



# SENATE BILL No. 151

January 26, 1993, Introduced by Senator DILLINGHAM and referred to the Committee on Local Government and Urban Development.

A bill to amend the title and sections 73, 75, 128, 151, 195, 261, 431, 470, 494, 522, 544, and 564 of Act No. 40 of the Public Acts of 1956, entitled as amended "The drain code of 1956," being sections 280.73, 280.75, 280.128, 280.151, 280.195, 280.261, 280.431, 280.470, 280.494, 280.522, 280.544, and 280.564 of the Michigan Compiled Laws; and to repeal certain parts of the act.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. The title and sections 73, 75, 128, 151, 195,  
2 261, 431, 470, 494, 522, 544, and 564 of Act No. 40 of the Public  
3 Acts of 1956, being sections 280.73, 280.75, 280.128, 280.151,  
4 280.195, 280.261, 280.431, 280.470, 280.494, 280.522, 280.544,  
5 and 280.564 of the Michigan Compiled Laws, are amended to read as  
6 follows:

## 1 TITLE

2 An act to codify the laws relating to ~~the laying out of~~  
3 ~~drainage districts, the consolidation of~~ drainage districts, the  
4 construction and maintenance of drains, sewers, pumping equip-  
5 ment, bridges, culverts, fords, and the structures and mechanical  
6 devices to ~~properly~~ purify the flow of drains; TO PROVIDE FOR  
7 THE ACQUISITION OF PROPERTY BY CONDEMNATION AND OTHER MEANS; to  
8 provide for flood control projects; to provide for water manage-  
9 ment, water management districts ~~—~~ and subdistricts, and ~~for~~  
10 flood control and drainage projects within drainage districts; to  
11 provide for the assessment and collection of taxes; to provide  
12 for the investment of funds; to provide for the deposit of funds  
13 for future maintenance of drains; to authorize public corpora-  
14 tions to impose taxes for the payment of assessments in anticipa-  
15 tion of which bonds are issued; to provide for the issuance of  
16 bonds by drainage districts and for the pledge of the full faith  
17 and credit of counties for payment of the bonds; to authorize  
18 counties to impose taxes when necessary to pay principal and  
19 interest on bonds for which full faith and credit is pledged; to  
20 validate certain acts and bonds; and to prescribe penalties.

21 Sec. 73. The commissioner shall secure from a professional  
22 engineer ~~—~~ plans, specifications, and an estimate of cost of  
23 the proposed drain and descriptions of the ~~lands or rights of~~  
24 ~~way~~ PROPERTY needed for the proposed drain. In approving the  
25 route of the drain as furnished by the engineers, the commis-  
26 sioner ~~shall~~ IS not ~~be~~ limited to ~~that~~ THE ROUTE described  
27 in the petition or in the first order of determination, if the

1 new route is more efficient and serviceable. ~~The commissioner~~  
2 ~~shall endeavor to secure from the owners of each parcel or tract~~  
3 ~~of land to be traversed or damaged by the proposed drain or~~  
4 ~~drains an easement or release of right of way and all damages on~~  
5 ~~account thereof.~~

6       Sec. 75. ~~If all persons whose lands would be traversed or~~  
7 ~~damaged by the proposed drain or drains shall not have executed a~~  
8 ~~release of the right of way, and all damages on account thereof,~~  
9 ~~within 60 days after the entry of the first order of determina-~~  
10 ~~tion, the commissioner shall, as soon as practicable, make appli-~~  
11 ~~cation to the probate court of the county in which such lands are~~  
12 ~~situated, for the appointment of 3 special commissioners, who~~  
13 ~~shall be disinterested resident freeholders of the county, but~~  
14 ~~not of the township or townships affected by such drain, to~~  
15 ~~determine the necessity for the taking of private property for~~  
16 ~~the use and benefit of the public, and the just compensation to~~  
17 ~~be made therefor. Such application shall be in writing, and~~  
18 ~~shall set forth:~~

19       First, ~~The fact that a petition for a drain was made and~~  
20 ~~when, filing with said court a certified copy of such petition,~~  
21 ~~also giving the route, survey and specifications of said drain as~~  
22 ~~set forth in the first order of determination;~~

23       Second, ~~That an order determining the necessity for such~~  
24 ~~drain was made by the commissioner or drainage board, giving the~~  
25 ~~time when such order was made, in accordance with such route,~~  
26 ~~survey and specification, as above set forth;~~

1        ~~Third, (1) The several descriptions or tracts of land with~~  
2 ~~the names of the owner or owners of every such tract who have~~  
3 ~~refused or neglected to execute a release of right of way and~~  
4 ~~damages in any way arising or incident to the opening or main-~~  
5 ~~taining the said proposed drain (2) the several descriptions or~~  
6 ~~tracts of land owned by any minor, incompetent person, unknown~~  
7 ~~persons or nonresidents of the township or townships, the execu-~~  
8 ~~tion of a release of right of way and damages for which have been~~  
9 ~~neglected or refused; (3) it shall not be necessary to set forth~~  
10 ~~in said application to the probate court the names of the several~~  
11 ~~owners nor the description of the several tracts or parcels of~~  
12 ~~land liable to an assessment for benefits, in case the drain~~  
13 ~~applied for should be located and established, except those who~~  
14 ~~have not released the right of way and through whose lands the~~  
15 ~~drain passes; nor shall the same be included in the citation~~  
16 ~~issued from the probate court.~~ A DRAIN COMMISSIONER MAY ACQUIRE  
17 PROPERTY FOR A COUNTY DRAINAGE DISTRICT FOR DRAINAGE PURPOSES BY  
18 EXERCISE OF THE POWER OF EMINENT DOMAIN PURSUANT TO THE UNIFORM  
19 CONDEMNATION PROCEDURES ACT, ACT NO. 87 OF THE PUBLIC ACTS OF  
20 1980, BEING SECTIONS 213.51 TO 213.77 OF THE MICHIGAN COMPILED  
21 LAWS.

22        Sec. 128. ~~In case all the persons whose lands are to be~~  
23 ~~traversed or damaged by such drain or drains, as proposed in this~~  
24 ~~chapter, shall not within 60 days after the issue of the first~~  
25 ~~order of determination have voluntarily released the right of way~~  
26 ~~therefor, and all damages on account thereof, the drainage board~~  
27 ~~shall apply to the judge of probate of the county in which such~~

~~1 lands are situated for the appointment of 3 special  
2 commissioners. When such application shall be made and when all  
3 papers shall have been found to be in conformity with the provi-  
4 sions of this act, the court to whom such application has been  
5 made shall, within 60 days from the filing of said application,  
6 appoint such special commissioners and shall deliver to each  
7 drain commissioner a certified copy of the order of the appoint-  
8 ment of such special commissioners. Such special commissioners  
9 shall be resident freeholders of the county and not residents of  
10 the township or townships to be affected by the proposed drain in  
11 which they are appointed. All proceedings had in the appointment  
12 of special commissioners, the issuance of service of citations,  
13 hearings by the probate court and by the special commissioners  
14 and the return of special commissioners under the provisions of  
15 this chapter shall be similar to those provided in chapter 4,  
16 being sections 71 to 84. AFTER ENTRY OF THE FIRST ORDER OF  
17 DETERMINATION, THE DRAINAGE BOARD MAY ACQUIRE PROPERTY FOR THE  
18 INTERCOUNTY DRAINAGE DISTRICT FOR DRAINAGE PURPOSES BY EXERCISE  
19 OF THE POWER OF EMINENT DOMAIN PURSUANT TO THE UNIFORM CONDEMNATION  
20 PROCEDURES ACT, ACT NO. 87 OF THE PUBLIC ACTS OF 1980, BEING  
21 SECTIONS 213.51 TO 213.77 OF THE MICHIGAN COMPILED LAWS.~~

22       Sec. 151. Upon the ~~release of the right of way and dam-~~  
23 ~~ages, or upon the determination and return of the special~~  
24 ~~commissioners~~ VESTING IN THE DRAINAGE DISTRICT OF PROPERTY NEC-  
25 ESSARY FOR THE DRAIN, the DRAIN commissioner shall make ~~his~~ THE  
26 final order of determination establishing the drain. ~~, which~~  
27 THE drain shall be divided into convenient sections for the

1 letting of contracts. ~~:- Provided, That~~ HOWEVER, the DRAIN  
2 commissioner may let the drain in sections or as a whole. ~~Said~~  
3 THE order of determination shall be filed with the ~~county~~ drain  
4 commissioner ~~within~~ NOT MORE THAN 5 days after ~~such~~ THE order  
5 is made. ~~He shall, before~~ BEFORE the day of ~~letting and~~  
6 review, THE DRAIN COMMISSIONER SHALL fix the number of install-  
7 ments for the collection of drainage taxes and apportion the ~~per~~  
8 ~~cent~~ PERCENT of the cost of construction of ~~such~~ THE drain  
9 ~~which any~~ THAT EACH township, city, or village traversed or  
10 benefited ~~thereby shall be~~ BY THE DRAIN IS liable to pay by  
11 reason of the benefit to the public health, convenience, or wel-  
12 fare, or as the means of improving ~~any~~ A highway under the con-  
13 trol of ~~such~~ THE township, city, or village. ~~He~~ THE DRAIN  
14 COMMISSIONER shall apportion the ~~per cent~~ PERCENT of the cost  
15 of construction of ~~such~~ THE drain ~~which any~~ THAT A highway  
16 then under the control of the BOARD OF county ~~or district~~ road  
17 commissioners ~~, shall be~~ IS liable to pay by reason of benefits  
18 ~~therefor~~ FOR THE HIGHWAY, and as the means of improving ~~such~~  
19 THE highway. ~~He~~ THE DRAIN COMMISSIONER shall ~~also~~ apportion  
20 the ~~per cent~~ PERCENT of the cost of construction of ~~such~~ THE  
21 drain ~~which~~ THAT any state trunk line highway ~~,~~ under the  
22 control of the state ~~highway commissioner, shall be~~  
23 TRANSPORTATION COMMISSION IS liable to pay by reason of benefits  
24 ~~therefor~~ FOR THE HIGHWAY and as the means of improving ~~said~~  
25 THE highway. ~~He~~ THE DRAIN COMMISSIONER shall also apportion  
26 the ~~per cent~~ PERCENT of benefits to accrue to ~~any piece or~~ A  
27 parcel of land by reason of the construction of ~~such~~ THE drain

1 over and above the ~~per cent~~ PERCENT apportioned to ~~any~~ A  
2 township, city, or village at large or to ~~any~~ A highway. ~~as~~  
3 ~~above provided.~~ ~~Such per cent~~ THE PERCENT so apportioned when  
4 finally approved shall be assessed against ~~such~~ THE townships,  
5 cities, and villages, ~~and~~ against the county at large by reason  
6 of the improvement of the highways within the drainage district  
7 UNDER THE CONTROL OF THE BOARD OF COUNTY ROAD COMMISSIONERS,  
8 ~~and~~ against the state by reason of the improvement of the state  
9 trunk line highways within ~~such~~ THE drainage district UNDER THE  
10 CONTROL OF THE STATE TRANSPORTATION COMMISSION, and against ~~all~~  
11 parcels of land ~~therein~~ IN THE DRAINAGE DISTRICT according to  
12 ~~such~~ THE apportionment of benefits. ~~as herein provided.~~ The  
13 apportionment of benefits ~~so made shall be~~ IS subject to review  
14 and correction and may be appealed from as PROVIDED in this act.  
15 ~~provided.~~ The COUNTY board of ~~supervisors~~ COMMISSIONERS at  
16 its ~~October~~ ANNUAL meeting each year shall make provision by  
17 proper assessment of the amounts apportioned against any highway  
18 under the control of the BOARD OF county ROAD COMMISSIONERS. ~~and~~  
19 ~~district highway commissioners.~~

20       Sec. 195. ~~In case it shall be necessary to secure further~~  
21 ~~right of way and allow damages therefor, for any~~ IF IT IS NECES-  
22 SARY TO ACQUIRE ADDITIONAL PROPERTY FOR work contemplated by this  
23 chapter, the commissioner ~~shall take all the necessary steps to~~  
24 ~~obtain such right of way as are prescribed by chapter 4, being~~  
25 ~~sections 71 to 84, inclusive, of this act~~ MAY ACQUIRE THE PROP-  
26 ERTY FOR THE DRAINAGE DISTRICT BY EXERCISE OF THE POWER OF  
27 EMINENT DOMAIN PURSUANT TO THE UNIFORM CONDEMNATION PROCEDURES

1 ACT, ACT NO. 87 OF THE PUBLIC ACTS OF 1980, BEING SECTIONS 213.51  
2 TO 213.77 OF THE MICHIGAN COMPILED LAWS.

3       Sec. 261. Within 10 days after the letting of contracts,  
4 or in case of an appeal, ~~then forthwith~~ IMMEDIATELY after  
5 ~~such~~ THE appeal ~~shall have been~~ IS decided, the commissioner  
6 shall ~~make a computation of the entire cost of such drain, which~~  
7 ~~shall include (1) all the~~ COMPUTE THE SUM OF THE FOLLOWING,  
8 WHICH SUM SHALL BE CONSIDERED TO BE THE COST OF CONSTRUCTION OF  
9 THE DRAIN:

10       (A) THE expense of laying out and designating the drainage  
11 district, ~~which item of expense shall include the entire~~  
12 INCLUDING THE cost of the survey. ~~→ (2) the~~

13       (B) THE expense of locating, establishing, and constructing  
14 the drain. ~~→ (3) the fees and expenses of special commission-~~  
15 ~~ers; (4) the compensation~~

16       (C) EXPENSES INCURRED UNDER THE UNIFORM CONDEMNATION PROCE-  
17 DURES ACT, ACT NO. 87 OF THE PUBLIC ACTS OF 1980, BEING SECTIONS  
18 213.51 TO 213.77 OF THE MICHIGAN COMPILED LAWS.

19       (D) COMPENSATION to be paid the board of review. ~~→ (5)~~  
20 ~~the~~

21       (E) THE cost of construction of bridges and culverts. ~~→~~  
22 ~~(6) the~~

23       (F) THE contracts for the construction of the drain, or  
24 other work to be done on ~~said~~ THE drain. ~~→ (7) the~~

25       (G) THE estimated cost of an appeal in case the apportion-  
26 ment made by the commissioner ~~shall~~ IS not ~~be~~ sustained. ~~→~~  
27 ~~(8) the~~



1 (H) THE estimated cost of inspection. ~~→ (9) the~~

2 (I) THE cost of publishing ~~all~~ REQUIRED notices.

3 ~~required, (10) all fees~~

4 (J) FEES of the probate judge. ~~→ (11) attorney~~

5 (K) ATTORNEY fees for legal services in connection with the

6 drain. ~~→ and (12) interest~~

7 (L) INTEREST on bonds for the first year, if bonds are to be

8 issued. ~~→, and he shall add the whole into a gross sum and add~~

9 ~~thereto not~~

10 (M) NOT less than 10% ~~nor~~ OR more than 15%, at the discre-

11 tion of the drain commissioner, of ~~said gross~~ THE sum OF THE

12 COSTS UNDER SUBDIVISIONS (A) TO (L), to cover contingent

13 expenses. ~~→, and the entire sum so ascertained shall be deemed~~

14 ~~to be the cost of construction of such drain.~~

15 Sec. 431. (1) The drain commissioner or drainage board may

16 ~~contract or make agreements~~ MAKE AN AGREEMENT with the federal

17 government ~~→, including any agency thereof, whereby~~ UNDER WHICH

18 the federal government will pay ~~the whole~~ ALL or ~~any~~ part of

19 the cost of the project or will perform ~~the whole~~ ALL or ~~any~~

20 part of the work connected ~~therewith, which contract or~~ WITH

21 THE PROJECT. THE agreement may include any specific terms

22 required by ~~act of congress or federal regulation~~ LAW, not in

23 conflict with state law, as a condition for participation on the

24 part of the federal government. The drain commissioner or drain-

25 age board may ~~contract or make agreements with any~~ MAKE AN

26 AGREEMENT WITH A private corporation or with ~~any~~ A public

27 corporation, ~~including any agency thereof,~~ in respect to ~~any~~

1 A matter connected with the construction, operation, or  
 2 maintenance of ~~any~~ A flood control ~~or~~ PROJECT, drainage  
 3 project, or ~~combination thereof~~ FLOOD CONTROL AND DRAINAGE  
 4 PROJECT. The ~~contract or~~ agreement may provide that any pay-  
 5 ments made or work done by the public corporation shall relieve  
 6 it in whole or ~~in~~ part from assessment for the cost of the  
 7 project. ~~No~~ EXCEPT FOR construction work TO BE PERFORMED  
 8 SOLELY BY THE FEDERAL GOVERNMENT OR A PUBLIC CORPORATION AT ITS  
 9 EXPENSE, CONSTRUCTION WORK shall NOT be undertaken by the drain  
 10 commissioner or drainage board until bids have been advertised  
 11 for and received for the performance of ~~such~~ THE work. ~~, but~~  
 12 ~~this provision shall not apply to work to be performed solely by~~  
 13 ~~the federal government or a public corporation at its expense.~~

14 (2) The drain commissioner or drainage board may ~~contract~~  
 15 ~~or~~ make agreements with private and public corporations and with  
 16 the federal government ~~including any agency thereof~~ for the  
 17 purpose of expanding any flood control ~~or~~ PROJECT, drainage  
 18 project, or ~~combination thereof~~ FLOOD CONTROL AND DRAINAGE  
 19 PROJECT to include the conservation and utilization of soil and  
 20 water for recreation and other beneficial purposes. The con-  
 21 tracts or agreements shall provide for an equitable sharing of  
 22 the costs of the expanded ~~flood control or drainage~~ project.  
 23 ~~or combination thereof and the~~ THE cost borne by a drainage  
 24 district shall not ~~be in excess of~~ EXCEED the amount ~~which~~  
 25 THAT can be attributed solely to drainage and flood control.

26 (3) The drain commissioner or drainage board ~~,~~ may acquire  
 27 by gift or purchase the PROPERTY necessary ~~lands, and rights of~~

1 ~~way for the purposes of~~ FOR any expanded flood control ~~or~~  
2 PROJECT, drainage project, or FLOOD CONTROL AND DRAINAGE PROJECT.  
3 ~~combination thereof.~~ The drain commissioner or drainage board  
4 may acquire ~~by condemnation proceedings similar to those pro-~~  
5 ~~vided in chapter 4 and chapter 6 of this act, the necessary lands~~  
6 ~~and rights of way for any~~ PROPERTY FOR AN expanded flood control  
7 ~~or~~ PROJECT, EXPANDED drainage project, or ~~combination thereof~~  
8 ~~which shall~~ EXPANDED FLOOD CONTROL AND DRAINAGE PROJECT TO be  
9 undertaken jointly with a public corporation or the federal gov-  
10 ernment BY EXERCISE OF THE POWER OF EMINENT DOMAIN PURSUANT TO  
11 THE UNIFORM CONDEMNATION PROCEDURES ACT, ACT NO. 87 OF THE PUBLIC  
12 ACTS OF 1980, BEING SECTIONS 213.51 TO 213.77 OF THE MICHIGAN  
13 COMPILED LAWS. The drain commissioner or drainage board may pay  
14 for the costs of ~~lands taken by condemnation for an expanded~~  
15 ~~flood control or drainage project or combination thereof, under~~  
16 ~~taken jointly with a public corporation or the federal~~  
17 ~~government~~ THE PROPERTY, but the public corporation or federal  
18 government shall promptly reimburse the drainage district for all  
19 costs of acquisition in excess of those costs directly attribut-  
20 able to drainage and flood control.

21 (4) ~~The term~~ AS USED IN THIS SECTION, "public corporation"  
22 includes ~~the~~ THIS state ~~, counties, cities, villages, town-~~  
23 ~~ships, metropolitan districts and authorities~~ OR A COUNTY, CITY,  
24 VILLAGE, TOWNSHIP, METROPOLITAN DISTRICT, OR AUTHORITY created by  
25 or pursuant to A state ~~statutes~~ STATUTE.

26 Sec. 470. ~~The~~ AFTER ISSUING THE FINAL ORDER OF  
27 APPORTIONMENT, THE drainage board shall ~~then proceed to secure~~

1 ACQUIRE the PROPERTY necessary ~~lands or rights of way~~ for the  
2 proposed drain. ~~If the same cannot be secured by negotiation,~~  
3 ~~then the drainage board may proceed under the provisions of Act~~  
4 ~~No. 149 of the Public Acts of 1911, as amended, being sections~~  
5 ~~213.21 to 213.41 of the Compiled Laws of 1948, or under the~~  
6 ~~applicable provisions of sections 75 to 84 of this act, and shall~~  
7 ~~be deemed to be a "state agency" as that term is used in said~~  
8 ~~act, or if the project is one in which~~ THE DRAINAGE BOARD MAY  
9 ACQUIRE THE PROPERTY BY EXERCISE OF THE POWER OF EMINENT DOMAIN  
10 PURSUANT TO THE UNIFORM CONDEMNATION PROCEDURES ACT, ACT NO. 87  
11 OF THE PUBLIC ACTS OF 1980, BEING SECTIONS 213.51 TO 213.77 OF  
12 THE MICHIGAN COMPILED LAWS. IF the federal government is partic-  
13 ipating IN THE PROJECT in any manner, ~~then such lands or rights~~  
14 ~~of way~~ THE PROPERTY may INSTEAD be acquired through proceedings  
15 brought by the federal government under ~~any appropriate~~ A fed-  
16 eral act. ~~In the event lands or rights of way shall be acquired~~  
17 ~~through proceedings under a federal act, then the~~ THE amount of  
18 the awards in ~~such~~ A CONDEMNATION proceeding BY THE FEDERAL  
19 GOVERNMENT shall be ~~deemed~~ CONSIDERED to be a part of the cost  
20 of the drain to the same extent as if the condemnation  
21 ~~proceedings~~ PROCEEDING had been taken under ~~the laws of this~~  
22 ~~state~~ ACT NO. 87 OF THE PUBLIC ACTS OF 1980.

23       Sec. 494. The recording of the description UNDER  
24 SECTION 493 does not appropriate, terminate, or lessen ~~any~~ pri-  
25 vate PROPERTY rights ~~in property, real or personal, except such~~  
26 ~~as shall be~~ UNLESS THE PROPERTY RIGHTS ARE voluntarily released  
27 by written agreement or conveyance or ~~as shall be~~ condemned as

1 provided in this chapter. ~~, or pursuant to applicable law.~~ The  
2 recording of the description constitutes a regulation and limita-  
3 tion, for ~~reasons of~~ THE public health, of the use of the  
4 public and private property ~~therein~~ described IN THE PETITION  
5 to remove or lessen the danger of flooding, pollution,  
6 ~~deseccration~~ DEGRADATION, or obstruction of the river, creek, or  
7 watercourse, or part thereof, involved.

8       Sec. 522. ~~The~~ AFTER ISSUING THE FINAL ORDER OF APPORTION-  
9 MENT, THE drainage board shall ~~then proceed to secure~~ ACQUIRE  
10 the PROPERTY necessary ~~lands or rights of way~~ for the proposed  
11 drain. ~~If the same cannot be secured by negotiation, then the~~  
12 ~~drainage board may proceed under the provisions of Act No. 149~~  
13 ~~of the Public Acts of 1911, as amended, being sections 213.21 to~~  
14 ~~213.41 of the Compiled Laws of 1948, or under the applicable pro-~~  
15 ~~visions of sections 75 to 84 of this act, and shall be deemed to~~  
16 ~~be a "state agency" as that term is used in said act, or if the~~  
17 ~~project is one in which~~ THE DRAINAGE BOARD MAY ACQUIRE THE PROP-  
18 ERTY BY EXERCISE OF THE POWER OF EMINENT DOMAIN PURSUANT TO THE  
19 UNIFORM CONDEMNATION PROCEDURES ACT, ACT NO. 87 OF THE PUBLIC  
20 ACTS OF 1980, BEING SECTIONS 213.51 TO 213.77 OF THE MICHIGAN  
21 COMPILED LAWS. IF the federal government is participating IN THE  
22 PROJECT in any manner, ~~then such lands or rights of way~~ THE  
23 PROPERTY may INSTEAD be acquired through proceedings brought by  
24 the federal government under ~~any appropriate~~ A federal act.  
25 ~~No such condemnation proceedings involving highways shall be~~  
26 ~~effective to take title thereto~~ PROPERTY PERTAINING TO A HIGHWAY  
27 SHALL NOT BE TAKEN without a prior agreement with the highway

1 agency involved. ~~In the event that lands or rights of way shall~~  
2 ~~be acquired through proceedings under a federal act, then the~~  
3 THE amount of the awards in ~~such proceedings~~ A CONDEMNATION  
4 PROCEEDING BY THE FEDERAL GOVERNMENT shall be ~~deemed~~ CONSIDERED  
5 to be a part of the cost of the drain to the same extent as if  
6 the condemnation ~~proceedings~~ PROCEEDING had been taken under  
7 ~~the laws of this state~~ ACT NO. 87 OF THE PUBLIC ACTS OF 1980.

8       Sec. 544. The recording of the description does not appro-  
9 priate, terminate, or lessen ~~any~~ private PROPERTY rights ~~in~~  
10 ~~property, real or personal, except such as shall be~~ UNLESS THE  
11 PROPERTY RIGHTS ARE voluntarily released by written agreement or  
12 conveyance or ~~as shall be~~ condemned as provided in this  
13 chapter. ~~, or pursuant to applicable law.~~ The recording of the  
14 description constitutes a regulation and limitation, for ~~reasons~~  
15 ~~of~~ THE public health, of the use of the public and private prop-  
16 erty ~~therein~~ described IN THE PETITION to remove or lessen the  
17 danger of flooding, pollution, ~~deseccration~~ DEGRADATION, or  
18 obstruction of the river, creek, or watercourse, or parts there-  
19 of, involved.

20       Sec. 564. ~~The~~ AFTER THE WATER MANAGEMENT COMMISSION  
21 ISSUES THE FINAL ORDER OF APPORTIONMENT, THE WATER MANAGEMENT  
22 board shall ~~then proceed to secure~~ ACQUIRE the PROPERTY neces-  
23 sary ~~lands and/or rights of way~~ for the proposed project. ~~If~~  
24 ~~the same cannot be secured by negotiation, then the board may~~  
25 ~~proceed under the provisions of Act No. 149 of the Public Acts~~  
26 ~~of 1911, as amended, being sections 213.21 to 213.41, inclusive,~~  
27 ~~of the Compiled Laws of 1948, and shall be deemed to be a "state~~

~~1 agency" as that term is used in said act, or if the project is~~  
~~2 one in which~~ THE BOARD MAY ACQUIRE THE PROPERTY BY EXERCISE OF  
3 THE POWER OF EMINENT DOMAIN PURSUANT TO THE UNIFORM CONDEMNATION  
4 PROCEDURES ACT, ACT NO. 87 OF THE PUBLIC ACTS OF 1980, BEING SEC-  
5 TIONS 213.51 TO 213.77 OF THE MICHIGAN COMPILED LAWS. IF the  
6 federal government is participating IN THE PROJECT in any manner,  
7 ~~then such lands and/or rights of way~~ THE PROPERTY may INSTEAD  
8 be acquired through proceedings brought by the federal government  
9 under ~~any appropriate~~ A federal act. ~~Provided, That no~~  
10 ~~condemnation~~ A proceeding under this act TO CONDEMN PROPERTY  
11 AFFECTING A HIGHWAY, ROAD, OR STREET shall NOT be instituted  
12 ~~until~~ BEFORE the board ~~has first given~~ GIVES written notice  
13 by registered mail to the highway agencies having jurisdiction  
14 over ~~any~~ THE highway, road, or street. ~~affected by the lands~~  
15 ~~or rights of way to be acquired by such condemnation proceeding.~~  
16 ~~In event that lands and/or rights of way shall be acquired~~  
17 ~~through proceedings under a federal act, then the~~ THE amount of  
18 the awards in ~~such~~ A CONDEMNATION proceeding BY THE FEDERAL  
19 GOVERNMENT shall be ~~deemed~~ CONSIDERED to be a part of the cost  
20 of the project to the same extent as if the condemnation proceed-  
21 ings had been taken under ~~the laws of this state~~ ACT NO. 87 OF  
22 THE PUBLIC ACTS OF 1980.

23 Section 2. Sections 76, 77, 78, 79, 80, 81, 82, 83, 84, 86,  
24 87, 88, 127, and 129 of Act No. 40 of the Public Acts of 1956,  
25 being sections 280.76, 280.77, 280.78, 280.79, 280.80, 280.81,  
26 280.82, 280.83, 280.84, 280.86, 280.87, 280.88, 280.127, and  
27 280.129 of the Michigan Compiled Laws, are repealed.