

**STATE OF MICHIGAN
100TH LEGISLATURE
REGULAR SESSION OF 2020**

Introduced by Reps. Steven Johnson, Sabo, Brann, Howell and Miller

ENROLLED HOUSE BILL No. 5126

AN ACT to amend 1956 PA 40, entitled “An act to codify the laws relating to the laying out of drainage districts, the consolidation of drainage districts, the construction and maintenance of drains, sewers, pumping equipment, bridges, culverts, fords, and the structures and mechanical devices to properly purify the flow of drains; to provide for flood control projects; to provide for water management, water management districts, and subdistricts, and for flood control and drainage projects within drainage districts; to provide for the assessment and collection of taxes; to provide for the investment of funds; to provide for the deposit of funds for future maintenance of drains; to authorize public corporations to impose taxes for the payment of assessments in anticipation of which bonds are issued; to provide for the issuance of bonds by drainage districts and for the pledge of the full faith and credit of counties for payment of the bonds; to authorize counties to impose taxes when necessary to pay principal and interest on bonds for which full faith and credit is pledged; to validate certain acts and bonds; and to prescribe penalties,” by amending sections 135 and 154 (MCL 280.135 and 280.154), section 135 as amended by 2017 PA 62 and section 154 as amended by 2018 PA 646.

The People of the State of Michigan enact:

Sec. 135. (1) If at any time after a county or intercounty drain is constructed, it appears that it is necessary to extend the drainage district into a county that was not a part of the original drainage district or to remove lands from the original drainage district resulting in the removal of a county from an intercounty drainage district, the lands may be added to or removed from the drainage district pursuant to section 197(3) or by presenting a petition to the drain commissioner of 1 of the counties traversed or affected by the drain. The petition must be signed by either of the following:

(a) By any 5 freeholders or at least 50% of the freeholders if there are fewer than 5 freeholders whose lands will be liable for an assessment for benefits from the drain.

(b) By a municipality if authorized by its governing body or by any combination of municipalities, if the petitioning municipality or municipalities are or will be liable for an assessment at large for benefits from the drain.

(2) The petition shall state the name or number of the drain and identify the lands proposed to be added to or removed from the drainage district. A petition under this section may be combined with a petition under section 192.

(3) Upon receipt of the petition, the drain commissioner shall mail a copy of the petition to the director of the department of agriculture and rural development and to the drain commissioner of each county where the original or proposed revised drainage district is located. The director of the department of agriculture and rural development shall call a meeting of the drainage board, which shall include the commissioner of each county where the original or proposed revised drainage district is located. Notices of the meeting and all other proceedings shall be provided pursuant to section 197.

(4) At the meeting of the drainage board, all persons owning lands in the drainage district or proposed revised drainage district liable to assessment for benefits, or any municipality affected, may appear for or against the addition or removal of the lands. The drainage board shall consider the petition and any evidence offered. If the drainage board determines that the extension of the drainage district or the removal of lands from the drainage district is necessary for the public health, convenience, or welfare, it shall then determine the just percentage of the whole cost of construction that each county shall bear. If the commissioners cannot agree on the apportionment between counties, the chairperson shall determine that apportionment, subject to review under section 106.

(5) If, in the opinion of the drainage board, it is necessary to revise the drainage district boundaries, the board shall also enter an order to that effect. Copies of the order shall be filed with the drain commissioner of each county in the revised drainage district. After the order is filed, the revised drainage board constitutes the drainage board for the revised drainage district and has all the powers and duties of drainage boards under this act.

Sec. 154. (1) The drain commissioner shall advertise for the receipt of bids for the construction of a drain at a specified time, date, and location. If the drain commissioner directly or indirectly maintains an official internet presence, the drain commissioner shall post the advertisement for the receipt of bids on a portion of the website that is fully accessible to the public at least 10 days before, and shall maintain the posting through, the date set for the receipt of bids. If the drain commissioner does not maintain an official internet presence, the advertisement shall be so posted and maintained on the county website.

(2) The commissioner shall give notice, as described in this section, of a public meeting to review the apportionment of benefits. The meeting shall be not less than 5 or more than 30 days after the date set for receiving bids.

(3) The notice under subsection (2) shall be given by publication in a newspaper published and of general circulation in the county at least 10 days before the date of the review of the apportionment.

(4) The drain commissioner shall also send the notice under subsection (2) by first-class mail, at least 10 days before the date of the review of the apportionment of benefits, to each person whose name appears on the last city or township tax roll as owning land within the drainage district, at the address shown on the roll. Notice need not be mailed to a person whose address does not appear on the roll. The drain commissioner shall make an affidavit of the mailing and shall recite in the affidavit that the notice was mailed to all persons whose names and addresses appear on the tax rolls as owning land within the drainage district. The affidavit is conclusive proof that notice was mailed to each person to whom notice is required to be mailed. If notice has been sent by first-class mail as provided in this subsection, the failure to receive notice by mail does not constitute a jurisdictional defect invalidating a drain proceeding or assessment. If the drain commissioner determines that the drain is necessary for the public health and that the whole cost of the drain, except that part which may be apportioned for benefits to highways, shall be apportioned to municipalities, then mailing of individual notices to persons owning land within the drainage district as provided in this subsection is not required.

(5) At least 10 days before the date of the review of the apportionment, the drain commissioner shall serve the notice under subsection (2) personally or by certified mail on the county clerk and a member of the board of county road commissioners of the county and on the supervisor of each township and clerk of each city or village to be assessed at large.

(6) The notice under subsection (2) shall contain all of the following:

(a) A statement that comments on the apportionment of benefits may be submitted to the drain commissioner in writing before the date of the meeting to review the apportionment or may be submitted in writing or orally at the review. The statement shall specify the drain commissioner's postal mailing address and electronic mail address and indicate that comments submitted in advance must be received by the drain commissioner before the date of the meeting to ensure consideration.

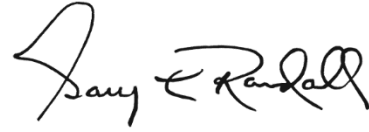
(b) The date, time, and place of the meeting to review the apportionment of benefits.

(c) A statement that, at the meeting to review the apportionment of benefits, the drain commissioner will have available to review the tentative apportionments against parcels and municipalities within the drainage district.

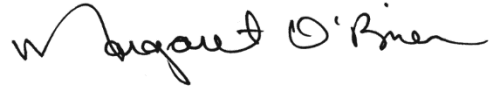
(d) For notice mailed to a person under subsection (4), the estimated percentage and dollar amount apportioned to that person's land, the estimated annual dollar amount apportioned to that person's land, and the estimated project assessment duration.

- (e) A statement that drain assessments against land will be collected in the same manner as property taxes.
- (f) A statement that if drain assessments against land are collected by installment, the land owner may pay the assessments in full with any interest to date at any time and thereby avoid further interest charges.
- (g) The name of each county, township, city, or village to be assessed at large.
- (h) The name or number of the drain.
- (i) The address of a website, as provided for in subsection (7), and a statement that the following additional information can be found at that address:
 - (i) A description of the land constituting the drainage district for the drain. The description may be given by providing a map of the drainage district, by designating the boundaries of the drainage district by streets, highways, parcels, or tracts of land, or by describing the tracts or parcels of land constituting the district. If a parcel or tract is partially located within the district, for the purposes of the notice description only, the drain commissioner may consider the entire parcel or tract to be located in the district.
 - (ii) The number and length of sections, the average depth and width of each section, and if the drain will be a closed drain, the amount and specifications of all tile or pipe required.
 - (iii) The location, number, type, and size of all culverts and bridges.
 - (iv) The conditions upon which the contract will be awarded.
- (7) If the drain commissioner directly or indirectly maintains an official internet presence, the drain commissioner shall post the information described in subsection (6)(a) to (c) and (e) to (h) on a portion of the website that is fully accessible to the public and shall maintain the posting through the date of the meeting to review the apportionment of benefits. If the drain commissioner does not maintain an official internet presence, the information shall be so posted and maintained on the county website.
- (8) Notwithstanding the information provided in the notice under subsection (6)(d), the drain commissioner may subsequently make adjustments to any of the following that the commissioner or drainage board considers necessary, without further notice or an additional meeting to review the apportionment of benefits:
 - (a) The estimated apportionment percentage.
 - (b) The estimated annual project assessment.
 - (c) The estimated project assessment duration.
- (9) Bids for the construction of the drain shall be received and the total cost of the drain shall be computed before the time set for review of the apportionment. The computation shall be open to inspection. If the computation is not completed before the review of the apportionment, the drain commissioner shall adjourn the review from time to time, not more than 20 days in all, for the completion of the computation, or shall call a new meeting to review the apportionment of benefits and give notice as provided in subsections (3) to (7). If the contracts on which the computation was based are not executed and new contracts are let at a higher price, the drain commissioner shall correct the computation and, after giving notice as provided in subsections (3) to (7), hold a new review of the apportionment.
- (10) At the date, time, and place specified in the notice, or at another date, time, and place to which the county drain commissioner may adjourn the meeting, the apportionment of benefits shall be subject to review for at least 1 day. The review shall be held open from 9 a.m. until 5 p.m. At the review, the county clerk or the county road commission may appear on behalf of the county, the supervisor of a township may appear on behalf of a township, the mayor or an officer of the city designated by the mayor may appear on behalf of a city, and the president may appear on behalf of a village. At the review the county drain commissioner shall consider the proofs and allegations and shall do both of the following:
 - (a) Carefully reconsider and review the apportionment of benefits.
 - (b) Define and equalize the apportionment as is just and equitable.
- (11) If an apportionment of benefits is made against a state trunk line highway, unless the director of the state transportation department consents in writing to the apportionment, the drain commissioner shall notify by certified mail the director of the state transportation department of the percentage apportioned against the highway and the date, time, and place for a review of apportionment of benefits by the drain commissioner under subsection (2). The notice shall be mailed at least 20 days before the review of the apportionment. If the director of the state transportation department instead desires to have the apportionment of benefits reviewed by the director of the department of agriculture and rural development, the director of the state transportation department, within 10 days after receiving the notice under this subsection, shall file with the drain commissioner an objection to the apportionment. The drain commissioner shall notify the director of the department of agriculture and rural development of the date, time, and place for the review of apportionments. At the meeting, the director of the department of agriculture and rural development, or a deputy of the director, shall review the apportionment made against the state trunk line highway and listen to the proofs and allegations of the parties, and may view the highway benefited. The written decision on the apportionment under this subsection is final.

Enacting section 1. This amendatory act takes effect 90 days after the date it is enacted into law.



Clerk of the House of Representatives



Secretary of the Senate

Approved _____

Governor