

HOUSE BILL No. 6450

September 24, 2002, Introduced by Reps. Ruth Johnson, Cassis, Bishop, Palmer, Jacobs, Gosselin and Voorhees and referred to the Committee on Agriculture and Resource Management.

A bill to amend 1956 PA 40, entitled
"The drain code of 1956,"
by amending sections 463, 467, and 468 (MCL 280.463, 280.467, and 280.468).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 463. (1) Before filing a petition under this section,
2 the legislative body of a public corporation shall first deter-
3 mine whether the drain project contemplated may necessitate the
4 levy of a special assessment, fee, or charge under section 490.
5 If the legislative body determines that a special assessment,
6 fee, or charge may be made under section 490, before filing a
7 petition under this section, the legislative body shall proceed
8 as provided in section 489a.

9 (2) If it is necessary for the public health to locate,
10 establish, and construct a county drain, a petition for that

1 purpose may be filed with the county drain commissioner signed by
2 2 or more public corporations ~~which~~ THAT will be subject to
3 assessments to pay the cost of the drain. The petition shall
4 state that it is filed pursuant to this chapter and shall
5 describe the location and route of the proposed drain suffi-
6 ciently to determine with reasonable certainty the areas to be
7 serviced by the drain.

8 (3) Not more than 20 days after the petition is filed, the
9 county drain commissioner shall notify each public corporation
10 ~~which~~ THAT may be subject to an assessment or in which ~~is~~ ARE
11 located any of the areas to be drained, as described in the peti-
12 tion, that a petition was filed.

13 (4) A certified copy of the resolution of the governing body
14 of each signer authorizing the affixing of the signature of the
15 governing body to the petition shall be attached to the
16 petition. The petition may be filed in more than 1 counterpart.
17 For a petition filed by a county, the county board of commission-
18 ers shall authorize the execution of the petition, and for a
19 petition filed by the state, the state transportation commission
20 shall authorize the execution of the petition. As provided in
21 section 423, an order of determination of the ~~water resources~~
22 ~~commission~~ DEPARTMENT OF ENVIRONMENTAL QUALITY shall also serve
23 as a petition made pursuant to this chapter.

24 Sec. 467. (1) The drainage board, at its first meeting,
25 shall consider the petition for the project and make a tentative
26 determination as to the sufficiency of the petition, ~~and~~ the
27 practicability of the proposed drain, and ~~shall further make a~~

1 ~~tentative determination of~~ the public corporations to be
2 assessed. The DRAINAGE BOARD SHALL SEND NOTICE OF THE TENTATIVE
3 DETERMINATION BY REGISTERED MAIL TO THE CLERK OR SECRETARY OF
4 EACH PUBLIC CORPORATION PROPOSED TO BE ASSESSED, EXCEPT THAT A
5 NOTICE TO THE STATE SHALL BE SENT TO THE STATE HIGHWAY DIRECTOR
6 AND A NOTICE TO A COUNTY SHALL BE SENT TO BOTH THE COUNTY CLERK
7 AND THE COUNTY ROAD COMMISSION.

8 (2) IF THE GOVERNING BODIES OF A MAJORITY OF THE PUBLIC COR-
9 PORATIONS, OTHER THAN THIS STATE, TENTATIVELY DETERMINED TO BE
10 ASSESSED FOR THE DRAIN ADOPT RESOLUTIONS APPROVING THE TENTATIVE
11 DETERMINATION, THE drainage board shall AGAIN MEET AND give a
12 name to the drain and to the drainage district, ~~. The district~~
13 WHICH shall be composed of the public corporations to be assessed
14 for the cost of the project. ~~After the~~ THE drainage board ~~has~~
15 ~~made the determination it~~ shall ALSO fix a time, date, and place
16 ~~it will meet~~ FOR A HEARING to hear objections to the proposed
17 drain and the petition for the drain, and to the matter of
18 assessing the cost of the drain to the designated public
19 corporations. Notice of the hearing shall be published twice ~~in~~
20 ~~the county by inserting the notice~~ in at least 1 newspaper pub-
21 lished in the county, designated by the drainage board, with the
22 first publication to be not less than 20 days before the time of
23 the hearing. The notice shall also be ~~sent by registered mail~~
24 ~~to the clerk or secretary of each public corporation proposed to~~
25 ~~be assessed, except that a notice to the state shall be sent to~~
26 ~~the state highway director and a notice to a county shall be sent~~
27 ~~to both the county clerk and the county road commission~~ MAILED

1 AS PROVIDED UNDER SUBSECTION (1). The mailing shall be made not
2 less than 20 days before the time of the hearing. The notice
3 shall be signed by the chairperson and proof of the publication
4 and mailing of the notice shall be filed in his or her office.
5 The drainage board may provide a form to be substantially fol-
6 lowed in the giving of the notice.

7 (3) After the hearing, the drainage board shall make a
8 determination as to the sufficiency of the petition, the practi-
9 cability of the drain, whether the drain should be constructed,
10 and if so, the public corporations to be assessed, and shall
11 issue its order accordingly. The order shall be known as the
12 final order of determination. A public corporation shall not be
13 eliminated from, or added to, those tentatively determined to be
14 assessed without a rehearing after notice.

15 Sec. 468. (1) ~~The~~ IF THE GOVERNING BODIES OF A MAJORITY
16 OF THE PUBLIC CORPORATIONS, OTHER THAN THIS STATE, TO BE ASSESSED
17 FOR THE DRAIN ADOPT RESOLUTIONS APPROVING THE FINAL ORDER OF
18 DETERMINATION, THE drainage board shall secure from a competent
19 engineer, plans, specifications, and an estimate of cost of the
20 proposed drain. ~~, which, when approved and adopted by the board,~~
21 ~~shall be filed with the chairman thereof.~~ In approving the plans
22 and specifications, the drainage board ~~shall not be~~ IS NOT
23 limited to the route of the drain described in the petition or
24 the final order of determination. AFTER THE PLANS AND SPECIFICA-
25 TIONS ARE APPROVED BY THE DRAINAGE BOARD, THE PLANS AND SPECIFI-
26 CATIONS SHALL BE FILED WITH THE CHAIRPERSON OF THE DRAINAGE
27 BOARD.

1 (2) The drainage board shall tentatively establish the
2 percentage of the cost of the drain or of the several sections or
3 parts thereof ~~which~~ THAT is to be borne by each public
4 corporation. In making the apportionments, ~~hereunder, there~~
5 ~~shall be taken into consideration~~ THE DRAINAGE BOARD SHALL
6 CONSIDER the benefits to accrue to each public corporation and
7 ~~also~~ the extent to which each public corporation contributes to
8 the conditions ~~which~~ THAT make the drain necessary.
9 Apportionments against the state shall be based upon the benefits
10 and contributions as related solely to the drainage of state
11 highways. ~~, and those~~ APPORTIONMENTS against the county shall
12 be based UPON BENEFITS AND CONTRIBUTIONS as related solely to the
13 drainage of its county highways. Before a tentative apportion-
14 ment ~~shall be~~ IS made, the drainage board shall designate the
15 area to be served by the drain project, which may or may not
16 include all of the area in a public corporation to be assessed
17 and may divide the drain into sections or parts for purposes of
18 apportionment or construction. ~~Nothing herein contained shall~~
19 ~~prohibit the county from assuming any~~ THE COUNTY MAY ASSUME AN
20 additional cost of the drain if 2/3 of the members elect of the
21 county board of commissioners vote in favor thereof.

22 (3) The apportionment ~~shall only apply~~ APPLIES ONLY to the
23 proposed drain. The apportionments for any extensions or other
24 work subsequently performed under section 482 shall be reestab-
25 lished by the board. ~~when~~

1 (4) IF chapter 25 is employed in the apportionment of costs,
2 the above proceedings shall be altered and supplemented as
3 provided in chapter 25.