

HOUSE BILL NO. 6213

June 09, 2022, Introduced by Reps. Eisen, Steven Johnson, Tisdell, Bollin, Beeler, Calley, Meerman, Rendon, Bellino, Hoitenga, Lightner, Clements, Allor, Outman and Alexander and referred to the Committee on Oversight.

A bill to amend 1956 PA 40, entitled
"The drain code of 1956,"
by amending section 424 (MCL 280.424).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 424. **(1)** ~~Whenever~~**If** a disposal plant, filtration plant,
2 or other mechanical device to purify the flow of ~~such a~~ drain or
3 sewer has been ~~heretofore~~ constructed, but is inoperative or
4 improperly operated and, in the opinion of the ~~state commissioner~~
5 ~~of~~**director of the department of health and human services**, the

1 public health is **consequently** endangered, ~~by reason thereof, said~~
 2 ~~state commissioner of health~~ **the director** may file with the judge
 3 ~~of probate~~ **circuit court** of the county in which ~~said~~ **the** facilities
 4 are located, ~~a~~ petition reciting his **or her** findings and
 5 recommendations as to how the ~~menace~~ **endangerment** to health ~~may~~
 6 **should** be corrected ~~or the nuisance may best be abated~~ and how the
 7 improperly operated or inoperative disposal plant, filtration
 8 plant, or other mechanical device to purify the flow of a drain or
 9 sewer should be **repaired, maintained, and** operated. ~~Upon satisfying~~
 10 ~~himself as to the reasonableness of said recommendations, it shall~~
 11 ~~be the duty of the judge of probate of said county to~~ **Within 24**
 12 **hours after the petition is filed, the director of the department**
 13 **of health and human services shall notify the senate and house of**
 14 **representatives in writing. If the circuit court finds that the**
 15 **recommendations of the director of the department of health and**
 16 **human services are reasonable, it shall** direct the drain
 17 commissioner of ~~said~~ **the** county to ~~prepare~~ **do the following:**

18 (a) **Prepare** a plan for and estimate the annual cost of
 19 ~~executing~~ **implementing** the recommendations. ~~of the state~~
 20 ~~commissioner of health, and/or of rehabilitation, ordinary~~
 21 ~~maintenance and operation of said improperly operated or~~
 22 ~~inoperative facilities, to prepare~~

23 (b) **Prepare** a map showing ~~the extent of the~~ area contributing
 24 to ~~said~~ **the** condition **as the tentative assessment district.** ~~and~~
 25 ~~to make a determination of~~

26 (c) **Apportion** the annual expense ~~thereof~~ ~~apportioned~~ **of**
 27 **implementing the recommendations** according to benefits to the state
 28 highways, cities, villages, and townships benefited. ~~by the same.~~

29 (2) Upon receipt of the map, tentative assessment district,

1 and other information from the county drain commissioner **under**
 2 **subsection (1)**, the ~~judge of probate circuit court~~ shall give
 3 notice of ~~said the~~ facts and of the date ~~of for~~ receiving appeals.
 4 **The notice shall be given** by publication ~~in~~ at least 2 ~~insertions~~
 5 ~~in some~~ **twice in a** newspaper published and of general circulation
 6 in the county, if there ~~be~~ **is** one. ~~the~~ **The** first publication ~~to~~
 7 **shall** be at least 10 days before the date ~~set~~ for receiving
 8 appeals. ~~and said~~ **The** notice shall also be posted at least 10 days
 9 before the date for receiving appeals in 5 or more conspicuous
 10 places in each city, village, and township ~~where~~ any part of the
 11 district ~~may be~~ **is** located, and within the limits of ~~such the~~
 12 district.

13 (3) ~~The state highway commissioner~~ **The director of the state**
 14 **transportation department** or any city, township, or village, which
 15 ~~may feel~~ **if** aggrieved by the apportionment of benefits ~~so~~ made by
 16 the drain commissioner, may ~~make an application to said probate~~
 17 ~~court for review of the apportionment by a board of review by~~
 18 ~~filing with said probate~~ **file with the circuit court of the county**
 19 **in which the facilities are located** a notice of appeal. ~~Only a~~
 20 ~~board of review shall be appointed by said court. Upon receipt of~~
 21 ~~any such notices of appeal, as hereinbefore provided, the probate~~
 22 **Upon receipt of a timely notice of appeal, the circuit court shall**
 23 **forthwith notify do the following:**

24 (a) **Notify** the drain commissioner, in writing, of ~~such the~~
 25 appeal. ~~and thereupon make an order appointing~~

26 (b) **Appoint** 3 disinterested freeholders of ~~such the~~ county,
 27 not residents of ~~said the~~ district, to constitute ~~such a~~ board of
 28 review **for all the appeals**. ~~The court shall thereupon, with~~

29 (c) **With** the concurrence of the drain commissioner,

1 immediately fix the time and place ~~when and where said~~ **for a**
 2 **meeting of the** board of review ~~shall meet to review said the~~
 3 apportionments. ~~, which said time~~ **The date** shall be not less than
 4 10 ~~nor or~~ more than 15 days ~~from~~ **after** the date ~~of filing such the~~
 5 appeal **was filed**.

6 (4) The drain commissioner shall ~~thereupon~~ give notice to the
 7 ~~persons so appointed~~ **appointees** of their appointment **to the board**
 8 **of review** and of the time and place of **the** meeting. ~~and The drain~~
 9 **commissioner** shall ~~give~~ **also serve** notice of ~~such the~~ meeting by
 10 ~~posting notices in at least 5 public places in each city, village~~
 11 ~~and township forming a part of the drainage district and shall~~
 12 ~~serve a like notice upon on~~ the **director of the** state highway
 13 ~~commissioner~~ **transportation department** and each ~~of said cities,~~
 14 ~~villages and townships. Such city, village, or township where any~~
 15 **part of the district is located. The** service shall be made not less
 16 than 5 days before **the** hearing. ~~Return shall be made by the person~~
 17 ~~-serving said notice and shall be filed in the office of the judge~~
 18 ~~of probate. The person serving the notice shall file the return of~~
 19 **service with the circuit court.**

20 (5) At such ~~the~~ hearing, ~~the board of review shall have the~~
 21 ~~right and it shall be their duty to review all apportionments made~~
 22 ~~by the drain commissioner. Persons appointed on said~~ **appointees to**
 23 **the** board of review shall be sworn by the drain commissioner to
 24 faithfully discharge their duties as members of ~~said the~~ board. The
 25 board of review shall ~~proceed at the time and place specified in~~
 26 ~~the notice to~~ **then** hear the proofs and allegations of all parties
 27 in respect to the matter of appeal. ~~A review of apportionments~~
 28 ~~shall be made by the~~ **The** board of review **shall review all**
 29 **apportionments** and if, in ~~their its~~ judgment, there shall ~~be is~~

1 manifest error or inequality in ~~such~~**the** apportionments, ~~they~~**it**
 2 shall order and make ~~such~~ changes therein as they shall deem ~~that~~
 3 **it considers** just and equitable. ~~Determination~~

4 **(6) The determination** of the drain commissioner, if not
 5 appealed from, or of ~~said~~**the** board **of review**, in case of an
 6 appeal, ~~shall be~~**is** final. ~~and there shall be no~~**The only** right of
 7 appeal from ~~such~~**the** determination ~~, except~~**is** by writ of
 8 certiorari to the proper court. The determination shall be reduced
 9 to writing and signed by the drain commissioner, or in case of
 10 appeal, **by** a majority of the board making the ~~same~~**, determination**,
 11 and shall be delivered to the ~~judge of probate~~**circuit court**
 12 together with all ~~other papers relating thereto~~. Upon the
 13 ~~apportionments becoming final, as hereinbefore set forth, the judge~~
 14 ~~of probate~~**related documents**.

15 **(7) When the apportionments become final, the circuit court**
 16 shall deliver ~~said~~**the** approved roll of apportionments of benefits
 17 and expense to the drain commissioner. ~~, who~~**The drain commissioner**
 18 shall assess the amounts ~~therein~~ set forth **in the roll** to the
 19 ~~respective cities, villages, and townships involved, and said~~
 20 **benefited. The** cities, villages, and townships shall ~~thereafter~~
 21 ~~make payment thereof as collected~~**pay the amounts** in quarterly
 22 installments to the county treasurer to be deposited in a separate
 23 fund for the rehabilitation, ordinary maintenance, and operation of
 24 ~~said~~**the** facilities. ~~, which said fund shall be paid out~~**Payments**
 25 **from the fund shall be made** only on the order of the drain
 26 commissioner of the county in which ~~said~~**the** facilities are
 27 located.

28 **(8)** Payment for services and providing for substitute
 29 membership necessary on the board of review **under this section**

1 shall be in accordance with ~~the manner provided in~~ sections 158 and
 2 159, **respectively, except that the circuit court shall perform the**
 3 **duties of the judge of probate in those sections.** ~~of this act. Such~~
 4 ~~necessary~~ **Necessary** costs of the proceeding shall be determined by
 5 the ~~judge of probate, said cost to be~~ **circuit court**, paid from the
 6 revolving fund of the county, and ~~same to be~~ returned to the county
 7 out of the first assessment against ~~said the~~ district. Immediately
 8 upon receipt of sufficient funds, ~~so to do,~~ the drain commissioner
 9 of the county shall proceed with the rehabilitation, ordinary
 10 maintenance, and operation of ~~said the~~ facilities, ~~and shall~~
 11 continue ~~the same~~ **these activities** as long as funds are available.
 12 The costs and charges ~~hereinbefore set forth shall be an annual~~
 13 ~~charge and~~ **provided for in this subsection** shall be assessed
 14 against the state highways and the ~~several~~ cities, villages, and
 15 townships **benefited**, by ~~said the~~ drain commissioner, each year as
 16 long as ~~said the~~ facility continues to be operated. ~~, unless in the~~
 17 ~~opinion of the drain commissioner, the state highway commissioner~~
 18 ~~or of any of said cities, villages or townships, said apportionment~~
 19 ~~should be changed, in which event either said drain commissioner,~~
 20 **(9) However,** the **director of the** state highway commissioner,
 21 **transportation department**, or any of ~~said the~~ cities, villages, or
 22 townships, may petition the ~~judge of probate~~ **circuit court** of the
 23 county in which ~~said proceedings were had~~ **the district is located**
 24 for the appointment of a board of review to reapportion ~~said the~~
 25 expense. ~~, and on filing said petition said judge of probate shall~~
 26 ~~proceed to~~ **The circuit court shall** appoint a board of review on
 27 notice and in the manner ~~hereinbefore set forth,~~ **provided for in**
 28 **this section.** ~~which said~~ **The** board of review shall review ~~such the~~
 29 assessments and make a new apportionment. ~~:- Provided, however, That~~

1 ~~no~~ **However, a** reapportionment shall **not** be made ~~oftener~~ **more often**
2 than once ~~in~~ each calendar year.

3 (10) ~~The several cities, villages and townships~~ **A city,**
4 **village, or township** against ~~whom~~ **which** an assessment is made, ~~as~~
5 ~~hereinbefore provided,~~ **under this section** shall collect ~~for such~~
6 ~~expense so assessed to them under this act~~ **revenue to pay the**
7 **assessment** by charges for the use of ~~said~~ **the** facilities. ~~, to be~~
8 **The charges shall be** added to and collected with the water rates of
9 ~~said cities, villages and townships,~~ **the city, village, or township**
10 in the same manner as other water rates of ~~said cities, villages~~
11 ~~and townships~~ **the city, village, or township** are collected, or in
12 such other manner as **determined by** the ~~several governing bodies of~~
13 ~~said respective cities, villages and townships may~~
14 ~~determine.~~ **governing body of the city, village, or township.**