 280.517, 280.519, and 280.530 of the Michigan Compiled
4 Laws, are amended to read as follows:

5 Sec. 514. (1) ~~There is hereby~~ A DRAINAGE BOARD IS created
6 for each project petitioned for under ~~the provisions of~~ this
7 chapter. ~~It~~ THE drainage board ~~to~~ SHALL consist of ALL OF
8 the FOLLOWING:

1 (A) THE director of THE DEPARTMENT OF agriculture. ~~and the~~

2 (B) THE drain commissioner of each county ~~involved in the~~
3 ~~project~~ INCLUDED IN THE PRELIMINARY FINDING OF THE DIRECTOR OF
4 THE DEPARTMENT OF AGRICULTURE UNDER SECTION 517.

5 (C) THE CHIEF EXECUTIVE OFFICER OF EACH PUBLIC CORPORATION,
6 OTHER THAN THIS STATE OR A COUNTY, INCLUDED IN THE PRELIMINARY
7 FINDING OF THE DIRECTOR OF THE DEPARTMENT OF AGRICULTURE UNDER
8 SECTION 517.

9 (2) The director of THE DEPARTMENT OF agriculture shall be
10 the ~~chairman of said~~ CHAIRPERSON OF THE DRAINAGE board. ~~Said~~
11 THE DRAINAGE board shall select 1 of its members as secretary.

12 (3) THE DRAINAGE BOARD MAY PROVIDE COMPENSATION, MILEAGE,
13 AND EXPENSES FOR EACH CHIEF EXECUTIVE OFFICER OF A PUBLIC CORPO-
14 RATION SERVING ON THE DRAINAGE BOARD. HOWEVER, ANY COMPENSATION
15 SHALL NOT EXCEED \$25.00 PER DIEM, EXCLUDING MILEAGE AND EXPENSES,
16 FOR ATTENDING DRAINAGE BOARD MEETINGS.

17 Sec. 515. ~~There~~ AN AUGMENTED DRAINAGE BOARD is created
18 for each project petitioned for under ~~the provisions of~~ this
19 chapter. ~~an~~ THE augmented drainage board ~~to~~ SHALL consist
20 of the members of the drainage board together with the ~~chairman~~
21 CHAIRPERSON of the COUNTY board of ~~supervisors~~ COMMISSIONERS
22 and the ~~chairman~~ CHAIRPERSON of the board of county auditors of
23 each county ~~involved~~ INCLUDED IN THE PRELIMINARY FINDING OF THE
24 DIRECTOR OF THE DEPARTMENT OF AGRICULTURE UNDER SECTION 517. If
25 there is no board of county auditors in ~~any~~ A county, then the
26 ~~chairman~~ CHAIRPERSON of the finance committee of the COUNTY
27 board of ~~supervisors~~ COMMISSIONERS shall ~~act as~~ BE a member

1 of the augmented drainage board. ~~and if~~ IF there is neither a
 2 board of county auditors nor A finance committee, then the
 3 ~~chairman~~ CHAIRPERSON of the COUNTY board of ~~supervisors~~
 4 COMMISSIONERS shall select 1 member of the COUNTY board of
 5 ~~supervisors of his county to act as~~ COMMISSIONERS TO BE a
 6 member of the augmented drainage board. The ~~chairman~~
 7 CHAIRPERSON and secretary of the drainage board shall ~~act as~~
 8 ~~chairman~~ BE THE CHAIRPERSON and secretary, respectively, of the
 9 augmented drainage board. ~~The chairman of the board of supervi-~~
 10 ~~sors and any~~ THE AUGMENTED DRAINAGE BOARD MAY PROVIDE COMPENSA-
 11 TION, MILEAGE, AND EXPENSES FOR EACH CHIEF EXECUTIVE OFFICER OF A
 12 PUBLIC CORPORATION SERVING ON THE AUGMENTED DRAINAGE BOARD BY
 13 VIRTUE OF MEMBERSHIP ON THE DRAINAGE BOARD UNDER
 14 SECTION 514(1)(C) AND EACH member of ~~a~~ THE COUNTY board of
 15 ~~supervisors~~ COMMISSIONERS serving on the augmented drainage
 16 board. ~~shall receive such compensation, mileage and expenses as~~
 17 ~~shall be provided by the augmented drainage board except that~~
 18 ~~such~~ HOWEVER, ANY compensation shall not exceed \$25.00 per diem,
 19 ~~exclusive of~~ EXCLUDING mileage and expenses, for ~~attendance~~
 20 ~~at~~ ATTENDING augmented drainage board meetings.

21 Sec. 517. Upon receipt of a petition ~~as hereinbefore~~
 22 ~~provided~~ UNDER SECTION 513, the director of THE DEPARTMENT OF
 23 agriculture shall make a preliminary finding of the ~~counties~~
 24 ~~which, in his opinion, include~~ public corporations, OTHER THAN
 25 COUNTIES OR THIS STATE, that should be assessed under the provi-
 26 sions of this chapter for the cost of the proposed drain AND OF
 27 THE COUNTIES THAT INCLUDE THOSE PUBLIC CORPORATIONS. Upon ~~the~~

1 making ~~of such~~ THE preliminary finding, the director of THE
 2 DEPARTMENT OF agriculture shall give notice of the time and place
 3 of the first meeting of the drainage board and of the first meet-
 4 ing of the augmented drainage board, by sending a copy of ~~such~~
 5 THE notice and of ~~such~~ THE preliminary finding by registered
 6 mail to each member, ~~thereof,~~ and to each highway agency having
 7 jurisdiction over ~~any~~ A highway, road ~~and~~ OR street in ~~said~~
 8 THE district. ~~, which~~ THE notice and finding shall be mailed
 9 not less than 10 days ~~prior to the time~~ BEFORE THE DATE of the
 10 meeting. ~~In the event there be~~ IF THERE IS no board of county
 11 auditors or finance committee in ~~any~~ A county ~~involved~~
 12 INCLUDED IN THE PRELIMINARY FINDING OF THE DIRECTOR OF THE
 13 DEPARTMENT OF AGRICULTURE, then notice to the ~~chairman of the~~
 14 ~~board of supervisors of such county shall be deemed to be~~
 15 CHAIRPERSON OF THE COUNTY BOARD OF COMMISSIONERS OF THE COUNTY
 16 SERVES AS notice to the member of the COUNTY board of
 17 ~~supervisors~~ COMMISSIONERS to be selected by ~~him~~ THE
 18 CHAIRPERSON. The drainage board shall meet first, for the pur-
 19 pose of selecting a secretary. Upon the selection of a secre-
 20 tary, the director of THE DEPARTMENT OF agriculture shall turn
 21 over to ~~such~~ THE secretary the original petition and any other
 22 records in his OR HER office pertaining to the proposed drain.

23 Sec. 519. (1) The augmented drainage board, at its first
 24 meeting, shall consider the petition for the project and make a
 25 tentative determination ~~as to~~ OF the sufficiency of the
 26 petition, ~~and~~ the practicability of the proposed drain, and
 27 ~~further make a tentative determination of~~ the public

1 corporations to be assessed. The augmented drainage board shall
2 give a name to the drain and to the drainage district. The dis-
3 trict shall be composed of the public corporations to be assessed
4 for the cost of the project.

5 (2) If the augmented drainage board, by resolution, tenta-
6 tively determines that there should be assessed a public corpora-
7 tion ~~in a county other than those~~ NOT contained in the tenta-
8 tive findings of the director of the department of agriculture,
9 further proceedings shall not be taken by the augmented drainage
10 board, but the resolution shall have the effect of amending the
11 preliminary finding of the director of the department of
12 agriculture. The director of the department of agriculture shall
13 proceed, as in the first instance, to call a new meeting of the
14 drainage board and the augmented drainage board as enlarged by
15 ~~reason of~~ the inclusion of the additional public ~~corporations~~
16 ~~in another county~~ CORPORATION.

17 (3) After the augmented drainage board ~~has made the deter-~~
18 ~~mination specified in this section~~ MAKES A TENTATIVE DETERMINA-
19 TION UNDER SUBSECTION (1), it shall fix a time, date, and place
20 it will meet to hear objections to the proposed drain and the
21 petition for the drain, and the matter of assessing the cost of
22 the drain to the designated public corporations. Notice of the
23 hearing shall be published twice in each county ~~involved~~
24 CONTAINING A PUBLIC CORPORATION PROPOSED TO BE ASSESSED FOR THE
25 COST OF THE DRAIN by inserting the notice in at least 1 newspaper
26 published in the county, designated by the augmented drainage
27 board. The first publication shall be made not less than 20 days

1 before the time of hearing. The notice shall also be sent by
2 registered mail to the clerk or secretary of each public corpora-
3 tion proposed to be assessed, except that a notice to the state
4 shall be sent to the ~~state highway~~ director OF THE STATE TRANS-
5 PORTATION DEPARTMENT and a notice to a county shall be sent to
6 both the county clerk and the county road commission. The mail-
7 ing shall be made not less than 20 days before the time of
8 hearing. The notice shall be signed by the secretary and proof
9 of the publication and mailing of the notice shall be filed with
10 the secretary. The augmented drainage board may provide a form
11 to be substantially followed in the giving of ~~such~~ THE notice.

12 (4) After the hearing, the augmented drainage board shall
13 make a determination as to the sufficiency of the petition, the
14 practicability of the drain, whether the drain should be con-
15 structed, the public corporations to be assessed, and shall issue
16 its order accordingly. The order shall be known as the final
17 order of determination. A public corporation shall not be elimi-
18 nated from, or added to, those tentatively determined to be
19 assessed without a rehearing after notice. After the augmented
20 drainage board has made the determinations, further action in
21 respect to the drain shall be taken by the drainage board. The
22 augmented drainage board may be reconvened by its chairperson or
23 2 members of the board, ~~upon~~ AFTER notice IS given for the pur-
24 pose of making a correction or addition to its proceedings.

25 Sec. 530. (1) The drainage board for each project shall
26 continue in existence with ~~such~~ changes in personnel ~~as shall~~
27 ~~result~~ THAT RESULT from changes in the offices of director of

1 THE DEPARTMENT OF agriculture, ~~and drain commissioners~~ DRAIN
2 COMMISSIONER, OR CHIEF EXECUTIVE OFFICER OF A PUBLIC CORPORATION
3 ASSESSED FOR THE DRAIN. ~~It shall be~~ THE DRAINAGE BOARD IS
4 responsible for the operation and maintenance of the drain. Any
5 necessary expenses incurred in administration and in the opera-
6 tion and maintenance of the drain and not covered by contract
7 shall be paid by the ~~several~~ public corporations assessed for
8 the cost of the drain. The assessments shall be in the same pro-
9 portion as the cost of the drain was assessed unless the drainage
10 board establishes a different proportion for the assessments
11 after notice and hearing as provided in section 521.

12 (2) The drainage board, by resolution duly adopted by it,
13 may relinquish jurisdiction and control over ~~any~~ ALL OR part of
14 a drain or drain project at any time when there is no outstanding
15 indebtedness or contract liability of its drainage district, to
16 the county, township, city, or village in which the DRAIN OR
17 DRAIN PROJECT, OR THE part of the drain or drain project OVER
18 WHICH JURISDICTION AND CONTROL IS TO BE ASSUMED, is wholly
19 located, if the county, township, city, or village requests or
20 consents to the relinquishment of jurisdiction and control by
21 resolution duly adopted by its governing body. ~~Indebtedness~~
22 FOR THE PURPOSES OF THIS SUBSECTION, INDEBTEDNESS or contract
23 liability of ~~any~~ A drainage district ~~which~~ THAT will be paid
24 in full at the time of consummation of relinquishment of juris-
25 diction and control ~~shall not be deemed~~ IS NOT CONSIDERED to be
26 outstanding. If relinquishment of jurisdiction and control is to
27 a county, the resolution of the governing body of the county

1 shall specify the county agency, such as board of public works,
2 drain commissioner, board of county road commissioners, or parks
3 and recreation commission, ~~which~~ THAT SUBSEQUENTLY shall be
4 ~~thereafter~~ responsible for exercise of such jurisdiction and
5 control. Any ~~moneys~~ MONEY in the drain fund of any drain, over
6 any part of which jurisdiction and control is relinquished, shall
7 be used to pay any indebtedness or contract liability of its
8 drainage district, and the balance shall be turned over to the
9 county, township, city, or village to be used solely with respect
10 to the drain, ~~all~~ or part ~~thereof~~ OF THE DRAIN, over which
11 jurisdiction and control is assumed. If the relinquishment of
12 jurisdiction and control and the turnover of drain fund relates
13 to a part of a drain or drain project, such relinquishment and
14 turnover shall not become effective until consented to by resolu-
15 tion of the governing body of each public corporation ~~which~~
16 THAT has paid a part of the cost of the drain or drain project,
17 and for this purpose the board of county road commissioners and
18 the state ~~highway~~ TRANSPORTATION commission ~~shall be deemed~~
19 ARE CONSIDERED to be the governing ~~body~~ BODIES for the county
20 and the state, RESPECTIVELY.