

THE DRAIN CODE OF 1956 (EXCERPT)
Act 40 of 1956

280.441a Consolidating and organizing 2 or more drainage districts as single drainage district within more than 1 county; signing and filing petition; land included; composition of drainage board; notice of meeting; affidavit of mailing; failure to receive notice; expense of notice; chairperson; determination by drainage board; orders.

Sec. 441a.

(1) Two or more drainage districts may be consolidated and organized as a single drainage district under this section where the proposed consolidated district lies within more than 1 county, by filing a petition in writing with the commissioner of a county having jurisdiction of land in the proposed consolidated drainage district, setting forth the reason for the proposed consolidation. The consolidation may include land not within an existing drainage district if requested in the petition. The petition shall be signed by at least 50 property owners within the proposed consolidated drainage district. If in the proposed consolidated drainage district there are less than 100 property owners, then the petition shall be signed by at least 50% of the property owners in the proposed consolidated drainage district. In place of a petition signed by property owners, a petition may be signed solely by a city or township a portion of which is located within the proposed consolidated drainage district, when authorized by its governing body, or by a combination of municipalities. Upon receipt of the petition, the commissioner shall notify the director of the department of agriculture and the commissioner of each county embracing land in the proposed consolidated drainage district. The drain commissioners of the counties and the director of the department of agriculture or a deputy designated by the director shall constitute the drainage board.

(2) The director of the department of agriculture shall call a meeting of the drainage board not less than 15 days or more than 60 days after the receipt of the notice. The meeting shall be held in the immediate locality of the proposed consolidated drainage district. Notice of the meeting shall be served personally or by registered mail, at least 10 days before the meeting on the clerk of each county, township, and city within the proposed consolidated drainage district. A notice of the meeting shall be given in the manner prescribed by Act No. 267 of the Public Acts of 1976, and shall be published twice in each county affected in a newspaper of general circulation in the county or in a newspaper of general circulation in the proposed consolidated drainage district, the first publication of which shall be at least 10 days before the meeting. The drain commissioner of each county in which land proposed to be consolidated into the proposed consolidated district is located shall also send notice of the time, date, and place of the meeting by first-class mail, at least 10 days before the date of the meeting, to each person whose name appears upon the last city or township tax assessment roll as owning land within the existing drainage districts to be consolidated, or owning land within the proposed consolidated drainage district which is not within an existing drainage district, at the address shown on the roll. If an address does not appear on the roll, a notice need not be mailed to the persons. Each drain commissioner shall make an affidavit of the mailing and shall recite in the affidavit that the persons to whom the notice was mailed constitute all of the persons to whom notice must be sent. The affidavits shall be conclusive proof that notice was mailed to each person to whom notice is required to be mailed by this section. The failure to receive notice by mail shall not constitute a jurisdictional defect invalidating a drain proceeding, if notice has been sent by first-class mail as provided in this section. All expense of notification shall be paid by the drainage district when created or consolidated.

(3) Upon convening the meeting, the director of the department of agriculture or a deputy selected by the director shall act as chairperson. The drainage board shall consider the application for the proposed consolidated drainage district, and determine the sufficiency of the signatures to the application. The drainage board shall then proceed to determine whether the proposed consolidation is conducive to public health, convenience, or welfare. After hearing the evidence, the drainage board shall make its determination as to whether the proposed consolidation is conducive to public health, convenience, or welfare. If the board finds by a majority vote of the members that the proposed consolidation is not conducive to public health, convenience, or welfare, it shall file with the chairperson an order dismissing the petition, and a further petition for consolidation shall not be entertained within 1 year after the determination. If the board by a majority vote finds that the proposed consolidation is conducive to the public health, convenience, or welfare, it shall make its order to that effect and file the order with the chairperson. Upon receipt of the order of consolidation, the chairperson shall enter an order giving the consolidated drainage district a name or number. A copy of the order shall be filed within 10 days by the director of the department of agriculture in the office of the county drain commissioner of each county in which land included in the consolidated drainage district is located.

History: Add. 1959, Act 261, Imd. Eff. Aug. 21, 1959 ;-- Am. 1963, Act 215, Imd. Eff. May 17, 1963 ;-- Am. 1963, Act 228, Eff. Sept. 6, 1963 ;-- Am. 1965, Act 138, Eff. Mar. 31, 1966 ;-- Am. 1978, Act 235, Imd. Eff. June 15, 1978

Popular Name: Act 40

