

HOUSE BILL NO. 6317

June 30, 2022, Introduced by Reps. Calley, Morse, Slagh, Kuppa, Young, Ellison, Cavanagh, Weiss, Aiyash and Filler and referred to the Committee on Local Government and Municipal Finance.

A bill to amend 1956 PA 40, entitled
"The drain code of 1956,"
by amending sections 551, 552, 553, 555, 556, 557, and 558 (MCL
280.551, 280.552, 280.553, 280.555, 280.556, 280.557, and 280.558).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 551. ~~Whenever~~ **As** used in this chapter, ~~except when~~ **unless**
2 otherwise indicated by the context:

3 ~~(a) The term "state" shall be deemed to mean the state of~~
4 ~~Michigan.~~

5 ~~(b) The term "public corporation" shall be deemed to include~~

~~the state of Michigan, counties, cities, villages, townships, metropolitan districts and authorities created by or pursuant to state statutes.~~

~~(c) The term "agencies" shall be deemed to include those officers, boards, commissions and other bodies created by public corporations or by the federal government, which are authorized to act in their own names.~~

~~(d) The term "director of agriculture" shall be deemed to mean the director of agriculture of the state of Michigan.~~

~~(e) The term "project" shall be deemed to mean any flood control or drainage project petitioned for or undertaken under the provisions of this chapter in any water management district or subdistrict. The term shall be deemed to include any alteration of streams, rivers, drains, lakes, reservoirs, ponds, swamps, marshes, or any other waters, and any of the watersheds thereof. The term shall also include any dike, dam, reservoir, pumping station or other works involved in such alteration.~~

(a) "Activities" means stormwater management activities, which may include, but are not limited to, stormwater review, stormwater ordinance drafting, public education concerning stormwater, and the acquisition, ownership, construction, improvement, maintenance, or conservation of, or other exercise of jurisdiction or control over, property rights or stormwater control facilities, infrastructure, or equipment.

(b) "Agency" means an officer, board, commission, or other body created by a public corporation or by the federal government that is authorized to act in his, her, or its own name.

(c) "Benefit" means an advantage to public corporations, the inhabitants of public corporations, or property that results from a

1 water management program, including, but not limited to, a benefit
2 as a result of the contribution of stormwater, a benefit from
3 drainage and flood control of stormwater, or a benefit from the
4 elimination of water conditions that jeopardize the public health,
5 safety, or welfare. The verb "benefit" has a corresponding meaning.

6 (d) "County road agency" means any of the following:

7 (i) A county road commission.

8 (ii) A body that has the powers of a county road commission in
9 a county that adopts a charter under 1966 PA 293, MCL 45.501 to
10 45.521.

11 (iii) The county board of commissioners, if a board of county
12 road commissioners of a county is dissolved as provided in section
13 6 of chapter IV of 1909 PA 283, MCL 224.6.

14 (e) "Day of review" means the public meeting under section 564
15 to review the apportionment of benefits.

16 (f) "Department" means the department of agriculture and rural
17 development.

18 (g) "Director" means the director of the department of
19 agriculture and rural development.

20 (h) "District description order" means an order under section
21 557(3).

22 (i) "Municipality" means a city, village, or township.
23 "Municipal" has a corresponding meaning.

24 (j) "Necessity order" means an order entered under section
25 558(4).

26 (k) "Public corporation" means this state, a county, or a
27 municipality.

28 (l) "Water management board" means a water management board
29 created under section 553(1).

1 (m) "Water management commission" means a water management
2 commission created under section 553(3) .

3 (n) ~~(f) The term "water "~~**Water** management district" shall be
4 ~~deemed to mean~~ **means** the area comprising all or part of 3 or more
5 ~~contiguous counties within a single drainage basin in~~**for** which a
6 ~~project~~ **water management program** is petitioned ~~for~~ or undertaken
7 under the provisions of this chapter. , and shall include such
8 counties and all public corporations within such area as shall be
9 subject to assessment for the cost of such project.

10 ~~(g) The term "subdistrict" shall be deemed to mean the area~~
11 ~~comprising that portion of a water management district in which a~~
12 ~~project is petitioned for under the provisions of this chapter,~~
13 ~~which project benefits only 1 or more public corporations within~~
14 ~~the water management district. The term shall include only the~~
15 ~~public corporations or corporations so specially benefited by the~~
16 ~~project.~~

17 ~~(h) The term "commission" shall be deemed to mean the water~~
18 ~~management commission of a water management district.~~

19 ~~(i) The term "board" shall be deemed to mean the water~~
20 ~~management board of a water management district.~~

21 ~~(j) The term "benefit" or "benefits" shall be deemed to mean~~
22 ~~advantages resulting from a project to public corporations, the~~
23 ~~inhabitants of public corporations, and property within public~~
24 ~~corporations. The term shall be limited to benefits which result~~
25 ~~from the drainage and control of water, and shall include such~~
26 ~~factors as: elimination of flood damage; elimination of water~~
27 ~~conditions which jeopardize the public health or safety; increase~~
28 ~~of the value or use of lands and property arising from improved~~
29 ~~drainage and elimination of floods; and the advantageous use to~~

~~which water may be directed as a result of the project, and incidental thereto, for agricultural, conservation and recreational purposes.~~

(o) "Water management plan" means recommendations for activities, together with estimates of the costs of the activities, approved under section 560. Recommended activities may include, but are not limited to, stormwater studies, stormwater ordinance drafting, public education concerning stormwater, and the acquisition, ownership, construction, improvement, maintenance, or conservation of property rights or stormwater control facilities, infrastructure, or equipment.

(p) "Water management program" means the activities recommended under section 561b.

(q) "Water management program order" means an order entered under section 561b.

Sec. 552. (1) ~~Whenever it shall be necessary for the public health, safety or welfare to establish a water management district to undertake a project in all or part of 3 or more contiguous counties in this state for purposes of flood control or drainage, a petition therefor may be filed with the director of agriculture, signed by 3 or more public corporations, and, if a district with 8 or more counties, by 3 or more counties, which will be subject to assessments to pay the cost of such project. Such petition shall state that it is filed pursuant to the provisions of this chapter, shall set forth the proposed name of the district and the necessity for the project in the interest of the public health, safety or welfare; and shall contain a general description of the type, purpose and location of the proposed project, which description need be only sufficiently accurate as to determine with reasonable~~

~~certainty the waters, works and territory involved in the project and the public corporations to be benefited thereby. A map showing the boundaries of the proposed district and a certified copy of the resolution of the governing body of each public corporation, authorizing its signature thereto, shall be attached to the petition. Such petition may be filed in more than 1 counterpart. A~~
petition may be filed to establish a water management program.

Under the petition process in this chapter, establishment of a water management program follows the establishment of, first, a water management district and, second, a water management plan.

Pursuant to a petition under this chapter, an existing water management program may be superseded by a new water management program. The new water management program shall be consistent with the existing water management plan in its current form or as amended under the petition process. Pursuant to a petition under this chapter, a water management plan and water management program may be established for a water management district if a previous petition process resulted in the establishment of a water management district but not a water management plan or water management program.

(2) A petition under subsection (1) may be filed in more than 1 counterpart. If a petition involves a proposed or previously established water management district with lands in only 1 county, the petition shall be filed with the drain commissioner and signed by any of the following:

(a) Authorized officials of 2 or more public corporations that will be subject to assessments under section 563(3)(b) or (c) for proceedings related to the petition. However, if only 1 municipality will be subject to assessments at large for benefits

1 to public health, the petition need be signed by only that
2 municipality.

3 (b) At least 50 property owners whose lands would be subject
4 to assessment.

5 (c) If there are fewer than 500 property owners whose lands
6 would be subject to assessment, by at least 10% of such property
7 owners.

8 (3) If a petition involves a proposed or established water
9 management district with lands in 2 or more counties, the petition
10 shall be filed with the drain commissioner of 1 of those counties
11 and signed by any of the following:

12 (a) Authorized officials of 2 or more public corporations that
13 will be subject to assessments under section 563(3)(b) or (c) for
14 proceedings related to the petition.

15 (b) At least 50 property owners whose lands would be subject
16 to assessment.

17 (c) If there are fewer than 500 property owners whose lands
18 would be subject to assessment, by at least 10% of such property
19 owners.

20 (4) A petition under this section shall meet all of the
21 following requirements:

22 (a) State that it is filed under this chapter.

23 (b) Describe the geographic area for which a water management
24 program is sought sufficiently to determine the public corporations
25 that will receive a benefit from a water management program.

26 (c) State that a water management program is necessary for the
27 public health, safety, or welfare.

28 (d) For each public corporation whose authorized official
29 signed the petition, be accompanied by a copy of the authorizing

1 resolution of the governing body of the public corporation.

2 (5) If a petition is filed under subsection (2), the drain
3 commissioner with whom the petition is filed shall review the
4 signatures. If a petition is filed under subsection (3), the drain
5 commissioner shall forward the petition to the director. The
6 director shall identify the counties that will be included in whole
7 or in part in the water management district. The director shall
8 notify the drain commissioner of each affected county and each
9 drain commissioner shall review the signatures for the drain
10 commissioner's county.

11 (6) A reviewing drain commissioner under subsection (5) shall
12 determine the eligibility of property owners to sign a petition
13 under this section and, if the petition's sufficiency is being
14 determined under subsection (2)(c) or (3)(c), the number of
15 property owners with lands in the proposed or established water
16 management district, as of the date the petition was filed, by
17 diligent inquiry into the records in the office of the register of
18 deeds, the probate court, and the circuit court of the respective
19 county. The drain commissioner shall report his or her findings
20 under this subsection to the water management board.

21 (7) If required by the drain commissioner with whom the
22 petition is filed, a petitioner shall submit a deposit with the
23 petition, in an amount determined by that drain commissioner, to
24 pay for any costs incurred in relation to the petition if the
25 petition is dismissed under section 557.

26 ~~Sec. 553. (1) There is created for each water management~~
27 ~~district petitioned for under the provisions of this chapter, a~~
28 ~~water management commission consisting of (a) the drain~~
29 ~~commissioner of each county within the district; (b) 1~~

~~1 representative of each county within the district, to be appointed
2 by the county board of supervisors in the usual manner employed by
3 such county in appointing members to county boards or commissions;
4 (c) 1 representative of each city or village within the district
5 with a population of 5,000 or more, and 1 additional representative
6 for each 20,000 of population or any major fraction thereof by
7 which the population of such city or village exceeds 10,000, to be
8 appointed by the governing body, but no city or village shall have
9 more than 10 representatives; (d) 1 director of a soil conservation
10 district to be designated by the directors of all such districts
11 within a water management district; and (e) the director of
12 agriculture, who shall serve as chairman of the commission. County
13 soil conservation district and city or village representatives
14 shall be resident property owners of the district and shall serve
15 at the pleasure of the appointing body. Each member of the
16 commission appointed by a county board of supervisors and county
17 soil conservation districts shall receive such compensation,
18 mileage and expenses as shall be provided by the water management
19 commission except that such compensation shall not exceed \$25.00
20 per diem exclusive of mileage and expenses for attendance at water
21 management commission meetings. Members who are drain
22 commissioners, or who are county or city employees, shall be
23 reimbursed for actual and necessary expenses but shall not receive
24 any other compensation. The director of agriculture or his deputy
25 shall not receive any compensation or reimbursement for expenses
26 incurred as a member of the commission. A vote of 3/5 of all of the
27 members of the commission shall be required to approve any
28 preliminary or final order of determination, official plan, final
29 order of apportionment, or other matter involving any assessment or~~

~~increase in assessment of costs.~~ If a petition is filed to establish a water management program, a water management board is created. A water management board consists of the following members, as applicable:

(a) For a water management district with lands in only 1 county:

(i) The drain commissioner of the affected county, who shall serve as chairperson.

(ii) One member representing each municipality subject to assessment at large for benefits to public health. However, if there is only 1 such municipality, the water management board shall include 2 members representing that municipality. A member representing a municipality shall be selected as provided in section 556.

(b) For a water management district with lands in 2 or more counties, except as provided in subdivision (c):

(i) The director or the director's designee, who shall serve as chairperson.

(ii) The drain commissioner of each affected county.

(c) Subject to subsection (2), for a water management district with lands in 2 or more counties, at least 1 of which has an appointed rather than an elected drain commissioner and a population of more than 1,000,000:

(i) The director or the director's designee, who shall serve as chairperson.

(ii) The drain commissioner of each affected county.

(iii) An individual appointed by the drain commissioner of each affected county. The appointee shall be an elected official, or his or her designee, of a municipality subject to assessment at large

1 for the water management program. The appointee shall serve for a
2 2-year term and shall not be appointed for successive terms unless
3 the municipality that he or she represents is the only municipality
4 in the county subject to assessment at large. Following the
5 completion of the 2-year term, the drain commissioner shall, if
6 possible, appoint an elected official, or his or her designee, from
7 a different municipality subject to assessment at large for the
8 project. If an appointee fails or refuses to serve or is
9 disqualified, the drain commissioner shall appoint a successor to
10 complete the remainder of his or her term.

11 (2) Subsection (1)(c) does not apply if an affected county has
12 a population of more than 1,000,000 and was organized pursuant to
13 1973 PA 139, MCL 45.551 to 45.573.

14 (3) If a water management district for which a petition is
15 filed includes lands in 2 or more counties, a water management
16 commission is also created. A water management commission consists
17 of the following members:

18 (a) The members of the water management board, with the
19 chairperson and secretary of the water management board also
20 serving as chairperson and secretary of the water management
21 commission.

22 (b) The chairperson of the county board of commissioners for
23 each affected county.

24 (c) The chairperson of the finance committee of the county
25 board of commissioners for each affected county. If there is no
26 finance committee in a county, then the chairperson of the county
27 board of commissioners shall select 1 member of the county board of
28 commissioners to act as a member of the water management
29 commission.

1 (4) A water management board or commission shall determine
2 reasonable compensation for and approve necessary expenses of each
3 member of the water management board or commission, respectively,
4 serving on behalf of a county or municipality for each meeting
5 attended. A drain commissioner or the director shall not receive
6 any additional compensation or reimbursement for expenses incurred
7 as a member of a water management board or commission.

8 (5) Unless a water management district and water management
9 program have previously been established, the water management
10 board and any water management commission are dissolved if either
11 of the following occurs:

12 (a) The petition to establish a water management program is
13 found insufficient under section 557.

14 (b) A water management program is found not necessary under
15 section 558.

16 Sec. 555. ~~(1) This section shall pertain to either the water~~
17 ~~management commission or the water management board. Meetings may~~
18 ~~be called by the chairperson or 2 members of either body, upon~~
19 ~~notice sent by registered mail~~ Except as provided in section 556,
20 the chairperson of a water management board or commission shall
21 call each meeting of the water management board or commission,
22 respectively, by providing notice to each member. The notice shall
23 ~~be mailed not less than 10 days before the time of the meeting. be~~
24 provided by email requesting read receipt verification and by
25 first-class mail. The notice shall specify the time, date, and
26 place of the meeting. An affidavit of the chairperson that notice
27 as required by this subsection was sent is conclusive proof of
28 notification.

29 (2) A majority of the members ~~shall of~~ a water management

1 **board or commission** constitute a quorum for the transaction of **its**
 2 business. ~~but A vote in favor by a majority of the members of the~~
 3 **water management board or commission present and voting is required**
 4 **for any action of the board or commission. However,** a lesser number
 5 may adjourn from time to time. ~~A meeting may be adjourned from time~~
 6 ~~to time. Unless otherwise provided in this act, an action shall not~~
 7 ~~be taken by either body except by a majority vote of the members~~
 8 ~~present and voting. In the event of the adjournment of a hearing,~~
 9 ~~it shall not be~~

10 (3) If a meeting of a water management board or commission is
 11 adjourned, it is not necessary to ~~advertise~~ **provide notice of the**
 12 adjournment. ~~of the hearing. Orders issued by either body shall be~~
 13 ~~signed by its chairperson and secretary.~~

14 (4) The chairperson shall sign orders entered by a water
 15 management board or commission.

16 (5) A water management board or commission shall conduct its
 17 business in compliance with the open meetings act, 1976 PA 267, MCL
 18 15.261 to 15.275. A writing that is prepared, owned, used,
 19 possessed, or retained by a water management board or commission in
 20 performing an official function is subject to the freedom of
 21 information act, 1976 PA 442, MCL 15.231 to 15.246.

22 (6) A water management board shall select a treasurer and a
 23 **secretary**. The secretary shall prepare and sign ~~duplicate originals~~
 24 ~~of the minutes of the proceedings of the body, one to be retained~~
 25 ~~by the chairperson and the other to be filed with the director of~~
 26 ~~the department of agriculture.~~ **water management board**. The
 27 originals of all proceedings and records **of the water management**
 28 **board** shall be kept on file ~~with the secretary. The director of the~~
 29 ~~department of agriculture may require the secretary to furnish~~

~~certified copies of records of either body in the office of the secretary for filing in his or her office, and the certified copies filed shall have the same force and effect as the originals.~~

~~Meetings shall be open to the public, and records of either body shall be considered public records and available for inspection~~

~~during regular office hours.~~**in the chairperson's office. The**

chairperson's office is the principal office of the water

management board for purposes of this act and any other applicable

laws of this state.

~~Sec. 556. (1) Within 30 days following receipt of a petition~~

~~as provided in section 552 of this act, the director of agriculture~~

~~shall review the petition for sufficiency and accuracy, shall make~~

~~a preliminary finding of the counties which in his opinion include~~

~~public corporations that should be assessed under the provisions of~~

~~this chapter, and shall mail written notice of the first meeting of~~

~~the water management commission to the county clerk and drain~~

~~commissioner of each such county, to the highway agencies having~~

~~jurisdiction over all highways, roads and streets in said district,~~

~~to the secretary of each soil conservation district and~~**The**

chairperson shall call the first meeting of the water management

board. Not less than 45 days before the meeting, the chairperson

shall provide notice specifying the time, date, and place of the

meeting by certified mail to the following:

(a) For a proposed water management district with lands in

only 1 county, to the supervisor of each township and the clerk of

each city or village clerk of each city and village within such

~~counties with a population of 5,000 or more according to the latest~~

~~or each succeeding federal decennial census, which in his opinion~~

~~are subject to assessment for the cost of the project. Such notice~~

~~1 shall request the appointment of a representative of each public~~
~~2 corporation so notified to the commission and shall state the time~~
~~3 and place of the first meeting, which shall be held not less than~~
~~4 30 nor more than 45 days following the mailing thereof. In the~~
~~5 event a county board of supervisors of any such county subject to~~
~~6 assessment at large for benefits to public health. The notice shall~~
~~7 request that the governing body of the municipality appoint a~~
~~8 member to the water management board, or 2 members if there is only~~
~~9 1 municipality subject to assessment at large for benefits for~~
~~10 public health. If the governing body of a municipality does not~~
~~11 meet in a regular or special session prior to~~ **before** ~~the date of~~
~~12 the first meeting of the commission, the chairman of the board of~~
~~13 supervisors~~ **water management board, the chairperson of the**
~~14 governing body, or, if there is only 1 municipality subject to~~
~~15 assessment at large for benefits to public health, the chairperson~~
~~16 and his or her designee, shall represent the county municipality at~~
~~17 the first meeting, and the board of supervisors~~ **governing body**
~~18 shall appoint a member~~ **or 2 members, as applicable,** ~~to the~~
~~19 commission~~ **water management board at its** ~~the governing body's~~ next
~~20 regular or special session.~~

~~21~~ **(b) For a proposed water management district with lands in 2**
~~22~~ **or more counties, to the drain commissioners of those counties.**

~~23~~ **(2) A member of the water management board appointed by a**
~~24~~ **governing body under subsection (1) (a) serves at the pleasure of**
~~25~~ **the governing body.**

~~26~~ **(3) Failure of the** ~~a governing body of any public corporation~~
~~27~~ ~~entitled to representation to appoint a member to the commission~~
~~28~~ ~~shall~~ **water management board under subsection (1) (a) does not**
~~29~~ ~~prevent the inclusion of such public corporation in the water~~

1 management district ~~, nor of lands in the municipality or~~ exempt it
 2 **the municipality** from assessment or other obligations imposed by
 3 this chapter. ~~, but such public corporation shall be without~~
 4 ~~representation until it shall appoint a member. The director of~~
 5 ~~agriculture shall also send notice of the first meeting to the~~
 6 ~~director of the department of conservation, the state highway~~
 7 ~~commissioner and the county road commission of each county within~~
 8 ~~the district.~~

9 Sec. 557. **(1)** ~~The commission shall elect a temporary~~
 10 ~~secretary, and may adopt rules of procedure or by-laws, not~~
 11 ~~inconsistent with the provisions of this chapter. The commission~~
 12 ~~shall also consider the petition for the project, and shall make a~~
 13 ~~tentative determination as to the sufficiency of the petition and~~
 14 ~~the necessity and practicability of the proposed project. If the~~
 15 ~~commission shall determine that the petition is insufficient, it~~
 16 ~~may enter an order amending or supplementing such petition, which~~
 17 ~~order shall be deemed to constitute a part of the petition. If such~~
 18 ~~order shall result in the inclusion of any additional public~~
 19 ~~corporation which is entitled to designate a member to the~~
 20 ~~commission, the commission shall adjourn the meeting and shall~~
 21 ~~notify the clerk of such public corporation of the time and place~~
 22 ~~of the adjourned meeting, which notice shall be given in conformity~~
 23 ~~with the requirements of the notice provided for in section 556 of~~
 24 ~~this act.~~**At its first meeting after a petition is filed under**
 25 **section 552, a water management board shall do both of the**
 26 **following:**

27 (a) Determine the sufficiency of the petition, after
 28 considering the findings under section 552 as to the number of
 29 signatures from eligible signers and, if applicable, the number of

1 persons eligible to sign the petition.

2 (b) Unless the water management district has already been
3 established under this chapter, make a preliminary finding of the
4 boundaries of the water management district.

5 (2) ~~If the commission shall at any time determine that the~~
6 ~~project is not necessary or practicable, water management board~~
7 **determines that the petition is insufficient,** it shall order the
8 petition dismissed, and proceedings under ~~such~~ **the** petition shall
9 be ~~thereby terminated. Where a petition for a project has been~~
10 ~~dismissed, such project shall not be petitioned for again under~~
11 ~~this act for a period of 1 year. If the commission shall find the~~
12 ~~project necessary and practicable and the petition, in original~~
13 ~~form or as amended by order of the commission, sufficient, it shall~~
14 ~~proceed forthwith to select a name for the district, elect a water~~
15 ~~management board, and make a tentative determination of the public~~
16 ~~corporations to be assessed for the costs of the project. The~~
17 ~~commission shall procure preliminary plans which include an~~
18 ~~estimate of costs of the project, benefits which will result~~
19 ~~therefrom to the various public corporations comprising the~~
20 ~~district, and the extent to which each public corporation~~
21 ~~contributes to the conditions which make the project necessary. The~~
22 ~~commission shall make a tentative determination, based upon such~~
23 ~~plans, of the percentage of costs to be assessed to each public~~
24 ~~corporation comprising the district, and shall~~ **If a petition under**
25 **section 552 is dismissed, the costs of the proceedings related to**
26 **the petition shall be paid first from any deposit accompanying the**
27 **petition. If there is no deposit or the deposit is insufficient,**
28 **the balance of the costs shall be paid from the revolving drain**
29 **fund of each county in the proposed water management district, or**

1 both.

2 (3) If the water management board finds that the petition is
3 sufficient, it shall enter a written order to that effect. The
4 district description order shall set forth in writing all of the
5 following:

6 (a) The name of the water management district.

7 (b) Unless the water management district has already been
8 established, the tentative boundaries of the water management
9 district.

10 (4) If the proposed water management district will include or
11 the established water management district includes lands in 2 or
12 more counties, the water management board shall transmit a written
13 copy of ~~such determination, the order under subsection (3) together~~
14 with the petition ~~, any orders amendatory and supplementary~~
15 ~~thereto, and the preliminary plan to the water management~~
16 ~~board commission.~~

17 Sec. 558. (1) ~~The~~ After the water management board enters a
18 district description order under section 557, the chairperson shall
19 ~~fix set~~ a time, date, and place ~~it will meet to hear objections to~~
20 ~~the proposed project, the petition for the project, and to the~~
21 ~~assessments of costs as contained in the tentative determination of~~
22 ~~the commission for a hearing to do all of the following:~~

23 (a) Receive evidence and hear objections in relation to the
24 petition.

25 (b) Determine the necessity of a water management program for
26 the public health, safety, or welfare.

27 (c) Unless the water management district has already been
28 established, determine the boundaries of the water management
29 district.

1 (d) Determine the municipalities subject to assessment at
2 large for benefits to public health.

3 (e) Determine the public corporations subject to assessment
4 for benefits to state highways, county roads, or city or village
5 streets.

6 (2) The hearing shall be conducted by the water management
7 board if the petition involves a proposed or established water
8 management district with lands in only 1 county. Otherwise, the
9 hearing shall be conducted by the water management commission.

10 (3) Notice of the hearing shall be ~~published twice in each~~
11 ~~county involved by inserting the notice in at least 1 newspaper~~
12 ~~designated by the board and published and circulated in the county.~~
13 ~~The first publication shall be not less than 20 days before the~~
14 ~~time of hearing. Notice shall also be sent by registered mail to~~
15 ~~the clerk or secretary of each public corporation proposed to be~~
16 ~~assessed, except that a notice to the state shall be sent to the~~
17 ~~state highway director and the director of the department of~~
18 ~~natural resources and a notice to a county shall be sent to both the~~
19 ~~county clerk and the county road commission. The mailing shall be~~
20 ~~made not less than 20 days before the time of the hearing. The~~
21 ~~notice shall be signed by the secretary of the board and proof of~~
22 ~~the publication and mailing of the notice shall be filed with the~~
23 ~~secretary. The board may provide a form to be substantially~~
24 ~~followed in the giving of the notice. After the hearing, the board~~
25 ~~shall made a preliminary determination as to the sufficiency of the~~
26 ~~petition, the necessity and practicability of the project, whether~~
27 ~~the project should be undertaken, the public corporations to be~~
28 ~~assessed, and shall issue a preliminary order accordingly. The~~
29 ~~order shall be known as the preliminary order of determination. A~~

~~public corporation shall not be eliminated from, or added to, those~~
~~tentatively determined to be assessed without a rehearing after~~
~~notice, except as provided in section 559.~~**provided by the drain**
commissioner of each affected county as follows:

(a) By publication in a newspaper of general circulation in
the county not less than 20 days before the date of the hearing.

(b) By first-class mail, sent not less than 10 days before the
date of the hearing, to each person whose name appears on the last
municipal tax roll as owning land within the proposed or
established water management district in the county, at the address
shown on the roll. If an address does not appear on the roll, a
notice need not be mailed to the person.

(c) By certified mail, sent not less than 10 days before the
date of the hearing, to all of the following:

(i) The county clerk.

(ii) The county road agency if the county is subject to
assessment for benefits to county roads.

(iii) The clerk of each city and village in the county subject
to assessment for benefits to city or village streets or assessment
at large for benefits to public health.

(iv) The supervisor of each township subject to assessment at
large for benefits to public health.

(d) By certified mail, sent not less than 10 days before the
date of the hearing, to the director of the state transportation
department or his or her designee if this state is subject to
assessment at large for benefits to a state highway.

(4) After receiving evidence and testimony, the water
management board or commission, as applicable under subsection (2),
shall do both of the following:

1 (a) Determine all of the following:

2 (i) The necessity of a water management program for public
3 health, safety, or welfare.

4 (ii) If the water management program is necessary, the
5 boundaries of the water management district, unless the water
6 management district has already been established.

7 (iii) If the water management district is necessary, the public
8 corporations subject to assessment under section 563(3)(b) or (c).

9 (b) If the water management program is necessary, enter a
10 necessity order. A necessity order shall set forth the water
11 management board's or commission's determinations under subdivision
12 (a).

13 (5) Unless a water management district has already been
14 established, upon entry of a necessity order, the water management
15 district is established, subject to any appeals provided under this
16 chapter.

17 (6) If the water management board or commission finds that the
18 water management program petitioned for is not necessary, all of
19 the following apply:

20 (a) The water management board or commission, as applicable,
21 shall enter a no-necessity order dismissing the petition.

22 (b) Another such petition shall not be filed for 1 year.

23 (c) The costs of the proceedings related to the petition shall
24 be assessed as follows:

25 (i) Except as provided in subparagraph (ii), to public
26 corporations, at large based on apportionments developed at the
27 discretion of the drain commissioner for each affected county,
28 subject to approval by the water management board.

29 (ii) For a petition to establish a water management program in

1 an existing water management district, to the water management
2 district.

3 (7) Not more than 10 days after entry of a necessity order,
4 the drain commissioner for each county shall notify each
5 municipality that is liable to pay a percentage of the cost of the
6 proceedings related to the petition by reason of benefits at large
7 for public health.

8 (8) Within 10 days after entry of a necessity order, the owner
9 of any land in the proposed or established water management
10 district, the state transportation department, or any city,
11 village, or county having control of any street or road in the
12 water management district, that is aggrieved by the determination
13 of the water management board or commission may institute an action
14 in the circuit court for the county in which the real property is
15 located for a ruling whether that determination is supported by
16 substantial, material, and competent evidence.

17 (9) After a water management commission enters a necessity
18 order, any further action pursuant to the petition shall be taken
19 by the water management board.

20 Enacting section 1. This amendatory act does not take effect
21 unless Senate Bill No. ____ or House Bill No. 6318 (request no.
22 04314'21) of the 101st Legislature is enacted into law.