

HOUSE BILL No. 4552

April 9, 2003, Introduced by Reps. Howell, Meyer, Ehardt, Emmons and Wenke 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 1, 2, 3, 6, 8, 10, 12, 21, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 51, 52, 53, 54, 101, 102, 103, 104, 105, 106, 151, 152, 153, 154, 155, 156, 157, 158, 161, 191, 192, 199, 200, 221, 222, 223, 241, 242, 243, 244, 245, 247, 261, 262, 263, 265, 266, 267, 269, 270, 273, 274, 275, 276, 277, 278, 279, 280, 282, 283, 301, 302, 303, 304, 306, 307, 322, 322b, 323, 324, 326, 327, 328, 391, 392, 393, 395, 421, 422, 423, 425, 429, 430, 431, 433, 463, 464, 465, 466, 467, 468, 469, 472, 473, 474, 476, 478, 483, 490, 491, 499, 513, 515, 517, 518, 519, 520, 521, 524, 525, 532, 540, 541, 601, 602, 622, 626, and 627 (MCL 280.1, 280.2, 280.3, 280.6, 280.8, 280.10, 280.12, 280.21, 280.23, 280.24, 280.25, 280.26, 280.27, 280.28, 280.29, 280.30, 280.31, 280.32, 280.33, 280.51, 280.52, 280.53, 280.54, 280.101, 280.102,

280.103, 280.104, 280.105, 280.106, 280.151, 280.152, 280.153, 280.154, 280.155, 280.156, 280.157, 280.158, 280.161, 280.191, 280.192, 280.199, 280.200, 280.221, 280.222, 280.223, 280.241, 280.242, 280.243, 280.244, 280.245, 280.247, 280.261, 280.262, 280.263, 280.265, 280.266, 280.267, 280.269, 280.270, 280.273, 280.274, 280.275, 280.276, 280.277, 280.278, 280.279, 280.280, 280.282, 280.283, 280.301, 280.302, 280.303, 280.304, 280.306, 280.307, 280.322, 280.322b, 280.323, 280.324, 280.326, 280.327, 280.328, 280.391, 280.392, 280.393, 280.395, 280.421, 280.422, 280.423, 280.425, 280.429, 280.430, 280.431, 280.433, 280.463, 280.464, 280.465, 280.466, 280.467, 280.468, 280.469, 280.472, 280.473, 280.474, 280.476, 280.478, 280.483, 280.490, 280.491, 280.499, 280.513, 280.515, 280.517, 280.518, 280.519, 280.520, 280.521, 280.524, 280.525, 280.532, 280.540, 280.541, 280.601, 280.602, 280.622, 280.626, and 280.627), sections 21 and 464 as amended by 1989 PA 134, section 33 as amended by 1982 PA 356, section 223 as amended by 1989 PA 61, sections 275, 278, and 280 as amended by 2002 PA 406, section 282 as amended by 1984 PA 80, sections 283 and 499 as amended by 1989 PA 149, section 323 as amended by 2002 PA 353, section 423 as amended by 1996 PA 552, and section 433 as amended by 1982 PA 449, and by adding sections 7, 7a, 7b, 7c, 13, 14, 34, 35, 36, 53a, 55, 56, 57, 58, 59, 60, 61, 62, 63, 103a, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 201, 275a, 277a, 329, 330, 467a, 467b, 474a, 500, 519a, and 603; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1

CHAPTER 1 —

~~DRAINS.~~ **GENERAL PROVISIONS**

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Sec. 1. This act shall be known and may be cited as ~~—~~ the "drain code". ~~of 1956".~~

Sec. 2. ~~Drains including branches may be located, established, constructed and maintained, and existing drains, creeks, rivers and watercourses and their branches, or tributaries whether located, established and constructed by a county drain commissioner or drainage board or by a city, village or township, may be cleaned out, straightened, widened, deepened, extended, consolidated, relocated, tiled, connected and relocated along a highway, or there may be provided for the same structures or mechanical devices that will properly purify or improve the flow of the drain or pumping equipment necessary to assist or relieve the flow of the drain, or 1 or more branches may be added thereto, by petition under the provisions of this act, whenever the same shall be conducive to the public health, convenience and welfare.~~ **As used in this act:**

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

(b) "Benefit" or "benefits" means advantages resulting from a project to public corporations, the residents of this state, and property within this state. Benefit may include advantages that result from elimination of pollution and elimination of flood damage, or elimination of water conditions that jeopardize the public health or safety; increase or decrease of the value or use of lands and property resulting from the project; and the

1 positive or negative consequences of the project for individual
2 parcels of land which may include, but need not be limited to, 1
3 or more of the following:

4 (i) Increase or decrease in natural resource values.

5 (ii) Increase or decrease in flooding.

6 (iii) The amount and quality of runoff from land entering a
7 drain as determined by applicable factors including, but not
8 limited to, the following:

9 (A) The depth, character, and quality of surface and
10 subsurface soils of the land.

11 (B) The amount of impervious surface on the land.

12 (C) Whether the act or omission of a person increases or
13 decreases the need for the project.

14 (D) Whether the act or omission of a person improves or
15 degrades the water quality.

16 (c) "County drain" means a drain that provides drainage or
17 serves lands in only 1 county and has lands in only 1 county that
18 may be subject to assessment.

19 (d) "County drain commissioner", "drain commissioner", or,
20 unless the context clearly indicates otherwise, "commissioner"
21 means 1 of the following:

22 (i) The elected county drain commissioner or the person or
23 persons designated to perform the duties of the elected county
24 drain commissioner as provided by this act.

25 (ii) A public works commissioner described in section 21.

26 (iii) The official or body lawfully designated by charter to
27 exercise the powers and perform the duties of a county drain

1 commissioner in a county organized under 1966 PA 293, MCL 45.501
2 to 45.521.

3 (e) "Director of agriculture" means the director of the
4 department of agriculture or his or her designee, subject to
5 section 13.

6 (f) "Director of transportation" means the director of the
7 state transportation department or his or her designee, subject
8 to section 13.

9 (g) "Drain" means any of the following if established
10 pursuant to this act:

11 (i) The main stream or trunk or a tributary or branch of a
12 creek or river.

13 (ii) A watercourse or ditch, either open or closed.

14 (iii) A covered drain.

15 (iv) A sanitary or a combined sanitary and storm sewer or
16 storm sewer or conduit.

17 (v) A structure or mechanical device to purify or improve the
18 flow of a drain.

19 (vi) Pumping equipment necessary to assist or relieve the
20 flow of a drain.

21 (vii) Any dam, levee, dike, or barrier for drainage or to
22 purify or improve the flow of a drain.

23 (viii) Storm water storage, detention, or retention
24 facilities.

25 (h) "Drain" does not include any dam and connected flowage
26 rights used for the generation of power by a public utility
27 subject to regulation by the public service commission.

1 (i) "Drainage district" means the area described in the final
2 order of determination or, for a proposed drain for which a final
3 order of determination has not been made, the area that would be
4 drained by the proposed drain. Once established, a drainage
5 district is a body corporate with power to contract, to sue and
6 to be sued, and to hold, manage, and dispose of real and personal
7 property, in addition to any other powers conferred upon it by
8 law.

9 (j) "Engineer" means a professional engineer licensed under
10 article 20 of the occupational code, 1980 PA 299, MCL 339.2001 to
11 339.2014.

12 (k) "Improvement" means and "improve" refers to any of the
13 following with respect to the drain if the drain or that portion
14 of the drain has actually been constructed or established:

15 (i) Relocating, widening, deepening, straightening, tiling,
16 extending, or adding branches to a drain.

17 (ii) Providing dams, levees, dikes, barriers, structures, or
18 mechanical devices that will properly purify, control, or improve
19 the flow of a drain.

20 (iii) Providing pumping equipment or constructing relief
21 drains necessary to assist or relieve the flow of a drain.

22 (l) "Intercounty drain" means a drain that provides drainage
23 or serves lands in more than 1 county that may be subject to
24 assessment.

25 (m) "Landowner" means a person holding the most recent fee
26 title or a land contract vendee's interest in land as shown by
27 the records of the county register of deeds. If there is more

1 than 1 person with a fee interest or land contract vendee's
2 interest in land, each such person is a separate landowner, but
3 only 1 such person shall sign a petition under this act.

4 (n) "Maintenance" and "maintain" refer to any of the
5 following if within the capacity of a drain as previously
6 established or constructed:

7 (i) Maintaining a drain or drains in working order to
8 continue a normal flow of water, including but not limited to the
9 maintenance, repair, or replacement of and utility service for
10 pumping stations, sewage treatment facilities, or mechanical
11 devices.

12 (ii) Cleaning out a drain or drains.

13 (iii) Keeping a drain or drains free from rubbish, debris,
14 siltation, or obstructions.

15 (iv) Repairing a portion or all of a tile, drain, or drains
16 to continue the normal flow of water.

17 (v) Restoration of previously established depths, bottom
18 widths, and grade based on records maintained at the office of
19 the drain commissioner.

20 (vi) Erosion repair and control.

21 (vii) Erosion and sedimentation control.

22 (viii) Maintenance, repair, or replacement of levees, dikes,
23 dams, and retention and detention basins.

24 (ix) Maintenance, repair, or replacement of structures, such
25 as bridges, culverts, or fords, that have diminished the capacity
26 of the drain or that are or may become unstable or unsafe.

27 (x) Removal and disposal of contaminated material.

1 (xi) Removal of obstructions downstream for the purpose of
2 restoring adequate outlet for lands within an existing drainage
3 district or districts, subject to section 422.

4 (xii) Activities associated with maintenance described in
5 subparagraphs (i) through (xi).

6 (xiii) Activity under part 91 of the natural resources and
7 environmental protection act, 1994 PA 451, MCL 324.9101 to
8 324.9123a.

9 (o) "Municipality" means a county, city, village, or
10 township, or an authority with power to levy a tax created by any
11 of these.

12 (p) "Person" means an individual, partnership, corporation,
13 association, governmental entity, or other legal entity.

14 (q) "Project" means work undertaken as a result of petition
15 and an order of necessity or undertaken as maintenance on a drain
16 pursuant to section 199.

17 (r) "Public corporation" means a state department or agency,
18 including, but not limited to, a college or university described
19 in section 4, 5, or 6 of article VIII of the state constitution
20 of 1963; an authority created by or pursuant to state law; a
21 junior college or community college established pursuant to
22 section 7 of article VIII of the state constitution of 1963; a
23 school district; or a municipality. However, in chapters 20 and
24 21, public corporation means a city, village, or township; with
25 respect to a state trunk line highway, this state; or with
26 respect to a county road, the county.

27 (s) "Roadway" means a state trunk line highway, county road,

1 city or village street, or a road under the jurisdiction of a
2 township.

3 (t) "Roadway authority" means, with respect to a state trunk
4 line highway, the state transportation commission or the director
5 of transportation; with respect to a county road, the board of
6 county road commissioners, the county executive, or other agency
7 acting as the county road commission; with respect to a city or
8 village street, the city or village; and with respect to a road
9 under township jurisdiction, the township.

10 (u) "Surveyor" means a professional surveyor licensed under
11 article 20 of the occupational code, 1980 PA 299, MCL 339.2001 to
12 339.2014.

13 Sec. 3. ~~The word "drain", whenever used in this act, shall~~
14 ~~include the main stream or trunk and all tributaries or branches~~
15 ~~of any creek or river, any watercourse or ditch, either open or~~
16 ~~closed, any covered drain, any sanitary or any combined sanitary~~
17 ~~and storm sewer or storm sewer or conduit composed of tile,~~
18 ~~brick, concrete, or other material, any structures or mechanical~~
19 ~~devices, that will properly purify the flow of such drains, any~~
20 ~~pumping equipment necessary to assist or relieve the flow of such~~
21 ~~drains and any levee, dike, barrier, or a combination of any or~~
22 ~~all of same constructed, or proposed to be constructed, for the~~
23 ~~purpose of drainage or for the purification of the flow of such~~
24 ~~drains, but shall not include any dam and flowage rights used in~~
25 ~~connection therewith which is used for the generation of power by~~
26 ~~a public utility subject to regulation by the public service~~
27 ~~commission.~~

1 (1) A drain may be established, constructed, maintained, and
2 improved consistent with the provisions of this act.

3 (2) Each commissioner, each drainage board, and the director
4 of agriculture shall, as part of any drain construction or
5 improvement project, do all of the following:

6 (a) Protect water quality, headwaters, main branches, and
7 tributaries and protect the hydraulic capacity of floodplains and
8 floodways in new drains, improvements, and maintenance projects.

9 (b) Avoid, minimize, and mitigate impacts of new drains,
10 improvements, and maintenance on land or interests in land,
11 including, but not limited to, easements, owned for preservation
12 or conservation purposes by a public corporation or private
13 nonprofit organization.

14 (c) Incorporate flow patterns into criteria for drain design
15 and storm water management.

16 (d) Make on-site retention and detention of storm water a
17 priority.

18 (e) Utilize applicable management practices adopted by the
19 commission of agriculture in new drains, improvements, and
20 maintenance projects. The commission of agriculture shall adopt
21 management practices on or before the expiration of 2 years after
22 the effective date of the 2003 amendatory act that amended this
23 section. The commission of agriculture shall adopt and may
24 revise the management practices after doing both of the
25 following:

26 (i) Consulting with the department of natural resources, the
27 department of environmental quality, public corporations, and

1 interested drain commissioners.

2 (ii) Holding at least 1 appropriately noticed public hearing
3 on the proposed management practices or revisions.

4 (f) Evaluate the impacts of the project on natural resources
5 and identify appropriate measures to minimize adverse impacts.

6 (g) Obtain any permits required under the natural resources
7 and environmental protection act, 1994 PA 451, MCL 324.101 to
8 324.90106.

9 Sec. 6. All ~~established~~ drains regularly located and
10 established ~~in pursuance of~~ **under** law ~~existing~~ **in effect** at
11 the time of ~~location and~~ establishment and visibly in
12 existence, ~~which were established as drains, and~~ **or** all drains
13 visibly in existence in written drain easements, ~~or~~
14 rights-of-way, **orders, or other records, such as maps,**
15 **engineering plans, survey or construction records, or**
16 **apportionment, assessment, or procedural records,** on file in the
17 office of the commissioner, ~~shall be deemed~~ **are** public drains
18 ~~located~~ **and shall be presumed to have been established under**
19 **law. The easements and the drains shall be presumed to have been**
20 **located** in public easements or rights-of-way which are valid and
21 binding against any ~~owners of any~~ **persons making a claim on the**
22 **basis of ownership of a** property interest who became ~~or~~
23 ~~hereafter become such~~ owners after the ~~location and~~
24 establishment of the drain or the existence of the drain became
25 visible or the written drain easement, ~~or~~ right-of-way, **or**
26 **order** was executed. ~~— and the~~ **The** commissioner or drainage
27 board may use, enter upon, and preserve ~~such~~ **the** easement or

1 right-of-way for maintenance **and improvement** of the ~~visible~~
2 drain and any other lawful activity with respect to the ~~same~~
3 **drain** not requiring a larger or different easement or
4 right-of-way and may exercise any rights granted in the written
5 easement, ~~or~~ right-of-way, **or order** on file in the office of
6 the **drain** commissioner. Easements or rights-of-way ~~—~~ or
7 portions of easements or rights-of-way ~~—~~ no longer necessary
8 for drainage purposes may be conveyed or released to the ~~fee~~
9 ~~owners~~ **landowners** by the commissioner or drainage board on
10 behalf of the drainage district. ~~The drain commissioner or~~
11 ~~drainage board shall give at least 30 days' notice of the~~
12 ~~intention to release the excess easements by publishing a notice~~
13 ~~in a newspaper of general circulation in the county or a~~
14 ~~newspaper of general circulation where the drainage district~~
15 ~~boundaries are located. This notice shall give a general~~
16 ~~description of the excess easements to be released and the date~~
17 ~~any taxpayers may appear to protest said release. After said~~
18 ~~date if no protests are received, the drain commissioner or~~
19 ~~drainage board may release said excess easements or portions~~
20 ~~thereof not necessary for drainage purposes.~~

21 **Sec. 7. (1) For the purposes of this act, a drain**
22 **commissioner or drainage board may acquire property or a property**
23 **interest, including, but not limited to, land, easements, and**
24 **rights of way. The property or a property interest may be**
25 **acquired by gift, grant, dedication, purchase, or condemnation**
26 **under the uniform condemnation procedures act, 1980 PA 87, MCL**
27 **213.51 to 213.75.**

1 (2) A release of right-of-way negotiated by the drain
2 commissioner after the effective date of the 2003 amendatory act
3 that added this section shall describe the land to be granted or
4 conveyed including ground necessary for the deposit of drainage
5 excavations. If a portion of a drain is located within a
6 roadway, or public place, then a resolution of the roadway
7 authority or the governing body having jurisdiction over the
8 public place, respectively, granting leave to construct the drain
9 therein and designating the place to be traversed by the drain,
10 is a sufficient release of the right-of-way, under this act.

11 (3) A county drain or intercounty drain may be laid within or
12 across the right-of-way of a roadway if the drain commissioner or
13 drainage board, respectively, obtains a permit from the roadway
14 authority.

15 (4) If the federal government is participating in a project
16 under this act, property or a property interest for the project
17 may be acquired by the federal government under applicable
18 federal law. Except as provided in section 431, the cost for the
19 federal government to acquire the property or a property interest
20 shall be considered a part of the cost of the project as if the
21 property or a property interest were acquired under subsection
22 (1).

23 Sec. 7a. (1) If a drain commissioner or drainage board
24 acquires property or an interest in property after the effective
25 date of the amendatory act that amended section 1 in connection
26 with any proposed drain or drains, the drain commissioner or
27 drainage board shall record the property or interest in property

1 in the office of the register of deeds.

2 (2) Property or an interest in property acquired at any time
3 in connection with an existing drain shall be recorded in the
4 office of the register of deeds when the drain is maintained,
5 improved, or consolidated. Provided, however, the property or
6 interest in property for all established drains under the
7 jurisdiction and control of the drain commissioner shall be
8 recorded in the office of the register of deeds not later than 10
9 years after the effective date of the amendatory act that added
10 this section. If a drain is consolidated, any easements granted
11 to the separate drainage districts shall be considered to be
12 assigned to the consolidated drainage district with full force
13 and effect of law as originally granted.

14 (3) The drain commissioner may contract for services in order
15 to accomplish the recording required under this section.

16 (4) The cost of recording and contracted services under this
17 section shall be paid by the drainage district.

18 Sec. 7b. A certificate, report, or determination authorized
19 or required by this act, or the record thereof, or a certified
20 copy of any such certificate, report, or determination or record,
21 is prima facie evidence of the facts recited therein, of the
22 title to the property described or referred to, and of the right
23 of the drainage board or commissioner to take the property for
24 drain purposes.

25 Sec. 7c. The owner of any land over, through, or across
26 which a drainage district has acquired an easement or
27 right-of-way for the construction and maintenance of an open or

1 covered drain shall not use the land within the easement or
2 right-of-way in a manner that will interfere with the operation
3 of the drain, that will increase the cost to the district of
4 performing work on the drain, or that is otherwise inconsistent
5 with the easement or right-of-way of the district. A landowner
6 who violates this section is subject to section 421.

7 Sec. 8. (1) The business ~~which~~ performed by and any
8 hearing held by a board or ~~commission~~ committee created
9 pursuant to this act ~~, or a body of special commissioners~~
10 ~~appointed pursuant to this act, may perform~~ shall be conducted
11 at a public meeting of the board ~~, commission, or body of~~
12 ~~special commissioners~~ or committee held in compliance with ~~Act~~
13 ~~No. 267 of the Public Acts of 1976, being sections 15.261 to~~
14 ~~15.275 of the Michigan Compiled Laws~~ the open meetings act, 1976
15 PA 267, MCL 15.261 to 15.275. Public notice of the time, date,
16 and place of the meeting shall be given in the manner required by
17 ~~Act No. 267 of the Public Acts of 1976~~ the open meetings act,
18 1976 PA 267, MCL 15.261 to 15.275.

19 (2) In addition to the requirements of subsection (1) and
20 except as otherwise provided in this act, notice of public
21 hearings for the board of determination, day of review, or board
22 of review; hearings of practicability and necessity of the
23 drainage board, the receiving of bids, and the review of
24 apportionments; notice of an order under section 151 changing the
25 name or number of a drain or the boundaries of a drainage
26 district; and notice of an order under section 199(1) for
27 inspection of a drain at least every 3 years shall be sent by

1 first-class mail to all landowners other than public corporations
2 subject to an assessment in the drainage district or proposed
3 drainage district at the address in the last city, village, or
4 township tax assessment roll. If a public corporation other than
5 a state department may be subject to an assessment for the drain,
6 notice shall be personally delivered or sent by first-class mail
7 to the governing body of the public corporation. If a state
8 department may be subject to an assessment for the drain, notice
9 shall be personally delivered or sent by first-class mail to the
10 head of the state department. However, if the head of the state
11 department is a commission, notice shall be personally delivered
12 or sent by first-class mail to the principal executive officer of
13 the state department. Notice shall also be personally delivered
14 or sent by first-class mail to the director of transportation,
15 the director of the department of natural resources, the director
16 of the department of environmental quality, and the board of
17 county road commissioners. Notice of a change in route of the
18 drain after the first order of determination shall be delivered
19 in the manner provided in this subsection but need only be
20 delivered to landowners whose lands will be affected as a result
21 of the change of route. In addition, notice of a hearing of a
22 drainage board under section 467, 467b, or 519a or of an
23 augmented drainage board under section 519 shall also be sent by
24 first-class mail to all landowners whose land may be traversed or
25 bordered by the proposed drain. The notice shall be mailed as
26 follows:

27 (a) For a hearing under section 467 or 469, not less than 21

1 days before the date of the hearing.

2 (b) For any other proceeding, not less than 14 days before
3 the date of the proceeding.

4 (c) For a change in route of the drain after the first order
5 of determination, not more than 14 days after the approval of the
6 route.

7 (d) For an order under section 151 changing the name or
8 number of a drain or the boundaries of a drainage district or an
9 order under section 199(2), not more than 14 days after entry of
10 the order.

11 (3) The person giving notice shall make an affidavit of the
12 mailing and shall recite in the affidavit that the persons to
13 whom the notice was mailed constitute all of the persons whose
14 names and addresses appear upon the tax rolls as owning land
15 within the drainage district or proposed drainage district and
16 who are entitled to notice under this section. The affidavit of
17 mailing is conclusive proof that notice of a public hearing
18 described in subsection (2) was mailed according to this act.
19 Failure to receive a notice by mail is not a jurisdictional
20 defect invalidating a drain proceeding or special assessment if
21 notice has been sent as provided in this act.

22 (4) The notice described in subsection (2) shall be posted in
23 the office of each drain commissioner involved by the date by
24 which publication is first required.

25 (5) Notice of a public hearing described in subsection (2)
26 shall be published in a newspaper of general circulation in the
27 drainage district. The notice shall be published at least once,

1 not less than 14 days before the date of the proceeding.
2 However, for a hearing under section 467 or 469, notice shall be
3 published at least twice, with the first publication not less
4 than 21 days before the date of the hearing.

5 (6) Notice of a public hearing described in subsection (2)
6 shall be published in a newspaper of general circulation in the
7 drainage district. The notice of a hearing described in
8 subsection (2) shall set forth the time, date, place, and purpose
9 of the meeting. If the hearing is for the board of
10 determination, day of review, or board of review, the notice
11 shall include the name, address, and telephone number of the
12 drain commissioner in the county where the proceeding will take
13 place. If the hearing is a hearing of practicability and
14 necessity of the drainage board, the notice shall include the
15 name, address, and telephone number of each of the members of the
16 drainage board. The notice shall explain the consequence of any
17 of the decisions made at the hearing and shall specify any appeal
18 period for the action taken. If the hearing is a hearing of
19 necessity of the board of determination or drainage board, the
20 notice shall also set forth all of the following:

- 21 (a) The relief requested by the petition.
22 (b) The reasons for relief as presented in the petition.
23 (c) That there is available for inspection at the drain
24 commissioner's office a copy of the preliminary analysis
25 including a description of the drainage district, a recommended
26 route and course for the drain, a recommended type of
27 construction for the drain, and an estimate of the cost of the

1 drain. This subdivision does not apply to a hearing of necessity
2 under chapter 20 or 21.

3 (7) ~~-(2)-~~ A writing prepared, owned, used, in the possession
4 of, or retained by a board, **committee**, commission, or advisory
5 committee created pursuant to this act, or a commissioner
6 appointed pursuant to this act, in the performance of an official
7 function shall be made available to the public in compliance with
8 ~~Act No. 442 of the Public Acts of 1976, being sections 15.231 to~~
9 ~~15.246 of the Michigan Compiled Laws~~ **the freedom of information**
10 **act, 1976 PA 442, MCL 15.231 to 15.246.**

11 Sec. 10. Drains may be laid or extended into or along or
12 from any lake or other body of water surrounded wholly or in part
13 by a swamp, marsh or other low lands for the general purpose of
14 drainage contemplated by this act, but not so as to impair the
15 navigation of any navigable river, **subject to any permit required**
16 **under the natural resources and environmental protection act,**
17 **1994 PA 451, MCL 324.101 to 324.90106.**

18 ~~Any meeting called pursuant to the provisions of this act,~~
19 ~~unless otherwise provided, may be adjourned from time to time by~~
20 ~~public announcement thereof and no advertisement of the time of~~
21 ~~said adjournment shall be required.~~

22 The commissioner shall have jurisdiction over all established
23 county drains within his **or her** county, heretofore established
24 and now in the process of being established except that in the
25 case of a drain located or to be located entirely within a single
26 city or village, such jurisdiction shall be consented to by
27 resolution of the governing body of such city or village.

1 ~~If any drainage project lies entirely within the limits of a~~
2 ~~municipality less than a county, such municipality, by its~~
3 ~~governing body, shall have the power to pledge the full faith and~~
4 ~~credit of the municipality for the payment of bonds or drain~~
5 ~~orders issued in connection with such project, and if a~~
6 ~~deficiency exists in the drain fund or sinking fund for said~~
7 ~~drain 1 year after the last installment of the deficiency~~
8 ~~assessment provided for in section 280 of this act, shall have~~
9 ~~become delinquent, such municipality shall forthwith advance to~~
10 ~~the county drain fund the amount of such deficiency and~~
11 ~~thereafter all receipts of such drain fund from the sale of~~
12 ~~delinquent tax lands, which had been assessed for said drain,~~
13 ~~shall be paid to the municipality within 90 days after receipt by~~
14 ~~the county treasurer.~~

15 Sec. 12. Except as provided in section 8, ~~when~~ **if** a time
16 is specified in this act in which the drain commissioner or a
17 drainage board shall take a specified administrative action or a
18 procedural step, the specification of time ~~shall be considered~~
19 **is** directory and not mandatory, and failure to take the action or
20 step within the time specified ~~shall~~ **does** not affect the
21 legality and validity of a drain proceeding. ~~Where~~ **If** the
22 specification of time relates to the giving of notice, the filing
23 of objections, the taking of an appeal, the commencement of an
24 action in a court, the taking of an action or step in the
25 assessment, levy, or collection of drain assessments ~~, taxes~~ or
26 other charges, or to a requirement of due process, the
27 specification of time ~~shall be considered~~ **is** mandatory if so

1 provided in this act.

2 Sec. 13. (1) The director of agriculture may designate an
3 individual to act on his or her behalf with respect to the
4 exercise of powers and the performance of duties under this act.
5 If a deputy or assistant acts in the capacity of the director of
6 agriculture under this act, he or she shall be considered to have
7 been properly designated by the director of agriculture. Any
8 official proceedings may be signed by the designee in his or her
9 own name. The signature of the designee shall be followed by his
10 or her official title. If an individual is designated by the
11 director of agriculture to act in his or her stead in connection
12 with all the proceedings as to any project, then any notice
13 required to be served upon or mailed to the director of
14 agriculture may be served upon or mailed to the designee.

15 (2) Expenses incurred by the director of agriculture under
16 this act shall be assumed by the department of agriculture.

17 (3) The director of transportation may designate an employee
18 of the state transportation department to act on his or her
19 behalf with respect to the exercise of powers and the performance
20 of duties under this act. If an employee of the state
21 transportation department acts in the capacity of the director of
22 transportation under this act, the employee shall be considered
23 to have been properly designated by the director of
24 transportation. Any official proceedings may be signed by the
25 designee in his or her own name. The signature of the designee
26 shall be followed by his or her official title. Any notice
27 required to be served upon or mailed to the director of

1 transportation shall be served upon or mailed to the designee.

2 Sec. 14. (1) For a public corporation other than a state
3 department to be a petitioner under this act, the petition shall
4 be authorized by resolution of the governing body and signed on
5 behalf of the public corporation by an officer designated by the
6 governing body. A certified copy of the resolution shall be
7 attached to the petition.

8 (2) For a state department to be a petitioner under this act,
9 the petition shall be signed on behalf of the state department by
10 the head of the state department. However, if the head of the
11 state department is a commission, the petition shall be signed by
12 the principal executive officer of the state department.

13 CHAPTER 2 —

14 COUNTY DRAIN COMMISSIONER —

15 Sec. 21. (1) ~~At~~ **Subject to this section**, at the general
16 election to be held in November ~~—, 1976—~~ 2000, and each fourth
17 year after November ~~—, 1976—~~ 2000, a county drain commissioner
18 shall be elected in each county having a drain commissioner by
19 the qualified electors of the county. The term of office of
20 ~~the~~ a commissioner shall begin on the January 1 following the
21 drain commissioner's election and continue for a period of 4
22 years and until his or her successor is elected and qualified,
23 whichever occurs earlier.

24 (2) As determined by the county board of commissioners, the
25 county drain commissioner shall be covered by a blanket bond or,
26 before entering upon the duties of office, shall execute and file
27 with the county clerk a bond to the people of the state in the

1 penal sum of ~~-\$5,000.00-~~ **\$100,000.00**, issued by a surety company
2 licensed to do business in this state, conditioned upon the
3 faithful discharge of the duties of the office. The county board
4 of commissioners may fix the individual bond to be required of
5 the commissioner at a different amount if, in its judgment, that
6 is desirable.

7 ~~(3) The county board of commissioners of a county having a~~
8 ~~population of less than 12,000, by resolution of a 2/3 vote of~~
9 ~~the members elect, may abolish the office of county drain~~
10 ~~commissioner and transfer the powers and duties of the office to~~
11 ~~the board of county road commissioners.~~

12 **(3) —(4)—** If a county establishes a department of public
13 works pursuant to ~~Act No. 185 of the Public Acts of 1957, as~~
14 ~~amended, being sections 123.731 to 123.786 of the Michigan~~
15 ~~Compiled Laws— 1957 PA 185, MCL 123.731 to 123.786, or a public~~
16 improvement agency with the drain commissioner designated as the
17 county agent pursuant to the county public improvement act of
18 1939, ~~Act No. 342 of the Public Acts of 1939, as amended, being~~
19 ~~sections 46.171 to 46.188 of the Michigan Compiled Laws— 1939 PA~~
20 **342, MCL 46.171 to 46.188**, the county board of commissioners, by
21 resolution of a 2/3 vote of the members elected and serving, may
22 combine the powers, duties, and functions set forth in ~~Act~~
23 ~~No. 185 of the Public Acts of 1957, as amended, Act No. 342 of~~
24 ~~the Public Acts of 1939, as amended— 1957 PA 185, MCL 123.731 to~~
25 **123.786, the county public improvement act of 1939, 1939 PA 342,**
26 **MCL 46.171 to 46.188**, and this act into 1 county department
27 headed by a public works commissioner. The public works

1 commissioner shall be elected in the same manner and for the same
2 term as a drain commissioner. ~~and shall carry out the powers and~~
3 ~~duties of a drain commissioner.~~

4 (4) ~~-(5)-~~ A resolution provided for in subsection ~~-(4)-~~ (3)
5 may not be adopted unless the county board of commissioners has
6 first held at least 1 ~~generally publicized~~ public hearing on
7 the resolution. **Notice of the hearing shall be published as**
8 **provided in section 8(3).**

9 (5) ~~-(6)-~~ Not less than 3 years after a county establishes
10 the office of public works commissioner pursuant to subsections
11 ~~-(4)-~~ (3) and ~~-(5)-~~ (4), or a public improvement agency, the
12 county board of commissioners, by resolution approved by a 2/3
13 vote of the members elected and serving, may abolish the office
14 of public works commissioner not less than 6 months before the
15 next primary election for that office. The office of public
16 works commissioner shall be abolished in the county effective 180
17 days after a resolution is adopted pursuant to this subsection.
18 The office shall then be referred to as the drain commissioner
19 and the person in office at the time a resolution of abolishment
20 is passed shall fulfill the remainder of the term of office until
21 the next general election.

22 (6) ~~-(7)-~~ A **In a** county that is organized under ~~Act No. 293~~
23 ~~of the Public Acts of 1966, being sections 45.501 to 45.521 of~~
24 ~~the Michigan Compiled Laws 1966 PA 293, MCL 45.501 to 45.521,~~
25 whose charter prescribes an elected county executive, and which
26 county has a population of more than 2,000,000 at the time the
27 charter is adopted, ~~shall be governed by section 21a in place of~~

1 ~~this section~~ the powers and duties of the drain commissioner,
 2 under this act, shall be performed by a person or persons
 3 designated under the county's charter.

4 Sec. 23. The commissioner shall have jurisdiction over all
 5 county drains within ~~his~~ the county, including those
 6 ~~heretofore established and now~~ in the process of ~~construction~~
 7 **being established or constructed.** Drains extending into more
 8 than 1 county ~~—~~ or affecting lands in more than 1 county ~~—~~
 9 **are under the jurisdiction of the drainage board and** shall be
 10 established and constructed in accordance with the provisions of
 11 this act regulating the establishment and construction of drains
 12 traversing more than 1 county or affecting lands in more than 1
 13 county. ~~Nothing in this act shall be construed as depriving a~~
 14 **The drain commissioner of a county is not deprived** of
 15 jurisdiction ~~or as making any drain~~ **over a drain and the drain**
 16 **does not become** an intercounty drain, merely because ~~a~~ the
 17 drain extends into another county for the purpose of securing a
 18 proper outlet and not for the purpose of draining any lands in
 19 the other county, ~~—; Provided, such~~ **if the** extension is
 20 approved by the drain commissioners and **is approved by the county**
 21 board of ~~supervisors~~ **commissioners** of each affected county
 22 **after a public hearing of the county board of commissioners**
 23 **noticed and conducted in the manner provided by law for meetings**
 24 **of the county board of commissioners.** The portion of ~~any such~~
 25 **the** drain extending into another county shall not be considered
 26 in determining the number of signers required ~~to~~ **for** a
 27 petition. ~~to locate, establish and construct.~~

1 Sec. 24. (1) The county board of commissioners may employ
2 an engineer who shall perform under this act the services
3 required to be performed by an engineer or surveyor as may be
4 directed by the drain commissioner.

5 (2) A commissioner may appoint a deputy or deputies ~~—, if the~~
6 ~~county board of commissioners approves,~~ and may revoke the
7 appointment at pleasure. The appointment shall be made in
8 writing and filed with the clerk of the county. **To the extent**
9 **authorized by the drain commissioner, a deputy may execute the**
10 **powers and duties of a drain commissioner under this act.** If the
11 commissioner is unable to execute the duties of office, the
12 deputy or deputies shall execute or assist in the execution of
13 the duties of the county drain commissioner. ~~—assigned by the~~
14 ~~county drain commissioner. As determined by the county board of~~
15 ~~commissioners, the deputy or deputies, either shall be covered by~~
16 ~~a blanket bond or shall file a bond with and to be approved by~~
17 ~~the commissioner in a sum not to exceed \$5,000.00, conditioned~~
18 ~~upon the faithful discharge of the deputy's or deputies' duties.~~
19 If the commissioner dies during his or her term, the deputy
20 commissioner shall have all of the powers and be charged with all
21 of the duties of a commissioner until a commissioner is appointed
22 or elected.

23 (3) As determined by the county board of commissioners, the
24 deputy or deputies either shall be covered by a blanket bond or
25 shall file with the drain commissioner a bond to be approved by
26 the drain commissioner in a sum not to exceed \$100,000.00,
27 conditioned on the faithful discharge of the duties of the deputy

1 or deputies.

2 Sec. 25. (1) The commissioner and ~~his bondsmen shall be~~
 3 **the sureties on the individual or blanket bonds covering the**
 4 **commissioner and deputy are** liable for all the acts and defaults
 5 of ~~the a deputy or deputies when~~ appointed as ~~herein~~
 6 provided **in section 24.** After entry of the order designating
 7 drainage districts as provided in section ~~54 and section~~ **55 or**
 8 **105,** ~~of this act,~~ the drainage district as designated ~~shall be~~
 9 ~~responsible for and~~ **is** liable for all acts and defaults of
 10 ~~such the~~ commissioner ~~and his or a deputy, or deputies,~~
 11 except for acts of malfeasance or misfeasance. **The commissioner**
 12 **is liable on the blanket bond or his or her individual bond for**
 13 **gross neglect of duty or a misapplication of money coming under**
 14 **his or her control as commissioner.**

15 (2) The **county** board of ~~supervisors~~ **commissioners** may adopt
 16 resolutions providing that public liability or other insurance
 17 may be purchased at the expense of the county to cover such
 18 potential liabilities of the ~~various~~ drainage districts under
 19 the supervision of the county drain commissioner.

20 Sec. 26. Each deputy commissioner shall receive ~~such the~~
 21 salary or compensation ~~as the~~ **determined by the county** board of
 22 ~~supervisors shall allow~~ **commissioners** and all traveling
 23 expenses actually and necessarily spent ~~by him~~ in the discharge
 24 of his **or her** duties as prescribed in this act. ~~; he shall make~~
 25 ~~a report to the commissioner of all work performed by him on or~~
 26 ~~before the first Saturday of each month and an annual report on~~
 27 ~~or before the second Wednesday in September of each year.~~

1 Sec. 27. (1) ~~County clerks, or the board of auditors in~~
2 ~~counties having such boards, shall be authorized, and it shall be~~
3 ~~their duty to procure, at the expense of their respective~~
4 ~~counties, the necessary books, blanks and stationery for the use~~
5 ~~of said commissioners; and each commissioner shall furnish upon~~
6 ~~request blank applications or petitions to any person who may~~
7 ~~desire to file the same under this act. The~~ **At the expense of**
8 **the county and subject to county appropriations, the** office of
9 the **drain** commissioner shall be furnished ~~at the expense of the~~
10 ~~county by the board of supervisors, or by the board of auditors~~
11 ~~in counties having such boards, and shall be maintained at the~~
12 ~~county seat, in which said office said commissioner shall be and~~
13 ~~remain at least 1 day per week such day to be painted on the door~~
14 ~~of the commissioner's office and printed or stamped on his~~
15 ~~stationery.~~ **with all of the following as necessary to fulfill**
16 **the duties of this act or other acts, ordinances, or resolutions**
17 **specifying duties to be performed by the drain commissioner:**

18 (a) **Books, blanks, documents, stationery, and office**
19 **supplies.**

20 (b) **Office equipment necessary to make profiles, blueprints,**
21 **and specifications in any drainage district, word processing**
22 **equipment, and mapping and assessing equipment.**

23 (c) **Space and facilities to file, preserve, and retain field**
24 **notes, blueprints, profiles, estimates, and all other records.**

25 (2) **The office of the commissioner shall be maintained at an**
26 **official county facility.**

27 (3) **With the approval of the county board of commissioners, a**

1 drain commissioner may add to the assessments of lands in each
2 drainage district established pursuant to chapter 3 or 20 not
3 more than 1% per year for education and training for the drain
4 commissioner and his or her staff with regard to 1 or more of the
5 following:

6 (a) Best management practices.

7 (b) Environmental protection and enhancement.

8 (c) Watershed management and planning.

9 (d) Assessing for drain projects.

10 (e) Financing for drain projects.

11 (f) Drain construction methods and techniques.

12 (g) Alternatives for on-site management of storm water.

13 (h) Any other matter related to the operation of the office
14 of drain commissioner or the construction, operation,
15 maintenance, or improvement of drains.

16 (4) Funds collected pursuant to subsection (3) shall be
17 consolidated and held in a separate account for the purposes set
18 forth in subsection (3). Interest earned on the fund shall be
19 credited to the fund. Subsection (3) is intended to supplement,
20 not replace, appropriations of county general fund money for the
21 purposes set forth in subsection (3).

22 Sec. 28. (1) ~~Each~~ Subject to subsection (2), a drain
23 commissioner shall receive an annual salary ~~to be paid at other~~
24 ~~county officers are paid, the~~ and fringe benefits, if any, as
25 determined by the county board of commissioners. The amount of
26 the salary ~~to~~ and fringe benefits, if any, shall be fixed by
27 the county board of commissioners before November 1 of each year

1 and shall be paid from the general fund of the county in the same
 2 manner and at the same time as the salaries and fringe benefits
 3 of other county officers are fixed and paid. ~~The~~ A drain
 4 commissioner's salary may be increased but shall not be decreased
 5 during ~~his or her~~ the term of office ~~, and in addition, each~~
 6 ~~commissioner shall be allowed~~ of that drain commissioner. A
 7 drain commissioner's fringe benefits shall not be decreased
 8 during the term of office to a greater extent than the fringe
 9 benefits of elected county officials in general are decreased.
 10 The county shall pay a drain commissioner for his or her actual
 11 necessary expenses, including traveling expenses incurred in the
 12 discharge of the duties of the office. ~~, including all actual~~
 13 ~~and necessary expense for clerk hire and recording by the county~~
 14 ~~board of commissioners or board of county auditors to be paid by~~
 15 ~~the county.~~ The expense account shall be an itemized account.
 16 ~~and verified by oath taken before a proper officer.~~ The amounts
 17 paid to the commissioner for salary and expenses shall be in full
 18 for all services rendered by the commissioner and all expenses
 19 incurred in the performance of the duties of the office.

20 (2) ~~Notwithstanding subsection (1), for~~ If a county ~~which~~
 21 has a county officers compensation commission, the compensation
 22 for ~~each~~ the county drain commissioner shall be determined by
 23 that commission under 1978 PA 485, MCL 45.471 to 45.477. ~~A~~
 24 ~~change in compensation for a county drain commissioner of a~~
 25 ~~county which has a county officers compensation commission shall~~
 26 ~~commence at the beginning of the first odd numbered year after~~
 27 ~~the determination is made by the county officers compensation~~

1 ~~commission and is not rejected.~~

2 Sec. 29. ~~The county shall furnish the commissioner with~~
3 ~~all necessary books and papers for use in the survey, and such~~
4 ~~office equipment as shall be necessary in making profiles,~~
5 ~~blueprints and specifications in any drainage district. The~~
6 ~~surveyor or engineer shall file with the commissioner all field~~
7 ~~notes, blueprints, profiles, estimates and all other papers in~~
8 ~~his possession relating to said drain. The board of supervisors~~
9 ~~of any county may employ an engineer who shall perform under this~~
10 ~~act the services required to be performed by an engineer or~~
11 ~~surveyor. The drain commissioner's office shall furnish to any~~
12 ~~person, who may so desire, documents as may be required to~~
13 ~~implement the procedures of this act, and the drain commissioner~~
14 ~~may assist in the preparation of such documents as may be~~
15 ~~required to implement the procedures of this act.~~

16 Sec. 30. ~~It shall be the duty of each commissioner to make~~
17 ~~and keep~~ **A drain commissioner shall maintain** a full financial
18 statement of each drainage district. The commissioner shall also
19 make and keep in ~~his~~ **the commissioner's** office ~~in a book to be~~
20 ~~provided for that purpose~~ a complete record of each drainage
21 district. ~~, which~~ **The** record shall include a copy of ~~the~~ **any**
22 application for laying out and designating ~~such~~ **the** district
23 **under former provisions of this act**, of the petition for the
24 drain, of the minutes of the survey, of the releases of the
25 right-of-way where the same have been released, of the orders of
26 determination of the necessity for and of the establishment of
27 the drain, and of the apportionment and assessment of benefits

1 therefor — ~~Where special commissioners have been called, it~~
2 ~~shall also contain a copy of the application to the probate~~
3 ~~court, of the return of the special commissioners and of all~~
4 other ~~papers~~ **records** in ~~his~~ **the** office necessary to show a
5 complete history of each drainage district, all of which said
6 original ~~papers~~ **records** shall then be enrolled and filed in the
7 office of the county drain commissioner. No drain ~~tax~~
8 **assessment** shall be spread until all the records required have
9 been deposited and filed in the office of the county drain
10 commissioner.

11 Sec. 31. ~~(1) Each commissioner shall make a report to the~~
12 ~~county board of commissioners at its annual meeting in October of~~
13 ~~the drainage districts laid out, the drains constructed,~~
14 ~~finished, or begun under his or her supervision during the year~~
15 ~~ending October 1, and the commissioner shall also submit to the~~
16 ~~board a full financial statement of each drainage district. If~~
17 ~~authorized by resolution of the county board of commissioners,~~
18 ~~the report shall be made before April 2 of each year and shall~~
19 ~~cover the preceding calendar year. The commissioner shall also~~
20 ~~make reports and furnish information as required by the director~~
21 ~~of the department of agriculture.~~

22 ~~(2) The reports required by subsection (1) shall include an~~
23 ~~itemized statement of the orders issued on account of each~~
24 ~~drainage district and a debit and credit balance of the district~~
25 ~~fund. The commissioner shall be liable on the blanket bond or~~
26 ~~his or her individual bond for gross neglect of duty or a~~
27 ~~misapplication of money coming under his or her control as~~

1 commissioner.

2 (1) If requested by the legislative body of a municipality, a
3 drain commissioner shall submit an annual report to the
4 legislative body at its first regular meeting held on or after
5 October 1. The report shall cover drains established or
6 constructed by the drain commissioner during the 1-year period
7 ending September 30. Each report under this subsection shall
8 include a full financial statement for each drainage district
9 within the municipality, including, but not limited to, an
10 itemized statement of the orders issued under this act on account
11 of each drainage district and a debit and credit balance of the
12 district fund. If the municipality is a city, village, or
13 township, the report shall only apply to a drain and drainage
14 district if the drainage district lies entirely within the city,
15 village, or township.

16 (2) If requested by the legislative body, a report under
17 subsection (1) shall be submitted between January 1 and April 2
18 and shall cover the preceding calendar year.

19 (3) A drain commissioner shall submit to the director of
20 agriculture reports and information required by the director of
21 agriculture. A report under this subsection shall include an
22 itemized statement of the orders issued on account of each
23 drainage district covered by the report and a debit and credit
24 balance of the drainage district fund.

25 (4) A report under this section is advisory and is not a
26 prerequisite to the levy of any special assessments under this
27 act. The failure to submit a report under this section does not

1 **invalidate a drain proceeding or special assessment.**

2 Sec. 32. The **county** board of ~~supervisors of each county~~
3 ~~having a drain commissioner~~ **commissioners** may adopt a resolution
4 authorizing the county to enter into an agreement with the
5 secretary of ~~health, education and welfare pursuant to the~~
6 ~~provisions of Act No. 205 of the Public Acts of 1951, as amended,~~
7 ~~being sections 38.851 to 38.870 of the Compiled Laws of 1948,~~
8 **the department of health and human services under 1951 PA 205,**
9 **MCL 38.851 to 38.871,** to allow the drain commissioner and all the
10 employees of the drain commissioner's office to obtain the
11 benefits provided by the ~~federal~~ social security act, **chapter**
12 **531, 49 Stat. 620.** The funds necessary for this coverage shall
13 be appropriated from the county general fund. ~~or from the~~
14 ~~revolving drain fund.~~

15 Sec. 33. (1) ~~The salary of the commissioner, deputy~~
16 ~~commissioners, and clerks and employees of the drain~~
17 ~~commissioner's office shall, except as otherwise provided in this~~
18 ~~act, be paid from the general fund of the county in the same~~
19 ~~manner and at the same time as other county employees are paid.~~
20 ~~(2)~~ The drain commissioner may, with the approval of the county
21 board of commissioners, hire drain maintenance employees. ~~Such~~
22 ~~drain~~ **Drain** maintenance employees ~~shall be considered~~ **are**
23 county employees and shall be compensated from the general fund
24 of a county in the same manner and at the same time as other
25 county employees.

26 **(2)** ~~(3)~~ The general fund of a county shall be reimbursed by
27 the drain districts in which work is performed by drain

1 maintenance employees hired by the commissioner pursuant to
2 subsection (2) for compensation, including the cost of fringe
3 benefits, paid to the drain maintenance employees by the county
4 from its general fund. The county board of commissioners may
5 waive the reimbursement for emergency work ~~not exceeding~~
6 ~~\$800.00~~ performed on any 1 drain during the course of 1 year.

7 **Sec. 34. (1) If a municipality determines that construction**
8 **or other activity that the municipality has authority to approve**
9 **may have a significant effect on the quantity of water entering a**
10 **drain or on the hydrology of a drain, the municipality shall**
11 **provide the drain commissioner with prior notice and opportunity**
12 **to review the activity before the municipality issues its**
13 **approval. The drain commissioner's review under this subsection**
14 **is limited to the ability of the drain to transport storm water**
15 **runoff from the proposed activities, and not a determination of**
16 **the propriety or impropriety of the proposed land use or zoning**
17 **issues. Any comments on the proposed activity shall be made by**
18 **the drain commissioner within 30 days of his or her receipt of**
19 **the plans for the proposed activity.**

20 (2) The drain commissioner or drainage board may review and
21 may approve all requests to discharge into, make a connection to,
22 or construct a crossing of any established county or intercounty
23 drains. The drain commissioner may propose and the county board
24 of commissioners may adopt an ordinance to implement this
25 subsection. The ordinance may include a schedule of fees to be
26 charged for the review and inspection of any discharges,
27 connections, or crossings and penalties for noncompliance. The

1 fees shall be deposited in a revolving fund and used for reviews
2 and inspections as specified in the ordinance. If the revolving
3 fund is not sufficient to cover expenses for the reviews and
4 inspections, the expenses shall be paid from the county general
5 fund.

6 (3) The drain commissioner may establish rules and schedule
7 of fees for other reviews and inspections required of the drain
8 commissioner's office by the county board of commissioners or by
9 other statute, including but not limited to the land division
10 act, 1967 PA 288, MCL 560.101 to 560.293, the mobile home
11 commission act, 1987 PA 96, MCL 125.2301 to 125.2349, and the
12 condominium act, 1978 PA 59, MCL 559.101 to 559.276. The rules
13 and schedule of fees shall not take effect unless approved by the
14 county board of commissioners. The fees shall be deposited in a
15 revolving fund under subsection (2).

16 Sec. 35. A drain commissioner shall meet with a person who
17 is considering filing a petition under this act and who requests
18 a meeting to discuss a potential project or the requirements of
19 this act. The drain commissioner shall meet within 14 days after
20 the request is made, unless the person requesting the meeting
21 agrees to meet at a later date.

22 Sec. 36. (1) If a drain commissioner who is required to
23 apportion benefits under this act, or the spouse or child of such
24 a drain commissioner, owns lands that would be liable to an
25 assessment for the benefits, or if the commissioner is otherwise
26 disqualified to act in the making of an apportionment of
27 benefits, the commissioner shall file with the judge of probate

1 of the county a copy of the petition and a signed statement
2 showing that the drain commissioner is disqualified to act in
3 making the apportionment of benefits.

4 (2) Not more than 14 days after receiving the petition and
5 signed statement under subsection (1), the judge of probate shall
6 appoint a disinterested drain commissioner of an adjoining or
7 nearby county to make the apportionment of benefits on the
8 drain. The disinterested commissioner appointed shall make and
9 complete within a period of 28 days, or within such reasonable
10 time thereafter as may be necessary, an apportionment of the
11 benefits of the drain and file the apportionment with the
12 disqualified commissioner. The apportionment shall be adopted
13 for the drain, subject to the same rights of appeal as provided
14 in this act. The disqualified commissioner shall furnish the
15 disinterested commissioner with a copy of the final order of
16 determination on the drain.

17 (3) The salary of the commissioner appointed under subsection
18 (2) shall be the same as that received from the county of which
19 he or she is the commissioner. The salary, together with all
20 expenses actually and necessarily incurred by the commissioner,
21 shall be assessed against the drain in connection with which the
22 services were performed and shall be paid in the same manner as
23 other expenses are paid.

24 CHAPTER 3 —

25 COUNTY DRAINAGE DISTRICTS AND COUNTY DRAINS —

26 Sec. 51. (1) ~~Before a commissioner takes any action on any~~
27 ~~application to locate, establish and construct any drain, there~~

~~1 shall first be filed with him an application to lay out and
2 designate a drainage district with reference to a proposed drain
3 therein; such application shall tentatively describe the location
4 and route of such proposed drain. The application shall be
5 signed by not less than 10 freeholders of the township or
6 townships in which such proposed drain or the proposed lands to
7 be drained thereby may be situated: Provided, That 5 or more of
8 said signers shall be the owners of land liable to an assessment
9 for the construction of such proposed drain: Provided further,
10 If it shall appear to the drain commissioner on filing an
11 application to lay out and designate a drainage district that
12 said district might not include 20 freeholders whose lands would
13 be liable for such assessment, in such case such application
14 shall be received if any one of the signers is a freeholder
15 liable to an assessment for the construction of such proposed
16 drain. To initiate the establishment of a drainage district and
17 the establishment and construction of a county drain, a petition
18 shall be filed with the drain commissioner of that county.
19 Subject to subsection (2), the petition shall be signed by 10
20 landowners in the proposed drainage district whose lands would be
21 liable to assessment for benefits or at least 50% of the
22 landowners if there are less than 10 landowners whose lands would
23 be liable for assessment or may be signed by landowners
24 representing 25% of the land area liable for assessment. The
25 drain commissioner shall determine the eligibility of the signers
26 to such application shall be determined by the drain
27 commissioner according to their interest of record in the office~~

~~1 of the register of deeds, in the probate court or in the circuit~~
~~2 court of the county in which such lands are situated at the time~~
~~3 such application is~~ **the petition based on their status as**
~~4 landowners when the petition was filed.~~ ~~The board of~~
~~5 supervisors, by resolution, may instruct the drain commissioner~~
~~6 to refuse any application to lay out a drainage district unless a~~
~~7 cash deposit, sufficient to cover the preliminary costs,~~
~~8 accompanies the application. If the drain is completed, the cost~~
~~9 advanced shall be returned to the depositor or his personal~~
~~10 representative out of the first tax collections on the drain. If~~
~~11 uncompleted, any excess above costs shall be so returned. In~~
~~12 lieu of an application signed by freeholders as aforesaid, such~~
~~13 an application may be signed solely by the board of health of the~~
~~14 county~~

~~15~~ **(2) Instead of landowners, a public corporation may petition**
~~16~~ **for the establishment of a drainage district and the**
~~17~~ **establishment and construction of a drain** if the proposed drain
~~18~~ is necessary for ~~the~~ public health, ~~of any part of the county,~~
~~19~~ ~~or~~ **safety, or welfare or for agriculture and** may be signed
~~20~~ solely by any ~~city, village or township~~ **public corporation,**
~~21~~ when duly authorized by its governing body, if the proposed drain
~~22~~ is necessary for the public health, ~~of such municipality and if~~
~~23~~ ~~such municipality~~ **safety, or welfare or for agriculture in the**
~~24~~ **public corporation and if the public corporation** will be liable
~~25~~ for an assessment at large ~~against it~~ for a percentage of the
~~26~~ cost of the proposed drain. The entry of an order ~~designating a~~
~~27~~ ~~drainage district, as hereinafter provided,~~ **of necessity under**

1 section 54 shall be considered a determination of the sufficiency
2 of ~~such application~~ the petition.

3 (3) The petition shall request the establishment of a
4 drainage district and the establishment and construction of a
5 drain and set forth the reasons for the request. The petition
6 may request that measures be undertaken which are intended both
7 to enhance or improve the natural resource values of the proposed
8 drain and which provide direct benefit to the designed function,
9 longevity, or hydraulic capacity of the proposed drain. The
10 petition may propose a location and route for the drain.

11 (4) The petition shall be accompanied by a description or tax
12 parcel number of the land in the proposed district owned by each
13 signer and by a certificate of the county treasurer as to payment
14 of taxes and special assessments against the lands. The
15 certificate shall be in substantially the following form:

16 I hereby certify that there are no taxes or special
17 assessments unpaid against any of the lands described in the
18 annexed list according to the records of the county treasurer's
19 office for the preceding 3 years, except as follows:

20	Description	Year	Tax or assessment	Amount
21

22 (5) The name of any signer as to whose land the certificate
23 shows taxes or assessments unpaid for the preceding 3 years shall
24 not be counted. If it appears from the certificate that 33-1/3%
25 or more of the lands in the proposed drainage district have been
26 returned as tax delinquent and still remain delinquent, the

1 commissioner shall not take further action on the petition.

2 (6) The county board of commissioners, by resolution, may
3 instruct the drain commissioner to refuse all petitions to
4 establish a drainage district and establish and construct a drain
5 unless the petitions are accompanied by cash deposits. A cash
6 deposit shall equal the drain commissioner's reasonable estimate
7 of the costs to be incurred by the office of drain commissioner
8 in proceedings under this chapter until the entry of an order of
9 no necessity or an order of necessity. A cash deposit shall be
10 applied to any liability of the petitioners under subsection
11 (7).

12 (7) Costs incurred by the office of drain commissioner in
13 proceedings under this chapter, including any attorney fees,
14 shall be paid as follows:

15 (a) By the drainage district, if the board of determination
16 enters an order of necessity. Any deposit required under
17 subsection (6) shall be returned to the depositor out of the
18 first special assessment collections of the drainage district or
19 borrowed funds secured by special assessment collections on the
20 drain, whichever is received first.

21 (b) By the petitioners, if the board of determination enters
22 an order of no necessity and the county board of commissioners
23 required a deposit under subsection (6). However, if the board
24 of determination first enters an order of practicality, costs
25 incurred after entry of the order of practicality through entry
26 of the order of no necessity shall not be paid by the petitioners
27 but shall be apportioned as provided in chapter 7 and assessed

1 against the drainage district as described in the order of
2 practicality.

3 (c) From the county general fund, if the board of
4 determination enters an order of no necessity under section 55
5 and the county board of commissioners did not require a deposit
6 under subsection (6).

7 (8) If the petition shows, or it is determined thereafter,
8 that the proposed drain will affect lands in more than 1 county,
9 the commissioner shall proceed under chapter 5.

10 Sec. 52. ~~Upon filing of such application for a new~~
11 ~~drainage district, the commissioner shall immediately cause a~~
12 ~~survey to be made by a competent surveyor or engineer to~~
13 ~~determine the area which would be drained by the proposed drain,~~
14 ~~and the route and type of construction of the drain or drains~~
15 ~~most serviceable for that purpose. He shall not be limited in~~
16 ~~such determination to the route described in the application. In~~
17 ~~any county having a board of county auditors, no survey shall be~~
18 ~~ordered without the approval of such board but if the application~~
19 ~~shows, or it is determined thereafter, that any such proposed~~
20 ~~drainage district will affect lands in more than 1 county, the~~
21 ~~commissioner shall proceed under the portions of chapter 5 of~~
22 ~~this act relating to intercounty drains, and in such case the~~
23 ~~approval of the board of county auditors shall not be required.~~
24 ~~If upon the survey, or if before the survey is made, the~~
25 ~~commissioner determines that the proposed drain is impractical,~~
26 ~~he shall take no further action thereon but shall, in writing,~~
27 ~~notify the persons who delivered the application to him, of that~~

~~1 fact, and his reasons for making his determination. If upon the
2 survey the commissioner determines the proposed drain to be
3 practical, he shall lay out a drainage district, prepare and file
4 in the office of the drain commissioner a description of the
5 drainage district, which may be described by its boundaries of
6 highways and streets and tracts and parcels of land including
7 therein all highways and streets, townships, cities and villages
8 or by a description of all tracts or parcels of land, highways,
9 townships, cities and villages which would be benefited by the
10 construction of the proposed drain, and which would be liable to
11 an assessment therefor, should the drain be constructed as
12 hereinafter provided. The commissioner shall obtain from the
13 county treasurer a statement showing as near as may be the amount
14 of taxes and special assessments levied against the lands in the
15 proposed drainage district on the tax rolls for the 3 years next
16 preceding, and the amount of such taxes and assessments remaining
17 unpaid, and if it appears from the statement that 33 1/3% or more
18 of the lands in the proposed drainage district have been returned
19 as tax delinquent and still remain delinquent, no further action
20 shall be taken.~~

21 (1) If the drain commissioner determines that a petition
22 filed with the drain commissioner meets the requirements of
23 section 51, the commissioner shall promptly arrange for the
24 preparation of a preliminary analysis. Except as provided in
25 subdivision (a), an engineer shall prepare the preliminary
26 analysis. The commissioner shall select the engineer based on
27 the engineer's qualifications. The preliminary analysis shall

1 describe a drain and drainage district to address the reasons for
2 a drain and drainage district set forth in the petition. The
3 preliminary analysis shall include all of the following:

4 (a) A description of the drainage district by its boundaries
5 of streets or highways or tracts or parcels of land, or by a
6 description of all tracts or all parcels of land, including all
7 highways, townships, counties, cities, and villages which would
8 be benefited by the construction of the proposed drain. The
9 description of the drainage district may be prepared by a
10 surveyor.

11 (b) A proposed route and course for the drain.

12 (c) A proposed type of construction of the drain.

13 (d) An estimate of the cost of the proposed drain.

14 (e) A description of the proposed drain's impacts to natural
15 resources.

16 (2) Upon completion of the preliminary analysis, the drain
17 commissioner shall file a copy of the preliminary analysis in his
18 or her office and make it available for public inspection. The
19 drain commissioner shall also file the preliminary analysis with
20 the district office of the land and water management division,
21 department of environmental quality, for the district where the
22 project is located.

23 (3) As soon as practicable after the filing of the
24 preliminary analysis under section 52, the commissioner
25 authorized to act on the petition, if not disqualified under
26 section 35 to make the apportionment of benefits, may appoint a
27 board of determination composed of 3 disinterested individuals

1 and an alternate disinterested individual. If the commissioner
2 is disqualified or chooses not to appoint the board of
3 determination, the commissioner shall immediately file with the
4 chairperson of the county board of commissioners a copy of the
5 petition, together with a statement signed by the commissioner,
6 explaining why he or she is disqualified or chooses not to act in
7 appointing a board of determination. As soon as practicable
8 after receiving the copy of the petition and the statement, the
9 chairperson of the county board of commissioners, if not
10 otherwise interested as set forth in section 35, shall appoint
11 the board of determination and shall immediately notify the drain
12 commissioner of the names and addresses of those appointed. If
13 the chairperson of the county board of commissioners has a
14 private interest in the proceedings, the finance committee of the
15 county board of commissioners shall appoint the board of
16 determination.

17 (4) Each member of a board of determination shall be a
18 landowner and resident of the county, but not of a township,
19 city, or village in the proposed drainage district. A member of
20 the board of determination shall not be any of the following:

21 (a) A member of the county board of commissioners or county
22 board of road commissioners.

23 (b) The spouse, parent, child, or sibling of a member of the
24 county board of commissioners or of the drain commissioner.

25 (5) A hearing of the board of determination shall be called
26 within the drainage district at a convenient place to be
27 designated by the drain commissioner. The board of determination

1 hearing also may be held outside the drainage district at a
2 suitable public building anywhere within the city, village, or
3 township in which the drain is located or, if there is no such
4 building, at any suitable public building near the drainage
5 district. If any individual appointed to the board of
6 determination fails or refuses to serve or is disqualified, the
7 drain commissioner, the county board of commissioners, or the
8 finance committee of the county board of commissioners, whichever
9 appointed the individual, shall appoint a successor.

10 (6) The per diem compensation, mileage, and expenses of a
11 member of the board of determination shall be paid in the same
12 amount as paid to a member of the county board of commissioners
13 of the county. In a county in which members of the county board
14 of commissioners are not paid on a per diem basis, the
15 compensation, mileage, and expenses shall be fixed by the drain
16 commissioner.

17 (7) Upon request, the drain commissioner shall inform in
18 writing the state legislator who represents that portion of the
19 area in which the proposed drain improvement is to be constructed
20 of the names and addresses of the persons appointed to a board of
21 determination.

22 (8) Notice of the hearing of the board of determination
23 shall be given in the manner provided in section 8.

24 (9) The drain commissioner shall arrange for a certified
25 court reporter, stenomask reporter, or court recorder to attend
26 each hearing of the board of determination and take a verbatim
27 record of the proceedings. If proceedings are initiated in the

1 circuit court under section 56 or 58, the drain commissioner
2 shall promptly request the reporter or recorder to furnish a
3 transcript of the proceedings to the court. The aggrieved party
4 may request and shall be promptly furnished a transcript of the
5 proceedings at cost.

6 (10) The board of determination shall meet at the time and
7 place specified in the notice. The board of determination shall
8 act by majority vote. The drain commissioner or deputy drain
9 commissioner shall attend the hearing of the board of
10 determination.

11 Sec. 53. ~~The surveyor or engineer authorized to make the~~
12 ~~survey shall ascertain the size and depth of the drains and he~~
13 ~~shall preserve all minutes with reference thereto. He shall~~
14 ~~prepare preliminary plans, drawings and profiles thereof,~~
15 ~~together with a computation of the yards of earth to be~~
16 ~~excavated, the amount of tile or pipe to be used and the~~
17 ~~necessary bridges and culverts or fords to be built in~~
18 ~~constructing such proposed drain, and his estimate of the cost of~~
19 ~~such construction, and where practicable shall recommend the~~
20 ~~leveling of the spoil banks. He shall thereupon lay out a~~
21 ~~drainage district, which district may be described by its~~
22 ~~boundaries of streets or highways or tracts or parcels of land,~~
23 ~~or by a description of all tracts or all parcels of land,~~
24 ~~including therein all highways, townships, counties, cities and~~
25 ~~villages which would be benefited by the construction of the~~
26 ~~proposed drain, all of which he shall deliver to the~~
27 ~~commissioner. The surveyor or engineer shall not be limited to~~

1 ~~the route described in the application but may recommend a route~~
2 ~~and type of construction for the drains he considers most~~
3 ~~serviceable for draining the area involved.~~ The board of
4 determination shall do all of the following at the hearing under
5 section 52:

6 (a) Elect a chairperson.

7 (b) Elect a secretary.

8 (c) Receive testimony and evidence on whether the drain is
9 necessary and conducive to the public health, safety, or welfare
10 or for agriculture.

11 (d) Consider the preliminary analysis.

12 (e) Determine 1 of the following:

13 (i) That the proposed drain is necessary and conducive to
14 public health, safety, or welfare or for agriculture.

15 (ii) That the proposed drain is not necessary and conducive
16 to public health, safety, or welfare or for agriculture.

17 (iii) That the drain is practical, but that additional
18 information is needed to determine whether the drain is necessary
19 and conducive to the public health, safety, or welfare or for
20 agriculture, or to determine the boundaries of the drainage
21 district. If the board of determination finds that the drain is
22 practical, it shall receive testimony and evidence on the extent
23 of the lands proposed to be served by the drain and determine the
24 boundaries of the tentative drainage district, which lands will
25 be subject to assessment for costs incurred by the drain
26 commissioner in gathering the requested additional information,
27 if the drain is subsequently determined not necessary.

1 Sec. 53a. (1) After the board determines the drain
2 practical and establishes a tentative drainage district, it shall
3 recess to allow the drain commissioner to gather the additional
4 information and shall enter an order of practicality that specifies
5 both of the following:

6 (a) The information under section 60 that is needed.

7 (b) The boundaries of the tentative drainage district.

8 (2) If during the gathering of the additional information the
9 drain commissioner determines that the drain is not practical, he
10 shall reconvene the board of determination. Notice of the
11 reconvened board of determination shall be pursuant to section 8
12 and shall specify the determination by the drain commissioner and
13 the reasons therefor.

14 (3) At the hearing of the reconvened board of determination
15 under subsection (2), the board shall do the following:

16 (a) receive the determination of the drain commissioner.

17 (b) Receive testimony and evidence as to the drain
18 commissioner's determination.

19 (c) Direct the drain commissioner to complete the gathering
20 of the additional information or find the drain is not necessary
21 and conducive to the public health, safety, or welfare or for
22 agriculture and order that the costs be paid pursuant to section
23 51(7).

24 (4) If the reconvened board of determination directs the
25 drain commissioner to complete the gathering of the additional
26 information, the drain commissioner shall gather the additional

1 information.

2 (5) After gathering the additional information, the drain
3 commissioner shall call the board of determination to reconvene.
4 The drain commissioner shall give notice of the reconvening of
5 the board of determination in the manner provided in section 8.
6 The reconvened hearing of the board of determination shall do all
7 of the following:

8 (a) Receive and consider the additional information from the
9 drain commissioner.

10 (b) Receive testimony and evidence on whether the drain is
11 necessary and conducive to the public health, safety, or welfare
12 or for agriculture.

13 (c) Determine whether or not the drain is necessary and
14 conducive to the public health, safety, or welfare or for
15 agriculture.

16 (6) If the reconvened board of determination finds the drain
17 is necessary and conducive to the public health, safety, or
18 welfare or for agriculture, it shall proceed and make such orders
19 as set forth in section 54.

20 (7) If the reconvened board of determination finds the drain
21 is not necessary and conducive to the public health, safety, or
22 welfare or for agriculture, it shall enter an order to that
23 effect and order that the costs be paid pursuant to section
24 51(7).

25 Sec. 54. ~~The commissioner shall prepare and file in his~~
26 ~~office his order designating a drainage district and give it a~~
27 ~~name or number and describe therein the boundaries of the~~

~~1 district by streets or highways or parcels of land for each of
2 the several tracts or parcels of land included therein and the
3 counties, townships, cities, villages and state trunk line
4 highways which would be benefited by the construction of the
5 drains and would be liable to assessment therefor, also a
6 description of the drains as determined by him, showing the
7 beginning, route, terminus, type of the proposed construction and
8 the estimated cost of such proposed construction. The
9 commissioner shall give notice of filing the order designating a
10 drainage district by publishing a notice in a newspaper of
11 general circulation in the county, or a newspaper of general
12 circulation in the area where the drainage district boundaries
13 are located, which notice shall give a general description of the
14 route of the proposed drain or drains and of the drainage
15 district as shown by the order.~~

~~16 — At any time after the order designating a drainage district
17 and giving it a name or number has been filed in the office of
18 the drain commissioner, the order may be amended as to the name
19 or number of the drain at any time by presenting to the drain
20 commissioner of the county a petition signed by no less than 5
21 land owners whose land is traversed by the drain, which petition
22 shall state the then present name or number of the drain and the
23 change or changes to be made in the name or number. Upon receipt
24 of such petition, and if in the drain commissioner's opinion it
25 is to the best interest of all concerned that the name or number
26 be changed, he shall make his order amending the name or number,
27 and thereafter the drainage district shall be known by such name~~

1 ~~or number. The drain commissioner shall forthwith post such~~
2 ~~signs upon the drain as he may deem advisable for public notice~~
3 ~~of the new name or number.~~

4 (1) If the board of determination by a majority vote finds
5 the drain is necessary and conducive to the public health,
6 safety, or welfare or for agriculture, either at the first
7 hearing or following a reconvened hearing pursuant to section
8 53a, the board of determination shall:

9 (a) Receive testimony and other evidence on the extent of the
10 lands proposed to be served by the drain and determine the
11 boundaries of the drainage district. If the board of
12 determination at any time finds that the drain would serve lands
13 in more than 1 county, the board of determination shall file an
14 order to that effect and refer the petition to the drain
15 commissioner for proceedings under chapter 5.

16 (b) Designate a preliminary name for the drain and drainage
17 district.

18 (c) Determine whether a portion of the costs of construction
19 of the proposed drain is necessary for the public health, safety,
20 or welfare in 1 or more public corporations and identify those
21 public corporations.

22 (2) If it appears to the board of determination at any time
23 that the drainage district may include lands whose landowners
24 were not sent notice of the hearing in the manner provided in
25 section 8, the board of determination shall enter a finding to
26 that effect identifying the additional lands and file the finding
27 with the drain commissioner. The board of determination shall

1 recess the hearing. The drain commissioner shall promptly give
2 notice of the pending reconvened hearing to the landowners of the
3 additional lands and all other persons entitled to notice under
4 section 8 in the manner provided in section 8 and shall call the
5 board of determination to reconvene.

6 Sec. 55. (1) If the board of determination by a majority
7 vote finds the drain is necessary and conducive to the public
8 health, safety, or welfare or for agriculture, either at the
9 first hearing or following a reconvened hearing pursuant to
10 section 53a, the board of determination shall enter an order of
11 necessity and file the order of necessity with the commissioner.

12 (2) The order of necessity shall specify:

13 (a) The finding of necessity.

14 (b) The boundaries of the drainage district.

15 (c) The public corporations determined liable for assessment
16 at-large for a portion of the costs of the drain for public
17 health, safety, or welfare.

18 (3) The board of determination shall not determine the scope
19 of the project. The scope of the project is within the sole
20 authority of the drain commissioner in consultation with his or
21 her engineers or other qualified professionals.

22 Sec. 56. Within 7 days after the order of necessity is
23 filed, the drain commissioner shall notify by first-class mail
24 each public corporation identified in the order of necessity as
25 receiving benefits at large for public health, safety, or welfare
26 that it is liable to pay a percent of the cost of construction of
27 the drain for benefits for public health, safety, or welfare.

1 The governing body of the public corporation, within 21 days
2 after mailing of the notification from the drain commissioner,
3 may appeal the order of necessity as to the finding that all or a
4 portion of the costs is necessary for public health, safety, or
5 welfare. The appeal shall be filed with the circuit court in the
6 county in which the territory of the public corporation is
7 located.

8 Sec. 57. If the board of determination finds that the drain
9 is not necessary and conducive to the public health, safety, or
10 welfare or for agriculture, all of the following apply:

11 (a) The board of determination shall file with the
12 commissioner an order of no necessity rejecting the petition.

13 (b) Costs shall be paid as provided in section 51.

14 (c) A new petition for the drain shall not be filed within 1
15 year after the filing of the order of no necessity.

16 Sec. 58. After the board of determination files an order of
17 no necessity or files an order of necessity, a public corporation
18 or other person feeling aggrieved by the order may institute an
19 action in the circuit court for the county in which the drainage
20 district is located for a review of the order. The action shall
21 be filed within 14 days after the filing of the order. The
22 circuit court shall determine whether the order was authorized by
23 law and supported by substantial, material, and competent
24 evidence on the whole record. The review shall be made on the
25 record presented to the board of determination and no additional
26 testimony or information shall be offered except for purposes of
27 claim of fraud or error of law. After the review of the record,

1 the court may remand the matter to the board of determination and
2 order the board of determination to reconvene for purposes of
3 securing additional testimony and evidence on issues which the
4 court considers necessary to render its decision on the appeal.
5 Following the hearing on remand, the record shall be transmitted
6 to the court for hearing and decision.

7 Sec. 59. (1) After the order of necessity is filed, the
8 drain commissioner, subject to subsection (2), shall execute a
9 first order of determination and file the first order of
10 determination in his or her office. The first order of
11 determination shall do all of the following consistent with the
12 order of necessity:

13 (a) Establish the drainage district and give it a name or
14 number.

15 (b) Describe the drainage district by its boundaries or by a
16 description of all the land that would be benefited by the
17 construction of the drain and would be liable to assessment
18 therefor, including the counties, townships, cities, and
19 villages; roadways; and parcels of land identified by legal
20 description or tax code parcel number.

21 (c) Describe the beginning, route, terminus, type of the
22 proposed construction, and the estimated cost of such proposed
23 construction.

24 (2) If an appeal is not filed, the drain commissioner shall
25 satisfy the requirements of subsection (1) upon the expiration of
26 the appeal periods under section 58 and, if applicable, section
27 56. If an appeal is filed, the drain commissioner shall satisfy

1 the requirements of subsection (1) after the appeal procedures
2 are terminated.

3 Sec. 60. After the drain commissioner files the first order
4 of determination, the commissioner shall secure the services of
5 an engineer and arrange for the preparation of an engineering
6 analysis. The commissioner shall select the engineer based on
7 the engineer's qualifications. The engineering analysis shall
8 describe a drain and drainage district to address the reasons for
9 a drain and drainage district set forth in the petition and in
10 the evidence and testimony received at the hearing of the board
11 of determination. Except as provided in subdivisions (e) and
12 (j), the engineering analysis shall be prepared by an engineer
13 and shall include all of the following:

14 (a) Hydrologic and hydraulic report that includes, but is not
15 limited to, a discussion of the present drainage characteristics
16 and the impacts of the proposed project on flooding
17 characteristics downstream of the drainage district.

18 (b) Recommended route and course.

19 (c) An existing and proposed profile of the recommended route
20 and course.

21 (d) Description of the recommended work including crossings,
22 structures, and facilities.

23 (e) A description of the drainage district by its boundaries
24 of streets or highways or tracts or parcels of land, or by a
25 description of all tracts or all parcels of land, including all
26 highways, townships, counties, cities, and villages which would
27 be benefited by the construction of the proposed drain. The

1 description of the drainage district may be prepared by a
2 surveyor.

3 (f) An estimate of the cost of construction of the engineer's
4 recommendation.

5 (g) A description of alternatives considered.

6 (h) An analysis of the effectiveness of the proposed project
7 to address the conditions that it is intended to remedy, create,
8 or enhance.

9 (i) A maintenance plan for the drain.

10 (j) An evaluation of the impacts of the project on natural
11 resources that identifies appropriate practical measures to
12 minimize adverse effects. The evaluation need not be part of the
13 engineering analysis and may instead be prepared by the
14 commissioner or another qualified professional.

15 (k) Any other information requested by the commissioner.

16 Sec. 61. (1) The engineer shall prepare final plans,
17 specifications, and an estimate of costs of the proposed drain.
18 The commissioner shall secure from the engineer or a surveyor a
19 description of the lands or rights-of-way needed for the proposed
20 drain. In approving the route of the drain as furnished by the
21 engineer, the commissioner is not limited to that described in
22 the petition or in the first order of determination, if the new
23 route is more efficient and serviceable.

24 (2) If the board of determination determines that the drain
25 is necessary and conducive to the public health, safety, or
26 welfare or for agriculture, the drain commissioner shall convene
27 a meeting under section 62 to provide information or elicit

1 information and testimony with regards to the route and type of
2 construction and estimate of cost of the drain to assist the
3 drain commissioner in determining the scope of the drain project
4 to be undertaken by the commissioner. The meeting is for
5 informational purposes only.

6 (3) The drain commissioner shall obtain any permits required
7 under the natural resources and environmental protection act,
8 1994 PA 451, MCL 324.101 to 324.90106. All costs associated with
9 evaluating natural resource impacts and implementing the measures
10 to minimize those impacts shall be the responsibility of the
11 drainage district.

12 (4) Measures that are intended to enhance or improve natural
13 resource values but that will not provide benefit to the designed
14 function, longevity, or hydraulic capacity of the drain may be
15 included as part of the drainage project in the discretion of the
16 drain commissioner. The funding for such measures may only
17 include gifts, donations, grants, contracts pursuant to
18 section 431, special assessments other than special assessments
19 under this act, or any combination thereof, as considered
20 appropriate by the drain commissioner.

21 (5) If, after the receipt of the plans, specifications,
22 estimate of cost, and descriptions of the lands or rights-of-way
23 needed for the proposed drain, the commissioner determines that
24 the project is not feasible, the commissioner shall notify the
25 landowners and public corporations in the district by first-class
26 mail of the intent to reject the petition. The notice shall
27 specify the reasons for the proposed rejection. The notice shall

1 also specify a time, date, and place for a public hearing to hear
2 objections to the rejection of the petition. At the public
3 hearing, the commissioner shall elicit testimony and evidence
4 with regards to the proposed rejection. Following the receipt of
5 testimony, the drain commissioner shall determine whether or not
6 the petition should be rejected. If, after hearing testimony,
7 the drain commissioner determines to reject the petition, the
8 commissioner shall enter an order of rejection and apportion all
9 costs incurred to the district as if the project had been built
10 and the costs will be subsequently assessed and paid as provided
11 in chapter 7. An order of rejection does not limit the right to
12 file a subsequent petition.

13 Sec. 62. (1) Upon completion of the engineering analysis,
14 pursuant to section 60 the commissioner shall file a copy of the
15 engineering analysis in the commissioner's office and shall
16 convene a meeting to present and receive testimony and other
17 evidence on the engineering analysis and the project proposed to
18 be undertaken. The commissioner shall give notice of filing of
19 the engineering analysis and of the meeting in the manner
20 provided in section 8. The notice shall give all of the
21 following information:

22 (a) A general description of the drainage district.

23 (b) The name or number of the drainage district.

24 (c) A general map or description of the drainage district as
25 described in the engineering analysis or a general description of
26 the boundaries of that drainage district by municipal boundaries,
27 roadways, or parcels or tracts of land.

1 (d) A general description of the route and type of
 2 construction and the estimated cost of the engineer's
 3 recommendation.

4 (2) The drain commissioner shall consider the testimony and
 5 other evidence offered at the public meeting under subsection (1)
 6 and decide the route and course, type of construction, and other
 7 features of the drain.

8 Sec. 63. (1) Unless the drain commissioner determines to
 9 reject the petition under section 61(6), the drain commissioner
 10 shall proceed to acquire property for the drain under section 7.

11 (2) After acquiring property necessary for the drain, the
 12 drain commissioner shall prepare and promptly file in his or her
 13 office a final order of determination establishing the drain.

14 (3) The apportionment and review of benefits, the letting of
 15 contracts, and the levy and collection of drain special
 16 assessments for the drain shall be as provided in chapters 7, 9,
 17 and 11.

18 CHAPTER 5 —

19 INTERCOUNTY DRAINAGE DISTRICTS — AND INTERCOUNTY DRAINS

20 Sec. 101. (1) ~~Before any action is taken on any petition~~
 21 ~~to locate, establish and construct any drain, which proposed~~
 22 ~~drain will traverse lands in more than 1 county, or affect more~~
 23 ~~than 1 county, there shall first be filed with the commissioner~~
 24 ~~having jurisdiction of any such lands an application to lay out~~
 25 ~~and designate a drainage district with reference to a proposed~~
 26 ~~drain therein; such application shall tentatively describe the~~
 27 ~~location and route of such proposed drain. The application shall~~

1 ~~be signed by a number of freeholders in said drainage district~~
2 ~~whose lands would be liable to an assessment for benefits, equal~~
3 ~~to 50% of any of the freeholders whose lands would be traversed~~
4 ~~by the drain or drains applied for or abut on any highway or~~
5 ~~street along the side of which such drain extends, between a~~
6 ~~point where such drain enters such highway and the point where it~~
7 ~~leaves such highway and which lands are within the drainage~~
8 ~~district~~ To initiate the establishment of a drainage district
9 and the establishment and construction of a drain that will
10 traverse lands in more than 1 county or affect more than 1
11 county, a petition shall be filed with the drain commissioner of
12 1 of the counties. Subject to subsection (2), the petition shall
13 be signed by 10 landowners in the intercounty drainage district
14 whose lands would be liable to assessment for benefits or at
15 least 50% of the landowners if there are less than 10 landowners
16 whose lands would be liable to assessment or may be signed by
17 landowners representing 25% of the land area liable to
18 assessment. The drain commissioner shall determine the
19 eligibility of the signers to ~~such application shall be~~
20 ~~determined by their interest of record in the office of the~~
21 ~~register of deeds, in the probate court or in the circuit court~~
22 ~~of the county in which such lands are situated at the time such~~
23 ~~petition is filed~~ the petition based on their status as
24 landowners when the petition was filed.

25 (2) Instead of landowners, a public corporation may petition
26 for the establishment of a drainage district and the
27 establishment and construction of a drain when duly authorized by

1 its governing body, if the proposed drain is necessary for public
2 health, safety, or welfare in the public corporation and if the
3 public corporation will be liable for an assessment at large for
4 a percentage of the cost of the proposed drain. The entry of an
5 order of necessity under section 104 shall be considered a
6 determination of the sufficiency of the petition.

7 (3) The petition shall request the establishment of a
8 drainage district and the establishment and construction of a
9 drain and set forth the reasons for the request. The petition
10 may request that measures be undertaken which are intended both
11 to enhance or improve the natural resource values of the proposed
12 drain and which provide direct benefit to the designed function,
13 longevity, or hydraulic capacity of the proposed drain. The
14 petition may propose a location and route for the drain.

15 (4) The petition shall be accompanied by a description or tax
16 parcel number of the land in the proposed district owned by each
17 signer and by a certificate of the county treasurer of each
18 county where such land is located as to payment of taxes and
19 special assessments against the land in that county. The
20 certificate shall be in substantially the following form:

21 I hereby certify that there are no taxes or special
22 assessments unpaid against any of the lands described in the
23 annexed list according to the records of the county treasurer's
24 office for the preceding 3 years, except as follows:

25	Description	Year	Tax or assessment	Amount
26

1 (5) The name of any signer as to whose land the certificate
2 shows taxes or assessments unpaid for the preceding 3 years shall
3 not be counted. If it appears from the certificate that 33-1/3%
4 or more of the lands in the proposed drainage district have been
5 returned as tax delinquent and still remain delinquent, the
6 commissioner shall not take further action on the petition.

7 (6) If the petition shows, or it is determined thereafter,
8 that the proposed drain will affect lands in only 1 county, the
9 commissioner shall proceed under chapter 3.

10 Sec. 102. (1) ~~Upon filing of such application~~ **Not more**
11 **than 21 days after a petition is filed**, the commissioner shall
12 ~~within 20 days~~ send a copy of ~~such application~~ **the petition**
13 by ~~registered~~ **first-class** mail to the ~~state~~ director of
14 agriculture and ~~also~~ to the drain commissioner of each county
15 in which lie lands liable for assessment for benefits for the
16 construction of such proposed drain.

17 (2) The drain commissioners of such counties and the director
18 of agriculture ~~or any deputy designated by him shall be and~~
19 ~~constitute the drainage board~~ **shall constitute the drainage**
20 **board.** If at any time the drainage board determines that lands
21 should be added to the drainage district and if those lands are
22 located in a county whose drain commissioner is not a member of
23 the drainage board, the drainage board shall notify that drain
24 commissioner and he or she shall become a member of the drainage
25 board. If at any time the drainage board determines that all the
26 lands from a particular county that are part of the drainage
27 district should be deleted from the drainage district, the drain

1 commissioner from that county shall no longer be a member of the
2 drainage board.

3 (3) The director of agriculture shall serve as chairperson of
4 the drainage board and shall only vote if there is a tie. The
5 drainage board shall act by majority vote of the drainage board.

6 (4) The ~~state~~ director of agriculture shall call a meeting
7 of ~~such~~ the drainage board ~~, which meeting shall be held not~~
8 ~~less than 15 and not more than 60 days from the receipt of such~~
9 ~~notice. Such meeting shall be held in the immediate locality of~~
10 ~~the proposed drainage district. Notices of such meeting shall be~~
11 ~~posted in 5 public places within the proposed drainage district~~
12 ~~within each county, and served on the county clerk of each county~~
13 ~~and the supervisor of each township within the proposed drainage~~
14 ~~district personally or by registered mail at least 10 days before~~
15 ~~such public meeting. A notice of such meeting shall be published~~
16 ~~in each county affected once a week for 2 consecutive weeks~~
17 ~~before such meeting in a newspaper of general circulation in such~~
18 ~~county, if there is one, the first publication to be at least 10~~
19 ~~days before the meeting as soon as practical but not later than~~
20 63 days after the filing of a petition.

21 (5) At the meeting, the drainage board shall determine if the
22 petition filed meets the requirements of section 101. If the
23 drainage board determines that the petition meets the
24 requirements of section 101, the drainage board shall promptly
25 arrange for the preparation of a preliminary analysis. Except as
26 provided in subdivision (a), an engineer shall prepare the
27 preliminary analysis. The drainage board shall select the

1 engineer based on the engineer's qualifications. The preliminary
2 analysis shall describe a drain and drainage district to address
3 the reasons for a drain and drainage district set forth in the
4 petition. The preliminary analysis shall include all of the
5 following:

6 (a) A description of the drainage district by its boundaries
7 of streets or highways or tracts or parcels of land, or by a
8 description of all tracts or all parcels of land, including all
9 highways, townships, counties, cities, and villages which would
10 be benefited by the construction of the proposed drain. The
11 description of the drainage district may be prepared by a
12 surveyor.

13 (b) A proposed route and course for the drain.

14 (c) A proposed type of construction of the drain.

15 (d) An estimate of the cost of the proposed drain.

16 (6) Upon completion of the preliminary analysis, a copy of
17 the preliminary analysis shall be filed in the office of each
18 drain commissioner on the drainage board and the office of the
19 director of agriculture and made available for public
20 inspection. The drainage board shall also file the preliminary
21 analysis with the district office of the land and water
22 management division, department of environmental quality, for the
23 district where the project is located.

24 (7) As soon as practical but not later than 60 days after the
25 filing of the preliminary analysis, the director of agriculture
26 shall call a hearing of the drainage board.

27 (8) The hearing of the drainage board shall be called within

1 the drainage district at a convenient place to be designated by
2 the director of agriculture. The drainage board hearing also may
3 be held outside the drainage district at a suitable public
4 building anywhere within the city, village, or township in which
5 the drain is located or, if there is no such building, at any
6 suitable public building near the drainage district.

7 (9) Notice of the hearing of the drainage board shall be
8 given in the manner provided in section 8. To determine which
9 landowners may be subject to assessment and should be given
10 notice, the drain commissioner of each affected county shall
11 forward to the director of agriculture a tentative description of
12 the proposed drainage district within that county. The director
13 of agriculture shall prepare and file in his or her office and
14 with the drain commissioner of each affected county a composite
15 description of the lands in the drainage district.

16 (10) The drainage board shall arrange for a certified court
17 reporter, stenomask reporter, or court recorder to attend each
18 hearing of the drainage board and take a verbatim record of the
19 proceedings. If proceedings are initiated in the circuit court
20 under section 106 or 108, the drainage board shall promptly
21 request the reporter or recorder to furnish a transcript of the
22 proceedings to the court. Upon request of the drainage board,
23 the reporter or recorder shall promptly furnish the transcript to
24 the court.

25 (11) The drainage board shall meet at the time and place
26 specified in the notice.

27 Sec. 103. ~~Upon convening said meeting the state director~~

~~1 of agriculture or any deputy selected by him shall act as
2 chairman. The said drainage board shall consider such
3 application, and determine the sufficiency of the signatures
4 thereto, and shall go over the route of said proposed drain and
5 take testimony to determine its practicability. All persons
6 owning lands liable to assessment for benefits or whose lands
7 shall be crossed by said drain or any municipality affected may
8 appear for or against said drain proceedings. If at said meeting
9 or at any subsequent time before the entry of the order
10 designating a drainage district, they shall determine that the
11 drainage of the proposed drain area is not practical, no further
12 action shall be taken thereon within 1 year. If said proposed
13 drain is determined to be practical, then the drainage board
14 shall cause a survey thereof to be made by a competent surveyor
15 or engineer to ascertain the area which would be drained by the
16 proposed drain, and the route and type of construction of drain
17 or drains most serviceable for that purpose.~~

18 **(1) The drainage board shall do all of the following at the**
19 **hearing:**

20 **(a) Elect a secretary.**

21 **(b) Receive testimony and evidence on whether the drain is**
22 **necessary and conducive to the public health, safety, or welfare**
23 **or for agriculture.**

24 **(c) Consider the preliminary analysis.**

25 **(2) Following the receipt of testimony and evidence and**
26 **consideration of the preliminary analysis, the drainage board**
27 **shall determine 1 of the following:**

1 (a) That the proposed drain is necessary and conducive to
2 public health, safety, or welfare or for agriculture.

3 (b) That the proposed drain is not necessary and conducive to
4 public health, safety, or welfare or for agriculture.

5 (c) That the drain is practical, but that additional
6 information is needed to determine whether the drain is necessary
7 and conducive to the public health, safety, or welfare or for
8 agriculture, or to determine the boundaries of the drainage
9 district. If the drainage board finds that the drain is
10 practical, it shall receive testimony and evidence on the extent
11 of the lands proposed to be served by the drain and determine the
12 boundaries of the tentative drainage district, which lands will
13 be subject to assessment for costs incurred by the drainage board
14 in gathering the requested additional information, if the drain
15 is subsequently determined not necessary.

16 (d) Preliminarily determine the percentages of the cost of
17 establishing the district and constructing the drain that each
18 county will bear. The counties affected shall pay the costs
19 described in section 302 as provided in that section.

20 Sec. 103a. (1) After the drainage board determines the
21 drain practical and establishes a tentative drainage district, it
22 shall recess to allow for the gathering of the additional
23 information and shall enter an order of practicality that specifies
24 both of the following:

25 (a) The information under section 110 that is needed.

26 (b) The boundaries of the tentative drainage district.

1 (2) If during the gathering of the additional information the
2 drainage board determines that the drain is not practical, it
3 shall reconvene. Notice of the reconvened drainage board shall
4 be pursuant to section 8 and shall specify the determination by
5 the drainage board and the reasons therefor.

6 (3) At the hearing of the reconvened drainage board under
7 subsection (2), the board shall do the following:

8 (a) Receive testimony and evidence as to the drainage board's
9 determination.

10 (b) Determine to complete the gathering of the additional
11 information or find the drain is not necessary and conducive to
12 the public health, safety, or welfare or for agriculture and
13 order the costs assessed pursuant to the tentative drainage
14 district.

15 (4) If the reconvened drainage board determines to complete
16 the gathering of the additional information, it shall gather the
17 additional information.

18 (5) After gathering the additional information, the drainage
19 board shall reconvene. The director of agriculture shall give
20 notice of the reconvening of the drainage board in the manner
21 provided in section 8. At the reconvened hearing, the drainage
22 board shall do all of the following:

23 (a) Receive and consider the additional information.

24 (b) Receive testimony and evidence on whether the drain is
25 necessary and conducive to the public health, safety, or welfare
26 or for agriculture.

27 (c) Determine whether or not the drain is necessary and

1 conducive to the public health, safety, or welfare or for
2 agriculture.

3 (6) If the reconvened drainage board finds the drain is
4 necessary and conducive to the public health, safety, or welfare
5 or for agriculture, it shall proceed and make such orders as set
6 forth in section 105.

7 (7) If the reconvened drainage board finds the drain is not
8 necessary and conducive to the public health, safety, or welfare
9 or for agriculture, it shall enter an order to that effect and
10 costs shall be apportioned to the tentative drainage district as
11 provided in chapter 7 as if the drain had been constructed.

12 Sec. 104. ~~The surveyor or engineer authorized to make the~~
13 ~~survey shall ascertain the size and depth of the drains, and~~
14 ~~shall preserve all minutes with reference thereto. He shall~~
15 ~~prepare plans, drawings and profiles thereof, together with a~~
16 ~~computation of the yards of earth to be excavated, and where~~
17 ~~practicable the leveling of the spoil banks or the amount of tile~~
18 ~~or pipe to be used and the necessary bridges and culverts or~~
19 ~~fords to be built in constructing the proposed drains, and his~~
20 ~~estimate of the cost of such construction. He shall thereupon~~
21 ~~lay out a proposed drainage district, which district may be~~
22 ~~described by its boundaries of streets and highways or tracts or~~
23 ~~parcels of land or by a description of all tracts or parcels of~~
24 ~~land, including therein all highways, townships, counties, cities~~
25 ~~and villages which would be benefited by the construction of the~~
26 ~~proposed drain, all of which he shall deliver to the drainage~~
27 ~~board. The surveyor or engineer shall not be limited to the~~

1 ~~route described in the application, but may recommend a route and~~
2 ~~type of construction for the drains he considers most serviceable~~
3 ~~for draining the area involved.~~

4 (1) If the drainage board by majority vote finds the drain is
5 necessary and conducive to the public health, safety, or welfare
6 or for agriculture, either at the first hearing or following a
7 reconvened hearing pursuant to section 103a, the drainage board
8 shall:

9 (a) Receive testimony and other evidence on the extent of the
10 lands proposed to be served by the drain and determine the
11 boundaries of the drainage district. If the drainage board at
12 any time finds that the drain would serve lands in only 1 county,
13 the drainage board shall file an order to that effect and refer
14 the petition to the drain commissioner of that county for
15 proceedings under chapter 3.

16 (b) Designate a preliminary name for the drain and drainage
17 district.

18 (c) Determine whether a portion of the costs of construction
19 of the proposed drain is necessary for the public health, safety,
20 or welfare or for agriculture in 1 or more public corporations
21 and identify those public corporations.

22 (2) If it appears to the drainage board at any time that the
23 drainage district may include lands whose landowners were not
24 sent notice of the hearing in the manner provided in section 8,
25 the drainage board shall enter a finding to that effect
26 identifying the additional lands and file the finding with the
27 director of agriculture. The drainage board shall recess the

1 hearing. The director of agriculture shall promptly give notice
2 of the pending reconvened hearing to the landowners of the
3 additional lands and all other persons entitled to notice under
4 section 8, in the manner provided in section 8 and shall call the
5 drainage board to reconvene.

6 Sec. 105. ~~The chairman of the drainage board shall~~
7 ~~thereupon prepare an order designating a drainage district,~~
8 ~~giving it a name or number and describe therein the drainage~~
9 ~~district by its boundaries of streets and highways or tracts or~~
10 ~~parcels of land or by a description of all tracts or parcels of~~
11 ~~land included therein and the counties, townships, cities,~~
12 ~~villages and state trunk line highways including therein all~~
13 ~~highways, townships, counties, cities and villages, which would~~
14 ~~be benefited by the construction of such drain and would be~~
15 ~~liable to an assessment therefor; also a description of the drain~~
16 ~~according to the plans and specifications prepared by the~~
17 ~~surveyor or engineer and determined by the drainage board,~~
18 ~~showing the beginning, route, terminus, type of construction and~~
19 ~~the estimated cost of the construction. Notice of filing of the~~
20 ~~order shall be given by the state director of agriculture by~~
21 ~~publishing a notice in a newspaper in each county affected, once~~
22 ~~in each week for 2 successive weeks, which notice shall give a~~
23 ~~general description of the route of the drain and of the drainage~~
24 ~~district as shown by the order. A copy of the order shall within~~
25 ~~10 days be filed by the state director of agriculture in the~~
26 ~~office of the county drain commissioner of each county in which~~
27 ~~lie lands included in the district.~~

~~1 — At any time after the order designating an intercounty
2 drainage district, giving it a name or number, has been filed in
3 the offices of the county drain commissioners of the counties
4 within the district, the order may be amended as to the name or
5 number of the drain by a written request of a drain commissioner
6 of 1 of the counties traversed by the drain, which request shall
7 state the then present name or number of the drain and the change
8 to be made in the name or number. Upon filing of the request,
9 the drain commissioner shall mail a copy of the request, to the
10 state director of agriculture and also to the drain commissioner
11 of each county in which lie lands liable for assessments for the
12 drain. The state director of agriculture shall call a meeting of
13 the drainage board and if, in the opinion of the drainage board,
14 it is found advisable to change the name or number of the drain,
15 they shall file an order designating such change. The drainage
16 board shall also designate the number of signs to be posted upon
17 the drain as they may deem advisable for public notice of the new
18 name or number. Copies of the order changing the name or number
19 of the drain shall be filed with the drain commissioner and the
20 county treasurer of each county liable for assessments of such
21 drain. If the commissioners of the counties affected cannot
22 agree as to the apportionment of costs for laying out a drainage
23 district, the director of agriculture or any deputy appointed by
24 him shall apportion the costs and the counties affected shall pay
25 the same as provided in section 302 of this act.~~

**26 (1) If the drainage board by a majority vote finds the drain
27 is necessary and conducive to the public health, safety, or**

1 welfare or for agriculture, either at the first hearing or
2 following a reconvened hearing pursuant to section 103a, the
3 drainage board shall enter an order of necessity and file the
4 order of necessity with the director of agriculture.

5 (2) The order of necessity shall specify:

6 (a) The finding of necessity.

7 (b) The boundaries of the drainage district.

8 (c) The public corporations determined liable for assessment
9 at-large for a portion of the costs of the drain for public
10 health, safety, or welfare.

11 (3) The drainage board shall not determine the scope of the
12 project in the order of necessity or at the hearings pursuant to
13 sections 102 and 103a. The scope of the project is within the
14 sole authority of the drainage board in consultation with its
15 engineers or other qualified professionals.

16 Sec. 106. ~~If the drain commissioner of a county involved~~
17 ~~considers the apportionment between the counties to be unfair,~~
18 ~~the commissioner shall have the right to have the apportionment~~
19 ~~reviewed by an arbitration board to be composed of drain~~
20 ~~commissioners from unaffected counties in this state. Within 20~~
21 ~~days after the order of apportionment provided in section 105,~~
22 ~~the commissioner shall file with the department of agriculture a~~
23 ~~claim for review by arbitration in which the commissioner shall~~
24 ~~state briefly in what respect he or she considers the~~
25 ~~apportionment unfair and request, over the commissioner's~~
26 ~~official signature, a review by arbitration. The commissioner~~
27 ~~shall nominate a disinterested drain commissioner as his or her~~

~~1 choice for the arbitration board. Upon receipt of the claim for
2 review by arbitration, the director of the department of
3 agriculture or the director's deputy shall forward to each county
4 drain commissioner involved, except the claimant, within 10 days,
5 a copy of the claim for review by arbitration. The
6 commissioners, within 10 days, shall notify the department of
7 agriculture of their selection to the arbitration board. The
8 director of the department of agriculture, at the earliest date,
9 consistent with Act No. 267 of the Public Acts of 1976, but not
10 later than 30 days after the notice, shall notify the chosen
11 drain commissioners of a date and time they shall meet in the
12 commissioner's office in Lansing. At the meeting they shall
13 select 1 or 2 more unaffected drain commissioners in the state to
14 complete the board of review. Only 1 shall be selected if the
15 board members selected by the drain commissioners affected
16 constitute an even number and 2 shall be selected if the board
17 members selected by the drain commissioners affected constitute
18 an odd number. Upon selection of the final members of the board
19 of review, those members present shall set a date, time, and
20 place in an affected county for a first full meeting of the board
21 of review. Notice of the meeting shall be posted in 5 public
22 places in each county affected and be served personally or by
23 registered mail at least 10 days before the meeting on the county
24 clerk of the county and the supervisor of a township in each
25 county traversed by the drain. A notice of the meeting shall be
26 published once a week for 2 consecutive weeks before the meeting
27 in a newspaper published and of general circulation in the~~

~~1 counties affected. The first publication is to be at least 10~~
~~2 days before the meeting. The director of the department of~~
~~3 agriculture shall notify the 1 or 2 drain commissioners selected~~
~~4 of their appointment and of the date, time, and place of the next~~
~~5 meeting of the full board. The board of arbitration shall~~
~~6 convene at the time, date, and place specified, elect a~~
~~7 chairperson and secretary, and review the fairness of the~~
~~8 apportionment between the counties. The board may adjourn until~~
~~9 their review is completed. The findings shall be made and signed~~
~~10 by all the members attesting the determination of the majority of~~
~~11 the board and the determination by the majority of the board~~
~~12 shall be final and conclusive as to the fairness of the~~
~~13 apportionment.~~ **Within 7 days after the order of necessity is**
14 filed, the drainage board shall notify by first-class mail each
15 public corporation identified in the order of necessity as
16 receiving benefits at-large for public health, safety, or welfare
17 that it is liable to pay a percent of the cost of construction of
18 the drain for benefits for public health, safety, or welfare.
19 The governing body of the public corporation, within 21 days
20 after mailing of the notification from the drainage board, may
21 appeal the order of necessity as to the finding that all or a
22 portion of the costs is necessary for public health, safety, or
23 welfare. The appeal shall be filed with the circuit court in the
24 county in which the territory of the public corporation is
25 located.

26 Sec. 107. If the drainage board finds that the drain is not
27 necessary and conducive to the public health, safety, or welfare

1 or for agriculture, all of the following apply:

2 (a) The drainage board shall file with the director of
3 agriculture an order of no necessity rejecting the petition.

4 (b) Costs shall be paid as apportioned amongst the counties
5 as determined in section 103 and pursuant to chapter 7 as if the
6 drain had been constructed.

7 (c) A new petition for the drain shall not be filed within 1
8 year after the filing of the order of no necessity.

9 Sec. 108. After the drainage board files an order of no
10 necessity or files an order of necessity, a public corporation or
11 other person feeling aggrieved by the order may institute an
12 action in a circuit court for any county in which the drainage
13 district is located for a review of the order. The action shall
14 be filed within 14 days after the filing of the order. The
15 circuit court shall determine whether the order was authorized by
16 law and supported by substantial, material, and competent
17 evidence on the whole record. The review shall be made on the
18 record presented to the drainage board and no additional
19 testimony or information shall be offered except for purposes of
20 claim of fraud or error of law. After the review of the record,
21 the court may remand the matter to the drainage board and order
22 the drainage board to reconvene for purposes of securing
23 additional testimony and evidence on issues which the court
24 considers necessary to render its decision on the appeal.
25 Following the hearing on remand, the record shall be transmitted
26 to the court for hearing and decision.

27 Sec. 109. (1) After the order of necessity is filed, the

1 drainage board, subject to subsection (2), shall execute a first
2 order of determination and file the first order of determination
3 with the director of agriculture. The first order of
4 determination shall do all of the following consistent with the
5 order of necessity:

6 (a) Establish the drainage district and give it a name or
7 number.

8 (b) Describe the drainage district by its boundaries or by a
9 description of all the land that would be benefited by the
10 construction of the drain and would be liable to assessment
11 therefor, including the counties, townships, cities, and
12 villages; roadways; and parcels of land identified by legal
13 description or tax code parcel number.

14 (c) Describe the beginning, route, terminus, type of the
15 proposed construction, and the estimated cost of such proposed
16 construction.

17 (d) Review and establish the percentages of the whole cost of
18 construction which each county shall bear, as preliminarily
19 determined under section 103, and determine the number of
20 installments in which the drain special assessments shall be
21 collected.

22 (2) If a drain commissioner considers the apportionment
23 between the counties to be unfair, the commissioner shall request
24 the director of agriculture to review the apportionment and make
25 a recommendation of an apportionment between the counties. If
26 the recommendation is not adopted by majority vote, or if the
27 recommendation is adopted and a drain commissioner finds that the

1 apportionment is unfair, it may be reviewed pursuant to
2 subsection (3).

3 (3) If a drain commissioner considers the apportionment
4 between the counties to be unfair, the commissioner may have the
5 apportionment reviewed by an arbitration board composed of
6 disinterested drain commissioners. Within 21 days after the
7 filing of the order of necessity under section 105, the
8 commissioner shall file with the director of agriculture a signed
9 claim for review by arbitration in which the commissioner shall
10 state briefly in what respect he or she considers the
11 apportionment unfair and request a review by arbitration. The
12 commissioner shall select a disinterested drain commissioner to
13 be a member of the arbitration board. Not more than 14 days
14 after receipt of the claim for review by arbitration, the
15 director of agriculture shall forward to the drain commissioner
16 of each county to which a percentage of benefits has been
17 apportioned, except the claimant, a copy of the claim for review
18 by arbitration. Each such commissioner shall select 1
19 disinterested drain commissioner to be a member of the
20 arbitration board and, within 14 days, shall notify the
21 department of agriculture of his or her selection. The director
22 of agriculture, at the earliest date consistent with the open
23 meetings act, 1976 PA 267, MCL 15.261 to 15.275, but not later
24 than 28 days after the notice, shall notify the selected drain
25 commissioners of a date and time they shall meet in the office of
26 the director of agriculture in Lansing. At the meeting, they
27 shall complete the arbitration board by selecting 1 or 2 more

1 disinterested drain commissioners, as appropriate so the
2 arbitration board has an odd number of members.

3 (4) Upon selection of the final members of the arbitration
4 board, those members present shall set a date, time, and place in
5 an affected county for a first full meeting of the arbitration
6 board. Notice of the meeting shall be served personally or by
7 first-class mail at least 14 days before the meeting on the
8 county clerk of each affected county and the clerk of each
9 township in each affected county. The arbitration board shall
10 publish a notice of the meeting once a week for 2 consecutive
11 weeks before the meeting in a newspaper published and of general
12 circulation in the counties affected. The first publication
13 shall be at least 14 days before the meeting. The director of
14 agriculture shall notify the drain commissioners selected of
15 their appointment and of the date, time, and place of the next
16 meeting of the arbitration board.

17 (5) The arbitration board shall convene at the time, date,
18 and place specified, take testimony from the affected parties,
19 elect a chairperson and secretary, and review the fairness of the
20 apportionment between the counties. The arbitration board may
21 adjourn until the review is completed. The findings shall be
22 made and signed by all the members attesting the determination of
23 the majority of the arbitration board, and the determination by
24 the majority of the arbitration board is final and conclusive as
25 to the fairness of the apportionment. Commissioners so appointed
26 shall be compensated in the same amount and manner as members of
27 the county board of commissioners in their respective counties.

1 Other costs of the arbitration board shall be borne by the
2 district.

3 (6) If an appeal is not filed, the drainage board shall
4 satisfy the requirements of subsection (1) upon the expiration of
5 the appeal periods under section 106 and, if applicable, 108. If
6 an appeal is filed, the drainage board shall satisfy the
7 requirements of subsection (1) after the appeal procedures are
8 terminated.

9 Sec. 110. After the drainage board files the first order of
10 determination, it shall secure the services of an engineer and
11 arrange for the preparation of an engineering analysis. The
12 drainage board shall select the engineer based on the engineer's
13 qualifications. The engineering analysis shall describe a drain
14 and drainage district to address the reasons for a drain and
15 drainage district set forth in the petition and in the evidence
16 and testimony received at the hearing of the drainage board.
17 Except as provided in subdivisions (e) and (j), the engineering
18 analysis shall be prepared by an engineer and shall include all
19 of the following:

20 (a) Hydrologic and hydraulic report that includes, but is not
21 limited to, a discussion of the present drainage characteristics
22 and the impacts of the proposed project on flooding
23 characteristics downstream of the drainage district.

24 (b) Recommended route and course.

25 (c) An existing and proposed profile of the recommended route
26 and course.

27 (d) Description of the recommended work including crossings,

1 structures, and facilities.

2 (e) A description of the drainage district by its boundaries
3 of streets or highways or tracts or parcels of land, or by a
4 description of all tracts or all parcels of land, including all
5 highways, townships, counties, cities, and villages which would
6 be benefited by the construction of the proposed drain. The
7 description of the drainage district may be prepared by a
8 surveyor.

9 (f) An estimate of the cost of construction of the engineer's
10 recommendation.

11 (g) A description of alternatives considered.

12 (h) An analysis of the effectiveness of the proposed project
13 to address the conditions that it is intended to remedy, create,
14 or enhance.

15 (i) A maintenance plan for the drain.

16 (j) An evaluation of the impacts of the project on natural
17 resources that identifies appropriate practical measures to
18 minimize adverse effects. The evaluation need not be part of the
19 engineering analysis and may instead be prepared by a
20 commissioner or another qualified professional.

21 (k) Any other information requested by the drainage board.

22 Sec. 111. (1) The engineer shall prepare final plans,
23 specifications, and an estimate of costs of the proposed drain.
24 The commissioner shall secure from the engineer or a surveyor a
25 description of the lands or rights-of-way needed for the proposed
26 drain. In approving the route of the drain as furnished by the
27 engineer, the drainage board is not limited to that described in

1 the petition or in the first order of determination, if the new
2 route is more efficient and serviceable.

3 (2) If the drainage board determines that the drain is
4 necessary and conducive to the public health, safety, or welfare
5 or for agriculture, the drainage board shall convene a meeting
6 under section 112 to provide information or elicit information
7 and testimony with regards to the route and type of construction
8 and estimate of cost of the drain to assist the drainage board in
9 determining the scope of the drain project to be undertaken by
10 the board. The meeting is for informational purposes only.

11 (3) The drainage board shall obtain any permits required
12 under the natural resources and environmental protection act,
13 1994 PA 451, MCL 324.101 to 324.90106. All costs associated with
14 evaluating natural resource impacts and implementing the measures
15 to minimize those impacts shall be the responsibility of the
16 drainage district.

17 (4) Measures that are intended to enhance or improve natural
18 resource values but that will not provide benefit to the designed
19 function, longevity, or hydraulic capacity of the drain may be
20 included as part of the drainage project in the discretion of the
21 drainage board. The funding for such measures may only include
22 gifts, donations, grants, contracts pursuant to section 431,
23 special assessments other than special assessments under this
24 act, or any combination thereof, as considered appropriate by the
25 drainage board.

26 (5) If, after the receipt of the plans, specifications,
27 estimate of cost, and descriptions of the lands or rights-of-way

1 needed for the proposed drain, the drainage board determines that
2 the project is not feasible, it shall notify the landowners and
3 public corporations in the district by first-class mail of the
4 intent to reject the petition. The notice shall specify the
5 reasons for the proposed rejection. The notice shall also
6 specify a time, date, and place for a public hearing to hear
7 objections to the rejection of the petition. At the public
8 hearing, the drainage board shall elicit testimony and evidence
9 with regards to the proposed rejection. Following the receipt of
10 testimony, the drainage board shall determine whether or not the
11 petition should be rejected. If, after hearing testimony, the
12 drainage board determines to reject the petition, it shall enter
13 an order of rejection and apportion all costs incurred to the
14 district as if the project had been built and the costs will be
15 subsequently assessed and paid as provided in chapter 7. An
16 order of rejection does not limit the right to file a subsequent
17 petition.

18 Sec. 112. (1) Upon completion of the engineering analysis,
19 pursuant to section 110 the drainage board shall file a copy of
20 the engineering analysis in the office of the director of
21 agriculture and the office of each drain commissioner on the
22 drainage board and shall convene a hearing to present and receive
23 testimony and other evidence on the engineering analysis and the
24 project proposed to be undertaken. The drainage board shall give
25 notice of filing of the engineering analysis and of the hearing
26 in the manner provided in section 8. The notice shall give all
27 of the following information:

1 (a) A general description of the drainage district.

2 (b) The name or number of the drainage district.

3 (c) A general map or description of the drainage district as
4 described in the engineering analysis or a general description of
5 the boundaries of that drainage district by municipal boundaries,
6 roadways, or parcels or tracts of land.

7 (d) A general description of the route and type of
8 construction and the estimated cost of the engineer's
9 recommendation.

10 (2) The drainage board shall consider the testimony and other
11 evidence offered at the public hearing under subsection (1) and
12 decide the route and course, type of construction, and other
13 features of the drain.

14 Sec. 113. (1) Unless the drainage board determines to
15 reject the petition under section 111(6), the drainage board
16 shall proceed to acquire property for the drain under section 7.

17 (2) After acquiring property necessary for the drain, the
18 drainage board shall prepare and promptly file in the office of
19 the director of agriculture a final order of determination
20 establishing the drain.

21 (3) The apportionment and review of benefits, the letting of
22 contracts, and the levy and collection of drain special
23 assessments for the drain shall be as provided in chapters 7, 9,
24 and 11.

25 Sec. 114. A full record of the drain shall be made and
26 entered by the director of agriculture and several commissioners
27 in the drain records of their respective counties, and a copy of

1 all the records relative to the establishment and construction of
2 the drain shall be delivered to the other commissioners and the
3 director of agriculture by the commissioner having the original
4 application or petition, which copies shall be filed in the
5 office of the director of agriculture and the county drain
6 commissioner of the respective counties as original records are
7 required to be filed and with the same force and effect.

8 Sec. 115. The drainage board, acting on behalf of the
9 drainage district, may borrow money and may issue bonds or notes
10 therefor as provided for drains lying wholly within 1 county.
11 The bonds or notes shall be signed by the members of the drainage
12 board and shall be countersigned by the clerks of the counties
13 affected. Bonds or notes issued under this chapter are payable
14 at the office of the county treasurer selected by the drainage
15 board to serve as the treasurer of the drainage district. The
16 bonds or notes shall be deposited and safely kept by the
17 treasurer until sold and delivered. All installments, with
18 interest thereon, of the special assessments shall be transmitted
19 as collected by the treasurer or treasurers of the other county
20 or counties concerned to the treasurer of the drainage district,
21 who shall issue a receipt therefor and shall place the money in
22 the fund of the drain to be disbursed solely for the retirement
23 of the bonds or notes at maturity and the payment of interest
24 thereon.

25 Sec. 116. If a proposed drain lies wholly or partly in an
26 adjoining state, or the lands to be drained thereby lie partly in
27 an adjoining state, a petition to establish a drainage district

1 and establish and construct a drain as specified in this act may
 2 be made to any commissioner representing any county in this state
 3 in which any portion of the proposed drain or lands to be
 4 affected thereby lie, and the same proceedings shall be had
 5 regarding the portion of the drain or the lands to be drained or
 6 affected thereby lying within this state as are provided in this
 7 act for drains and lands lying wholly within this state.

8 However, before any expense is incurred in relation to the
 9 proposed drain, a voluntary release of the right-of-way to
 10 construct the drain or portion of the drain that lies without
 11 this state and an agreement to keep it or permit it to be kept,
 12 clear from obstruction shall first be obtained from the parties
 13 owning lands outside of this state through which the drain or
 14 portion thereof is to pass, and such release and agreement shall
 15 be filed with the said drain commissioner and shall form a part
 16 of the record of his or her proceedings in the premises.

17 Sec. 117. An action involving an intercounty drain may be
 18 brought in the circuit court of a county in which a part of the
 19 intercounty drainage district is established, subject to the
 20 Michigan rules of court.

21 CHAPTER 7 —

22 APPORTIONMENT AND REVIEW —

23 Sec. 151. (1) ~~Upon the release of the right-of-way and~~
 24 ~~damages, or upon the determination and return of the special~~
 25 ~~commissioners~~ after the drain commissioner, for a county drain,
 26 or drainage board, for an intercounty drain, acquires
 27 rights-of-way or easements, the commissioner or drainage board

1 shall make ~~his~~ **the** final order of determination establishing
2 the drain. ~~, which~~ **The** drain ~~shall~~ **project may** be divided
3 ~~into convenient sections for the letting of contracts:~~
4 ~~Provided, That the commissioner may let the drain in sections or~~
5 ~~as a whole. Said~~ **for the purpose of letting contracts. The**
6 order of determination shall be filed with the county drain
7 commissioner ~~within 5~~ **not more than 7** days after ~~such~~ **the**
8 order is made. ~~He shall, before~~

9 (2) **The drain commissioner, for a county drain, or drainage**
10 **board, for an intercounty drain, may amend a final order of**
11 **determination by changing the name or number of the drain or the**
12 **boundaries of the district if there is filed with the drain**
13 **commissioner or drainage board a petition signed by not less than**
14 **5 landowners whose land is traversed by the drain, stating the**
15 **then present name or number of the drain and the change or**
16 **changes to be made in the name or number of the drain or the**
17 **boundaries of the district. A petition to change the boundaries**
18 **of the drainage district shall be accompanied by a certification**
19 **from an engineer or surveyor. If in the drain commissioner's or**
20 **drainage board's opinion it is to the best interest of all**
21 **concerned that the name or number of the drain or the lands be**
22 **changed, the drain commissioner or drainage board shall make an**
23 **order amending the name, number, or district boundaries, and**
24 **thereafter the drainage district shall be known by the name or**
25 **number and the boundary shall be as set forth in the amended**
26 **order. If such an order is made, the drain commissioner or**
27 **drainage board shall provide notice of such a change in the**

1 manner provided in section 8 to the drainage district and convene
2 a day of review of apportionments.

3 (3) Before the day of ~~letting and~~ review of apportionments,
4 the drain commissioner or drainage board shall fix the number of
5 installments for the collection of drainage ~~taxes~~ **assessments**
6 and apportion the ~~per cent~~ **percent** of the cost of construction
7 of ~~such drain which any township, city or village traversed or~~
8 ~~benefited thereby shall be~~ **the drain that any city, village, or**
9 **township is** liable to pay by reason of the benefit to the public
10 health, ~~convenience~~ **safety**, or welfare, or ~~as the means of~~
11 ~~improving any highway under the control of such township, city or~~
12 ~~village. He shall apportion the per cent of the cost of~~
13 ~~construction of such drain which any highway then under the~~
14 ~~control of the county or district road commissioners, shall be~~
15 ~~liable to pay by reason of benefits therefor, and as the means of~~
16 ~~improving such highway. He shall also apportion the per cent of~~
17 ~~the cost of construction of such drain which any state trunk line~~
18 ~~highway, under the control of the state highway commissioner,~~
19 ~~shall be liable to pay by reason of benefits therefor and as the~~
20 ~~means of improving said highway. He~~ **that any municipality or**
21 **the state transportation department is liable to pay by reason of**
22 **benefits to or contributions from a roadway.**

23 (4) For a county drain, the drain commissioner shall also
24 apportion the ~~per cent~~ **percent** of benefits to accrue to any
25 piece or parcel of land **including lands owned by any public**
26 **corporation** by reason of the construction, **maintenance, or**
27 **improvement** of ~~such~~ **the** drain over and above the ~~per cent~~

1 **percent** apportioned to any ~~township, city or village at large~~
 2 **public corporation** or to any ~~highway~~ **roadway** as above
 3 provided. ~~Such per cent~~ **For an intercounty drain, the drain**
 4 **commissioner for each county in which lands subject to assessment**
 5 **for the drain are located shall so apportion the percent of**
 6 **benefits to accrue to those lands. The percent** so apportioned
 7 when finally approved shall be assessed ~~against such townships,~~
 8 ~~cities and villages and against the county at large by reason of~~
 9 ~~the improvement of the highways within the drainage district, and~~
 10 ~~against the state by reason of the improvement of the state trunk~~
 11 ~~line highways within such drainage district, and against all~~
 12 ~~parcels of land therein~~ according to ~~such~~ **the** apportionment of
 13 benefits. ~~as herein provided.~~ The apportionment of benefits ~~so~~
 14 ~~made shall be~~ **and addition of lands to the drainage district are**
 15 subject to review and correction and may be appealed from as
 16 **provided** in this act. ~~provided.~~ The board of ~~supervisors~~
 17 **commissioners** at its October meeting each year shall make
 18 provision by proper assessment of the amounts apportioned against
 19 any ~~highway under the control of the county and district highway~~
 20 ~~commissioners~~ **county road.**

21 Sec. 152. (1) ~~All apportionments of benefits under the~~
 22 ~~provisions of this act shall be upon the principle of~~ **Each**
 23 **apportionment shall be based upon** benefits derived as
 24 **specifically described in a written document that shall be**
 25 **available for inspection on the day of review.** ~~All~~
 26 ~~descriptions~~

27 (2) **If the act or omission of a person increases or reduces**

1 the need for maintenance or improvement of the drain, the drain
 2 commissioner may consider the act or omission in making the
 3 apportionment.

4 (3) A description of land under ~~the provisions of~~ this act
 5 shall be made by giving the legal subdivision thereof, whenever
 6 practicable, and when the tract of land which is to be benefited
 7 or affected by ~~such~~ a drain is less than ~~such~~ a legal
 8 subdivision, it may be described by designation of the lot or a
 9 part of a lot or other boundaries, or in some way. ~~by which it~~
 10 ~~may be known.~~ If the drain commissioner retains in his or her
 11 office a detailed description, map, or other specification that
 12 designates a parcel or portion of a parcel to be benefited by the
 13 drain, the commissioner, instead of providing a specific
 14 description of the parcel, may designate the parcel by use of the
 15 parcel's tax parcel identification number.

16 (4) The apportionment of benefits for state trunk line
 17 highways, and the portion paid by county road commissions, the
 18 county executive, or other agency acting as the county road
 19 commission for benefit to county roads, must be paid pursuant to
 20 section 14a of 1951 PA 51, MCL 247.664a.

21 Sec. 153. ~~Such~~ The final order of determination shall
 22 contain a description of the district to be assessed for benefits
 23 in the construction of ~~said~~ the drain, either by boundaries or
 24 by description or tax parcel identification number of the several
 25 tracts or parcels of land to be assessed. ~~, which said~~ The
 26 tracts or parcels and the county, townships, cities, villages,
 27 and ~~highways~~ roadways therein shall constitute the special

1 assessment district. ~~—, and which district shall in said order be~~
2 ~~designated—~~ **the final order of determination shall designate the**
3 **district** by name or number.

4 Sec. 154. (1) ~~The commissioner—~~ **A commissioner responsible**
5 **for apportionment of benefits for a county or intercounty drain**
6 shall give notice **under section 8 of a time and place for the**
7 **meeting for the review of the apportionments made by that**
8 **commissioner. The meeting shall be held not less than 7 or more**
9 **than 28 days after the date set** for ~~the~~ receiving ~~of~~ bids for
10 ~~the~~ construction of the drain. ~~and for the holding of a public~~
11 ~~meeting. At the meeting a review shall be made of the~~
12 ~~apportionment of benefits. The notice shall specify the time and~~
13 ~~place of receiving bids, and the time and place of the meeting~~
14 ~~for review of apportionment. The meeting shall be not less than~~
15 ~~5 nor more than 30 days after the date set for receiving bids.~~
16 ~~The notice shall be given by publication of at least 2 insertions~~
17 ~~in a newspaper published and of general circulation in the~~
18 ~~county. The first publication shall be at least 10 days before~~
19 ~~the date set for receiving bids. The drain commissioner shall~~
20 ~~send notice by first class mail of the time, date, and place of~~
21 ~~the meeting, at least 10 days before the date of the meeting, to~~
22 ~~each person whose name appears upon the last city or township tax~~
23 ~~assessment roll as owning land within the special assessment~~
24 ~~district, at the address shown on the roll. If an address does~~
25 ~~not appear on the roll, then notice need not be mailed to the~~
26 ~~person. The drain commissioner shall make an affidavit of the~~
27 ~~mailing and shall recite in the affidavit that the persons to~~

1 ~~whom the notice was mailed, constitute all of the persons whose~~
2 ~~names and addresses appear upon the tax rolls as owning land~~
3 ~~within the particular special assessment district. The affidavit~~
4 ~~shall be conclusive proof that notice was mailed to each person~~
5 ~~to whom notice is required to be mailed. If notice has been sent~~
6 ~~by first class mail as provided in this section, the failure to~~
7 ~~receive notice by mail shall not constitute a jurisdictional~~
8 ~~defect invalidating a drain proceeding or tax. If the board of~~
9 ~~determination determines that the drain is necessary for the~~
10 ~~protection of the public health, **safety, or welfare** and that the~~
11 ~~whole cost of the drain, except that part which may be~~
12 ~~apportioned to **roadway authorities** for benefits to highways,~~
13 ~~shall be apportioned to ~~municipalities~~ **public corporations,**~~
14 ~~then mailing of individual notices to persons owning land within~~
15 ~~the special assessment district as provided in this section~~
16 ~~shall not be~~ **is not** required.

17 ~~(2) The notice shall also contain the names of the counties,~~
18 ~~cities, townships, or villages to be assessed at large, and shall~~
19 ~~be personally served on the county clerk and 1 or more members of~~
20 ~~the road commission of a county or road district, the supervisor~~
21 ~~of a township, the mayor of a city, and the president of a~~
22 ~~village to be assessed at large. The notice shall contain a~~
23 ~~description of the land constituting the special assessment~~
24 ~~district for the drain. The description may be stated by~~
25 ~~designating the boundaries of the special assessment district by~~
26 ~~streets, highways, parcels, or tracts of land or by describing~~
27 ~~the tracts or parcels of land constituting the district. A tract~~

1 ~~or parcel need not be subdivided beyond the point where the whole~~
2 ~~of the tract or parcel is within the drainage district or to~~
3 ~~describe the drain further than by reference to it by its name or~~
4 ~~number. The notice shall also state the number and length of~~
5 ~~sections, the average depth and width of each section, and in~~
6 ~~case of closed drains, the amount and specifications of all tile~~
7 ~~or pipe required. The notice shall contain the location, number,~~
8 ~~type, and size of all culverts and bridges and the conditions~~
9 ~~upon which the contract will be awarded. The notice need not~~
10 ~~contain minutes of survey or table of cuttings which shall be~~
11 ~~kept on file in the office of the drain commissioner.~~

12 (2) ~~-(3) Bids shall be received and computation of the total~~
13 ~~cost of the drain shall be made before the time set for~~ **A day of**
14 **review shall be held for all projects undertaken as a result of a**
15 **petition and an order of necessity or as a result of an order of**
16 **determination under section 423. Before the** review of the
17 apportionment, ~~and~~ **the drain commissioner, for a county drain,**
18 **or drainage board, for an intercounty drain, shall prepare a**
19 **computation of the total cost of the drain project including the**
20 **items listed in section 261. The** computation shall be open to
21 inspection. If the computation is not completed before the day
22 of review, the review may be adjourned from time to time, not
23 more than ~~20~~ **21** days in all, for the completion of the
24 computation, or a new hearing may be called with similar notice,
25 by publication and service at least ~~10~~ **14** days before the
26 hearing. If the contracts on which the computation was based are
27 not executed and new contracts ~~shall~~ **will** be let at a higher

1 price, a corrected computation shall be made and a new review
2 held with a similar notice. At the time and place fixed in the
3 notice, or at another time and place to which the county drain
4 commissioner may adjourn the hearing, the apportionment of
5 benefits and the lands comprised within the special assessment
6 district shall be subject to review for at least 1 day. The
7 review shall be held open from 9 a.m. until 5 p.m. On the **day of**
8 review, the county clerk or the county road commission may appear
9 on behalf of the county or a road district; the supervisor ~~or~~
10 ~~commissioner of highways~~ of a township may appear on behalf of a
11 township; the mayor or an officer of the city designated by the
12 mayor may appear for a city; the president may appear on behalf
13 of a village; **and a designated official may appear on behalf of**
14 **any other public corporation.** At the review, the county drain
15 commissioner shall hear the proofs and allegations and shall
16 carefully reconsider and review the description of land comprised
17 within the special assessment district, the several descriptions
18 and apportionment of benefits, and define and equalize the land
19 as is just and equitable.

20 (3) ~~(4) When~~ **If** an apportionment of benefits is made
21 against a state trunk line highway, unless the ~~state highway~~
22 **director of transportation** consents in writing to the
23 apportionment, the drain commissioner, at least ~~20~~ **21** days
24 before the ~~review on the trunk line~~ **day of review**, shall notify
25 **the director of transportation** by ~~registered~~ **certified** mail
26 ~~the state highway director~~ of the percentage apportioned
27 against the **state trunk line** highway and the date, time, and

1 place fixed for a review of apportionment of benefits. If the
 2 ~~state highway~~ director **of transportation** desires to have the
 3 apportionment of benefits reviewed by the director of ~~the~~
 4 ~~department of~~ agriculture, the ~~state highway~~ director ~~,~~
 5 ~~within 10~~ **of transportation, then, not more than 14** days ~~from~~
 6 **after** the receipt of the notice, **the director of transportation**
 7 shall file with the drain commissioner an objection to the
 8 apportionment. The drain commissioner shall notify the director
 9 ~~of the department~~ of agriculture of the date, time, and place
 10 fixed for the review of apportionments. ~~, and at~~ **At** the
 11 meeting, the director of ~~the department of~~ agriculture ~~, or a~~
 12 ~~deputy of the director,~~ shall review the apportionment made
 13 against the state trunk line highway, listen to the proofs and
 14 allegations of the parties, and may view the **state trunk line**
 15 highway benefited. The action and decision on the apportionment
 16 **shall be** reduced to writing ~~shall be~~ **is** final.

17 (4) The director of transportation shall notify the drain
 18 commissioner in writing whether the will pay any assessment
 19 against state trunk line highways in a single payment or in
 20 installments. If the director of transportation does not specify
 21 before the advertisement of the sale of bonds or notes whether
 22 the department will pay the assessment in full or in
 23 installments, the department is liable for the interest charges
 24 incurred as a result of the sale of bonds or notes.

25 (5) Assessments related to drainage of state trunk line
 26 highways shall be paid from funds appropriated to the state
 27 transportation department.

1 Sec. 155. The owner of any land in the drainage district or
2 any ~~city, township, village, district or county having control~~
3 ~~of any highway which may feel~~ **public corporation that is**
4 aggrieved by the apportionment of benefits ~~se~~ **or addition of**
5 **lands to the drainage district** made by the commissioner, ~~may,~~
6 ~~within 10~~ **not more than 14** days after the day of review of ~~such~~
7 ~~apportionments, appeal therefrom and for such purpose make an~~
8 ~~application to the probate court of the proper county for the~~
9 ~~appointment of a board of review,~~ **the apportionment, may appeal**
10 **the apportionment** by filing with ~~said probate court~~ **the circuit**
11 **court for the county where the land or public corporation is**
12 **located** a notice of appeal **requesting the appointment of a board**
13 **of review** and ~~at the same time filing with said court~~ a bond.
14 **The bond shall be** in such sum as the **circuit** judge ~~of probate~~
15 may require, with 1 or more sureties to be approved by the
16 **circuit** judge, ~~of probate,~~ conditioned upon the payment of all
17 costs ~~in case~~ **of the appeal, including engineering expenses,**
18 **attorney fees, and witness fees, allowed under the Michigan court**
19 **rules, if the apportionment or amendment to the drainage district**
20 made by the commissioner ~~shall be~~ **is** sustained. ~~Such~~ **The**
21 appeal may be taken by the **chairperson of the** county ~~or district~~
22 ~~read~~ **board of** commissioners in behalf of the county, **the**
23 **chairperson of the county board of road commissioners in behalf**
24 **of the road commission,** the mayor of any city in behalf of the
25 city, ~~by~~ the supervisor in behalf of ~~any~~ **a** township, or ~~by~~
26 the president of ~~any~~ **a** village in behalf of the village when
27 authorized by the **county board of commissioners, the board of**

1 **county road commissioners, the** village or city council, **or the**
 2 township board, ~~or road commission,~~ respectively. Only 1 board
 3 shall be appointed by ~~such probate~~ **the** court.

4 Sec. 156. (1) ~~The probate court upon~~ **Upon the circuit**
 5 **court's** receipt of ~~any such application as hereinbefore provided~~
 6 ~~for shall forthwith~~ **a notice of appeal under section 155, the**
 7 **chief or only judge of the circuit court shall immediately** notify
 8 the commissioner in writing of ~~such~~ **the** appeal, and shall
 9 ~~thereupon~~ **then** make an order appointing 3 disinterested and
 10 competent ~~freeholders~~ **landowners** of ~~such~~ **the** county, not
 11 residents of the township or townships affected by said drain, as
 12 members of a board of review. ~~The persons so appointed shall~~
 13 ~~constitute the board of review.~~ ~~The~~ **Immediately after making**
 14 **the appointments, the** court shall, ~~thereupon,~~ with the
 15 concurrence of the commissioner, ~~immediately~~ fix the time and
 16 place ~~when and where said~~ **for a meeting of the** board of review
 17 ~~shall meet~~ to review ~~said~~ **the** apportionments. ~~, which time~~
 18 ~~shall not be~~ **The meeting shall be held not** less than ~~10 nor~~ **14**
 19 **or** more than ~~15~~ **21** days ~~from~~ **after** the date of filing ~~such~~
 20 **the notice of** appeal. The ~~commissioner~~ **court** shall ~~thereupon~~
 21 ~~give notice to~~ **then notify** the persons so appointed of their
 22 appointment and of the time and place of meeting. ~~, and shall~~
 23 ~~give notice of such meeting by posting notices in at least 5~~
 24 ~~public places in each township forming a part of the drainage~~
 25 ~~district, and shall serve a like notice upon the appellant if he~~
 26 ~~be a resident of any township affected.~~ ~~Such notice shall be~~
 27 ~~made not less than 5 days before the day of hearing and shall be~~

1 ~~made by personal service.~~ **Consistent with section 8, the court**
 2 **shall also notify each landowner and public corporation liable**
 3 **for an assessment.** Proof of service of ~~notice of appeal~~ **the**
 4 **notices under this subsection** shall be made by the person serving
 5 ~~said notice~~ **the notices** and be filed in the office of the
 6 ~~judge of probate~~ **clerk of the circuit court.** ~~At such hearing~~
 7 ~~the board of review shall have the right, and it shall be their~~
 8 ~~duty, to review all apportionments for benefits made by the~~
 9 ~~commissioner on such drain. The persons so appointed~~

10 **(2) At the hearing, the board of review** shall be sworn by the
 11 commissioner to faithfully discharge the duties of ~~such~~ **the**
 12 board of review.

13 **(3) Members of the board of review shall be compensated in**
 14 **the same manner and amount as a board of determination.**

15 Sec. 157. **(1)** The board of review shall ~~proceed~~ at the
 16 time, date, and place specified in the notice ~~to~~ hear the
 17 proofs and allegations of the parties in respect to an appeal,
 18 ~~shall~~ proceed to view the lands benefited by the drain **or**
 19 **project,** and ~~shall~~ review **all of** the apportionments made by the
 20 commissioner on the drain **or project.** If in ~~their~~ **the** judgment
 21 **of the board of review** there is a manifest error or inequality in
 22 the apportionments **or amendments to the drainage district,** ~~they~~
 23 **the board of review** shall order and make the changes in the
 24 apportionment as ~~they~~ **the board of review** may consider just and
 25 equitable. If the board of review upon personal examination
 26 finds that a land liable to be assessed for the construction of
 27 the drain **or project** is not included in the drainage district

1 made by the commissioner, ~~they~~ **the board of review** shall ~~add~~
2 ~~the land to the drainage district of the drain and shall adjourn~~
3 ~~the review to another time or place as they consider proper, but~~
4 ~~not in all more than 20 days from and after the time of review~~
5 ~~first advertised. The notice of the adjournment shall contain a~~
6 ~~description of lands added to the drainage district. The notice~~
7 ~~shall be given at least 10 days before the adjourned day of~~
8 ~~review. Should the owners of land liable to an assessment be~~
9 ~~nonresidents of the county, personal notice shall be served on~~
10 ~~the owners, or a notice shall be published in a weekly newspaper~~
11 ~~published in the county, of at least 2 insertions, giving the~~
12 ~~description of the land added to the assessment district and~~
13 ~~giving the time, date, and place where the board shall meet. The~~
14 ~~action and decision of the board shall be final.~~ **prepare a**
15 **proposed decision making the changes in the apportionment that**
16 **the board of review considers just and equitable and shall**
17 **adjourn the review for not more than 21 days from the date of the**
18 **meeting specified in the first notice. The board of review shall**
19 **give notice of the adjournment in the manner provided in section**
20 **8(2) and (3), and by posting notice in the office of the drain**
21 **commissioner by the date by which mailing of the notice is**
22 **required under section 8(2). However, the board of review need**
23 **only provide notice to persons that the board of review believes**
24 **may be affected by its final decision.**

25 (2) Upon reconvening, the board of review shall hear any
26 further proofs and allegations relevant to the proposed decision
27 of the board of review. The board of review may view lands and

1 shall review apportionments that are the subject of the further
2 proofs and allegations.

3 (3) The board shall make its final decision, which shall not
4 affect any person to whom notice was not provided under
5 subsection (1). The ~~action and~~ decision of the board of review
6 shall be ~~reduced to~~ in writing and signed by ~~a majority of~~
7 the board ~~making~~ members agreeing with the decision, and shall
8 be delivered to the commissioner within 14 days of the close of
9 the meeting together with other ~~papers~~ records relating to the
10 decision.

11 (4) If the board of review makes changes in the
12 apportionment, the changes shall be made by the commissioner
13 without necessity for a new day of review or notice to the
14 district of the changes made by the board of review and persons
15 aggrieved by the changes made by the board of review are not
16 entitled to additional judicial review.

17 Sec. 158. (1) ~~In case the apportionment of the~~
18 ~~commissioner shall be sustained by such board of review the~~
19 ~~appellant shall pay the whole costs and expenses of such appeal.~~
20 ~~Such~~ Following the determination by the board of review, the
21 circuit court may award costs, including engineering expenses,
22 attorney fees, and witness fees, allowed under the Michigan court
23 rules. If costs are awarded to the drainage district and there
24 are multiple appellants, the circuit court shall award from each
25 appellant a pro rata share of the costs based on the number of
26 appellants. The costs and expenses shall be ascertained and
27 determined by the circuit judge. ~~of probate, and if not paid the~~

1 ~~appellant shall be liable on his bond for the full amount of such~~
 2 ~~costs in an action at law, to be brought by the commissioner on~~
 3 ~~the bond before any court having competent jurisdiction.~~

4 **(2) If the bond of an appellant is not sufficient to cover**
 5 **the compensation, mileage, and expenses for which the appellant**
 6 **is liable, the drain commissioner may recover the excess amount**
 7 **by any means authorized by law.**

8 **(3) Subsection (2) does not limit the authority of the drain**
 9 **commissioner to collect a rate or charge by any other means**
 10 **authorized by law for the collection of a debt.**

11 Sec. 161. **(1) The proceedings** ~~in establishing any drain~~
 12 ~~and levying taxes therefor shall be~~ **to establish a drain and**
 13 **levy assessments are** subject to review on ~~certiorari as herein~~
 14 ~~provided~~ **superintending control. A complaint seeking a writ of**
 15 ~~certiorari~~ **superintending control** for any error **in proceedings**
 16 occurring before or in the final order of determination shall be
 17 ~~issued within 10~~ **filed not more than 14** days after a copy of
 18 ~~such~~ **the** final order is filed in the office of the drain
 19 commissioner as required by section 151, ~~of this act,~~ and for
 20 any error **in proceedings** occurring after ~~such~~ **the** final order
 21 of determination, ~~within 10~~ **not more than 14** days after the day
 22 of review, or if an appeal has been taken, ~~within 10~~ **not more**
 23 **than 14** days after the filing of the report of the board of
 24 review. ~~Notice of such certiorari shall be~~

25 **(2) The court shall not hear the action unless a copy of the**
 26 **complaint for superintending control was** served upon the
 27 commissioner ~~within 10~~ **not more than 14** days after the day ~~of~~

~~1 issue in the same manner as notice is required to be given of~~
~~2 certiorari for reviewing judgments rendered by justices of the~~
~~3 peace and the writ shall be issued and served, and bond given and~~
~~4 approved and the subject matter brought to issue in the same time~~
~~5 and manner, as near as may be, as in such cases provided, except~~
~~6 that such certiorari may be heard by the court during term, or at~~
~~7 chambers, upon 5- **the complaint was filed and 7 days' notice of**~~
~~8 **the hearing is** given to the opposite party. ~~;~~ and the circuit~~
~~9 court of the county **The court** shall hear and determine the~~
~~10 ~~same~~ **action** without unnecessary delay, and if any material~~
~~11 defect ~~be~~ **is** found in the proceedings for establishing the~~
~~12 drain ~~, such~~ **and levying assessments, shall set aside the**~~
~~13 proceedings. ~~shall be set aside.~~ If issues of fact are raised~~
~~14 by the ~~petition for such~~ writ ~~and the return thereto, such~~~~
~~15 **complaint or answer, the** issues shall, on application of either~~
~~16 party, be framed and testimony thereon taken under the direction~~
~~17 of the court.~~

~~18 (3) If the proceedings ~~be~~ **for establishing the drain and**~~
~~19 **levying assessments are** sustained, the party ~~bringing the~~~~
~~20 ~~certiorari shall be~~ **seeking superintending control is** liable for~~
~~21 the costs ~~thereof, and if they be~~ **of the superintending control**~~
~~22 **proceedings. If the proceedings for establishing the drain and**~~
~~23 **levying assessments are** not sustained, the parties making~~
~~24 application for the drain ~~shall be~~ **are** liable for the costs of~~
~~25 **the superintending control proceedings. If ~~no certiorari be~~**~~
~~26 ~~brought~~ **a complaint for superintending control is not filed**~~
~~27 within the time ~~herein~~ prescribed, the drain shall be ~~deemed~~~~

1 **considered** to have been legally established, and the ~~taxes~~
 2 ~~therefor~~ **drain assessments** legally levied, and the legality of
 3 ~~said~~ **the** drain and the ~~taxes therefor~~ **assessments** shall not
 4 thereafter be questioned in ~~any suit at law or equity~~;
 5 ~~Provided, No court shall allow any certiorari questioning the~~
 6 ~~legality of any drain by any person unless notice has been given~~
 7 ~~to the commissioner in accordance with the provisions of this~~
 8 ~~chapter: Provided further, That when such proceedings are~~
 9 ~~brought~~ **court. If a complaint for superintending control is**
 10 **filed,** the commissioner shall postpone the letting of contracts
 11 and all other proceedings until after the determination of the
 12 court. ~~And if any error be found in the proceedings~~ **If the**
 13 **court finds an error in the proceedings to establish the drain**
 14 **and levy assessments,** the court shall direct the commissioner to
 15 correct ~~such~~ **the** error ~~or errors~~ and then proceed ~~the same~~
 16 as though no error had been made.

17 CHAPTER 8 —

18 ~~CLEANING, WIDENING, DEEPENING, STRAIGHTENING AND EXTENDING~~
 19 ~~— DRAINS.—~~ **MAINTAINING, IMPROVING, AND CONSOLIDATING DRAINS**

20 Sec. 191. (1) ~~When a drain or portion thereof, which~~
 21 ~~traverses lands wholly in 1 county, and lands only in 1 county~~
 22 ~~which is subject to assessment, needs cleaning out, relocating,~~
 23 ~~widening, deepening, straightening, tiling, extending, or~~
 24 ~~relocating along a highway, or requires structures or mechanical~~
 25 ~~devices that will properly purify or improve the flow of the~~
 26 ~~drain or pumping equipment necessary to assist or relieve the~~
 27 ~~flow of the drain, or needs supplementing by the construction of~~

~~1 1 or more relief drains which may consist of new drains or
2 extensions, enlargements, or connections to existing drains, or
3 needs 1 or more branches added thereto, any 5 or at least 50% of
4 the freeholders if there are less than 5 freeholders whose lands
5 shall be liable to an assessment for benefits of such work, may
6 make petition in writing to the commissioner setting forth the
7 necessity of the proposed work and the commissioner shall proceed
8 in the same manner provided for the location, establishment, and
9 construction of a drain. If the project includes a tiled relief
10 drain, or the tiling of an existing open drain or any portion
11 thereof, with a conduit a part of which has an inside diameter in
12 excess of 36 inches or the retiling of an existing drain with a
13 conduit, a part of which has an inside diameter in excess of 36
14 inches, then the petition shall comply with section 71. The
15 preceding sentence shall not be applicable to the construction of
16 bridges, culverts, and passageways. The word tiling as used in
17 this and other sections of this act, means the laying of a
18 conduit composed of tile, brick, concrete, or other material.
19 When it is necessary for the public health of 1 or more cities,
20 villages, and townships, the petition may be signed solely by a
21 city, village, or township when authorized by its governing body
22 or by a combination of the municipalities, if the municipality or
23 municipalities are liable to assessments at large for a
24 percentage of the total amount assessed for the cost of the
25 proposed work. After the board of determination determines the
26 necessity for the work, as provided in section 72, the
27 commissioner shall, as soon as practicable after the final order~~

1 ~~of determination prescribed in section 151 has been filed by him,~~
2 ~~proceed as provided in sections 151 to 161. If the apportionment~~
3 ~~is the same as the last recorded apportionments, no day of review~~
4 ~~is necessary, but in other cases the commissioner shall proceed~~
5 ~~as provided in sections 151 to 161, including the notice of and~~
6 ~~the holding of a day of review. For a county drain, 1 or more of~~
7 ~~the following may be done, by petition filed pursuant to this~~
8 ~~section:~~

9 (a) The drain or portion of the drain may be maintained.

10 (b) The drain or portion of the drain may be improved subject
11 to any permit required under the natural resources and
12 environmental protection act, 1994 PA 451, MCL 324.101 to
13 324.90106.

14 (c) Measures may be undertaken that are intended both to
15 enhance or improve natural resource values of the drain and to
16 provide benefit to the designed function, longevity, or hydraulic
17 capacity of the drain.

18 (d) Consistent with part 315 of the natural resources and
19 environmental protection act, 1994 PA 451, MCL 324.31501 to
20 324.31529, a dam or structure in or adjacent to the drain may be
21 constructed, operated, and maintained to control the rate of flow
22 through or into the drain, or the level of water, or the amount
23 of seepage, or to provide for removal of drainage by pumping and
24 other mechanical operations. A petition for such a dam or
25 structure shall state that the improvement is necessary to drain,
26 protect, or irrigate land. The petition may state the desired
27 location of the dam or structure, the proposed method of

1 operation and outlet, and how historical drainage is to be
2 maintained.

3 (e) A drainage district may be consolidated with any
4 established drainage district or have lands added or deleted.
5 The consolidation, addition, or deletion shall otherwise comply
6 with section 277a relative to disposition of funds and payment of
7 outstanding debt.

8 (2) It is not necessary for the petitioners to describe the
9 drain other than by its name or by its commencement, general
10 route, and terminus. Only 1 petition and proceeding is necessary
11 for any of the measures described in subsection (1).

12 (3) The petition shall be filed with the county drain
13 commissioner. The petition shall be signed by at least 5
14 landowners in the drainage district whose lands would be liable
15 to assessment for benefits or at least 50% of the landowners if
16 there are less than 5 landowners whose lands would be liable for
17 assessment or shall be signed by landowners representing 25% of
18 the land area liable for assessment. The petition shall be
19 accompanied by a description or tax parcel code of the land in
20 the district owned by each signer and by a certificate of the
21 county treasurer as to payment of taxes and special assessments
22 against the lands in a form as described in section 51. The name
23 of any signer as to whose land the certificate shows taxes or
24 assessments unpaid for 3 years shall not be counted. The drain
25 commissioner shall determine the eligibility of the signers to
26 the petition based on their status as landowners when the
27 petition was filed. Instead of being signed by landowners, a

1 petition may be signed as provided in section 14 on behalf of at
2 least 1 public corporation, if the drain project is necessary for
3 the public health, safety, or welfare in the public corporation,
4 and if the public corporation will be liable for an assessment at
5 large against it for a percentage of the cost of the proposed
6 drain.

7 (4) For purposes of notice under section 8, the drain
8 commissioner shall evaluate the drainage district boundaries and
9 identify any additional landowners who may be subject to
10 assessments for the drain project. The landowners of any lands
11 being petitioned for consolidation, addition, or deletion and the
12 public corporations in which those lands are located shall be
13 given notice under section 8 of the proposed consolidation,
14 addition, or deletion. Proceedings shall otherwise be conducted
15 in the same manner as provided in sections 52 to 57. The
16 determinations of practicability and necessity shall be for the
17 activities petitioned under this section, not for the drain or
18 drainage district in general. The apportionment of benefits is
19 subject to section 201.

20 Sec. 192. (1) ~~Whenever a drain or portion thereof, which~~
21 ~~traverses lands in more than 1 county, and lands in more than 1~~
22 ~~county shall be subject to assessments, needs cleaning out,~~
23 ~~relocating, widening, deepening, straightening, tiling, extending~~
24 ~~or relocating along a highway, or requires structures or~~
25 ~~mechanical devices that will properly purify or improve the flow~~
26 ~~of the drain or pumping equipment necessary to assist or relieve~~
27 ~~the flow of the drain, or needs supplementing by the construction~~

~~1 of 1 or more relief drains which may consist of new drains or
2 extensions, enlargements or connections to existing drains, or
3 needs 1 or more branches added thereto, freeholders within the
4 drainage district equal to 50% of the number of freeholders whose
5 lands are traversed by said drain or drains in said petition or
6 abut on any highway or street along either side of which such
7 drain extends, between the point where said drain enters such
8 highway and the point where it leaves such highway or street and
9 which lands are within the drainage district, may make a petition
10 in writing to the commissioner of any county having lands in such
11 district setting forth the necessity of such proposed work.
12 Whenever it is necessary for the public health of 1 or more
13 cities, villages or townships, the petition may be signed solely
14 by a city, village or township when duly authorized by its
15 governing body or by any combination of such municipalities if
16 the municipality or municipalities will be liable to assessments
17 at large for a percentage of the total amount to be assessed for
18 the cost of the proposed work. The percentage of cost
19 apportioned to the municipality or municipalities shall be based
20 upon the benefits to accrue to such municipality or
21 municipalities and also the extent to which they contribute to
22 the conditions which makes the drain necessary. Upon receipt of
23 such petition, the commissioner shall notify the state director
24 of agriculture and the commissioners of each county embracing any
25 lands in the drainage district, and the director of agriculture
26 shall call a meeting within the time and in the manner prescribed
27 in section 122. The persons so named shall constitute a drainage~~

1 ~~board and if such work is then determined to be practicable, they~~
2 ~~may thereupon appoint a competent surveyor or engineer to make a~~
3 ~~survey of said drain, and lay out a drainage district according~~
4 ~~to section 104. After the surveyor or engineer has filed all~~
5 ~~data with the drainage board, the director of agriculture shall~~
6 ~~call a meeting as provided in section 122, and thereafter take~~
7 ~~all steps and perform all acts which are required to be done by~~
8 ~~said board upon a petition for the location, establishment and~~
9 ~~construction of drains as provided in sections 121 to 135. Such~~
10 ~~board and the commissioners shall exercise such power and be~~
11 ~~subject to such limitations as are provided in sections 121 to~~
12 ~~135. For an intercounty drain, 1 or more of the following may be~~
13 ~~done, by petition filed pursuant to this section:~~

14 (a) The drain or portion of the drain may be maintained.

15 (b) The drain or portion of the drain may be improved subject
16 to any permit required under the natural resources and
17 environmental protection act, 1994 PA 451, MCL 324.101 to
18 324.90106.

19 (c) Measures may be undertaken that are intended both to
20 enhance or improve natural resource values of the drain and to
21 provide benefit to the designed function, longevity, or hydraulic
22 capacity of the drain.

23 (d) Consistent with part 315 of the natural resources and
24 environmental protection act, 1994 PA 451, MCL 324.31501 to
25 324.31529, a dam or structure in or adjacent to the drain may be
26 constructed, operated, and maintained to control the rate of flow
27 through or into the drain, or the level of water, or the amount

1 of seepage, or to provide for removal of drainage by pumping and
2 other mechanical operations. A petition for such a dam or
3 structure shall state that the improvement is necessary to drain,
4 protect, or irrigate land. The petition may state the desired
5 location of the dam or structure, the proposed method of
6 operation and outlet, and how historical drainage is to be
7 maintained.

8 (e) A drainage district may be consolidated with any
9 established drainage district or have lands added or deleted.
10 The consolidation, addition, or deletion shall otherwise comply
11 with section 277a relative to disposition of funds and payment of
12 outstanding debt. The landowners of any lands being petitioned
13 for consolidation, addition, or deletion and the public
14 corporations in which those lands are located shall be given
15 notice of the proposed consolidation, addition, or deletion.

16 (2) It is not necessary for the petitioners to describe the
17 drain other than by its name or by its commencement, general
18 route, and terminus. Only 1 petition and proceeding is necessary
19 for any of the measures described in subsection (1).

20 (3) The petition shall be signed by 5 landowners in the
21 drainage district whose lands would be liable to assessment for
22 benefits or at least 50% of the landowners if there are less than
23 5 landowners whose lands would be liable for assessment or shall
24 be signed by landowners representing 25% of the land area liable
25 for assessment. The petition shall be accompanied by a
26 description or tax parcel code of the land in the district owned
27 by each signer and by a certificate of the county treasurer of

1 the county where that land is located as to payment of taxes and
2 special assessments against the land in a form described in
3 section 101. The name of any signer as to whose land a
4 certificate shows taxes or assessments unpaid for 3 years shall
5 not be counted. The drain commissioner shall determine the
6 eligibility of the signers to the petition based on their status
7 as landowners when the petition was filed. Instead of being
8 signed by landowners, a petition may be signed as provided in
9 section 14 on behalf of at least 1 public corporation, if the
10 drain project is necessary for the public health, safety, or
11 welfare in the public corporation, and if the public corporation
12 will be liable for an assessment at large against it for a
13 percentage of the cost of the proposed drain.

14 (4) For purposes of notice under section 8, the drainage
15 board shall evaluate the drainage district boundaries and
16 identify any additional landowners who may be subject to
17 assessments for the drain project. Proceedings shall otherwise
18 be conducted in the same manner as provided in sections 102 to
19 113. The determination of necessity shall be for the activities
20 petitioned under this section, not for the drain or drainage
21 district in general. The apportionment of benefits is subject to
22 section 201. After the drainage board determines the necessity
23 for the work, the commissioner shall, as soon as practicable
24 after the final order of determination prescribed in section 151
25 is filed, proceed as provided in sections 151 to 161.

26 Sec. 199. (1) ~~In case the necessity for cleaning out any~~
27 ~~drain arises from the act or neglect of any land owner, said act~~

1 ~~or neglect shall be taken into consideration by the commissioner~~
2 ~~in making the apportionment. In case the cost of cleaning out~~
3 ~~shall be lessened by the tiling of the source of the drain under~~
4 ~~section 425 of this act, the commissioner may take that into~~
5 ~~consideration in making the apportionment of benefits against the~~
6 ~~land so tiled, but in no case shall said benefits be considered~~
7 ~~to be less than 50% of the benefits to such land if it were not~~
8 ~~tiled. Should there be a surplus in any drain fund, the~~
9 ~~commissioner or drainage board, as the case may be, may, in their~~
10 ~~discretion, without application or notice, pay out of such funds~~
11 ~~a reasonable compensation for cleaning out any obstruction that~~
12 ~~may accumulate in the particular drain for which the fund was~~
13 ~~raised. An annual inspection may be made of a drain established~~
14 ~~under this act. Inspection shall be made on a drain laid out and~~
15 ~~constructed under this act upon the request of the governing body~~
16 ~~of a public corporation served in whole or in part by the drain~~
17 ~~to be inspected. For a drain constructed, improved, or restored~~
18 ~~to the last established depth bottom width and grade after the~~
19 ~~effective date of the 2003 amendatory act that amended this~~
20 ~~section, an inspection and report shall be made at least every 3~~
21 ~~years from the date of the completion of the construction.~~

22 (2) For county drains, the inspection shall be made by the
23 drain commissioner, or a competent person appointed by the drain
24 commissioner. For intercounty drains, the inspection shall be
25 caused to be made by the drainage board. The failure to inspect
26 as required by this section does not create a defect invalidating
27 the drain or an assessment.

1 (3) If the drain commissioner or drainage board determines
2 based on the inspection report that maintenance is necessary on
3 the drain, the drain commissioner or drainage board shall perform
4 maintenance in a timely manner. If the drain commissioner or
5 drainage board determines based on the inspection report that
6 deteriorated structures may have diminished the capacity of the
7 drain or become unstable or unsafe, the drain commissioner or
8 drainage board shall retain a competent engineer to evaluate the
9 deterioration and make recommendations concerning maintenance or
10 replacement of the structures.

11 (4) At the discretion of the drain commissioner or drainage
12 board, periodic hydrologic and hydraulic evaluations of the
13 adequacy of a drain to accommodate storm water flows may be
14 conducted.

15 (5) If at any time the drain fund of a drainage district
16 contains less than \$5,000.00 per mile or fraction of a mile of a
17 drain, the drain commissioner or drainage board may assess the
18 drainage district for an amount not to exceed \$2,500.00 per mile
19 or fraction of a mile in any 1 year based on apportionments as
20 described in section 201. The amount collected under an
21 assessment shall be deposited in the drain fund of a drainage
22 district for necessary inspection, repair, and maintenance of the
23 drain.

24 (6) If an inspection discloses the necessity of expending
25 money for the maintenance and repair of a drain in order to keep
26 it in working order, the drain commissioner for a county drain,
27 or the drainage board for an intercounty drain, may without

1 petition expend an amount not to exceed in any 1 year \$5,000.00
2 per mile or fraction of a mile for maintenance or repair of a
3 drain. The determination of the maximum expenditure allowed
4 without petition or resolution shall be based on the total number
5 of miles of the drain and not on the actual number of miles or
6 location of the maintenance or repair. The monetary amounts
7 established in this subsection shall be adjusted each January 1
8 beginning January 1, 2002 pursuant to the annual average
9 percentage increase or decrease in the Detroit consumer price
10 index-all items. The adjustment for each year shall be made by
11 comparing the percentage increase or decrease in the Detroit
12 consumer price index for the preceding August by the
13 corresponding Detroit consumer price index-all items 1 year
14 earlier. The resultant percentage change shall then be
15 multiplied by the affected monetary amounts. These results shall
16 be rounded up to the nearest \$25.00 and added to or subtracted
17 from the current monetary amounts as previously adjusted by this
18 section to obtain the new amounts for that year. The adjustments
19 shall apply only to expenditures occurring after the date of the
20 adjusting of the amounts. The director of agriculture shall
21 calculate the adjusted monetary amounts and make them available
22 upon request. If the index is unavailable, the director of
23 agriculture shall make a reasonable approximation.

24 (7) If the drain commissioner or the drainage board finds it
25 necessary to expend funds in excess of those prescribed in
26 subsection (6) in any 1 year for the maintenance or repair of a
27 drain, the additional amounts shall not be expended until 1 of

1 the following is satisfied:

2 (a) If a public corporation is affected by more than 20% of
3 the cost of the maintenance, the governing body of each such
4 public corporation approves the expenditure.

5 (b) If no public corporation is affected by more than 20% of
6 the cost of the maintenance, the drain commissioner or drainage
7 board gives notice of the maintenance to be performed and the
8 estimated cost to the persons liable for assessments for the
9 drain.

10 (c) If the maintenance or repair is requested by and the
11 entire additional cost is paid for by a public corporation,
12 private corporation, or other person.

13 (8) In determining whether or not a public corporation is
14 affected by more than 20% of the cost, the drain commissioner or
15 drainage board shall consider the total of the at large
16 percentages of the apportionment together with the total
17 percentage of land apportioned.

18 (9) If the drain fund of a drainage district does not contain
19 sufficient funds, or the district is obligated to repay
20 outstanding indebtedness to pay for inspection, repair, and
21 maintenance, the drain commissioner or drainage board shall
22 assess the drainage district according to benefits received. A
23 reassessment shall be made and spread upon the city or township
24 tax assessment rolls within 3 years after the completion of the
25 inspection, repair, and maintenance. If the total estimated
26 expenditure will exceed \$5,000.00 per mile or a fraction of a
27 mile, all landowners and public corporations within the district

1 or abutting the drain shall receive notice for the nature and
2 type of maintenance to be conducted before the commencement of
3 work by first-class mail and by publication in a newspaper of
4 general circulation. An affidavit of mailing shall be made by
5 the drain commissioner or drainage board. The affidavit is
6 conclusive proof that the notices required by this subsection
7 were mailed. The failure to receive notices by mail shall not
8 constitute a jurisdictional defect invalidating a special
9 assessment if notice by publication was given as required by this
10 subsection.

11 (10) An assessment for the actual cost of inspection, repair,
12 and maintenance performed on a drain, or an assessment to be
13 deposited in the drain fund of a drainage district, shall be made
14 according to benefits received.

15 (11) Notwithstanding any other provision of this act, if an
16 emergency condition exists within the drainage district that
17 endangers the public health, safety, or welfare, crops, or
18 property, the drain commissioner or the drainage board may expend
19 funds for maintenance and repair to alleviate the emergency
20 condition. Before the costs incurred for eliminating an
21 emergency condition are assessed, the drain commissioner or
22 drainage board shall file in the records of the drainage district
23 a written statement describing the emergency condition.

24 (12) In computing amounts under this section, the cost of
25 work to be performed by a federal agency or public corporation
26 that is not chargeable to the county or intercounty drainage
27 district shall not be included, nor shall it be necessary for the

1 drain commissioner or the drainage board to advertise for bids
2 for that portion of the work to be done by the federal agency or
3 public corporation. Inspection, engineering, legal, or
4 consultant fees shall not be included in amounts computed under
5 this section.

6 (13) For purposes of this act, the costs of maintenance
7 assessable against a drainage district include all of the
8 following:

9 (a) The costs incurred by the drain commissioner or drainage
10 board for inspection or professional consultation fees and
11 contractual services.

12 (b) Contractual expenses related to the levying and
13 collection of special assessments for the work performed.

14 (c) All other costs associated with maintenance of the
15 drain.

16 (d) Preparation and updating of maps and records used
17 directly in the development of special assessment rolls.

18 (14) If the cost of maintenance and repair of a drain
19 includes utility charges or costs to service pumping stations,
20 sewage treatment facilities, or retention basins, the limitation
21 on the amount of expenditures in subsections (6) to (9) does not
22 apply except that the drain commissioner or drainage board may
23 levy sufficient special assessments to pay the charges or costs
24 but not more than the amount sufficient to pay those charges or
25 costs.

26 (15) The salaries, expenses, and fringe benefits of clerical,
27 administrative, and engineering employees of the drain

1 commissioner or drainage board working incidental to the
2 operation, repair, or maintenance of a drain shall be chargeable
3 to and paid as budgeted from the county general fund and not
4 chargeable to or by the drain fund of a drainage district.

5 Sec. 200. (1) ~~In lieu of assessing the cost of the~~
6 ~~maintenance and repair of any drain to parcels of land in the~~
7 ~~drainage district within any city, village, township, charter~~
8 ~~township or county, the commissioner or drainage board may~~
9 ~~contract relative to such cost with any city, village, township,~~
10 ~~charter township or county in which the drain, or any part~~
11 ~~thereof, is located, or whose residents use the drain for~~
12 ~~drainage or for the transportation of sewage. In the contract~~
13 ~~any city, village, township, charter township or county may agree~~
14 ~~(1) to pay annually to the commissioner or the drainage board~~
15 ~~certain sums for the cost of maintenance and repair of any drain~~
16 ~~and for the creation of a reserve fund therefor, or (2) to~~
17 ~~provide such sums periodically as needed, or (3) to reimburse the~~
18 ~~commissioner or drainage board for all sums expended for~~
19 ~~maintenance and repair, or (4) for any combination of the~~
20 ~~foregoing. The contract shall be approved and its execution~~
21 ~~authorized by a resolution adopted by the legislative body of the~~
22 ~~city, village, township, charter township or county and shall be~~
23 ~~executed by the commissioner or drainage board on behalf of the~~
24 ~~drainage district. The city, village, township, charter township~~
25 ~~or county may fulfill its obligation to pay in accordance with~~
26 ~~the terms of the contract out of its general funds, service~~
27 ~~charges to its residents, or any other legally available funds.~~

1 ~~The contract shall specify the manner in which the obligation to~~
2 ~~pay shall be fulfilled.~~ If a new district is laid out and
3 includes added lands, including lands in a county which was not a
4 part of an original intercounty drainage district, the drain
5 commissioner for a county drain, or the chairperson of the
6 drainage board, shall notify the board of determination or
7 drainage board that allowed the petition, that the land should be
8 added to the district. The drain commissioner or chairperson of
9 the drainage board shall call a meeting of the board of
10 determination. If a member of the board of determination is
11 disqualified or unable to act, then the member's place shall be
12 filled by appointment as in the first instance. The notice shall
13 comply with section 8, and be forwarded to the landowners and
14 public corporations in the district as if lands were added. All
15 expense of notification shall be paid by the drainage district.

16 (2) At the time, date, and place designated by the drain
17 commissioner or the chairperson of the drainage board, the board
18 of determination or drainage board shall reconvene. Upon
19 reconvening, if the board of determination or drainage board by a
20 majority vote of members finds the proposed addition of the land
21 to the drainage district necessary or conducive to the public
22 health, safety, or welfare or for agriculture, the board of
23 determination shall make an order to that effect and file the
24 order with the drain commissioner or drainage board.

25 Sec. 201. All apportionments under this chapter shall be
26 made according to the benefits derived and shall be subject to
27 appeal in the same manner as provided in chapter 7. For a

1 project under section 199, if the apportionment is the same as
2 the last recorded apportionment, no day of review is necessary.
3 For a project under section 199, if the apportionment is changed,
4 or if an apportionment is made in a consolidated district which
5 apportions benefits between lands that were not previously
6 assessed by the consolidated district, the procedure shall be as
7 provided under chapter 7, including the notice of and the holding
8 of a day of review and the procedure for appeal.

9 CHAPTER 9 —

10 LETTING OF CONTRACTS —

11 Sec. 221. (1) ~~At the time and place fixed in the notice~~
12 ~~therefor, the commissioner shall receive bids for the~~
13 ~~construction of the drain.~~ The commissioner or drainage board
14 shall give notice under section 8 for the receiving of bids for
15 the construction, maintenance, or improvement of the drain. The
16 notice shall specify the time and place of receiving bids. The
17 notice shall also provide a brief description of the project
18 including its general location, type of construction, and
19 estimate of the amount and type of tile or pipe required for the
20 drain. The notice shall also include any information concerning
21 prequalifications required by subsection (4). The commissioner or
22 the drainage board may in any case, and shall for all ~~drains~~
23 ~~projects~~ having an estimated cost exceeding ~~-\$5,000.00~~
24 \$10,000.00, advertise for sealed proposals, to be opened on the
25 day of letting. If the drain commissioner or drainage board does
26 not advertise for proposals, the drain commissioner or drainage
27 board shall solicit 2 or more estimates for the cost of the

1 construction, maintenance, or improvement from qualified
2 contractors. However, if the landowner or developer is paying
3 the entire cost of the construction, maintenance, or improvement
4 and the contractor chosen by the landowner or developer is
5 acceptable to the drain commissioner or drainage board, the drain
6 commissioner or drainage board is not required to advertise for
7 sealed proposals or to solicit estimates. A contractor so
8 accepted shall enter into a contract with the commissioner or
9 drainage board, and the contract shall be administered by the
10 commissioner or drainage board.

11 (2) All sealed proposals received by the commissioner or
12 drainage board shall be publicly opened by ~~him~~ the commissioner
13 or the drainage board in the meeting and may be there examined by
14 any person interested. As soon as practical after the opening of
15 bids for the construction of any drain, the commissioner shall
16 determine the lowest responsible bidder and award contracts, or
17 ~~he may~~ reject all proposals and readvertise as in the first
18 instance. ~~, and in cases where the commissioner determined that~~
19 ~~the taxes assessed for benefits shall be collected in more than 1~~
20 ~~installment, he shall, subject to the provisions set forth in~~
21 ~~section 275 of this act, determine the amount, form, maturity and~~
22 ~~rate of interest of bonds to be issued. In counties having a~~
23 ~~board of county auditors no drain bonds shall be sold and no~~
24 ~~drain contracts let without the written consent and approval of~~
25 ~~the board of county auditors, but the approval of said board~~
26 ~~shall not be required in proceedings relative to intercounty~~
27 ~~drains.~~

1 (3) If a drain commissioner's office has the available
2 equipment and manpower to perform the necessary maintenance
3 provided pursuant to section 199, the maintenance may be
4 performed by the drain commissioner without the advertising for
5 sealed bids as set forth in subsection (1).

6 (4) The drain commissioner or drainage board, in consultation
7 with an engineer, may establish prequalifications for a
8 prospective contractor to submit a bid for the construction of
9 the drain, consistent with 1933 PA 170, MCL 123.501 to 123.508.
10 Prequalifications may include, but need not be limited to,
11 expertise, financial solvency, experience, or equipment.
12 Prequalification shall be determined before advertisement for
13 bids. The notice shall indicate that prequalifications are
14 applicable and where the prequalifications can be reviewed by the
15 prospective contractor.

16 (5) This act does not prohibit the drain commissioner or
17 drainage board from contracting with an engineer or contractor to
18 perform both the design and construction of a drain project if
19 such contracting is in the best interest of the drainage
20 district.

21 (6) If ~~no~~ a contract ~~shall be~~ is not let within ~~5~~ 2
22 years after the date of filing the petition to ~~locate, establish~~
23 ~~and construct, or deepen, widen, straighten, title, extend or~~
24 ~~clean out~~ establish a drainage district and establish and
25 construct a drain or to maintain or improve a drain, the drain
26 commissioner may determine that the petition shall be ~~deemed~~
27 considered abandoned and ~~no~~ issue an order to that effect. No

1 further action shall be taken to construct the drain. Time
 2 during which ~~any~~ litigation ~~shall be~~ **is** pending to contest
 3 the validity of such proceedings shall not be counted as a part
 4 of ~~such 5-year~~ **the 2-year** period. ~~If the drain commissioner~~
 5 ~~determines the petition shall be abandoned, he shall issue his~~
 6 ~~order to that effect; provided, that such determination of~~
 7 ~~abandonment shall not be issued within the 5-year period.~~ Notice
 8 of the order shall be given by publishing a notice in a newspaper
 9 of general circulation in the county. ~~The provisions of this~~
 10 **This** section ~~shall apply~~ **applies** to all petitions which are in
 11 full force and effect on the ~~date of January 1, 1973, or~~
 12 ~~thereafter~~ **effective date of the 2003 amendatory act that**
 13 **amended this section.**

14 (7) The board of county road commissioners, ~~when~~ **if**
 15 authorized by ~~a committee of supervisors appointed by the~~
 16 **county** board of ~~supervisors~~ **commissioners**, ~~is hereby~~
 17 ~~authorized to~~ **may** bid for the construction, cleaning, deepening,
 18 and widening of drains within the county, and, if ~~such~~ **the** bid
 19 is accepted, shall ~~be authorized to~~ perform the work called for
 20 ~~therein~~ **in the bid**, and **may** receive payment ~~therefor~~ **for the**
 21 **work.** ~~A bid tendered by such board of county road commissioners~~
 22 ~~shall not be accepted unless such bid shall be at least 15% lower~~
 23 ~~than any other bid tendered.~~ The ~~moneys~~ **money** received by the
 24 county road commission shall be credited to the county road fund,
 25 and expenditures incurred by the county road commission ~~shall~~
 26 ~~be~~ **in performing the work are** proper disbursements therefrom.

27 Sec. 222. ~~The commissioner shall first let the section at~~

~~1 the outlet of the drain and shall let each remaining section in~~
~~2 its order up stream: Provided, That the~~ **The commissioner or**
~~3 drainage board may let~~ **receive bids for** the drain in sections
~~4 or as a whole, whichever appears to him be~~ **be** the most practical.
~~5 Provided further, That the~~ **The commissioner or drainage**
~~6 board shall reserve the right to reject any and all bids or~~
~~7 proposals for a section of the drain and proceed to let said~~
~~8 receive bid proposals for the drain in its entirety. , and The~~
~~9 commissioner or drainage board may adjourn such the~~ **the** letting in
~~10 the whole or in part , from time to time, to such other time~~
~~11 or place to be by him at the time of such adjournment publicly~~
~~12 announced as shall to him seem proper, but not in all more than~~
~~13 40 90 days from and after the time of letting as first~~
~~14 advertised. to another place or time not more than 91 days after~~
~~15 the day of letting bids as first advertised. Notice of the~~
~~16 adjourned meeting shall be given as provided in section 8.~~

17 Sec. 223. (1) A deposit in the form of a **cashier's check,**
 18 **certified check, or its equivalent cash, bank money order, or**
 19 **bid bond from a surety authorized to do business in this state in**
 20 **the amount that the commissioner or drainage board considers**
 21 **reasonable may be required with each bid, whether on opening**
 22 **bidding or sealed proposals, as evidence of good faith and to**
 23 **reimburse the district in the event of failure on the part of**
 24 **if the successful bidder fails to execute the necessary contracts**
 25 **or to furnish the required security or indemnity insurance. A**
 26 **bid bond of the successful bidder, other than a bid bond from a**
 27 **surety, shall be deposited with the treasurer of the drainage**

1 district. If the bid bonds are held more than 63 days, the
2 treasurer of the drainage district shall pay to the bidder
3 interest actually earned from the date of deposit on a bid bond,
4 other than a bid bond from a surety. If the successful bidder
5 does not execute the proper contracts or furnish the security or
6 indemnity insurance required of him or her ~~within 10~~ **not more**
7 **than 14** days after the acceptance of his or her bid, then the
8 commissioner **or drainage board** may retain the deposit as
9 stipulated damages for the nonexecution of the contract and
10 proceed to advertise for and let the job anew. If the successful
11 bidder furnishes the security or indemnity insurance required and
12 executes the required contracts, then the deposit shall be
13 returned to him or her. All money forfeited to the commissioner
14 **or drainage board** under this subsection shall be deposited with
15 the ~~county~~ treasurer **of the drainage district** to the credit of
16 the drainage district fund.

17 (2) The successful bidder shall, ~~within the time stated in~~
18 ~~subsection (1)~~ **not more than 14 days after the acceptance of his**
19 **or her bid**, file with the commissioner security considered
20 necessary by the commissioner guaranteeing that the contract will
21 be completed in accordance with the terms specified in the
22 contract. The security shall be in a sum fixed by the
23 commissioner, but shall not be less than the contract price. At
24 the option of the commissioner, the security shall consist of 1
25 or more of the following:

26 (a) Cash.

27 (b) Certified check.

1 (c) Performance bond executed by a surety company authorized
2 to do business in this state.

3 (d) Escrow agreement acceptable to the commissioner.

4 (e) Irrevocable letter of credit issued by a state or
5 federally regulated financial institution.

6 (f) Personal surety acceptable to the commissioner.

7 (3) If a personal surety is used as security, the
8 commissioner shall require all of the following: ~~conditions and~~
9 ~~limitations:~~

10 (a) That the personal surety be a contractor with the
11 experience and ability to perform and complete, in a timely
12 manner, the contract ~~in the event of a default by~~ **if** the
13 successful bidder **defaults**.

14 (b) That the personal surety not act as the personal surety
15 for more than 1 other principal during the term of the contract
16 upon which he or she is giving security.

17 (c) That no more than 2 personal sureties be utilized as
18 security on any 1 contract.

19 (d) That, the personal surety provide financial information
20 requested by the commissioner and that, after a review of this
21 information, the commissioner be satisfied with the surety's
22 ability to perform the contract upon which he or she is giving
23 security.

24 (e) That the personal surety provide to the commissioner a
25 list of contracts upon which the surety is required to perform,
26 naming the parties to each contract, the amount of each contract,
27 the work to be performed under each contract and the time during

1 which each contract is to be performed, and that the personal
2 surety revise this listing during the term of the contract upon
3 which he or she is giving security, adding or deleting
4 information as contracts are entered or completed.

5 (f) That the personal surety agree that ~~in the event~~ **if** the
6 successful bidder defaults on the contract, the personal surety
7 shall ~~enter onto the project and~~ complete the project pursuant
8 to the terms of the contract within the time limitations
9 specified by the commissioner or pay to the drainage district the
10 amount of money specified by the commissioner as necessary to pay
11 another contractor to complete the contract.

12 (4) If a contract is not completed in accordance with its
13 written terms, the security provided to the commissioner shall be
14 used to complete the contract.

15 (5) In addition to the security required in subsection (2),
16 the commissioner **or drainage board** shall require the successful
17 bidder to furnish ~~a bond or~~ indemnity insurance **and motor**
18 **vehicle insurance** in the sum required by the commissioner **or**
19 **drainage board**. This ~~bond or indemnity~~ insurance shall run to
20 the people of ~~the state of Michigan~~ **this state** and shall be
21 maintained in full force and effect until the contract is
22 terminated to indemnify the commissioner **and drainage board**, the
23 drainage district, and the county or other ~~municipality~~ **public**
24 **corporation** against loss or damage resulting from injury to a
25 worker on the drain, or the negligence or carelessness of the
26 contractor in the construction of the drain. Indemnity insurance
27 that terminates by expiration or cancellation shall be replaced

1 ~~prior to~~ **before** termination in the sum then required by the
 2 commissioner **or drainage board**. **The commissioner or drainage**
 3 **board shall also require the successful bidder to furnish**
 4 **worker's compensation insurance.**

5 (6) The provisions of this section apply to contracts in
 6 excess of \$100,000.00. For all contracts equal to or less than
 7 \$100,000.00, the commissioner **or drainage board** may require
 8 security that ~~he or she~~ **the commissioner or drainage board**
 9 considers adequate and necessary, consistent with the provisions
 10 of this section.

11 (7) The commissioner, at his or her option, may require the
 12 provision of additional kinds of security.

13 CHAPTER 10 —

14 INSPECTION AND APPROVAL OF CONSTRUCTION AND PAYMENT FOR THE DRAIN

15 —

16 Sec. 241. ~~No~~ **A warrant, ~~or~~ drain order, voucher, or**
 17 **other order** for ~~the~~ payment of any part of ~~such~~ a drain
 18 contract shall **not** be drawn until the work has been inspected and
 19 approved as herein provided. The commissioner ~~may~~ **or drainage**
 20 **board shall** inspect and approve any tile or open drain, or he **or**
 21 **she** may designate any competent surveyor or engineer to make
 22 ~~such~~ **the** inspection. ~~, but where the~~ **However, if the cost of**
 23 construction exceeds ~~\$3,000.00~~ **\$10,000.00**, the commissioner **or**
 24 **drainage board** shall designate a competent surveyor or engineer
 25 to make the inspection. ~~Any~~ **The** person making ~~such~~ **the**
 26 inspection shall see that the specifications in the contract are
 27 fully complied with, and if the work is not in accordance with

1 the contract, the commissioner **or drainage board** shall
2 immediately notify the contractor. ~~thereof.~~ If the work ~~se~~
3 ~~inspected shall conform~~ **conforms** to the contract, the person
4 making the inspection shall certify in writing to that fact and
5 an order of approval shall ~~thereupon~~ be entered by the
6 commissioner **or drainage board** in his **or her** drain record, and
7 notice of the approval be given **to** the contractor. ~~The~~
8 ~~commissioner may issue warrants or orders on the fund of any~~
9 ~~drain not exceeding 90% of the amount earned on any contract~~
10 ~~after the certificate of inspection and the order of approval is~~
11 ~~entered as herein provided. The payment of the final 10% or any~~
12 ~~portion thereof on any contract may be made after the certificate~~
13 ~~of inspection is made attesting to the completion and is filed in~~
14 ~~the office of the commissioner.~~ **Progress payments shall be made**
15 **consistent with 1980 PA 524, MCL 125.1561 to 125.1566.**

16 Sec. 242. The commissioner ~~shall have power to~~ **or**
17 **drainage board may** grant a reasonable extension of time for the
18 completion of ~~any~~ **a** contract. ~~When any~~ **If a** contract ~~shall~~
19 ~~not be~~ **is not** finished within the time specified, or to which it
20 may be extended, the commissioner **or drainage board** shall declare
21 ~~such~~ **the** contract forfeited and shall, within a reasonable time
22 thereafter, relet the unfinished portion ~~thereof~~ to the lowest
23 responsible bidder, by public letting, after not less than ~~5~~ **7**
24 days' notice ~~thereof, by posting only,~~ **in the same manner** as
25 provided for the letting in the first instance, or by private
26 letting, ~~when such can be done, at a price per rod for the~~
27 ~~uncompleted portion thereof not exceeding the price per rod at~~

1 ~~which the job was first let; and he~~ **if permitted by law, and the**
 2 **drain commissioner or drainage board** shall make contract and take
 3 security in each case as herein provided. The cost of completing
 4 such part over and above the contract price, if any, and the
 5 expense of notice and reletting shall be collected by the
 6 commissioner ~~of~~ **or drainage board from** the parties first
 7 contracting or ~~of~~ their bondsman. ~~, which moneys, when so~~ **The**
 8 **money** collected ~~,~~ shall be deposited with the county treasurer,
 9 and placed to the credit of such drain.

10 Sec. 243. ~~Whenever~~ **If** the amount assessed for the
 11 construction of ~~any~~ **a drain** ~~shall not be~~ **is not** sufficient
 12 to complete the ~~same,~~ **drain** and to pay all the costs and
 13 incidental expenses or to pay the principal and interest on **any**
 14 bonds ~~if such are~~ issued, a further assessment shall be made to
 15 meet the deficit or additional expense. ~~Such~~ **The** further
 16 assessment shall be apportioned, assessed, levied and collected
 17 as provided in the first instance, and on the same percentage,
 18 and shall be collected in 1 year, but there shall be no review of
 19 ~~nor~~ **or** appeal from ~~such~~ **the** further assessment. ~~;~~ **Provided,**
 20 ~~That whenever by reason of the~~ **However, if the deficiency is the**
 21 **result of** embezzlement, **fraud,** or other wrongful act ~~of~~ **by** any
 22 county official or ~~by reason of the conspiracy of any county~~
 23 ~~official with any other person or persons to defraud any drainage~~
 24 ~~district, township or county, there shall be any deficiency as~~
 25 ~~aforsaid, the board of supervisors~~ **the county board of**
 26 **commissioners** of any county traversed by the drain may provide
 27 for the payment, out of the general fund of the county, of all or

1 any part of ~~such~~ **the** additional assessment as may be
 2 apportioned to that part of the drainage district within such
 3 county, or for the refunding to ~~taxpayers~~ **the persons assessed**
 4 of any such assessment which may have been paid.

5 Sec. 244. (1) ~~All orders~~ **Orders or vouchers** for the
 6 payment for services rendered and work performed shall be drawn
 7 by the commissioner **or drainage board** upon the drain fund of each
 8 particular drain. ~~In case of taxes assessed for benefits~~
 9 ~~received which~~ **If special assessments** are to be paid in 7 annual
 10 installments or less, all orders for the payment for lands for
 11 right-of-way shall be paid out of the first year's ~~taxes~~
 12 **special assessments**, and the balance of ~~such~~ **the** first year's
 13 ~~taxes~~ **special assessments**, if any, shall be applied pro rata
 14 among the ~~several~~ contractors in the payment of the contracts
 15 for the construction of such drain. For the balance due upon
 16 such contracts, the commissioner **or drainage board** shall draw
 17 orders payable out of each succeeding year's assessment pro rata
 18 among the several contractors. ~~Provided, That no~~ **However,**
 19 **the** commissioner **or drainage board** shall **not** draw orders payable
 20 in any ~~one~~ 1 year for a larger amount than ~~said~~ **the** year's
 21 assessment, ~~except in cases where~~ **unless bonds and notes** are
 22 issued and sold as provided by law. ~~All drain~~

23 (2) **Drain** orders shall be drawn payable not sooner than the
 24 fifteenth day of April nor later than the first day of August of
 25 the year in which the drain ~~taxes for the payment thereof~~
 26 **special assessments** are required to be paid. If the drain fund
 27 is insufficient for ~~such~~ **this** purpose because of delinquency in

1 the payment of drain ~~taxes~~ **special assessments** after the lands
 2 on which the ~~said taxes shall have become~~ **special assessments**
 3 **are** delinquent have been offered for sale ~~, in any such case~~
 4 ~~where~~ **and** payment is made by the county treasurer out of the
 5 general fund, ~~and all~~ delinquent drain ~~taxes~~ **special**
 6 **assessments subsequently** received by ~~said~~ **the** treasurer
 7 ~~thereafter~~ shall be credited to the general fund until the
 8 ~~same~~ **general fund** is reimbursed. ~~In all cases where~~ **If** bonds
 9 are issued and sold ~~as herein provided~~ and the proceeds
 10 ~~thereof~~ are deposited in the county treasury to the credit of
 11 the fund of the ~~particular~~ drain, orders presented on ~~such~~
 12 **the** fund shall be paid out of the proceeds ~~aforsaid,~~ or out of
 13 the first annual installment of the ~~taxes~~ **special assessments**.
 14 ~~In no case where~~ **If** there are outstanding bonds, ~~shall~~ an
 15 order **shall not** be paid out of ~~any~~ **an** installment of ~~taxes~~
 16 **special assessments** collected other than the first.

17 Sec. 245. (1) ~~All drain~~ **Drain** orders **or vouchers** made by
 18 the commissioner **or drainage board** shall state the services
 19 rendered in brief form ~~, and~~ **and** shall be numbered and recorded and
 20 signed by the commissioner **or drainage board**. ~~Such~~ **An** order,
 21 when due, shall be presented to the county ~~clerk and he~~
 22 **treasurer**. **The county treasurer** shall immediately ascertain
 23 ~~from the county treasurer~~ if the particular fund on which
 24 ~~said~~ **the** order is drawn is sufficient to pay ~~said~~ **the** order.
 25 If ~~such~~ **the** fund is sufficient, the county treasurer shall so
 26 certify on the back of ~~said~~ **the** drain order and the county
 27 clerk **or other authorized county officer** shall thereupon issue

1 the usual county warrant upon the county treasurer for the
 2 payment of ~~said~~ **the** order, taking ~~said~~ **the** order so certified
 3 as his **or her** voucher. If ~~such~~ **the** particular fund is
 4 insufficient when ~~such~~ **the** order is presented for payment, the
 5 county treasurer shall so certify upon ~~such~~ **the** order and
 6 ~~such~~ **the** order shall then draw interest at the rate ~~of 6% per~~
 7 ~~annum~~ **paid on 91-day United States treasury notes** from the date
 8 of presentation until ~~such~~ **the** particular fund is sufficient to
 9 pay the ~~same, said interest to~~ **order. The interest shall** be
 10 computed and paid with the principal out of the proper fund on
 11 which it was drawn, when there are sufficient funds to pay the
 12 ~~same~~ **principal and interest.**

13 (2) The county treasurer shall keep a record in which he **or**
 14 **she** shall note each drain order presented for payment on a drain
 15 account ~~which~~ **that** was insufficient to pay ~~such~~ **the** order on
 16 the date of presentation. He **or she** shall note in such record
 17 the amount, number, drain account, and the date of original
 18 presentation for payment. When there ~~are~~ **is** sufficient
 19 ~~moneys~~ **money** in the particular drain account to pay the order,
 20 plus interest, the county treasurer shall note the date of ~~such~~
 21 **the** sufficiency on ~~such~~ **the** record and shall transfer
 22 sufficient ~~moneys~~ **money** to pay ~~such~~ **the** order and interest
 23 then due from the particular drain account and drain fund to a
 24 drain order redemption fund and the drain order shall cease to
 25 earn interest as of that date. Transfers to the drain order
 26 redemption fund shall be made in the order of priority in which
 27 the drain orders were originally presented for payment. Payment

1 of ~~such~~ **the** orders, including interest, ~~earned as provided~~
 2 ~~herein,~~ shall thereafter be made by the county treasurer from
 3 the drain order redemption fund. Drain orders at any time during
 4 the year in which such drain order becomes due and payable and
 5 for a period of ~~30~~ **28** days prior to such year shall be accepted
 6 for the payment of drainage ~~taxes~~ **special assessments**.

7 (3) The county treasurer shall report to the commissioner **or**
 8 **drainage board** the amount paid as interest on ~~any and all such~~
 9 drain orders. The county treasurer shall at the first of each
 10 month furnish the drain commissioner **or drainage board** with a
 11 report of ~~all~~ drain orders cashed during the preceding month,
 12 including the name of the drain upon which the order was drawn,
 13 the amount, the number of the order, and the date of payment.

14 Sec. 247. The county drain commissioner **or drainage board**
 15 acting under the provisions of this act may employ an attorney
 16 when ~~he deems the same~~ **considered** necessary and any legal
 17 expense shall be charged to the ~~several drain districts in~~
 18 ~~behalf of which he shall be employed.~~ ~~All such expenses~~
 19 **drainage district. The expense** shall be paid out of the
 20 revolving drain fund which shall be reimbursed out of the first
 21 ~~moneys~~ **money** available. ~~Provided, That~~ **However,** the board
 22 of ~~supervisors~~ **commissioners** by resolution may ~~cause~~ **request**
 23 the prosecuting attorney to give such legal assistance as part of
 24 ~~his~~ **the duties of the prosecuting attorney.**

25 CHAPTER 11 —

26 LEVY AND COLLECTION OF ~~DRAIN TAXES.~~ **SPECIAL ASSESSMENTS**

27 Sec. 261. Within ~~10~~ **14** days after the letting of

1 contracts, or in case of an appeal, ~~then forthwith~~ **immediately**
 2 after ~~such~~ **the** appeal ~~shall have been~~ **is** decided, the
 3 commissioner **or drainage board** shall make a computation of the
 4 entire cost of ~~such~~ **the** drain, ~~which shall include (1) all~~
 5 ~~the~~ **including, but not limited to, all of the following:**

6 (a) **The** expense of ~~laying out and designating the drainage~~
 7 ~~district, which item of expense shall include the entire~~
 8 **establishing the drainage district and establishing and**
 9 **constructing the drain, including, but not limited to, the** cost
 10 of the survey. ~~;(2) the~~

11 (b) **The** expense of ~~locating,~~ **establishing and constructing,**
 12 **maintaining, or improving** the drain. ~~;(3) the fees and expenses~~
 13 ~~of special commissioners; (4) the compensation to be paid the~~
 14 ~~board of review; (5) the~~

15 (c) **The** costs of acquiring property under section 7.

16 (d) **The** per diem compensation, mileage, and expenses to be
 17 paid to members of boards under this act.

18 (e) **The** cost associated with evaluation of natural resource
 19 impacts and the costs to minimize those impacts.

20 (f) **The** cost of construction of bridges and culverts. ~~;(6)~~
 21 ~~the~~

22 (g) **The** costs for engineers, surveyors, and other
 23 professionals.

24 (h) **The** contracts for the construction of the drain, or other
 25 work to be done on ~~said~~ **the** drain. ~~;(7) the~~

26 (i) **The** estimated cost of an appeal in case the apportionment
 27 made by the commissioner ~~shall not be~~ **or drainage board is not**

1 sustained. ~~;(8) the~~

2 (j) **The** estimated cost of inspection. ~~;(9) the~~

3 (k) **The** cost of publishing all notices required. ~~;(10) all~~
4 fees

5 (l) **Fees** of the probate judge, ~~;(11) attorney~~ **if**
6 applicable.

7 (m) **Attorney** fees for legal services in connection with the
8 drain ~~;(12) interest~~ **project**.

9 (n) **Interest** on bonds **or notes** for the first year, if bonds
10 **or notes** are to be issued. ~~, and he shall add the whole into a~~
11 ~~gross sum and add thereto not~~

12 (o) **Not** less than 10% ~~nor~~ **or** more than 15%, at the
13 discretion of the drain commissioner **or drainage board**, of ~~said~~
14 ~~gross sum~~ **the sum of the costs under subdivisions (a) to (n)**, to
15 cover contingent expenses. ~~, and the entire sum so ascertained~~
16 ~~shall be deemed to be the cost of construction of such drain.~~

17 Sec. 262. (1) ~~The commissioner shall thereupon make a~~
18 ~~special assessment roll for the drain for each county, township,~~
19 ~~city, or village and each state trunk line highway affected~~
20 ~~thereby, which roll shall be designated~~ **After the cost of a**
21 **county drain is computed under section 261, the drain**
22 **commissioner shall make a special assessment roll for the drain**
23 **for each municipality and roadway affected by the drain. After**
24 **the cost of an intercounty drain is computed under section 261,**
25 **the drain commissioner of each county in which lands subject to**
26 **assessment for the drain are located shall make a special**
27 **assessment roll for the drain for each municipality and roadway**

1 affected by the drain in that drain commissioner's county. The
2 drain commissioner making the roll shall designate the roll,
3 giving name or number, "drain special assessment roll". The
4 commissioner shall enter on the roll a correct description of the
5 tracts, parcels, or subdivisions of land benefited by the drain
6 which description may be made by tax parcel identification number
7 in compliance with section 152 and place opposite each
8 description the amount of the percent heretofore determined upon
9 by ~~him~~ **the commissioner** or by the board of review. The
10 commissioner shall also enter on the roll the amount of the
11 percent apportioned to ~~the county, for benefits to any county~~
12 ~~road, and to the township, city, or village and the state highway~~
13 ~~commission, for benefits to any state trunk line highway~~ **a road**
14 **authority for benefits to a roadway**, and ~~in case~~ **if** the amount
15 ~~be~~ **is** payable in installments, ~~he shall also enter thereon~~ a
16 memorandum of the installments and of the year or years when the
17 installments shall be spread. The commissioner shall add a
18 certificate in writing of the determination whether the ~~taxes~~
19 **special assessments** assessed for benefits shall be paid in 1 or
20 more years. The rolls shall be dated and signed by the
21 commissioner and filed on or before the last Wednesday in
22 September in each year, in the office of the county clerk.

23 (2) The commissioner shall prepare a ~~tax~~ **special** assessment
24 roll in each year for the collection of ~~taxes~~ **special**
25 **assessments** for the current year, and shall certify the ~~same~~
26 **roll** to the county clerk on or before the first day of the annual
27 meeting of the county board of commissioners. In each roll, the

1 commissioner shall add to the amount to be collected ~~—~~ interest
2 on all unpaid installments to the date of ~~tax~~ collection, and
3 shall deduct from the amount to be collected by the county,
4 village, city, or township all amounts received from the proceeds
5 or income of property or an interest in property located in the
6 county, village, city, or township and acquired ~~through~~
7 ~~condemnation or the payment of damages~~ under this act. To the
8 roll for the last year, the commissioner shall add a further
9 amount, if any, as may be necessary together with outstanding
10 uncollected ~~taxes~~ **special assessments**, to pay all outstanding
11 bonds and interest thereon to maturity. If the roll is made
12 payable in more than 1 installment, a permanent assessment roll
13 may be maintained in the office of the county treasurer, subject
14 to the direction of the ~~board of county auditors, in counties~~
15 ~~having such a board, and of the county board of commissioners in~~
16 ~~other counties~~ **county board of commissioners**, showing the total
17 cost, the number of installments, and the amount of each annual
18 assessment, together with interest charges thereon, which shall
19 be carried in a separate column.

20 (3) If the roll is made payable in more than 1 installment,
21 and the total amount of any assessment is \$10.00 or less,
22 exclusive of interest, then that assessment shall be payable in 1
23 installment; but if the assessment exceeds the sum of \$10.00 and
24 is made payable in more than 1 installment, then that
25 installment, exclusive of interest, shall not be less than the
26 sum of \$10.00, excepting the final installment, which shall be
27 payable in the amount of the actual balance.

1 Sec. 263. ~~It shall be the duty of the~~ **The** supervisor ~~,~~
2 **or** village or city assessor ~~,~~ ~~to~~ **shall** spread on ~~his~~ **the** roll
3 the total amount of all drain ~~taxes~~ **special assessments**
4 determined ~~upon~~ by the county drain commissioner to be assessed
5 upon the county, township, city, or village at large by adding to
6 the county, township, city, or village tax for the year in which
7 the ~~same~~ **drain assessment** was assessed and extending ~~said tax~~
8 **the drain assessment** in the same column with the general county,
9 township, city, or village tax. ~~Provided, That in such~~ **In**
10 villages or cities, ~~of this state,~~ where the municipal taxes
11 ~~therefor~~ are assessed and collected ~~prior to~~ **before** the
12 October meeting of the **county** board of ~~supervisors,~~ ~~all taxes~~
13 **commissioners, drain assessments** ordered to be spread against
14 such municipalities shall be spread during the calendar year
15 following ~~such~~ **the** action by the **county** board of ~~supervisors:~~
16 ~~Provided further, That in~~ **commissioners. In** lieu of the
17 addition of ~~such tax~~ **the drain assessment** to the county,
18 township, city, or village tax, the ~~legislative body thereof~~
19 **governing body of the municipality** may in any year provide for
20 the payment thereof from the general or contingent fund of such
21 county, township, city, or village. ~~Such~~ **The** supervisor or
22 assessor shall also spread upon ~~said~~ **the** roll, separately, and
23 immediately following the other descriptions, all tracts or
24 parcels of land specified by the commissioner to be assessed for
25 benefits, and shall place opposite each description, in a column
26 marked, "(giving the name or number)
27 drain ~~taxes~~ **special assessments,**" the amount of ~~taxes~~

1 **assessments** apportioned thereon, as certified ~~to him~~ by the
2 county clerk.

3 Sec. 265. ~~All drain taxes~~ **Drain special assessments**
4 assessed under ~~the provisions of~~ this act ~~shall be~~ **are**
5 subject to the same interest and charges, and shall be collected
6 in the same manner as state and other general taxes are
7 collected, and collecting officers are hereby vested with the
8 same power and authority in the collection of ~~such taxes~~ **the**
9 **special assessments** as are or may be conferred by law for
10 collecting general taxes. Drain ~~taxes~~ **special assessments**,
11 when collected, shall be returned to the county treasurer to be
12 disbursed ~~by him.~~ ~~In all cases where~~ **within 14 days of receipt**
13 **unless waived by the drain commissioner to some other specified**
14 **time.** Any interest earned from the time of collection and
15 accounting to the day of delivery shall be returned to each drain
16 fund on a pro rata basis. If suit is brought against the
17 collector arising out of the collection of ~~any drain tax~~ a
18 **drain special assessment**, the county shall defend ~~such~~ **the**
19 officer in the same manner ~~that he has now the right to be~~
20 ~~defended in~~ **as if the suit arose out of** the collection of
21 general taxes. ~~No~~ A suit shall **not** be instituted to recover
22 any drain ~~tax~~ **special assessment** or money paid or property sold
23 ~~therefor~~ **for a drain special assessment**, or for damages on
24 account ~~thereof~~ **of a drain special assessment**, unless brought
25 within ~~30~~ **28** days from the time of payment of ~~such~~ **the** money
26 to, or sale of such property by, the collecting officer. ~~;~~ ~~and~~
27 ~~if such tax shall be~~ **If the special assessment is** paid under

1 protest, the reasons ~~therefor~~ **for the protest** shall be
 2 specified, and the same procedure observed as is or may be
 3 required by the general ~~tax law.~~ **All taxes property tax act,**
 4 **1893 PA 206, MCL 211.1 to 211.157. Special assessments** levied
 5 under ~~the provisions of~~ this act, with all lawful costs,
 6 interest, and charges, ~~shall be and remain a perpetual~~ **are a**
 7 lien upon the lands upon which they are assessed, and a personal
 8 claim against the owner or owners of such lands until they are
 9 paid.

10 Sec. 266. If the ~~taxes~~ **special assessments** levied for the
 11 construction, ~~cleaning out, widening, deepening, straightening~~
 12 ~~or extending~~ **maintenance, or improvement** of ~~any~~ **a** drain are
 13 not collected by the township, city, or village treasurer, they
 14 shall ~~by him~~ be returned **by that treasurer**, together with the
 15 lands upon which they were levied, to the county treasurer in the
 16 same return, at the same time, and in the same manner, in every
 17 respect (naming in each case the particular drain), as lands are
 18 returned for state, county, and township taxes. ~~, and such~~
 19 ~~taxes~~ **Drain special assessments** shall follow ~~such~~ **the** lands,
 20 the same as ~~all such other~~ **do property** taxes, and ~~all~~ **may be**
 21 **collected in the same manner as provided by** the general
 22 provisions of law ~~now existing, or that may be hereafter~~
 23 ~~enacted~~ for enforcing the payment of township, county, and state
 24 taxes. ~~, shall apply to such drain taxes, and to the lands~~
 25 ~~returned delinquent therefor, in the same manner and with like~~
 26 ~~effect.~~ **However, the treasurer shall notify the drain**
 27 **commissioner of all land in the county that has been returned**

1 delinquent and subject to sale so that the drain commissioner or
2 drainage board may file an affidavit of special assessment
3 pending and subject to collection before the sale or reversion.

4 Sec. 267. After any ~~taxes~~ **special assessments** have been
5 assessed for the ~~construction, location or establishment~~
6 **establishment, construction, maintenance, or improvement** of any
7 drain, ~~no injunction shall issue to restrain~~ the spreading of
8 the ~~same~~ **assessments** upon the tax roll ~~nor to restrain~~ or the
9 collection ~~thereof, nor shall the same be in any manner~~ **of the**
10 **assessments shall not be enjoined or stayed**, unless the amount of
11 ~~such~~ **the** assessment ~~shall first be~~ **has been** paid into the
12 township treasury to be applied ~~upon such tax, in case the court~~
13 ~~in which the suit upon which injunction is tried shall so order~~
14 **to the assessment upon order of the court.**

15 Sec. 269. (1) The collection of a special assessment levied
16 or ordered to be levied for the payment of the establishment,
17 construction, maintenance, or improvement of a drain under this
18 act shall not be perpetually enjoined or declared absolutely void
19 for any reason. The court in which an action is brought to
20 recover a special assessment paid, or to declare void the
21 proceedings to establish and construct any drain, or to enjoin
22 any special assessment levied or ordered to be levied for the
23 payment of the labor and expense thereof, may, if there be
24 manifest error in the proceedings, allow the plaintiff in action
25 to show that he or she has been injured thereby. Any such action
26 is subject to section 161.

27 (2) The court in which such proceedings are begun shall allow

1 proof that the drain was necessary and conducive to the public
 2 health, ~~convenience~~ **safety**, or welfare **or for agriculture**, and
 3 that all the steps required by law have been substantially
 4 complied with, notwithstanding the record required to be kept by
 5 the commissioner **or drainage board**. ~~In case~~ **If** substantial
 6 error is found **after hearing proof of both sides**, the court may
 7 correct any gross injustice in the award of damages, or
 8 assessment of benefits. ~~as may appear after hearing the proofs~~
 9 ~~and allegations of both sides and~~ **the court** shall make such **an**
 10 order ~~in the premises as shall be~~ just and equitable, and may
 11 order ~~that such tax or~~ **any of the following:**

12 **(a) That the special** assessment remain on the tax roll for
 13 collection. ~~, or order~~

14 **(b) That** the ~~same to~~ **special assessment** be relieved. ~~, or~~
 15 ~~may perpetually enjoin the same or any part thereof, or if the~~
 16 ~~same~~

17 **(c) If the special assessment** has been paid under protest,
 18 ~~may order the whole~~ **that the special assessment**, or such part
 19 thereof as is just and equitable, ~~to~~ be refunded. ~~In all~~
 20 ~~cases where assessments shall be set aside~~

21 **(3) If the court sets aside assessments** after contracts have
 22 been let or bonds **or notes** sold, the decree shall make full
 23 provision for payment of work done and materials furnished under
 24 ~~said~~ **the** contracts before the commencement of suit, and for
 25 payment of ~~such~~ **the** bonds **or notes** and interest thereon, by
 26 reassessment according to benefits, or otherwise as equity may
 27 require. ~~The cost of such proceedings, if error or injustice be~~

1 ~~shown, shall be apportioned among the parties, or if~~

2 **(4) If** no manifest error or injustice ~~be~~ **is** shown, ~~such~~
3 costs **of the proceedings** shall be collected of the party bringing
4 the action.

5 Sec. 270. ~~Whenever any~~ **If a** drain ~~has been located and~~
6 ~~established,~~ **is established** and contracts let for its
7 construction, **maintenance, or improvement** and the work ~~of~~
8 ~~construction has been~~ **is** completed, or partly completed, and the
9 commissioner **or drainage board** has made ~~his~~ **an** order
10 establishing the drain, ~~his~~ **the** apportionment of benefits, and
11 special assessment roll and filed the ~~same~~ **order** in the office
12 of the county drain commissioner, as provided by this act, ~~and~~
13 ~~such taxes remain a perpetual~~ **the special assessments are a lien**
14 upon the lands assessed. ~~, and filed all of said papers in the~~
15 ~~office of the county drain commissioner, and no person or~~
16 ~~municipality affected by the proceedings has taken any action by~~
17 ~~virtue of section 161 of this act to test the validity of the~~
18 ~~proceedings, or to set the same aside, and it shall further~~
19 ~~appear that the tax~~ **If the special assessment** has not been
20 spread on the tax roll of the municipalities affected and the
21 lien of ~~said tax~~ **the special assessment** still remains against
22 ~~such~~ **the** lands, on the application in writing of any person or
23 corporation who is ~~now or were owners~~ **an owner** of the land
24 assessed at the time of the apportionment of benefits ~~by the~~
25 ~~commissioner~~ or any person or corporation who were the owners of
26 land at ~~said~~ **the time of apportionment of benefits** and who were
27 assessed therefor, and who sold such land with covenants of

1 warranty, may make an application in writing to the county drain
 2 commissioner **or drainage board** setting forth such facts. ~~—and~~
 3 ~~upon~~ **Upon** the filing of ~~such~~ **the** application, ~~it shall be the~~
 4 ~~duty of~~ the county drain commissioner ~~to~~ **or drainage board**
 5 **shall** make a certified copy of the assessment roll filed in ~~his~~
 6 **the** office by the commissioner and present ~~to and lay~~ it
 7 ~~before~~ **to** the **county** board of ~~supervisors~~ **commissioners** at
 8 ~~the~~ **its** first October session. ~~—, thereafter of said board, and~~
 9 ~~thereupon it shall be the duty of said board at said~~ **at that**
 10 session, ~~to~~ **the county board of commissioners shall** order and
 11 direct ~~such taxes~~ **the special assessments to be** spread upon the
 12 tax roll of the municipalities affected thereby, according to the
 13 ~~said~~ assessment filed ~~as aforesaid, and as appears by such~~
 14 ~~special assessment roll, so certified to said board~~ **and**
 15 **certified.** ~~The provisions of this section shall also apply to~~
 16 ~~drains laid out and established and wholly or partly constructed~~
 17 ~~under the provisions of all drain laws in force prior to the~~
 18 ~~passage of this act, where such laws have made such drain tax a~~
 19 ~~perpetual lien upon the lands upon which they are assessed.~~
 20 Sec. 273. ~~In case any drain tax heretofore or to be~~
 21 ~~hereafter assessed shall be~~ **If a drain special assessment is set**
 22 aside, except for causes that would deprive the commissioner of
 23 jurisdiction to construct the drain, the commissioner may begin
 24 proceedings anew at the stage where ~~they shall be correct.~~ ~~In~~
 25 ~~ease~~ **the defect occurred.** **If** a drain ~~tax~~ **special assessment**
 26 can or may be set aside for error in description or other defect
 27 in the commissioner's or township treasurer's roll, **upon**

1 **discovery of the defect**, the commissioner shall report the ~~same~~
 2 **defect** to the **county** board of ~~supervisors at their October~~
 3 ~~session, who~~ **commissioners, which** shall order the ~~same~~ **special**
 4 **assessment to be** reassessed upon the proper description. ~~Such~~
 5 **The** report may be made at any time before the sale of the land
 6 for ~~such tax~~ **the special assessment**.

7 Sec. 274. In any ~~suit~~ **action** brought to set aside any
 8 drain ~~tax~~ **assessment**, or in any way attacking the legality of
 9 any drain proceedings, the commissioner shall be made a party to
 10 ~~said suit~~ **the action**.

11 Sec. 275. (1) ~~In cases where the issuing of bonds shall~~
 12 ~~have been determined upon, as provided in this act, and subject~~
 13 ~~to the provisions of section 221 of this act, the commissioner~~
 14 **Subject to section 221, the commissioner or drainage board** may
 15 borrow money in anticipation of the collection of ~~the~~ **special**
 16 **assessment** installments and may issue as evidence thereof the
 17 bonds of the drainage district. ~~as defined in this act. The~~
 18 ~~obligations~~ **The bonds** shall specify on their face that they are
 19 payable out of the installments of drain ~~taxes~~ **special**
 20 **assessments** to be collected, and the amount **of the bonds** shall
 21 not exceed the aggregate of the installments levied. Bonds
 22 issued under this act shall be signed by the commissioner **or**
 23 **chairperson of the drainage board** on behalf of the drainage
 24 district, shall be countersigned by the county clerk ~~and~~ **of**
 25 **each county in the drainage district**, shall be payable in annual
 26 installments equal in number to the installments of ~~taxes~~
 27 **special assessments, and** shall mature not earlier than March

1 first and not later than June first of the year following the due
 2 dates of the respective installments of ~~taxes~~ **special**
 3 **assessments**. The number of installments shall not exceed ~~20~~
 4 ~~Provided, however, That in any drainage district containing a~~
 5 ~~closed drain, any part of whose cross section has an area~~
 6 ~~exceeding 60 square feet, the number of installments may be, but~~
 7 ~~shall not exceed, 30, and the~~ **30**. **The** amount of each
 8 installment shall be fixed to correspond as near as may be to the
 9 drain commissioner's **or drainage board's** estimate of the amount
 10 of ~~taxes~~ **special assessments** actually collectible each year. ~~—~~
 11 ~~and in no case shall bonds~~ **Bonds shall** mature **not** more than
 12 2-1/2 years after the corresponding installment of ~~taxes~~
 13 **special assessments**. The commissioner **or drainage board** shall
 14 pledge in the bond the credit of the drainage district, including
 15 the lands embraced within the district and the townships, cities,
 16 villages, counties, and ~~state trunk line highways~~ **roadways**
 17 assessed at large, in the proportion that they are ~~taxed~~
 18 **specially assessed** for the benefits received.

19 (2) The bonds shall be sold subject to the revised municipal
 20 finance act, 2001 PA 34, MCL 141.2101 to 141.2821. If any
 21 premium is received on the bonds, the premium shall belong to the
 22 fund of the drain. The proceeds derived from the sale of the
 23 bonds shall be deposited with the county treasurer to the credit
 24 of the drain fund. The county treasurer shall safely keep all
 25 the bonds until sold. ~~as above provided: Provided, however,~~
 26 ~~That this act shall not be considered to~~ **This act does not**
 27 affect any bonds or refunding bonds issued ~~prior to the~~

1 ~~effective date of this act before March 28, 1956 or any~~
2 ~~refunding bonds issued to replace such bonds. -the same-~~
3 ~~Provided further, That no county shall advance or pay out of its~~
4 ~~general funds any moneys for or on account of principal or~~
5 ~~interest of any drain bonds issued before the effective date of~~
6 ~~former Act No. 331 of the Public Acts of 1927, or any refunding~~
7 ~~bonds issued to replace the same.~~

8 Sec. 275a. (1) A drainage district may borrow money or
9 accept the advance of work, material, or money from a public or
10 private corporation, partnership, association, individual, or the
11 federal or state government or any agency of the federal or state
12 government for any of the following:

13 (a) The payment of, or in connection with the construction,
14 maintenance, or improvement of, any part of a drain project.

15 (b) The financing and engineering or feasibility,
16 practicability, environmental assessment, or impact study of a
17 drain project.

18 (c) The costs of acquiring property under section 7.

19 (d) Engineering and legal fees.

20 (2) The borrowing by the drainage district may be with or
21 without interest as may be agreed and reimbursed, when funds are
22 available. The obligation of the drainage district to make the
23 repayment or reimbursement may be evidenced by a contract or
24 note, which contract or note may pledge the full faith and credit
25 of the drainage district and may be made payable out of the drain
26 assessments made against public corporations at large, or against
27 lands in the drainage district, or out of the proceeds of drain

1 orders, notes, or bonds issued by the drainage district pursuant
2 to this act or out of any other available funds, and the contract
3 or note shall not be considered to be a security under the
4 revised municipal finance act, 2001 PA 34, MCL 141.2101 to
5 141.2821, unless the principal aggregate amount of the note or
6 notes of the district exceeds \$600,000.00. However, any projects
7 in which advances or loans are made by any public corporation,
8 the federal government, or any agency of the federal government
9 shall not be included in this aggregate amount.

10 (3) A county board of commissioners by a vote of 2/3 of its
11 total membership may pledge the full faith and credit of a county
12 for the payment of a note of the drainage district.

13 Sec. 276. (1) If bonds or notes are to be issued ~~in~~
14 ~~respect to an intracounty~~ **for a county** drain, the county board
15 of commissioners may, by resolution adopted by a majority of its
16 total membership, pledge the full faith and credit of the county
17 for the prompt payment of the principal of and interest on any
18 bonds or notes hereafter issued pursuant to this act. This shall
19 not validate any bonds or notes ~~heretofore~~ issued **before May**
20 **14, 1957.** ~~In the event~~ **If** the county ~~shall be~~ **is** required to
21 advance any money by reason of such pledge, and if the
22 collections from special assessments shall not be sufficient to
23 reimburse the county therefor, the drain commissioner of such
24 county shall, within a 2-year period from the date of
25 advancement, reassess the drainage district as in the first
26 instance in order to provide for the repayment to the county of
27 the sums so advanced. ~~The provisions of this section shall not~~

1 ~~permit the advancement of any moneys out of the general funds of~~
2 ~~any county to meet any deficiency in the collection of drain~~
3 ~~assessments confirmed prior to May 1, 1953.~~

4 (2) If a drainage project lies entirely within the limits of
5 a municipality, other than a county, the governing body of the
6 municipality may pledge the full faith and credit of the
7 municipality for the payment of bonds or drain orders issued in
8 connection with the project. If a deficiency exists in the drain
9 fund or sinking fund for the drain 1 year after the last
10 installment of the deficiency assessment provided for in section
11 280 becomes delinquent, the municipality shall immediately
12 advance to the county drain fund the amount of the deficiency.
13 After the municipality makes the advance, all receipts of the
14 drain fund from the sale of delinquent tax lands, which had been
15 assessed for the drain, shall be paid to the municipality within
16 91 days after receipt by the county treasurer.

17 Sec. 277. ~~Whenever lands in any city, village or township~~
18 ~~or combination thereof shall be assessed for all or any part of~~
19 ~~the cost of a drain, the~~ **The** governing body of each ~~such~~
20 ~~cities, villages or townships~~ **city, village, or township in**
21 **which are located lands assessed for all or part of the cost of a**
22 **drain,** by resolution adopted prior to the issuance of drain
23 orders ~~and/or~~ **or bonds, or both,** in anticipation of the payment
24 of the assessments for ~~such~~ **the** drain, may agree that in the
25 event of any delinquency in the collection of the assessments
26 against lands in ~~such~~ **the** cities, villages, or townships, the
27 cities, villages, or townships shall advance the amount of ~~such~~

1 **the** delinquency from unobligated funds in the general fund to the
2 extent necessary to pay principal and interest on ~~such~~ **the**
3 drain orders ~~and/or~~ **or** bonds as ~~the same~~ **they** mature. ~~In~~
4 ~~the event that moneys are~~ **If money is** so advanced, then the
5 cities, villages, or townships shall be reimbursed from the
6 collection of the said delinquent assessments against lands
7 within its boundaries. If the collections from special
8 assessments ~~shall~~ **are** not ~~be~~ sufficient to reimburse the
9 cities, villages, or townships, the drain commissioner of ~~such~~
10 **the county or drainage board** shall, within a 5-year period from
11 the date of advancement, reassess the drainage district as in the
12 first instance in order to provide for the repayment of the sums
13 so advanced. ~~Provided, That this~~ **This** act shall not validate
14 any drain orders or bonds issued ~~prior to the effective date of~~
15 ~~this act~~ **before March 28, 1956.**

16 **Sec. 277a. (1) If drainage districts are consolidated as**
17 **provided for in this act, the consolidated district shall, except**
18 **as otherwise provided in this act, have all the rights and powers**
19 **and be subject to all laws applicable to county or intercounty**
20 **drainage districts, as applicable.**

21 **(2) The merging of a drainage district into a consolidated**
22 **district does not affect the obligation of any bonds issued or**
23 **contracts entered into by the district or invalidate the levy,**
24 **extension, or collection of any taxes or special assessments upon**
25 **property in the debtor district. The bonds and contracts shall**
26 **be taken over and assumed by the consolidated district, and all**
27 **outstanding special assessments shall be collected and paid over**

1 to the consolidated district for the payment of the obligations
2 previously issued or contracts previously entered into by the
3 debtor district. If further funds are necessary for the payment
4 of obligations previously issued or contracts previously entered
5 into by the debtor district, the drain commissioner or drainage
6 board of the consolidated district shall continue to levy a
7 special assessment based on the special assessment roll created
8 to finance the obligations or contracts. The proceeds of the
9 special assessment shall be used only for the purpose of paying
10 the indebtedness, and the interest thereon.

11 (3) If there are funds in the drain account of any of the
12 districts to be consolidated, the funds shall be placed in a
13 separate account for the consolidated district and shall be used
14 to pay expenses incurred by the commissioner or drainage board
15 for the consolidated district, except as follows:

16 (a) If lands are added which were not previously located in a
17 petitioning district, funds from each account where there is a
18 surplus shall be paid out or prorated in the same manner as
19 provided for abandoned or vacated drains after that district's
20 indebtedness for the cost of consolidation has been satisfied.

21 (b) If 1 of the districts consolidated is specially
22 benefitted by the continued operation and maintenance of pumping
23 equipment or other mechanical operations, a separate account
24 shall be maintained to provide for payment for the operation and
25 maintenance of the pumping equipment or other mechanical
26 operation.

27 Sec. 278. If bonds or notes are issued and sold by the

1 commissioner **or drainage board**, installments of the drain ~~taxes~~
2 **special assessments** shall bear interest ~~not to exceed at~~ a rate
3 which is not greater than 1% per annum more than the average rate
4 of interest on the bonds or notes from the date of the
5 preparation of the assessment roll until due. The bonds or notes
6 may provide, if the commissioner **or drainage board** so determines,
7 for the payment of interest semiannually. The installments and
8 the interest shall, as collected, be paid into the county
9 treasury and placed to the credit of the fund of the drain, to be
10 used solely for the payment of bonds or notes as they mature.
11 Money collected in anticipation of the maturity of the bonds or
12 notes shall be deposited by the county treasurer in a bank or
13 banks to be designated by the **county** board of commissioners. ~~of~~
14 ~~the county and the~~ **The** interest received shall belong to the
15 fund. Bonds or notes issued and sold by the commissioner **or**
16 **drainage board** shall bear interest at not to exceed the rate
17 specified in the revised municipal finance act, 2001 PA 34,
18 MCL 141.2101 to 141.2821.

19 Sec. 279. Any person liable ~~to~~ **for** the payment of special
20 assessments ~~for benefits received from the construction of a~~
21 ~~drain hereunder~~ may pay the ~~same~~ **assessment** in full with
22 interest to date at any time, subject to the right of
23 reassessment in case of a deficiency as ~~herein~~ provided.
24 **However, a prepayment made following the issuance of bonds or**
25 **notes is subject to the first-year interest on the bonds or**
26 **notes.** The ~~foregoing~~ right of prepayment ~~shall extend to the~~
27 **extends to this** state or any political subdivision thereof,

1 assessed at large for a portion of the cost of ~~a~~ **the** drain.
2 Such payment may be made to the ~~township treasurer~~ **drain**
3 **commissioner**, who shall give his **or her** receipt therefor and who
4 shall transmit the ~~same~~ **receipt** to the county treasurer. The
5 ~~latter official shall, on receipt of the same, give notice to~~
6 ~~the commissioner, who~~ **commissioner** shall make the necessary
7 changes in the rolls covering subsequent installments.

8 Sec. 280. (1) If, **for any reason**, there is not sufficient
9 money in the fund in a particular drain at the time of the
10 maturity of the bonds last to mature, or any drain orders, to pay
11 all outstanding bonds or drain orders with interest, or to
12 reimburse the county for money which it has been obliged to
13 advance pursuant to section 275, ~~whether such insufficiency is~~
14 ~~due to the anticipation of installments as provided in section~~
15 ~~279, or to failure to sell any lands for delinquent taxes, or to~~
16 ~~any other cause, it shall be the duty of the commissioner to~~ **the**
17 **commissioner or drainage board shall** at once levy an additional
18 assessment. ~~as provided in this act provided in such an amount~~
19 ~~as~~ **The additional assessment shall be in an amount that** will
20 make up the deficiency ~~which~~ **and** shall be spread in not to
21 exceed 7 annual installments. ~~;~~ ~~and if the commissioner~~
22 ~~determines that the entire amount, if spread in 1 year, would be~~
23 ~~an undue burden or create unnecessary hardship, he or she may~~
24 ~~order it spread over any number of years up to but not exceeding~~
25 ~~7.~~ If bonds or other evidences of indebtedness are issued
26 pursuant to the revised municipal finance act, 2001 PA 34,
27 MCL 141.2101 to 141.2821, to refund the outstanding indebtedness

1 of a drain district, the governing body of ~~such~~ **the** drain
 2 district shall provide, subject to the requirements of the
 3 revised municipal finance act, 2001 PA 34, MCL 141.2101 to
 4 141.2821, for ~~such~~ additional levies of assessments ~~prior to~~
 5 **before** the maturity of the refunding obligations as necessary to
 6 prevent default in payment of interest on the obligations, and
 7 **for** the maintenance of a ~~sinking~~ fund for ~~their~~ **the**
 8 retirement **of the obligations**. Every officer charged with ~~the~~
 9 ~~determination of~~ **determining** the amount of ~~taxes~~ **special**
 10 **assessments** to be raised, or the levying of the ~~taxes~~ **special**
 11 **assessments**, shall make or cause to be made the additional levies
 12 as provided. Any surplus remaining after the payment of the
 13 bonds and interest shall remain in the county treasury and be
 14 used for the maintenance of the drain.

15 (2) The additional assessments ~~shall only apply to drain~~
 16 ~~orders or bonds issued after March 28, 1956 and~~ shall be
 17 apportioned, assessed, levied, and collected as provided in the
 18 first instance. ~~As to deficiency assessments levied for drain~~
 19 ~~orders or bonds issued after March 28, 1956, there shall be no~~
 20 ~~lands exempted from the levy, except those which at the time of~~
 21 ~~the additional assessments are owned or used as follows:~~

- 22 ~~—— (a) Lands owned by the United States.~~
 23 ~~—— (b) Lands owned by the state of Michigan.~~
 24 ~~—— (c) Lands owned by any county, city, village, township, or~~
 25 ~~school district and used for public purposes.~~
 26 ~~—— (d) Lands used exclusively for burial grounds.~~
 27 ~~—— (e) Lands dedicated to the public and actually used as a~~

1 ~~highway or alley, and not used for gain.~~

2 (3) An additional assessment shall not be levied or collected
3 for the purpose of paying the principal or interest upon any
4 bonds or obligations ~~which have heretofore been~~ **that were** held
5 to be invalid ~~, and any such~~ **before March 28, 1956. An**
6 additional assessment shall not be apportioned, assessed, levied,
7 or collected for the purpose of paying any bonds, interest, or
8 obligations for the payment of which assessments ~~have been~~ **were**
9 made **before March 28, 1956.**

10 Sec. 282. (1) The drain commissioner or drainage board may
11 direct the treasurer of any drainage district to invest any
12 surplus funds belonging to and under the control of the drain
13 commissioner or drainage board as provided in section 1 of ~~Act~~
14 ~~No. 20 of the Public Acts of 1943, being section 129.91 of the~~
15 ~~Michigan Compiled Laws 1943 PA 20, MCL 129.91.~~ **Otherwise, the**
16 **funds shall be invested in secure interest bearing accounts. The**
17 **treasurer of the drainage district shall credit earnings from**
18 **investments under this section to the drainage district fund.**

19 (2) If 2 or more drainage district funds ~~which are~~ under
20 control of the drain commissioner or drainage board have balances
21 of less than \$1,000.00, those drainage district funds ~~may~~ **shall**
22 be consolidated into 1 account for short-term investment. ~~as~~
23 ~~directed by the drain commissioner.~~ A drainage district fund
24 shall not be consolidated if there is an immediate and apparent
25 need for expending that fund on the specific drain to which the
26 fund belongs.

27 (3) The interest earned by a fund consolidated under

1 subsection (2) may be deposited in a segregated revolving
2 maintenance fund which the drain commissioner or drainage board
3 may use for temporarily financing necessary maintenance expenses
4 on ~~an intracounty~~ **a county** or intercounty drain within that
5 drain commissioner's or drainage board's jurisdiction. The
6 revolving maintenance fund shall be a fund separate from the
7 revolving drain fund provided for in chapter 12. The revolving
8 maintenance fund shall be accounted for, administered, and
9 reimbursed in the same manner as the revolving drain fund under
10 section 303.

11 (4) If a drainage district fund has a balance of \$1,000.00 or
12 more, the drain commissioner or drainage board may direct that
13 that fund be consolidated with other funds for investment
14 purposes. The interest earned, whether from a consolidated or
15 separate account, shall immediately be deposited in the drainage
16 district fund to which the principal belongs.

17 (5) The principal balances of each drainage district fund
18 shall be accounted for at all times and may only be spent by
19 order of the drain commissioner or drainage board on expenses
20 necessary for the operation and maintenance of the drain to which
21 the fund belongs.

22 Sec. 283. (1) The drain commissioner or drainage board
23 shall ~~use~~ **deposit in the drain fund of the drainage district**
24 any surplus construction funds remaining in the construction fund
25 after completion of the project for the inspection, repair, and
26 maintenance of the drain ~~as provided in section 196~~ or shall
27 authorize the transfer of the funds to the bond and interest

1 account, if bonds were issued, in the amounts the drain
2 commissioner or drainage board considers proper.

3 (2) The drainage board or drain commissioner ~~shall~~ **may**
4 contract with a public corporation if that public corporation has
5 been assessed for all or part of the cost of the drain or if land
6 in a ~~city, village, township, or combination thereof~~ **public**
7 **corporation** has been assessed for all or any part of the cost of
8 a drain. The contract shall provide that after all outstanding
9 drain orders or bonds are paid on a drainage district project,
10 the drain commissioner or drainage board ~~shall~~ **may** authorize
11 the ~~respective county treasurers~~ **district treasurer** to pay
12 ~~over~~ any portion of the surplus **that the drain commissioner or**
13 **drainage board considers** not needed for ~~more than~~ the cost of
14 inspection, repair, and maintenance of the drain as provided in
15 section ~~196~~ **199** to ~~the county, township, city, or village in~~
16 ~~which the drain was located or in which assessments for benefits~~
17 ~~have been assessed and collected~~ **such public corporations.** The
18 payments shall be on a pro rata basis in direct proportion to the
19 amounts assessed and collected from each ~~county, city, village,~~
20 ~~or township~~ **public corporation.** The contract shall also provide
21 that upon receipt of the surplus funds the ~~county, city,~~
22 ~~village, or township~~ **public corporation** shall utilize those
23 surplus funds to alleviate drainage problems in ~~their respective~~
24 ~~jurisdictions~~ **its jurisdiction.**

25 (3) If state **trunk line** highway funds are involved in a
26 project, the drain commissioner or drainage board, upon
27 completion of a ~~construction~~ project, ~~shall~~ **and after payment**

1 of all outstanding bonds or notes shall return to the state
 2 transportation department, on a pro rata basis, surplus
 3 construction funds in excess of the amount **considered** necessary
 4 by the drain commissioner or drainage board to pay for
 5 inspection, repair, and maintenance of the drain as provided in
 6 section 199. ~~196 to the state transportation department for the~~
 7 ~~construction, maintenance, and administration of state highways.~~
 8 ~~—— (4) As used in this section, "public corporation" includes a~~
 9 ~~city, village, township, or county, or the state.~~

10 CHAPTER 12 —

11 REVOLVING FUNDS FOR DRAINS —

12 Sec. 301. At the October session of the **county** board of
 13 ~~supervisors~~ **commissioners of each county**, ~~each~~ **the** board
 14 shall appropriate and collect by general taxation from the
 15 taxable property within ~~their respective counties~~ **the county**
 16 for the purpose of creating a revolving drain fund, ~~such sum as~~
 17 ~~said board may deem~~ **the sum that the board considers** necessary.
 18 ~~Said~~ **The** revolving fund ~~when so created~~ shall be used and
 19 disposed of solely as provided in this chapter.

20 Sec. 302. (1) The revolving fund may be used for paying **any**
 21 **of the following:**

22 (a) **The** engineer or surveyor for ~~his~~ services in laying out
 23 a drainage district. ~~—, also any~~

24 (b) **Any** necessary assistance ~~therefor and to pay any and all~~
 25 ~~other~~ **for the engineer or surveyor.**

26 (c) **Other legal, engineering, natural resource impact**
 27 **assessment, or consulting** services to the date of letting the

1 drain contract. ~~for paying members~~

2 (d) **Members** of boards of determination for services performed
3 under this act. ~~, for necessary~~

4 (e) **Necessary** repairs on old drains. ~~, and also for paying~~
5 ~~drain~~

6 (f) **Drain** orders that are due not in excess of ~~-\$2,000.00~~
7 **\$5,000.00** if authorized by the **county** board of ~~supervisors~~
8 **commissioners**.

9 (2) Orders drawn by the **drain** commissioner on the revolving
10 fund may be made payable upon the performance of services ~~herein~~
11 ~~defined~~ **listed in subsection (1)**. From ~~said~~ **the** revolving
12 fund may be paid the services ~~herein mentioned~~ **listed in**
13 **subsection (1)** on any drain or drainage district affecting more
14 than 1 county. ~~Such~~ **The** total expense ~~is~~ **shall be** prorated
15 among the ~~several~~ counties affected according to the amount
16 apportioned to be paid by and in ~~said counties respectively for~~
17 ~~said~~ **each county for the** drain. ~~Any and all orders~~ **Orders** for
18 services rendered or expenses incurred after the date of letting
19 the drain contract shall be paid in the manner prescribed in
20 chapter 10. ~~, being sections 241 to 248.~~

21 Sec. 303. The county treasurers shall carry as a separate
22 account upon the books of their office a revolving fund and all
23 accounts and items pertaining thereto. A record shall be kept of
24 the amount of money paid from the revolving fund for the use and
25 benefit of any particular drainage district and upon payment to
26 the county treasurer of the ~~taxes assessed~~ **assessments levied**
27 in the particular drainage district, the county treasurer, out of

1 the moneys received, shall transfer to the revolving fund pro
 2 rata according to the number of installments of taxes the sum
 3 expended.

4 Sec. 304. The ~~said~~ revolving fund shall be deposited in
 5 ~~the bank of the county offering the highest rate of interest on~~
 6 ~~daily balances, final determination to be made by the board of~~
 7 ~~supervisors of the particular county, the~~ **an authorized**
 8 **depository for county funds.** The interest ~~so received to~~
 9 **earned on the fund shall** be paid into and become a part of ~~said~~
 10 **the** fund.

11 Sec. 306. ~~Whenever~~ **If** revolving fund ~~moneys have~~ **money**
 12 **has** been expended or a drainage district has become obligated to
 13 pay expenses for engineering, legal, ~~and~~ **or** administrative
 14 services, by action of the drain commissioner or drainage board
 15 and ~~no~~ **an** improvement has **not** been completed ~~subsequent to~~
 16 **after** the **drain** commissioner's order designating a drainage
 17 district or entry of the first order of determination ~~as~~
 18 ~~prescribed in~~ **under** section 72 ~~where~~ **for** an intracounty drain,
 19 ~~is involved,~~ the drain commissioner of ~~such~~ **the** county which
 20 has expended such revolving fund ~~moneys~~ **money** may report ~~such~~
 21 **that** fact to the board of ~~supervisors~~ **commissioners.** If ~~no~~
 22 **an** improvement ~~has been~~ **is not** completed within ~~a period of 5~~
 23 ~~years subsequent to the commissioner's order designating a~~
 24 ~~drainage district or~~ **2 years after** entry of the first order of
 25 determination ~~as prescribed in~~ **under** section ~~72~~ **55,** the drain
 26 commissioner of such county shall report ~~such~~ **that** fact to the
 27 **county** board of ~~supervisors~~ **commissioners.** If the sum involved

1 is too small to justify spreading the ~~same~~ **sum** over the
 2 designated **drainage** district, ~~above referred to, such~~ **the**
 3 **county** board of ~~supervisors~~ **commissioners** may order the sum to
 4 be spread against the property of the original petitioners
 5 according to ~~such percentage as the commissioners shall deem~~
 6 **the percentage that the drain commissioner considers** just and
 7 equitable, based on the same benefit theory as if the improvement
 8 had been completed. If the sum involved is large enough to, in
 9 the opinion of the **county** board of ~~supervisors~~ **commissioners**,
 10 create undue hardship on the original petitioners, the **county**
 11 board of ~~supervisors~~ **commissioners** may order the ~~same~~ **sum**
 12 spread over ~~such~~ **the** designated district and the **drain**
 13 commissioner shall apportion the ~~cost thereof~~ **sum** to the
 14 parties benefited in the district as provided in chapter 7 for
 15 the purpose of permitting a review of the roll as to fairness of
 16 the apportionment only.

17 Sec. 307. ~~Whenever~~ **If** revolving fund ~~moneys have~~ **money**
 18 **has** been expended and ~~no improvement has been completed~~
 19 ~~subsequent to the order designating a drainage district as~~
 20 ~~prescribed in~~ **an improvement is not completed within 2 years**
 21 **after entry of the first order of determination under** section 105
 22 ~~of this act~~ where an intercounty drain is involved, ~~within a~~
 23 ~~period of 5 years,~~ the drainage board created in section 102 ~~of~~
 24 ~~this act~~ shall apportion the cost as between counties. Any
 25 drain commissioner feeling aggrieved by ~~such~~ **the** apportionment
 26 may request review by the board of review provided in section
 27 ~~106 of this act, and such board shall proceed to review the~~

1 ~~same~~ 104, and the board of review shall review the apportionment
 2 as provided in this act. The decisions of the board of review
 3 ~~shall be~~ **are** final. Thereafter, the amount apportioned to each
 4 county shall be recovered by ~~each~~ **that** county as ~~above~~
 5 ~~outlined~~ **provided** for the recovery of revolving fund ~~moneys~~
 6 **money** expended for an intracounty drain in section 306. ~~of this~~
 7 ~~act.~~

8 CHAPTER 13 —

9 ~~HIGHWAYS.~~ **ROADWAYS, RAILROADS, UTILITIES, AND OTHER STRUCTURES**

10 Sec. 322. (1) ~~When any~~ **If a** drain crosses a ~~highway~~
 11 **roadway**, the necessary bridge or culvert shall be constructed on
 12 the center line of the ~~highway~~ **roadway** as located by survey,
 13 and in accordance with plans and specifications which shall be
 14 approved by the ~~county road commission having jurisdiction, or~~
 15 ~~by the state highway commissioner if such highway is a state~~
 16 ~~trunk line~~ **roadway authority under a permit under section 7.**
 17 The cost of constructing the necessary bridge or culvert shall be
 18 charged in the first instance as part of the cost of construction
 19 of ~~such~~ **the** drain. The ~~board of county road commissioners or~~
 20 ~~the state highway commissioner~~ **roadway authority** shall assume
 21 and bear ~~such~~ **a** portion of the cost of construction, based upon
 22 benefits, as may be agreed upon with the drain commissioner. ~~In~~
 23 ~~such case, the~~ **The** contract for the construction of the bridge
 24 shall not be let by the drain commissioner without the written
 25 consent of the ~~state highway commissioner or the board of county~~
 26 ~~road commissioners.~~ Thereafter such **roadway authority.**

27 (2) **After construction, the** bridge or culvert ~~constructed~~

1 ~~under the provisions of this act~~ shall be maintained by the
 2 ~~county road commission or state highway commissioner. Any such~~
 3 **roadway authority.**

4 **(3) An** expense charged to the state ~~highway commissioner~~
 5 **transportation department under this section** shall be ~~met~~ **paid**
 6 out of any funds appropriated for the state ~~highway~~
 7 **transportation** department that may be available therefor. ~~—i and~~
 8 ~~any such expense to be borne by~~ **An expense charged to** the board
 9 of county road commissioners **under this section** shall be paid
 10 **pursuant to section 14a of 1951 PA 51, MCL 247.664a,** out of
 11 ~~moneys~~ **money** in the county road fund not otherwise
 12 appropriated.

13 **(4) As part of** ~~such~~ **the** drain, there shall be constructed
 14 at least 1 bridge or culvert across such drain connecting the
 15 ~~highway (except~~ **roadway with each farm entrance, unless the**
 16 **roadway is a** limited access ~~highways~~ **highway** established under
 17 ~~Act No. 205 of the Public Acts of 1941, as amended, being~~
 18 ~~sections 252.51 to 252.64 of the Compiled Laws of 1948), with~~
 19 ~~each farm entrance, and when~~ **1941 PA 205, MCL 252.51 to 252.64.**
 20 **If** a drain crosses a ~~farm or any portion thereof there shall be~~
 21 ~~constructed 1 bridge, culvert or ford across the drain connecting~~
 22 ~~the portions of the farm disconnected by the drain, which~~ **parcel**
 23 **or tract of land and will diminish access to portions of the**
 24 **parcel or tract disconnected by the drain, 1 bridge, culvert, or**
 25 **ford shall be constructed across the drain to connect those**
 26 **portions of the parcel or tract so that the degree of access is**
 27 **not diminished. The cost of construction and maintenance of the**

1 bridge, culvert, or ford shall also be charged ~~in the first~~
 2 ~~instance~~ as a part of the construction **and maintenance,**
 3 **respectively,** of ~~such~~ **the** drain. ~~, after which such bridge,~~
 4 ~~culvert or ford shall be maintained by the owner of the land.~~

5 (5) If the drain commissioner ~~shall make future~~ **or drainage**
 6 **board maintains or makes** improvements ~~such as widening,~~
 7 ~~deepening, straightening or relocating such drain, but not clean~~
 8 ~~out alone, there shall be constructed the~~ **to a drain,** necessary
 9 bridges, culverts, and fords **may be constructed or maintained** as
 10 ~~parts~~ **part** of ~~such improvements~~ **the drain maintenance or**
 11 **improvement.**

12 (6) The commissioner's or drainage board's engineer shall
 13 **recommend methods to reduce soil erosion and sedimentation.** The
 14 **engineer, when necessary, shall also recommend the size and type**
 15 **of construction for necessary bridges, culverts, and fords.**

16 Sec. 322b. If any person desires during construction or
 17 reconstruction of a ~~highway~~ **roadway** to install a drain for
 18 agricultural benefits in lands adjacent to any ~~highway~~ **roadway,**
 19 and if a satisfactory outlet cannot be secured on the upper side
 20 of the ~~highway~~ **roadway** right-of-way and the drain must be
 21 projected across the right-of-way to reach an outlet which may be
 22 legally utilized as an outlet and is suitable for such purpose,
 23 the expense of both material and labor used in installing the
 24 drain across the right-of-way shall be paid from funds available
 25 for the ~~highway~~ **roadway** affected if the ~~highway~~ **roadway**
 26 authority is notified of the necessity of the drain sufficiently
 27 in advance of the construction or reconstruction of the ~~highway~~

1 **roadway** so that the drain may be installed and the ~~highway~~
2 **roadway** constructed or reconstructed in the same operation.

3 Sec. 323. Before a **new** drain is constructed along a ~~public~~
4 ~~highway~~ **roadway**, the drain commissioner or drainage board shall
5 consult with and obtain the written consent of the ~~highway~~
6 ~~authorities having jurisdiction over the highway,~~ **roadway**
7 **authority** as to the proposed location of the drain and the
8 disposition of all material excavated. ~~Whenever~~ **The review and**
9 **written consent for the construction shall be made by the roadway**
10 **authority within 42 days of its receipt of plans for the**
11 **construction. If written consent is not provided by the roadway**
12 **authority within the 42-day period, the construction plans shall**
13 **be considered to have been approved. If modifications are**
14 **required by the roadway authority, final plans will be provided**
15 **to the roadway authority prior to any construction activity. If**
16 an apportionment is made against a state trunk line highway, the
17 amount of the assessment based on the apportionment shall be paid
18 out of any state transportation funds on hand. ~~On or before~~
19 ~~December 1 of the year when the assessment is made, the drain~~
20 ~~commissioner or drainage board shall certify to the state~~
21 ~~treasurer the amount due from the state to the drainage district~~
22 ~~by reason of the assessment of benefits, and the state treasurer~~
23 ~~shall, if satisfied of the correctness of such certificate, cause~~
24 ~~the certificate to be paid within 30 days thereafter.~~

25 ~~—— If a ditch or drain was constructed prior to 1923 primarily~~
26 ~~for drainage of private lands, and was constructed along a public~~
27 ~~highway, and if the records including the original survey of the~~

1 ~~drain are not of public record nor turned over to the county~~
 2 ~~drain commissioner, or have not been entered in the records of~~
 3 ~~the county drain commissioner as a county drain, then the actual~~
 4 ~~location of the drain shall be sufficient to make the drain~~
 5 ~~comply with the provisions of this act with respect to the~~
 6 ~~location thereof, and the drain shall be a county drain upon~~
 7 ~~compliance with the other provisions of this act with respect to~~
 8 ~~county drains. No proceedings shall be instituted for the~~
 9 ~~widening of the drain or the deepening thereof below its original~~
 10 ~~bottom.~~

11 Sec. 324. (1) ~~Whenever~~ **If** it is necessary or more
 12 convenient for the proper drainage of ~~any highway~~ **a county road**
 13 in this state that the surplus water be taken onto or across the
 14 land adjacent thereto, the county road commission of the county
 15 in which ~~said highway~~ **the county road** is situated may secure
 16 the right-of-way and may open such drain or outlet for the water,
 17 and for these purposes may use ~~any highway moneys~~ **the county**
 18 **road money** of the township in which ~~said highway~~ **the county**
 19 **road** is situated, not otherwise appropriated, and ~~such~~ **any** sums
 20 ~~as may be~~ voted for that use by the electors of the townships.

21 (2) The county road commission, **the county executive, or**
 22 **other agency acting as the county road commission** shall secure
 23 the right-of-way for ~~any such~~ **the** drain by gift or purchase
 24 from the owners of the land to be crossed by ~~such~~ **the** drain. ~~;~~
 25 ~~but in case of purchase the~~ **A** purchase price must be approved by
 26 the township board whenever township funds are involved, before
 27 any ~~money be paid thereon~~ **payment is made.** ~~Such~~ **The**

1 right-of-way shall be acquired by deed duly executed by the owner
 2 or owners of the lands ~~—sought—~~ to be crossed by the ~~—said~~
 3 drain, and shall be taken in the name of the township ~~—wherein~~
 4 ~~the same—~~ **where right-of-way** is located. ~~—, and—~~ **The deed shall**
 5 **be** filed in the office of the register of deeds of the county
 6 before any ~~—highway—~~ **county road** money shall be expended in
 7 opening ~~—such—~~ **the** drain outside the ~~—highway—~~ **county road**
 8 limits.

9 ~~Before the township board approves the purchase price of any~~
 10 ~~drain right of way under this section, the county road commission~~
 11 ~~shall submit to the board for its approval details of the~~
 12 ~~proposed drain, with specifications that the drain shall be~~
 13 ~~constructed in accordance with good health and sanitation~~
 14 ~~standards and in such a manner as not to constitute a hazard to~~
 15 ~~health or safety and that in construction of the drain the~~
 16 ~~township board shall approve the use of the land upon which the~~
 17 ~~drain is to be located.~~

18 Sec. 326. On the completion by the county road commission
 19 of ~~—any—~~ **a** drain, ~~—constructed under the provisions of this act,~~
 20 ~~it shall be the duty of said—~~ **the** county road commission ~~—to~~
 21 **shall** file in the office of the drain commissioner a detailed
 22 report of the construction of ~~—such—~~ **the** drain, giving the date
 23 of construction, the termini and general course ~~—thereof,~~
 24 ~~together with—~~ **of the drain, and** a copy of the deed by which the
 25 right-of-way therefor was secured. ~~—Nothing in the provisions of~~
 26 ~~the preceding sections shall be construed as giving to—~~ **This**
 27 **chapter does not give** the county road commission power to ~~—lay~~

1 ~~out and~~ construct drains having any other purpose than the
2 drainage of ~~highways~~ **county roads**.

3 Sec. 327. (1) ~~In case it becomes~~ **If it is** necessary for
4 the construction or maintenance of ~~any highway~~ **a roadway** to
5 take the surplus water across adjacent lands, the ~~state, county~~
6 ~~or township highway commissioner or county road commissioners~~ may
7 ~~make under his or their name of office an application or petition~~
8 ~~to the drain commissioner of the county in which such highway is~~
9 ~~situated to lay out and designate a drainage district, locate and~~
10 ~~establish a drain, clean out, widen, deepen, straighten or extend~~
11 ~~an established drain. Such application or petition shall conform~~
12 ~~to the law regulating applications or petitions for the laying~~
13 ~~out and designating a drainage district, locating and~~
14 ~~establishing of drains, and cleaning out, widening, deepening,~~
15 ~~straightening and extending established drains, and shall require~~
16 ~~no other signature than his own as highway commissioner or county~~
17 ~~road commissioners. Such application or petition shall have the~~
18 ~~same force and effect, and be subject in other respects to the~~
19 ~~same laws and regulations that govern other such applications or~~
20 ~~petitions and shall confer the same jurisdiction and authority on~~
21 ~~the county drain commissioner to lay out and designate a drainage~~
22 ~~district, locate and establish a drain, or clean out, widen,~~
23 ~~deepen, straighten or extend an established drain: Provided,~~
24 ~~That in cases where the state highway commissioner makes such~~
25 ~~application or petition he shall serve a copy of such application~~
26 ~~or petition on the director of agriculture, who shall within 30~~
27 ~~days hold a meeting at some place in the drainage district for~~

1 ~~the purpose of determining the practicability or necessity of~~
2 ~~such drain, and no board of determination shall be necessary to~~
3 ~~pass on those questions. Said meeting shall be held, notice~~
4 ~~given and all persons interested may be heard in the same manner~~
5 ~~as provided in section 102 or section 122 of this act. The~~
6 ~~determination of the director of agriculture shall be filed with~~
7 ~~the drain commissioner.~~ roadway authority may file a petition
8 with the drain commissioner of the county in which the roadway is
9 situated to establish a drainage district and a county or
10 intercounty drain or to maintain or improve a drain. Except as
11 provided in subsections (2) and (3), the petition and proceedings
12 are subject to chapter 3, 5, or 8, as applicable, and other
13 provisions of this act.

14 (2) The roadway authority is the only petitioner required on
15 a petition under this section.

16 (3) If the petitioning roadway authority is the director of
17 transportation, all of the following apply:

18 (a) In addition to filing the petition with the drain
19 commissioner of the county in which the roadway is located, the
20 director of transportation shall promptly serve a copy of the
21 petition on the director of agriculture.

22 (b) The director of agriculture shall exercise the powers and
23 duties of the board of determination, for a county drain, or the
24 drainage board, for an intercounty drain, up to and including the
25 filing of the order of necessity. The director of agriculture
26 shall conduct the first hearing under chapter 3, 5, or 8, as
27 applicable, not later than 63 days after the director of

1 transportation serves the copy of the petition on the director of
2 agriculture.

3 Sec. 328. ~~Before the department of state highways may~~
4 ~~commence the construction of a state highway, the engineering~~
5 ~~plans of the state highway relative to county drains shall be~~
6 ~~forwarded to the drain commissioner of each county where the~~
7 ~~state highway is to be constructed.~~ Before a person lays or
8 constructs a cable, pipeline, sewer, conduit, roadway, culvert,
9 bridge, or other structure across a county or intercounty drain,
10 the person shall forward relevant engineering plans to the drain
11 commissioner or drainage board, respectively, for review and
12 written approval upon terms and conditions that are reasonable
13 and proper to prevent interference. The review and written
14 approval for the construction shall be made by the drain
15 commissioner within 42 days of his or her receipt of plans for
16 the construction. In the event that approval is not provided by
17 the drain commissioner within the 42-day period, the construction
18 plans shall be approved. If modifications are required by the
19 drain commissioner, final plans will be provided to the drain
20 commissioner prior to any construction activity.

21 Sec. 329. If the roadway authority requests or orders that
22 an existing legally established drain within the right-of-way of
23 the roadway be relocated outside the roadway right-of-way, the
24 cost of relocating the drain shall be borne by the roadway
25 authority.

26 Sec. 330. (1) If it is necessary to establish, construct,
27 maintain, or improve a drain across the right-of-way or roadbed

1 of any railroad or railway company, telephone or telegraph
2 company, or dam, electric, cable, water, oil, gas, pipeline, or
3 other utility company, the drain commissioner or drainage board
4 shall give notice of the necessity to cross the right-of-way or
5 roadbed. Notice shall be provided by first-class mail to the
6 general office of the company or the office of the registered
7 agent of the company. The notice shall include the location of
8 the proposed crossing, the name of the drain, the plans and
9 specifications for the crossing and for the method of
10 constructing the crossing, and a schedule for constructing the
11 crossing. The crossing and plans for the crossing shall include
12 any infrastructure or other provision necessary to maintain the
13 company's access to its facilities and equipment. The notice
14 shall also include a statement that the company has 42 days
15 within which to object to the proposed plan and failure to do so
16 may result in a waiver of any objections.

17 (2) Within 42 days after receipt of the notice, the company
18 shall deliver to the drain commissioner or drainage board by
19 first-class mail notice whether it approves or objects to the
20 location of the crossing and the plans and specifications for the
21 crossing and for the method of constructing the crossing. The
22 notice shall state the reasons for any objection. If the company
23 approves of or fails to object to the crossing, the drain
24 commissioner or drainage board may proceed with the crossing. If
25 the company objects to the crossing, the drain commissioner or
26 drainage board may do 1 of the following:

27 (a) The drain commissioner or drainage board may give a

1 revised notice of crossing under subsection (1). The revised
2 notice of crossing shall be designed to resolve 1 or more of the
3 reasons for objection of the original notice of crossing. The
4 revised notice of crossing is subject to the same requirements
5 and procedures as the original notice of crossing under this
6 section.

7 (b) The drain commissioner or drainage board may petition the
8 circuit court of the county in which the crossing is proposed to
9 be located to order the company to allow the drain commissioner
10 or drainage board to construct the crossing. The circuit court
11 shall, if it finds that there is a legal right to the crossing
12 and also finds that the objections of the company to the plans
13 were not well founded or material to the safe operations of the
14 company, issue a writ of mandamus ordering the company to allow
15 the drain commissioner or drainage board to construct the
16 crossing. The drain commissioner or drainage board shall give
17 the company at least 14 days' notice of the petition to the
18 circuit court and the proceedings shall follow the practice of
19 circuit courts in mandamus proceedings. The matter shall be
20 heard and determined as speedily as practicable. The court may
21 award costs and attorney fees to the prevailing party.

22 (c) In lieu of proceeding to circuit court as provided in
23 subdivision (b), the drain commissioner or drainage board and the
24 company may agree to an alternative form of dispute resolution,
25 including, but not limited to, mediation or arbitration by a
26 member of the American arbitration association or its successor
27 under the commercial arbitration rules of the American

1 arbitration association or its successor. An arbitrator may
 2 award attorney fees or arbitration fees to the prevailing party.
 3 At the request of either party, the decision of an arbitrator may
 4 be entered in and enforced by the circuit court of the county in
 5 which the crossing is proposed.

6 (3) If it is necessary to construct, maintain, or improve a
 7 drain across the right-of-way of any railroad or railway company,
 8 telephone or telegraph company, or dam, electric cable, water,
 9 oil, gas, pipeline, or other utility company, the drain
 10 commissioner or drainage board may acquire property or interests
 11 in property for that purpose under section 7.

12 CHAPTER 17 —

13 ABANDONED AND VACATED DRAINS — ~~DISPOSAL OF FUNDS.~~

14 Sec. 391. (1) Any drain or part thereof ~~which has ceased~~
 15 ~~to be of public utility and~~ **that** is no longer necessary or
 16 conducive to the public health, ~~convenience and~~ **safety, or**
 17 welfare **or for agriculture** may be declared to be abandoned and
 18 vacated in the manner ~~herein~~ provided **in this section.**

19 (2) Any 5 ~~freeholders of lands~~ **owners of land** in a drainage
 20 district or the governing body of any public corporation in whose
 21 limits a drain or part thereof is located may petition for the
 22 abandonment and vacation of ~~a~~ **the** drain or part thereof. The
 23 petition shall be addressed to and filed with the **drain**
 24 commissioner or drainage board having jurisdiction of ~~such~~ **the**
 25 drain. The commissioner or drainage board shall hold a meeting
 26 to hear objections to the petition and to the abandonment and
 27 vacation of ~~a~~ **the** drain or part thereof ~~therein~~ requested **in**

1 ~~the petition~~, and shall give notice of ~~such~~ **the** meeting ~~by~~
 2 ~~posting in 5 public places in the drainage district and by~~
 3 ~~publication in a newspaper of general circulation in the drainage~~
 4 ~~district which posting and publication shall occur at least 10~~
 5 ~~days before the date of such meeting~~ **under section 8.**

6 (3) Private rights of persons acquired by reason of the
 7 establishment and construction of ~~such~~ **the** drain or part
 8 thereof shall not be interfered with ~~,~~ or ~~in any way be~~
 9 impaired by ~~such~~ **the** abandonment and vacation. If ~~it is~~
 10 ~~determined at such~~ **the commissioner or drainage board determines**
 11 **at the** meeting that the drain or part thereof should be abandoned
 12 and vacated, the commissioner or drainage board shall issue an
 13 order to that effect. ~~and file the same with the commissioner of~~
 14 ~~the county or counties involved. Easements~~ **An order of**
 15 **abandonment shall not be made under this section or money**
 16 **disbursed under section 392 unless all debts of the drain are**
 17 **satisfied. The drain commissioner or drainage board may levy a**
 18 **special assessment to satisfy any such debt, including**
 19 **reimbursement to the drain revolving fund, before an order is**
 20 **entered or disbursements are made. Subject to subsection (4),**
 21 **easements** or rights-of-way for the drain or part thereof
 22 abandoned and vacated or easements or portions thereof no longer
 23 necessary for drainage purposes shall be conveyed or released by
 24 the commissioner or drainage board on behalf of the drainage
 25 district. ~~If it be contemplated to construct a new drain or~~
 26 ~~part thereof on or near the line of an existing drain or part~~
 27 ~~thereof this may be accomplished without abandonment and vacation~~

1 of the

2 (4) ~~The~~ existing drain or part thereof ~~and the~~ **need not be**
3 **abandoned or vacated** if it is anticipated that a drain or part
4 thereof will be constructed or relocated on or near the line of
5 **the existing drain.** The easements or rights-of-way of the
6 existing drain or part thereof may be used for this purpose. ~~→~~
7 ~~Provided, however, That~~ **However,** if the contemplated project
8 materially damages the property owner beyond the existing
9 easement, or if it materially burdens the existing easement, then
10 the commissioner or drainage board shall secure an additional
11 easement for the contemplated project. ~~It shall not be~~
12 ~~necessary to abandon and vacate an~~ **An** existing drain or part
13 thereof made unnecessary by a new drain or part thereof **need not**
14 **be abandoned or vacated** until the new drain is constructed and
15 ready for service.

16 Sec. 392. (1) ~~Whenever any~~ **If a** drain ~~shall have been~~
17 **is** declared vacated and abandoned **in its entirety,** as provided in
18 section 391, ~~it shall be the duty of~~ the **drain** commissioner
19 ~~to~~ **shall** serve notice thereof forthwith upon the county
20 treasurer of the county or counties in which the drainage
21 district, or any portion thereof, is situated. If there be any
22 money credited to or belonging to the fund of such vacated and
23 abandoned drain, ~~it shall be the duty of~~ **the drain commissioner**
24 **or drainage board** may in its discretion prepare a revised roll to
25 **allocate a proportionate refund amount of any such fund to all**
26 **the lands that were assessed for the costs of the vacated and**
27 **abandoned drain.** If the drain commissioner or drainage board

1 **prepares such a revised roll,** the county treasurer or treasurers
 2 ~~to transfer and pay over the same~~ **shall pay the refund amount**
 3 to the treasurer or treasurers of the township or townships in
 4 which the drain was located or in which assessments for benefits
 5 to be received from such drain have been assessed and collected.
 6 ~~Provided, That in all cases where~~

7 **(2) If** the amount of ~~such~~ **the** money ~~belonging to~~ **in** the
 8 drain fund of ~~such~~ **the** drain ~~, in the hands of the county~~
 9 ~~treasurer, shall be~~ **is** insufficient to permit the refunding and
 10 paying over to such township treasurers all of the ~~moneys~~ **money**
 11 assessed and collected in such townships, the county treasurer
 12 shall prorate the amounts so paid, ~~and each~~ **less all costs**
 13 **associated with the abandonment of the drain. Each** township
 14 treasurer ~~shall be~~ **is** entitled to receive such proportion of
 15 the ~~moneys~~ **money** remaining in the fund of the vacated or
 16 abandoned drain as the total amount of the assessments levied and
 17 collected in his **or her** township ~~and becoming a part of such~~
 18 **for the** drain fund ~~shall~~ bear to all of the ~~moneys~~ **money**
 19 assessed and collected and making up ~~such~~ **the** fund. ~~In case~~
 20 **If** it is necessary to prorate in ~~the~~ **this** manner, ~~provided,~~
 21 the county treasurer shall furnish to each township treasurer a
 22 statement showing the amount of money in the fund ~~at the time~~
 23 ~~such~~ **when the** drain was declared vacated and abandoned, and the
 24 various amounts assessed and collected for ~~such~~ **the drain** fund
 25 from the different townships entitled to share in the
 26 disbursement thereof.

27 Sec. 393. Upon receiving such money, and the accompanying

1 statement, if required to be furnished hereby, the township
2 treasurer shall give his **or her** receipt therefor to the county
3 treasurer. ~~He~~ **The township treasurer** shall also serve notice
4 upon each person, firm or corporation who, as shown by the
5 records of his **or her** office, shall have paid a special ~~tax~~
6 **assessment** for benefits received or to be received from the
7 construction of such drain, that ~~such~~ **the** drain has been
8 declared vacated and abandoned and that the payment ~~as~~
9 ~~aforsaid~~ has been made to ~~him~~ **the township treasurer** by the
10 county treasurer. Similar notice shall also be served upon the
11 township board and shall be published for 2 successive weeks in
12 ~~some~~ a newspaper published and circulating in ~~said~~ **the**
13 county. ~~Thereupon, every~~ **Upon demand, the township treasurer**
14 **shall reimburse** such person, firm, or corporation ~~shall be~~
15 ~~entitled to demand and receive from said township treasurer for~~
16 the amount of the special assessment that ~~such~~ **the** person,
17 firm, or corporation ~~may have so~~ paid. The amount of the
18 special ~~tax~~ **assessment** for the construction of ~~such~~ **the** drain
19 that may have been assessed and collected from the township at
20 large shall be credited to and paid into the contingency fund in
21 the township treasury. ~~∴ Provided, however, That~~ **However,** if
22 the amount of money paid over to the township treasurer by the
23 county treasurer ~~in the manner aforsaid~~ is less than the
24 aggregate amount of special assessments levied and collected in
25 such township for the construction of such drain and the ~~tax~~
26 **assessment** levied and collected upon and from the township at
27 large, then the township treasurer shall prorate ~~the payments~~

1 to each such person, firm, or corporation and the amount to be
2 paid into the general fund in the township treasury ~~;~~ and each
3 ~~such person, firm or corporation and the contingency fund in the~~
4 ~~township treasury shall be entitled to receive~~ such proportion
5 of the amount of the ~~special~~ assessment ~~or tax~~ paid thereby
6 as the amount of money paid to the township treasurer by the
7 county treasurer ~~shall bear~~ **bears** to the total amount of
8 special assessments and taxes levied and collected in said
9 township and paid into the fund for the construction of said
10 drain.

11 Sec. 395. (1) ~~The county drain commissioner may relinquish~~
12 ~~jurisdiction and control to a township, city or village of any~~
13 ~~county drainage district upon which there is no outstanding~~
14 ~~indebtedness or contract liability and which is wholly located~~
15 ~~within the boundaries of a township, city or village, and~~
16 ~~thereafter the county drain commissioner shall be relieved of,~~
17 ~~and the township, city or village shall assume, the maintenance,~~
18 ~~jurisdiction, control and operation thereof and its future~~
19 ~~operation shall be financed in the same manner as is provided for~~
20 ~~special assessment districts within such township, city or~~
21 ~~village: Provided, That such proceeding shall have first been~~
22 ~~approved by a majority of the members elect of the county board~~
23 ~~of supervisors and by the resolution of the governing body of the~~
24 ~~township, city or village in which such drain is located. Any~~
25 ~~money which shall be in the drain fund of any such~~ **The county**
26 **drain commissioner, for a county drain, or the drainage board,**
27 **for an intercounty drain, may relinquish jurisdiction over all or**

1 part of a drain to a county, township, city, or village if all of
2 the following requirements are met:

3 (a) The county, township, city, or village requests or
4 consents to the relinquishment by resolution of its governing
5 body. If the relinquishment is to a county, the resolution of
6 the county board of commissioners shall specify the county
7 agency, such as the board of public works, drain commissioner,
8 board of county road commissioners, the county executive, or
9 other agency acting as the county road commission or parks and
10 recreation commission, that will exercise jurisdiction over the
11 drain or part of the drain.

12 (b) If the relinquishment is to a township, city, or village,
13 the relinquishment is approved by resolution of a majority of the
14 members of the county board of commissioners.

15 (c) The drain or part of the drain is located wholly within
16 the boundaries of the county, township, city, or village to which
17 it is to be relinquished.

18 (d) The drainage district has no outstanding indebtedness or
19 contract liability. Indebtedness or contract liability that will
20 be paid in full at the time of the relinquishment is not
21 considered to be outstanding for the purposes of this
22 subdivision.

23 (2) Upon relinquishment of jurisdiction over the drain or
24 part of the drain, the drain commissioner or drainage board is
25 relieved of, and the county, township, city, or village shall
26 assume, jurisdiction over the drain or part of the drain,
27 including responsibility for the maintenance, control, and

1 operation of the drain or part of the drain. Easements and
2 rights of way for the drain or part of the drain are transferred
3 to the county, township, city, or village to which the drain or
4 part of the drain is relinquished. If jurisdiction over the
5 entire drain is relinquished, the drainage district is
6 dissolved.

7 (3) If jurisdiction is being relinquished over all or part of
8 a drain established under chapter 3 or 5, any money in the drain
9 fund of the drainage district at the time jurisdiction ~~over it~~
10 is ~~transferred~~ **relinquished** as provided in this section shall
11 be distributed in the ~~same~~ manner ~~as is~~ provided in sections
12 ~~391~~ 392 to 394 ~~, inclusive, of this act~~ in the case of
13 abandoned or vacated drains.

14 (4) If jurisdiction is being relinquished over all or part of
15 a drain established under chapter 20 or 21, any money in the
16 drain fund shall be used to pay any indebtedness or contract
17 liability of the drainage district. If jurisdiction over the
18 entire drain is relinquished, the balance shall be turned over to
19 the county, township, city, or village assuming jurisdiction. If
20 jurisdiction over part of the drain is being relinquished, there
21 shall be turned over to the county, township, city, or village
22 assuming jurisdiction that portion of the balance equal to the
23 ratio of the costs of operation and maintenance of that part of
24 the drain to the costs of operation and maintenance of the entire
25 drain. The balance turned over to a county, township, city, or
26 village shall be used solely with respect to the drain or part of
27 the drain over which jurisdiction is assumed.

CHAPTER 18 —

OBSTRUCTIONS IN DRAINS, —; SEWAGE, —; **AND** MISCELLANEOUS
PROVISIONS —

1 Sec. 421. (1) ~~Whenever any person shall obstruct any~~
2 ~~established drain, it shall be the duty of the commissioner to~~
3 ~~cause such obstruction to be removed. Any lessening of the area~~
4 ~~of a drain, which area shall be a cross section of the drain,~~
5 ~~shall be deemed to be an obstruction. The person causing such~~
6 ~~obstruction shall be liable for the expense attendant upon the~~
7 ~~removal thereof, together with the charges of the commissioner,~~
8 ~~and the same shall be a lien upon the lands of the party causing~~
9 ~~or permitting such obstruction, and all of the expense shall by~~
10 ~~the commissioner be reported to the board of supervisors,~~
11 ~~together with the report of his doings in the premises, and by~~
12 ~~said board ordered spread upon the land of the offending party,~~
13 ~~should the same remain unpaid: Provided, That the offending~~
14 ~~party causing such obstruction shall be given a notice in writing~~
15 ~~of at least 5 days to remove such obstruction. If a person~~
16 ~~obstructs or permits the obstruction of a drain, the drain~~
17 ~~commissioner or drainage board shall proceed under subsection~~
18 ~~(2), (3), or (4). An obstruction is any lessening of the~~
19 ~~cross-section of a drain including, but not limited to, that~~
20 ~~resulting from any railroad, bridge, cable, pipeline, sewer,~~
21 ~~conduit, roadway, culvert, or other structure. Obstruction does~~
22 ~~not include construction of a structure as approved under section~~
23 ~~328.~~

24 (2) By first-class mail or personal service, the drain

1 commissioner or drainage board shall give the person causing or
2 permitting the obstruction a written notice to remove or modify
3 the obstruction. Beginning 14 days after the notice is delivered
4 to the person, if the person has not so removed or modified the
5 obstruction or made arrangements satisfactory to the drain
6 commissioner or drainage board for removal or modification of the
7 obstruction, the drain commissioner or drainage board may cause
8 the obstruction to be removed or modified.

9 (3) The drain commissioner or drainage board may bring an
10 action in the circuit court of the county in which the
11 obstruction is located to compel the person to remove or modify
12 the obstruction.

13 (4) If, in the opinion of the drain commissioner or drainage
14 board, the obstruction creates an emergency condition that
15 endangers the public health, safety, convenience, or welfare or
16 crops or other property, the drain commissioner or drainage
17 board, after giving reasonable notice to the person causing or
18 permitting the obstruction, may remove or modify the
19 obstruction. The notice shall specify the reasons for further
20 action.

21 (5) The person causing or permitting the obstruction is
22 liable to the drain commissioner or drainage board for the
23 expense of removal or modification of the obstruction under
24 subsection (2) or (4). If the person does not pay the drain
25 commissioner or drainage board the full amount of the expense
26 within 30 days after being billed for the amount, the drain
27 commissioner or drainage board shall report the unpaid portion of

1 the expense to the county board of commissioners, together with a
2 report of the work performed. The county board of commissioners
3 may certify the unpaid amount of the expense to the proper tax
4 collecting officer to be entered in a separate column on the next
5 tax roll against those parcels of land of the person causing or
6 permitting the obstruction that are located in whole or part
7 within the drainage district or are traversed by the drain. If
8 the county board of commissioners so certifies the unpaid amount
9 of the expense, all of the following apply:

10 (a) The unpaid amount shall accrue simple interest at the
11 same rate as charged by the department of treasury on delinquent
12 state taxes.

13 (b) There is a lien upon those parcels for the total unpaid
14 amount of the expense.

15 (c) The total unpaid amount of the expense may be collected
16 in the same manner as ad valorem property taxes under the general
17 property tax act, 1893 PA 206, MCL 211.1 to 211.157. However, a
18 parcel is not subject to sale under section 60 of the general
19 property tax act, 1893 PA 206, MCL 211.60, for nonpayment of the
20 expense unless the parcel is also subject to sale for delinquent
21 property taxes.

22 (d) Upon payment of the total amount due, the lien is
23 discharged and, if the drain commissioner or drainage board has
24 recorded the lien, the drain commissioner or drainage board shall
25 file a certificate of discharge of the lien.

26 (e) The removal or modification of the obstruction shall not
27 be considered an element of damages in proceedings to maintain or

1 **improve a drain.**

2 (7) This ~~provision as to obstruction of any drain shall~~
3 **section does** not apply ~~where~~ **if** the obstruction was caused by
4 natural causes. ~~, but~~ **However,** the owner of ~~the stock who~~
5 ~~shall permit his horses, cattle, pigs and other stock~~ **livestock**
6 **permitted** to obstruct any drain ~~by tramping in it shall be~~
7 ~~deemed~~ **is considered** to be the party causing such obstruction.
8 ~~Nothing contained in this section shall in any way impede or bar~~
9 ~~the right of any person to make criminal complaint under any~~
10 ~~existing law for any obstruction of a drain.~~

11 (8) This section does not impede or bar the right of the
12 drain commissioner, drainage board, or any other person to seek
13 relief under any other pertinent provisions of this act including
14 but not limited to civil or criminal remedies.

15 Sec. 422. (1) ~~Railroad or railway companies, telephone,~~
16 ~~telegraph, or pipeline companies and other utilities shall not~~
17 ~~obstruct established drains, nor shall they lessen the area of~~
18 ~~any drain through their track bed or right of way. The area~~
19 ~~herein referred to is a cross section of the drain. In case any~~
20 ~~such company or utility, without legal right, has constructed or~~
21 ~~shall construct any bridge, culvert, pipeline or conduit over any~~
22 ~~established drain whereby the area aforesaid is decreased, the~~
23 ~~removal of such bridge, culvert, pipeline or conduit shall not be~~
24 ~~deemed an element of damage in proceedings to deepen and widen~~
25 ~~such drain through such track bed or right of way. In case it is~~
26 ~~proposed to construct a pipeline, sewer or conduit within, over~~
27 ~~or across any county, such construction shall be of a nature and~~

1 ~~laid at such a depth at the point of crossing of any established~~
2 ~~public drain as will not interfere with said established public~~
3 ~~drain. The consent of the county drain commissioner or board of~~
4 ~~public works of any municipality shall be obtained before the~~
5 ~~work of such construction is commenced and such drain~~
6 ~~commissioner is hereby authorized to grant such consent upon such~~
7 ~~terms and conditions as may be reasonable and proper under the~~
8 ~~circumstances then existing. In case any railroad or railway~~
9 ~~company, telephone, telegraph or pipeline company or other~~
10 ~~utilities shall obstruct any established drain, or has~~
11 ~~constructed or shall construct any bridge, culvert, pipeline or~~
12 ~~conduit, sewer or other structure over, under or through any~~
13 ~~established drain, leaving less capacity to the drain than such~~
14 ~~drain is legally entitled to, in accordance with the rights for~~
15 ~~such drain as established by proper drain proceedings or as~~
16 ~~established by other legal methods prior to the date of~~
17 ~~construction of any such obstruction, the county drain~~
18 ~~commissioner or the board of public works, as the case may be,~~
19 ~~may, by mandamus proceedings in the circuit court of the county~~
20 ~~in which such obstruction shall occur, compel the removal of such~~
21 ~~obstruction. If necessary, issues of fact may be framed in such~~
22 ~~proceedings. In case the court shall find such drain to have~~
23 ~~been obstructed, it shall issue a preemptory mandamus compelling~~
24 ~~such company to remove such obstruction. The court may award~~
25 ~~costs in its discretion as in other mandamus proceedings. The~~
26 ~~practice herein shall be the same as in other motions for~~
27 ~~mandamus. The drain commissioner or drainage board, including an~~

1 agent or employee of the drain commissioner or drainage board,
2 may enter upon property not within a drainage district to remove
3 or modify an obstruction in a natural watercourse that serves as
4 an outlet for a county or intercounty drain but that is not
5 itself a drain. The entry shall be made pursuant to a written
6 agreement with the landowner. The agreement shall specify that
7 the drain commissioner or drainage board shall restore the
8 property to substantially the same condition as before the entry
9 or shall specify that the drain commissioner or drainage board
10 shall make restitution for actual damage resulting from the
11 entry. The entry shall be made upon reasonable notice to the
12 landowner and at a reasonable hour. The landowner or his or her
13 representative shall be given a reasonable opportunity to
14 accompany the drain commissioner or drainage board or their
15 agents or employees during the entry upon the property. The
16 costs attendant to the access of the property, removal of the
17 obstruction, and restoration of the property may be assessed
18 against the drainage district.

19 (2) If entry under subsection (1) has been denied, the drain
20 commissioner or drainage board may commence a civil action in the
21 circuit court in the county in which the property or any part of
22 the property is located for an order permitting entry. The
23 complaint shall state the facts making the entry necessary, the
24 date on which entry is sought, and the duration and the method
25 proposed for protecting the defendant against damage. The court
26 may grant a limited license for entry upon such terms as justice
27 and equity require, including the following:

1 (a) A description of the purpose of the entry.

2 (b) The scope of activities that are permitted.

3 (c) The terms and conditions of the entry with respect to the
4 time, place, and manner of the entry.

5 (3) An entry made pursuant to this section shall be made in a
6 manner that minimizes any damage to the property and any
7 hardship, burden, or damage to a person in lawful possession of
8 the property.

9 (4) The removal or modification of an obstruction under this
10 section is subject to the expenditure limits and other procedures
11 required for necessary maintenance or repair of a drain under
12 section 199. In addition, the drain commissioner or drainage
13 board shall obtain any permits for the removal or modification
14 required under state or federal law.

15 Sec. 423. (1) A person shall not continue to discharge or
16 permit to be discharged into any county drain or intercounty
17 drain of ~~the~~ **this** state any sewage or waste matter capable of
18 producing in the drain detrimental deposits, objectionable odor
19 nuisance, injury to drainage conduits or **other** structures, or
20 capable of producing such pollution of the waters of the state
21 receiving the flow from the ~~drains~~ **drain** as to injure
22 livestock, destroy fish life or **aquatic habitat**, or be injurious
23 to public health. This section does not prohibit the conveyance
24 of sewage or other waste through drains or sewers that will not
25 produce these injuries and that comply with section 3112 ~~of part~~
26 ~~31 (water resources protection)~~ of the natural resources and
27 environmental protection act, ~~Act No. 451 of the Public Acts of~~

1 ~~1994, being section 324.3112 of the Michigan Compiled Laws 1994~~
2 **PA 451, MCL 324.3112.**

3 (2) Disposal plants, filtration beds, and other mechanical
4 devices to properly purify the flow of ~~any~~ a drain may be
5 constructed as a part of ~~any established~~ **the** drain. ~~—, and the~~
6 **The** cost of construction **of such purification facilities** shall be
7 paid for in the same manner as provided for in this act for other
8 drainage costs. ~~Plants, beds, or devices~~ **The purification**
9 **facilities** may be described in the petition ~~for the location,~~
10 ~~establishment and construction of drains or in the petition for~~
11 ~~the cleaning, widening, deepening, straightening, or extending of~~
12 ~~drains, or in the application for the laying out of a drainage~~
13 ~~district~~ **to establish a drainage district and establish and**
14 **construct a drain or to maintain or improve a drain.** Petitions
15 for the construction of ~~plants, beds, and devices~~ **the**
16 **purification facilities** for use on any established drain may be
17 filed by the same persons and shall be received and all
18 proceedings on the petitions **shall be held** in the same manner as
19 ~~other petitions~~ for any drainage construction under this act.

20 (3) If the department of environmental quality determines
21 that sewage or wastes carried by any county or intercounty drain
22 constitutes unlawful discharge as prescribed by section 3109 or
23 3112 ~~of part 31 of Act No. 451 of the Public Acts of 1994,~~
24 ~~being sections 324.3109 and 324.3112 of the Michigan Compiled~~
25 ~~Laws~~ **the natural resources and environmental protection act,**
26 **1994 PA 451, MCL 324.3109 and 324.3112,** that 1 or more users of
27 the drain are responsible for the discharge of sewage or other

1 wastes into the drain, and that the cleaning out of the drain or
 2 the construction of disposal plants, filtration beds, or other
 3 mechanical devices to purify the flow of the drain is necessary,
 4 the department of environmental quality may issue to the drain
 5 commissioner, **for a county drain, or drainage board, for an**
 6 **intercounty drain**, an order of determination identifying such
 7 users and pollutants, under section 3112 of ~~Act No. 451 of the~~
 8 ~~Public Acts of 1994, being section 324.3112 of the Michigan~~
 9 ~~Compiled Laws~~ **the natural resources and environmental protection**
 10 **act, 1994 PA 451, MCL 324.3112.** The order of determination
 11 constitutes a petition ~~calling~~ for the construction of
 12 ~~disposal~~ **purification** facilities or other appropriate measures
 13 by which the unlawful discharge may be abated or purified. The
 14 order of determination serving as a petition is in lieu of the
 15 ~~determination~~ **order** of necessity by a drainage board pursuant
 16 to chapter 20 or 21 or section ~~122~~ **104** or 192 or ~~a~~
 17 ~~determination~~ **an order** of necessity by a board of determination
 18 pursuant to section ~~72~~ **54** or 191, whichever is applicable. A
 19 copy of the findings of the department shall be attached to the
 20 order of determination. ~~which~~ **The order of determination** shall
 21 require ~~no other~~ **the** signature ~~than that~~ of the director of
 22 the department of environmental quality **only**.

23 **(4)** Upon receipt of the order of determination, the drain
 24 commissioner or the drainage board shall proceed as provided in
 25 this act to ~~locate, establish,~~ **establish** and construct a
 26 drain. If the responsible users of the drain are determined to
 27 be public corporations in the drainage district, the drain

1 commissioner or the drainage board shall proceed as provided in
2 chapters 20 and 21, as may be appropriate, using the order of
3 determination as the final order of determination of the drainage
4 board. If the responsible users are determined to be private
5 persons, the drain commissioner **or drainage board** shall proceed
6 as provided in ~~chapters 8 and 9~~ **chapter 8**, using the order of
7 determination as the first order of determination.

8 **(5) ~~(4)~~** Plans and specifications for the construction of
9 **purification facilities** as part of a drain ~~of any disposal~~
10 ~~plant, filtration bed, or other mechanical device to properly~~
11 ~~purify the flow of the drain~~ shall be prepared by the drain
12 commissioner or the drainage board. Contracts for construction
13 shall be let in the manner provided in this act. ~~To meet~~ **The**
14 **drain commissioner or drainage board shall apportion** the cost of
15 any preliminary engineering studies for the construction of
16 ~~abatement or~~ purification facilities ~~, the drain commissioner~~
17 ~~or the drainage board shall apportion the cost among the several~~
18 ~~parcels of land, highways, and municipalities benefited thereby~~
19 ~~in the same manner as provided in chapter 7 or against the public~~
20 ~~corporations affected by the order of determination in the same~~
21 ~~manner as provided in chapters 20 and 21~~ **in the same manner as**
22 **provided in chapter 7, 20, or 21, as applicable.** The costs and
23 charges for maintenance shall be apportioned and assessed each
24 year. ~~If the apportionment is the same as the last recorded~~
25 ~~apportionment, a day of review or a hearing on apportionments is~~
26 ~~not necessary, but if the apportionment is changed, notice of a~~
27 ~~day of review or a hearing on apportionments shall be given to~~

1 ~~each person whose percentage is raised.~~

2 (6) ~~-(5)-~~ Land may be acquired as a site for the
3 construction of such ~~plants, beds, and devices, and releases of~~
4 ~~land may be obtained in the same manner as provided in this act~~
5 ~~for other lands acquired for right of way~~ **purification**
6 **facilities under section 7.**

7 (7) ~~-(6)-~~ A person shall not connect sewage or other waste
8 to a county or intercounty drain except with the written approval
9 of the appropriate commissioner or the drainage board ~~indorsed~~
10 **endorsed** upon a written application for such service and the
11 payment of a service fee of not to exceed \$50.00 for each
12 connection to a covered drain. The application shall include
13 information showing that all other local, state, and federal
14 approvals related to the sewage or waste have been obtained.

15 (8) ~~-(7)-~~ The fee provided for in subsection ~~-(6)-~~ (7) shall
16 be set and collected by the drain commissioner, as approved by
17 the county board of commissioners or the drainage board, and
18 deposited with the county treasurer, to be credited to the drain
19 fund set up for the maintenance or construction of the drain.
20 The commissioner or the drainage board shall keep a record of
21 applications made and the action on the applications. The
22 commissioner or the drainage board may reject applications for or
23 require such modification in requested applications for sewer
24 connections to county drains as necessary to attain the
25 objectives set forth in this section.

26 (9) ~~-(8)-~~ ~~Subject to the review and approval of the department~~
27 ~~of environmental quality, the~~ **The** drain commissioner or drainage

1 board may study the ~~requirements of persons~~ **need** for flood
2 control or ~~drainage~~ **pollution control** projects ~~including~~ **for**
3 **the protection of the public health, safety, and welfare.** Such
4 **projects may include** sewage disposal systems, storm sewers,
5 sanitary sewers, combined sanitary and storm sewers, sewage
6 treatment plants, ~~and all~~ **or** other plants, works,
7 instrumentalities, and properties useful ~~in connection with~~ **for**
8 the collection, treatment, ~~and~~ **or** disposal of sewage and
9 industrial wastes or agricultural wastes or run-off. ~~, to abate~~
10 ~~pollution or decrease the danger of flooding.~~ The objective of
11 ~~such studies shall be that sewers, drains, and sewage disposal~~
12 ~~facilities are made available to persons situated within the~~
13 ~~territorial limits of any drainage district or proposed drainage~~
14 ~~district as necessary for the protection of public health and the~~
15 ~~promotion of the general welfare.~~

16 (10) ~~(9)~~ The drainage board or drain commissioner may
17 cooperate, negotiate, and enter into contracts with ~~other~~
18 ~~governmental units and agencies or with any public or private~~
19 ~~corporation including the United States of America, and to take~~
20 ~~such steps and perform such acts and execute such documents as~~
21 ~~may be necessary to take advantage of any act of the congress of~~
22 ~~the United States which may make available funds~~ **a private**
23 **corporation, public corporation, the federal government, or an**
24 **agency and may do what is necessary to obtain funds available**
25 **under federal law** for any of the purposes described in this
26 section.

27 (11) ~~(10)~~ Failure to comply with any of the provisions of

1 this section subjects the offender to the penalties described in
2 section ~~602~~ **616**. However, for each offense, a person who
3 violates subsection ~~(6)~~ **(7)** is guilty of a misdemeanor
4 punishable by a fine of not more than \$25,000.00 or imprisonment
5 for not more than ~~90~~ **93** days, or both. In addition, the person
6 may be required to pay the costs of prosecution and the costs of
7 any emergency abatement measures taken to protect public health
8 or the environment. Payment of a fine or costs under this
9 subsection does not relieve a person of liability for damage to
10 natural resources or for response activity costs under the
11 natural resources and environmental protection act, ~~Act No. 451~~
12 ~~of the Public Acts of 1994, being sections 324.101 to 324.90106~~
13 ~~of the Michigan Compiled Laws~~ **1994 PA 451, MCL 324.101 to**
14 **324.90106.**

15 ~~(11) As used in this section, "person" means an individual,~~
16 ~~partnership, public or private corporation, association,~~
17 ~~governmental entity, or other legal entity.~~

18 Sec. 425. **(1) A landowner in the One or more landowners**
19 **in a** drainage district whose land requires additional drainage
20 may petition the **drain** commissioner **or drainage board** for
21 permission to construct an open or closed drain, or a combination
22 thereof, to a regularly established drain, and permission shall
23 be granted by the commissioner or drainage board ~~when~~ **if**, in
24 ~~their opinion~~ **the opinion of the commissioner or the drainage**
25 **board,** ~~the nature of~~ the ground to be crossed ~~will admit~~
26 ~~thereof~~ **is suitable for a drain** and the surface of the land can
27 be restored. ~~and for~~ **For** that purpose the drain may traverse

1 the lands of other ~~freeholders~~ **landowners** in the district.
2 Before permission may be granted by the **drain** commissioner or
3 **drainage board**, consent in writing by the owner or owners of the
4 lands to be traversed by the proposed drain shall be obtained.
5 **The landowner or landowners granted permission to construct the**
6 **drain shall obtain any permits required under the natural**
7 **resources and environmental protection act, 1994 PA 451, MCL**
8 **324.101 to 324.90106, or any other state or federal law.**

9 (2) If permission to construct the drain across adjoining
10 **properties** is refused by the owner or owners, ~~of the lands to be~~
11 ~~traversed by the proposed drain,~~ the drain may be established
12 ~~by following the provisions of this act governing the location,~~
13 ~~establishment, and construction of county or intercounty drainage~~
14 ~~districts and drains therein.~~ **as otherwise provided in this act,**
15 **subject to all of the following:**

16 (a) A petition to establish a drainage district and establish
17 and construct a drain under this section need only be signed by
18 the petitioning landowner or owners.

19 (b) The entire expense ~~thereof~~ to design and construct a
20 **drain under this section** shall be borne by the ~~petitioner,~~ and
21 ~~the construction of an open or closed drain or combination~~
22 ~~thereof shall be done at a time and in a manner as the~~
23 ~~commissioner or drainage board shall prescribe.~~ When drains are
24 constructed, the drain entrance shall be substantially protected
25 from driftwood and debris. An application to lay out and
26 designate a drainage district or petition to locate, establish,
27 and construct a drain under the foregoing provisions of this

1 ~~section shall only require the signature of the petitioning~~
 2 ~~landowner or owners, other provisions of this act~~
 3 ~~notwithstanding. If permission is granted to tile the source of~~
 4 ~~a drain, the commissioner shall further prescribe the amount and~~
 5 ~~part of the drain to be tiled and the manner of tiling.~~
 6 **petitioners.**

7 **(c) The drain commissioner or drainage board shall prescribe**
 8 **the nature and type of construction of the drain and the time at**
 9 **which the drain shall be constructed by the petitioners.**

10 **(3) A person through whose land an open drain has been**
 11 ~~established and~~ **constructed under this act** may make a written
 12 request to the county drain commissioner **or drainage board** to be
 13 permitted, at ~~his own expense, to tile and cover with earth the~~
 14 ~~whole or a part thereof that may traverse his land, and the no~~
 15 **expense to the district, to enclose that part of the drain that**
 16 **traverses his or her land. The commissioner may grant the**
 17 request **subject to receipt of a new easement**, but in doing so
 18 ~~he~~ shall prescribe the size of ~~the~~ **tile and type of**
 19 **construction** to be used. **A deposit or bond to guarantee**
 20 **construction may be required and administered as provided in**
 21 **section 433.** A permit shall not be issued to ~~tile or creek an~~
 22 ~~established drain that~~ **enclose any portion of a county or**
 23 **intercounty drain if the enclosure** will decrease the ~~area~~
 24 **design capacity** of the drain as **last** established.

25 **Sec. 429. ~~Subject~~ A county drain commissioner, subject to**
 26 ~~the consent and~~ approval of the ~~several boards of supervisors~~
 27 ~~of this state and the~~ **county board of commissioners, or the**

1 drainage board of an intercounty drainage district, subject to
 2 the approval of the county boards of ~~supervisors~~ **commissioners**
 3 of the counties comprising **the** intercounty drainage ~~districts,~~
 4 ~~the several county drain commissioners and the drainage boards of~~
 5 ~~intercounty drainage districts are hereby authorized to grant~~
 6 ~~unto~~ **district, may grant to** the United States ~~of America~~ the
 7 right to use all the easements and rights-of-way conveyed to
 8 ~~their respective drainage districts~~ **the drainage district** or to
 9 any county or counties lying wholly or in part in ~~such~~
 10 ~~districts~~ **the drainage district**, for the construction and
 11 maintenance of ~~any~~ **a** county or intercounty drain by the United
 12 States in connection with any flood control project undertaken by
 13 the United States, ~~acting through its war department or any~~
 14 ~~other federal department or agency~~ **including any agency of the**
 15 **United States.** ~~In such cases in which~~ **If** the work is to be
 16 performed at the expense of the United States, it ~~shall not be~~
 17 **is not** necessary for the drain commissioner or drainage board to
 18 advertise for bids or to let contracts for the construction or
 19 maintenance of ~~any such~~ **the** flood control project.

20 Sec. 430. (1) ~~Whenever any~~ **If a** county or intercounty
 21 drain is used for the transportation of sanitary sewage, the
 22 county or counties within whose boundaries the drainage district
 23 lies may contract under ~~the provisions of Act No. 129 of the~~
 24 ~~Public Acts of 1943, as amended, being sections 123.231 to~~
 25 ~~123.235 of the Compiled Laws of 1948,~~ **1943 PA 129, MCL 123.231**
 26 **to 123.236,** or any other applicable act, for the disposal of
 27 sewage therefrom, including any storm water necessarily mixed

1 therewith. ~~In such case~~ **If such a contract is entered into,**
2 the drain commissioner or the drainage board may fix and collect
3 charges to cover the cost of the treatment and disposal of
4 sanitary sewage. ~~Such~~ **The** charges shall be approved by the
5 majority vote of the members-elect of the **county** board of
6 ~~supervisors~~ **commissioners**. The charges may be made to each
7 user of the services or may be made to public corporations.
8 Contracts for periods not exceeding 50 years may be made between
9 the county and public corporations to be so served, in respect to
10 sewage disposal services, when approved by the governing bodies
11 of the several parties thereto.

12 (2) Charges for sewage disposal services furnished to ~~any~~ **a**
13 premises shall be a lien ~~thereon~~ **on the premises** from the date
14 ~~such~~ **the** charges are due. ~~and any charges~~ **Charges** delinquent
15 for 6 months or more shall be certified annually to the proper
16 tax assessing officer or agency who shall enter the ~~same~~
17 **charges** upon the next tax roll against the premises to which
18 ~~such~~ **the** services ~~shall have been rendered, and the~~ **were**
19 **rendered**. **The** charges shall be collected and the lien shall be
20 enforced in the same manner as provided for the collection of
21 taxes assessed upon ~~such~~ **the** roll and the enforcement of the
22 **tax** lien. ~~therefor.~~ The time and manner of certification and
23 the other details in respect to the collection of ~~such~~ **the**
24 charges and the enforcement of ~~such~~ **the** lien shall be
25 prescribed by the governing body of the public corporation in
26 which the lands are located. The payment of charges for sewage
27 disposal services to any premises may be enforced by

1 discontinuing either the water service or the sewage disposal
2 service to ~~such~~ **the** premises, or both.

3 (3) The charges for sewage disposal services may also include
4 the cost of the operation and maintenance of any physical
5 structures and any administrative expenses in connection with the
6 transportation, treatment, and disposal of sanitary sewage.

7 Sec. 431. (1) ~~The drain commissioner or drainage board may~~
8 ~~contract or make agreements with the federal government,~~
9 ~~including any agency thereof, whereby the federal government will~~
10 ~~pay the whole or any part of the cost of the project or will~~
11 ~~perform the whole or any part of the work connected therewith,~~
12 ~~which contract or agreement~~ **The drain commissioner or drainage**
13 **board may contract with the federal government or any other**
14 **person with respect to the establishment, construction,**
15 **operation, improvement, maintenance, use, or services of any**
16 **drain, or the payment of the cost for any drain. A contract or**
17 **agreement with the federal government** may include any specific
18 terms required by act of congress or federal regulation, not in
19 conflict with state law, as a condition for participation on the
20 part of the federal government. ~~The drain commissioner or~~
21 ~~drainage board may contract or make agreements with any private~~
22 ~~corporation or with any public corporation, including any agency~~
23 ~~thereof, in respect to any matter connected with the~~
24 ~~construction, operation or maintenance of any flood control or~~
25 ~~drainage project or combination thereof.~~ The contract or
26 agreement may provide that any payments made or work done by
27 ~~the~~ **a public corporation shall relieve it in whole or in part**

1 from assessment for the cost of the project. ~~No construction~~

2 **(2) Construction** work shall **not** be undertaken by the drain
3 commissioner or drainage board until bids have been advertised
4 for and received for the performance of ~~such~~ **the** work, but this
5 ~~provision shall~~ **requirement does** not apply to work to be
6 performed solely by the federal government or a public
7 corporation at its expense.

8 **(3)** The drain commissioner or drainage board may ~~contract or~~
9 ~~make agreements with private and public corporations and with the~~
10 ~~federal government including any agency thereof~~ **cooperate,**
11 **contract, or make agreements with the federal government or any**
12 **other person** for the purpose of expanding any flood control or
13 drainage project or combination thereof to include the
14 conservation and utilization of soil and water for recreation and
15 other beneficial purposes. The contracts or agreements shall
16 provide for an equitable sharing of the costs of the expanded
17 flood control or drainage project or combination thereof and the
18 cost borne by a drainage district shall not be in excess of the
19 amount which can be attributed solely to drainage and flood
20 control. ~~The drain commissioner or drainage board, may acquire~~
21 ~~by gift or purchase the necessary lands, and rights of way for~~
22 ~~the purposes of any expanded flood control or drainage project or~~
23 ~~combination thereof. The drain commissioner or drainage board~~
24 ~~may acquire by condemnation proceedings similar to those provided~~
25 ~~in chapter 4 and chapter 6 of this act, the necessary lands and~~
26 ~~rights of way for any expanded flood control or drainage project~~
27 ~~or combination thereof which shall be undertaken jointly with a~~

1 ~~public corporation or the federal government.~~ The drain
 2 commissioner or drainage board may pay for the costs of ~~lands~~
 3 ~~taken by condemnation~~ **acquiring property** for an expanded flood
 4 control or drainage project or combination thereof, undertaken
 5 jointly with a public corporation or the federal government, but
 6 the public corporation or federal government shall promptly
 7 reimburse the drainage district for all costs of acquisition in
 8 excess of those costs directly attributable to drainage and flood
 9 control.

10 ~~The term "public corporation" includes the state, counties,~~
 11 ~~cities, villages, townships, metropolitan districts and~~
 12 ~~authorities created by or pursuant to state statutes.~~

13 Sec. 433. (1) ~~An existing intracounty~~ **A county** or
 14 intercounty drainage district may be enlarged and ~~the~~ **an**
 15 **established** drain ~~located in the district~~ may be extended or
 16 have branches added to provide ~~drainage~~ service to ~~lands not~~
 17 ~~originally~~ **land** within the **existing** boundaries of ~~the~~ **a**
 18 drainage district **or to provide service to land contiguous to a**
 19 **drainage district,** by agreement between the drain commissioner or
 20 the drainage board and the owner of the ~~lands;~~ **land,** or if
 21 there is a developer of the lands who is not the owner, between
 22 the drain commissioner or the intercounty drainage board and the
 23 owner and the developer of the ~~lands~~ **land.** The agreement shall
 24 obligate the owner and the developer, if any, of the ~~lands to be~~
 25 ~~added to the drainage district~~ **land** to construct, in accordance
 26 with plans and specifications prepared by or approved by the
 27 drain commissioner or drainage board, the necessary and adequate

1 drainage facilities ~~on the lands to be added and in the existing~~
 2 ~~drainage district to connect the lands to the existing drain in~~
 3 ~~the drainage district~~ and to pay the cost ~~of~~ **to construct** the
 4 drainage facilities, including right-of-way, **easements,**
 5 engineering, inspection, administration, and legal expenses
 6 incurred by the drain commissioner or the drainage board. ~~—, or~~
 7 ~~to deposit with the drain commissioner or drainage board, upon~~
 8 ~~execution of the agreement,~~ **The drain commissioner or drainage**
 9 **board may require a good faith deposit or bond equal to the**
 10 estimated cost of the construction and expenses. **The amount of**
 11 **the deposit or bond shall be refunded to the owner, or the bond**
 12 **returned, upon final acceptance of the work by the drain**
 13 **commissioner or drainage board.**

14 (2) Before ~~any~~ **an** agreement is approved and executed on
 15 behalf of a drainage district by the drain commissioner or
 16 drainage board, there shall be obtained, at the expense of the
 17 owner or developer of the ~~lands to be added~~ **land**, a certificate
 18 ~~—,~~ from a ~~registered~~ **licensed** professional engineer **and**
 19 satisfactory to the drain commissioner or ~~the~~ drainage board.
 20 ~~—, to the effect that~~ **The certificate shall certify both of the**
 21 **following:**

22 (a) **That** the lands to be added naturally drain into the area
 23 served by the existing drain or that the existing drain is the
 24 only reasonably available outlet for the drainage from the lands
 25 to be added. ~~and that~~

26 (b) **That** there is ~~existing~~ capacity in the existing drain
 27 to serve the ~~lands to be~~ added **lands or to accommodate**

1 **additional drainage provided** without detriment to or diminution
 2 of the drainage service provided or to be provided ~~—~~ in the
 3 foreseeable future, to the area in the existing drainage
 4 district.

5 (3) If the ~~existing~~ drain in the existing drainage
 6 district has been financed by the levy of drain special
 7 assessments on the lands in the ~~drainage~~ district and if the
 8 basis of special assessment as applied to the lands to be added
 9 to the drainage district would result in a drain special
 10 assessment on the **added** lands ~~to be added~~ in an aggregate
 11 principal amount greater than the costs and expenses to be paid
 12 or incurred by the owner and developer, if any, of the ~~lands for~~
 13 ~~the new~~ **land to construct adequate** drain facilities at the time
 14 of entering into the agreement, then the owner or developer **of**
 15 **the land** shall also pay the amount of the excess to the drainage
 16 district at the time of execution of the agreement. In addition,
 17 the ~~developer or~~ owner of the added ~~lands~~ **land** shall pay a
 18 pro rata equitable share of the cost of the original construction
 19 of the drain, if any.

20 (4) ~~(3) Lands~~ **Land** added to ~~any~~ **a** drainage district by
 21 agreement shall be liable from and after the date of **the**
 22 agreement for all assessments levied ~~after the date of the~~
 23 ~~agreement~~ for operation and maintenance of the drain, including
 24 the extension of the drain pursuant to the agreement, and the
 25 ~~lands~~ **land** shall **thereafter** be a part of the drainage district
 26 for all other purposes and procedures set forth in this act. All
 27 drain facilities, ~~and all~~ rights-of-way, easements, or property

1 in which the facilities are located, acquired, or constructed
 2 pursuant to the agreement ~~to add lands~~ shall be dedicated to
 3 public use or conveyed or transferred to the drainage district.
 4 ~~and the~~ **The** drain facilities shall be a part of the drain the
 5 same as if originally ~~located, established,~~ **established** and
 6 constructed ~~by procedures set forth in~~ **under** this act. ~~as a~~
 7 ~~part of the original drain.~~

8 (5) ~~(4) An existing intracounty or intercounty drain may be~~
 9 ~~extended or have branches added to provide additional service to~~
 10 ~~lands within the drainage district by agreement between the drain~~
 11 ~~commissioner or the drainage board and the owner of the lands; or~~
 12 ~~if there is a developer of the lands who is not the owner,~~
 13 ~~between the drain commissioner or the drainage board and the~~
 14 ~~owner and the developer of the lands, pursuant to the procedures~~
 15 ~~and conditions set forth in this section. The affected public~~
 16 **Public** corporations ~~or municipalities in which the proposed~~
 17 ~~lands are to be added will~~ **affected by an agreement provided for**
 18 **in this section shall** be apprised of the agreement by the drain
 19 commissioner or drainage board ~~and who shall also publish~~
 20 ~~notice~~ **by first-class mail or personal service. Notice** of the
 21 agreement **shall also be published** in a newspaper of general
 22 circulation in the drainage district. ~~in question.~~

23 (6) ~~(5)~~ By agreement with a landowner, and the developer,
 24 if any, the drain commissioner or ~~intercounty~~ drainage board
 25 may establish an existing private drain ~~which~~ **that is within a**
 26 **drainage district and that** was constructed by the landowner or
 27 developer to service an area on his or her own land. ~~as a county~~

1 ~~or intercounty drain.~~ **The landowner shall provide plans and**
 2 **easements in form acceptable to the drain commissioner or**
 3 **drainage board.**

4 (7) ~~-(6)-~~ If a drain established pursuant to subsection
 5 ~~-(5)-~~ (6) adds lands to an existing drainage district, ~~the~~
 6 ~~provisions of subsections (2) and (3) shall~~ **subsections (3) and**
 7 **(4) apply.**

8 (8) ~~-(7)-~~ If a drain established pursuant to subsection
 9 ~~-(5)-~~ (6) is independent from an existing drainage district, a
 10 certificate shall be obtained ~~—~~ **as provided in subsection (2)**
 11 **and** at the expense of the landowner or developer of the ~~lands~~
 12 **land** served by the proposed drain. ~~—, from a registered~~
 13 ~~professional engineer satisfactory to the drain commissioner or~~
 14 ~~the intercounty drainage board to the effect that the outlet for~~
 15 ~~the existing drain is the only reasonably available outlet for~~
 16 ~~the drain and that there is sufficient capacity in the existing~~
 17 ~~outlet for the proposed drain to serve as an adequate outlet~~
 18 ~~without detriment to or diminution of the drainage service which~~
 19 ~~the outlet presently provides.~~ All drain facilities, ~~and all~~
 20 rights-of-way, easements, or property in which the facilities are
 21 located, acquired, or constructed pursuant to the agreement to
 22 establish the drain shall be dedicated to public use or conveyed
 23 or transferred to the drainage district. ~~and the~~ **The** drain
 24 facilities and drainage district shall be an established drain
 25 and drainage district the same as if originally ~~laid out and~~
 26 ~~designated, located, established,~~ **established** and constructed
 27 ~~by procedures set forth in~~ **under** this act. ~~All plans~~ **Plans**

1 ~~filing a petition under this section, the legislative body shall~~
2 ~~proceed as provided in section 489a.~~

3 (1) ~~-(2) If it is necessary for the public health to locate,~~
4 ~~establish, and construct a county drain, a petition for that~~
5 ~~purpose may be filed with the county drain commissioner signed by~~
6 ~~2 or more public corporations which will be subject to~~
7 ~~assessments to pay the cost of the drain to initiate the~~
8 ~~establishment of a drainage district and the establishment and~~
9 ~~construction of a county drain that is necessary for the public~~
10 ~~health or the maintenance and improvement of such a drain, 1 or~~
11 ~~more cities, villages, and townships that will be subject to~~
12 ~~assessment to pay the cost of the drain may, after complying with~~
13 ~~section 489a, if applicable, file a petition with the county~~
14 ~~drain commissioner as provided in section 14. The petition shall~~
15 ~~state that it is filed pursuant to this chapter, and shall~~
16 ~~describe the location and route of the proposed drain~~
17 ~~sufficiently to determine with reasonable certainty the areas to~~
18 ~~be serviced by the drain. request the establishment of a~~
19 ~~drainage district and the establishment and construction of a~~
20 ~~drain, and set forth the reasons for the request. The petition~~
21 ~~may propose a location and route for the drain.~~

22 (3) ~~Not more than 20 days after the petition is filed, the~~
23 ~~county drain commissioner shall notify each public corporation~~
24 ~~which may be subject to an assessment or in which is located any~~
25 ~~of the areas to be drained, as described in the petition, that a~~
26 ~~petition was filed.~~

27 (2) ~~-(4) A certified copy of the resolution of the governing~~

1 ~~body of each signer authorizing the affixing of the signature of~~
 2 ~~the governing body to the petition shall be attached to the~~
 3 ~~petition. The petition may be filed in more than 1 counterpart.~~
 4 ~~For a petition filed by a county, the county board of~~
 5 ~~commissioners shall authorize the execution of the petition, and~~
 6 ~~for a petition filed by the state, the state transportation~~
 7 ~~commission shall authorize the execution of the petition. The~~
 8 **petition may be filed in more than 1 counterpart.** As provided in
 9 section 423, an order of determination of the ~~water resources~~
 10 ~~commission~~ **department of environmental quality** shall also serve
 11 as a petition made pursuant to this chapter.

12 (3) **Not more than 28 days after the petition is filed, the**
 13 **county drain commissioner shall notify each public corporation**
 14 **which may be subject to an assessment or in which is located any**
 15 **of the areas to be drained, as described in the petition, that a**
 16 **petition was filed.**

17 Sec. 464. (1) ~~There~~ **A drainage board** is created for each
 18 project petitioned for under this chapter. ~~, a drainage board~~
 19 ~~that, except~~ **Except** as otherwise provided in subsection (2), **the**
 20 **drainage board** shall consist of the drain commissioner of the
 21 county, the chairperson of the county board of commissioners **or a**
 22 **member of the county board of commissioners designated by that**
 23 **chairperson**, and the chairperson of the board of county
 24 auditors. If there is no board of county auditors in the county,
 25 then the chairperson of the finance committee of the county board
 26 of commissioners ~~shall act as a member of the drainage board,~~
 27 ~~and if~~ **or a member of the county board of commissioners**

1 **designated by that chairperson shall be a member of the drainage**
2 **board.** If there is neither a board of county auditors nor a
3 finance committee, then the chairperson of the county board of
4 commissioners shall select from time to time 1 member of the
5 county board of commissioners to act as a member of the drainage
6 board. ~~If a member of the drainage board who is a commissioner,~~
7 ~~as provided in this section or section 487, is interested in a~~
8 ~~project petitioned for under this chapter, by reason of his or~~
9 ~~her holding an elected or appointed office in a public~~
10 ~~corporation to be assessed for the cost of the project, he or she~~
11 ~~is disqualified to act as a member of the drainage board with~~
12 ~~respect to the project. In such case the vice chairperson or~~
13 ~~chairperson pro tempore of the county board of commissioners or~~
14 ~~of the finance committee of the county board of commissioners, if~~
15 ~~not also disqualified, shall act as the member. If the~~
16 ~~vice chairperson or chairperson pro tempore is disqualified, the~~
17 ~~drain commissioner of the county shall designate a member of the~~
18 ~~county board of commissioners who is not disqualified to act as a~~
19 ~~member of the drainage board for the project. The chairperson of~~
20 ~~the county board of commissioners and any member of a county~~
21 ~~board of commissioners serving on~~ **A member of** the drainage board
22 shall receive ~~the~~ compensation, mileage, and expenses ~~as~~
23 ~~provided by the drainage board. However, compensation paid to a~~
24 ~~member shall not exceed \$25.00 per diem, exclusive of mileage and~~
25 ~~expenses, for attendance at drainage board meetings~~ **which shall**
26 **be determined as provided in section 52 for members of a board of**
27 **determination.** The county drain commissioner shall be

1 chairperson of the drainage board. The chairperson shall keep
2 minutes of the proceedings of the drainage board and all records
3 and files of the board shall be kept in his or her office. ~~In~~
4 ~~counties of less than 500,000 population, the commissioner shall~~
5 ~~be paid the same compensation as other members of the drainage~~
6 ~~board.~~

7 (2) In a county organized under a charter adopted under ~~Act~~
8 ~~No. 293 of the Public Acts of 1966, being sections 45.501 to~~
9 ~~45.521 of the Michigan Compiled Laws~~ **1966 PA 293, MCL 45.501 to**
10 **45.521**, that has a population of more than 2,000,000 at the time
11 the charter is adopted and whose charter prescribes an elected
12 county executive, the drainage board shall consist of the
13 following members:

14 (a) The person designated by the charter to carry out the
15 administrative duties of the drain commissioner or that person's
16 designee, who shall also serve as chairperson of the drainage
17 board.

18 (b) The county commissioner whose district will be assessed
19 for the greatest portion of the cost of the project, or that
20 county commissioner's designee. The determination of which
21 county commissioner is qualified to sit under this subdivision
22 shall initially be made by the chairperson of the drainage board
23 ~~at the time~~ **when** the petition for the project is filed. After
24 the final order of apportionment is issued under section 469, the
25 county commissioner who qualifies under this section shall become
26 the county commissioner member and serve until another
27 apportionment is established requiring the seating of another

1 commissioner.

2 (c) A person appointed by the county executive with the
3 advice and consent of a majority of the members of the county
4 board of commissioners elected or appointed and serving.

5 (3) In a county described in subsection (2), the requirements
6 in this chapter for substantive actions and determinations shall
7 be followed in administering each project petitioned for under
8 this chapter, subject to and in accordance with any applicable
9 provisions of the county charter.

10 Sec. 465. (1) A meeting of the drainage board may be called
11 by the chairperson or 2 members of the board. ~~, on notice sent~~
12 ~~by registered mail to each member, setting forth the time, date,~~
13 ~~and place of the meeting. The notice shall be mailed not less~~
14 ~~than 5 days before the time of the meeting. The affidavit of~~
15 ~~the chairman as to such mailing shall be conclusive proof~~
16 ~~thereof.~~ **Notice of the meeting shall be given as provided in**
17 **section 8.**

18 (2) A majority of the members of the board ~~shall~~ constitute
19 a quorum for the transaction of business, but a lesser number may
20 adjourn from time to time. ~~A meeting may be adjourned from time~~
21 ~~to time.~~ Unless otherwise provided in this act, an action shall
22 not be taken by the board except by a majority vote of its
23 members. ~~In the event of the adjournment of a hearing, it shall~~
24 ~~not be necessary to advertise~~ **If a hearing is adjourned, it is**
25 **not necessary to give notice of** the adjournment of the hearing.

26 (3) All orders issued by the drainage board shall be signed
27 by the chairperson.

1 Sec. 466. Upon receipt of a petition ~~as hereinbefore~~
 2 ~~provided~~ **under this chapter**, the county drain commissioner shall
 3 call the first meeting of the drainage board **by giving notice of**
 4 **the meeting as described in section 465.** ~~In the event there be~~
 5 ~~no board of county auditors or~~ **However, if there is neither a**
 6 **board of county auditors nor a** finance committee in the county,
 7 then notice to the ~~chairman~~ **chairperson** of the **county** board of
 8 ~~supervisors~~ **commissioners** of ~~such~~ **the** county shall ~~be deemed~~
 9 ~~to be~~ **serve as** notice to the member of the **county** board of
 10 ~~supervisors~~ **commissioners** to be selected by ~~him~~ **the**
 11 **chairperson under section 464.**

12 Sec. 467. (1) The drainage board, at its first meeting,
 13 shall consider the petition for the project **under this chapter**
 14 and make a tentative determination as to the sufficiency of the
 15 petition and the practicability of the proposed ~~drain~~ **project**,
 16 and shall further make a tentative determination of the public
 17 corporations to be assessed. The drainage board shall give a
 18 name to the drain and to the drainage district. The district
 19 shall be composed of the public corporations to be assessed for
 20 the cost of the project.

21 (2) After the drainage board ~~has made~~ **makes** the
 22 determination, it shall fix a time, date, and place it will meet
 23 to hear objections to the proposed drain and the petition for the
 24 drain, and to the matter of assessing the cost of the drain to
 25 the designated public corporations. Notice of the hearing shall
 26 be ~~published twice in the county by inserting the notice in at~~
 27 ~~least 1 newspaper published in the county, designated by the~~

1 ~~drainage board, with the first publication to be not less than 20~~
2 ~~days before the time of the hearing. The notice shall also be~~
3 ~~sent by registered mail to the clerk or secretary of each public~~
4 ~~corporation proposed to be assessed, except that a notice to the~~
5 ~~state shall be sent to the state highway director and a notice to~~
6 ~~a county shall be sent to both the county clerk and the county~~
7 ~~road commission. The mailing shall be made not less than 20 days~~
8 ~~before the time of the hearing. The notice shall be signed by~~
9 ~~the chairperson and proof of the publication and mailing of the~~
10 ~~notice shall be filed in his or her office. The drainage board~~
11 ~~may provide a form to be substantially followed in the giving of~~
12 ~~the notice.~~ **given as provided in section 8.**

13 **(3)** After the hearing, the drainage board shall make a
14 determination as to the sufficiency of the petition, the
15 practicability of the ~~drain, whether the drain should be~~
16 ~~constructed~~ **project, whether the project is necessary and**
17 **conducive to public health,** and if so, the public corporations to
18 be assessed, and shall issue its order accordingly. The order
19 shall be known as the final order of determination. A public
20 corporation shall not be eliminated from, or added to, those
21 tentatively determined to be assessed without a rehearing after
22 notice **as provided in subsection (2).**

23 **Sec. 467a. (1)** After the drainage board enters the final
24 order of determination, the drainage board shall secure the
25 service of an engineer. The drainage board shall select the
26 engineer based on his or her qualifications. The engineer shall
27 prepare plans, specifications, and an estimate of costs of the

1 proposed drain. The drainage board shall secure from the
2 engineer or a surveyor a description of the lands or
3 rights-of-way needed for the proposed drain. The drainage board
4 shall secure from an engineer or other qualified professional an
5 evaluation of the effects of the proposed drain on natural
6 resources that identifies appropriate practical measures to
7 minimize adverse effects. In approving the route of the drain as
8 furnished by the engineer, the drainage board is not limited to
9 that described in the petition or in the final order of
10 determination, if the new route is more efficient and
11 serviceable.

12 (2) The drainage board shall obtain any permits required
13 under the natural resources and environmental protection act,
14 1994 PA 451, MCL 324.101 to 324.90106. All costs associated with
15 evaluating natural resource impacts and implementing the measures
16 to minimize those impacts shall be the responsibility of the
17 drainage district.

18 (3) Measures that are intended to improve or enhance natural
19 resources values may be included as part of the drainage project
20 in the discretion of the drainage board. The funding for the
21 costs of such measures may include gifts, donations, grants, and
22 contracts pursuant to section 431, special assessments or any
23 combination thereof as considered appropriate by the drain
24 commissioner.

25 Sec. 467b. If, after the receipt of the plans,
26 specifications, estimate of cost, and descriptions of the lands
27 or rights-of-way needed for the proposed drain, the drainage

1 board determines that the project is not practical, the drainage
2 board shall notify the public corporations in the district by
3 first-class mail of the intent to reject the petition. The
4 notice shall specify the reasons for the proposed rejection. The
5 notice shall also specify a time, date, and place for a public
6 hearing to hear objections to the rejection of the petition. At
7 the public hearing, the drainage board shall elicit testimony and
8 evidence with regards to the proposed rejection. Following the
9 receipt of testimony, the drainage board shall determine whether
10 or not the petition should be rejected. If the rejection is
11 determined to be practical, the drainage board shall enter an
12 order of rejection and apportion all costs incurred to the
13 district as if the project had been built and the costs shall be
14 subsequently assessed and paid as provided in this chapter. A
15 determination to reject a petition does not limit the right to
16 file another petition.

17 Sec. 468. (1) ~~The drainage board shall secure from a~~
18 ~~competent engineer, plans, specifications, and an estimate of~~
19 ~~cost of the proposed drain, which, when approved and adopted by~~
20 ~~the board, shall be filed with the chairman thereof. In~~
21 ~~approving the plans and specifications, the drainage board shall~~
22 ~~not be limited to the route of the drain described in the~~
23 ~~petition or the final order of determination.~~ The drainage board
24 shall tentatively establish the percentage of the cost of the
25 drain or of the several sections or parts thereof which is to be
26 borne by each public corporation. In making the apportionments
27 ~~hereunder, there shall be taken into consideration the benefits~~

1 ~~to accrue to each public corporation and also the extent to which~~
2 ~~each public corporation contributes to the conditions which make~~
3 ~~the drain necessary. Apportionments against the state shall be~~
4 ~~based upon the benefits and contributions as related solely to~~
5 ~~the drainage of state highways, and those against the county~~
6 ~~shall be based as related solely to the drainage of its county~~
7 ~~highways. to cities, villages, and townships, the drainage board~~
8 **shall consider the benefits to accrue to each city, village, or**
9 **township and also the extent to which each city, village, or**
10 **township contributes to the conditions that make the drain**
11 **necessary, subject to section 500. Apportionments against this**
12 **state or a county shall relate solely to state trunk line**
13 **highways or county roads, respectively. The apportionment of**
14 **benefits for state trunk line highways and the portion paid by**
15 **county road commissions for benefit to county roads must be paid**
16 **pursuant to section 14a of 1951 PA 51, MCL 247.664a. Before a**
17 **tentative apportionment ~~shall be~~ is made, the drainage board**
18 **shall designate the area to be served by the drain project, which**
19 **may or may not include all of the area in a ~~public corporation~~**
20 **city, village, or township to be assessed and may divide the**
21 **drain into sections or parts for purposes of apportionment or**
22 **construction. ~~Nothing herein contained shall prohibit the~~**
23 **county from assuming any. The county may assume an additional**
24 **cost of the drain ~~if~~ by the vote of 2/3 of the members elect of**
25 **the county board of commissioners. ~~vote in favor thereof.~~**

26 (2) The apportionment shall ~~only~~ apply to the proposed
27 drain **construction or improvement project and separate**

1 **maintenance apportionments for the drain may be established.** The
 2 apportionments for any extensions or other work subsequently
 3 performed under section ~~482~~ **463** shall be reestablished by the
 4 board. ~~When chapter 25 is employed in the apportionment of~~
 5 ~~costs, the above~~

6 (3) **The** proceedings ~~shall~~ **in this chapter may** be altered
 7 and supplemented as provided in chapter 25.

8 Sec. 469. (1) After the tentative apportionments of cost
 9 have been made, the drainage board shall set a time, date, and
 10 place it will meet and hear objections to the apportionments.
 11 Notice of the hearing shall be ~~published twice in the county by~~
 12 ~~inserting the notice in at least 1 newspaper published in the~~
 13 ~~county, designated by the drainage board, the first publication~~
 14 ~~to be not less than 20 days before the time of the hearing. The~~
 15 ~~notice shall also be sent by registered mail to the clerk or~~
 16 ~~secretary of each public corporation proposed to be assessed,~~
 17 ~~except that a notice to the state shall be sent to the state~~
 18 ~~highway director and a notice to the county shall be sent both to~~
 19 ~~the county clerk and the county road commission. The mailing~~
 20 ~~shall be made not less than 20 days before the time of hearing.~~
 21 ~~The notice shall be signed by the chairperson and proof of the~~
 22 ~~publication and mailing of the notice shall be filed in his or~~
 23 ~~her office. The drainage board may provide a form to be~~
 24 ~~substantially followed in the giving of the notice~~ **given as**
 25 **provided in section 8.** The notice shall include tentative
 26 apportionments to the several public corporations.

27 (2) After the hearing, the drainage board may confirm the

1 apportionments as tentatively made, or if it considers the
2 apportionments to be inequitable, it shall readjust the
3 apportionments. If the readjustment involves the increasing of
4 an assessment and an increase ~~shall~~ **is** not ~~be~~ consented to by
5 resolution of the governing body of the public corporation whose
6 assessment was increased, before any readjusted apportionments
7 are confirmed the drainage board shall set a time, date, and
8 place for a rehearing and shall give notice of the hearing as
9 **provided** in ~~the first instance~~ **subsection (1)**. The notice
10 shall also set forth the apportionments as readjusted. After
11 confirmation, the drainage board shall issue its order setting
12 forth the several apportionments as confirmed. The order shall
13 be known as the final order of apportionment.

14 **(3) After issuing the final order of apportionment, the**
15 **drainage board shall acquire under section 7 property necessary**
16 **for the drain.**

17 Sec. 472. The county treasurer shall be the custodian of
18 the funds of the drainage district. ~~He~~ **The county treasurer**
19 may designate 1 or more of his **or her** deputies ~~who may~~ to act
20 for ~~him~~ **the county treasurer** in the performance of any of his
21 **or her** duties under this section. The drainage board may require
22 the county treasurer and any deputy county treasurer so
23 designated to furnish a bond payable to the drainage district, in
24 addition to any bond payable to the county, conditioned upon the
25 faithful discharge of his **or her** duties in respect to ~~moneys~~
26 **money** belonging to the drainage district. ~~the~~ **The** premium
27 ~~thereon to~~ **on the bond shall** be paid by the drainage district.

1 ~~Moneys~~ **Money** held by ~~said~~ **the** treasurer shall be paid out
2 only upon order of the drainage board, except that ~~no such order~~
3 ~~shall be~~ **an order is not** required for the payment of principal
4 and interest on bonds.

5 Sec. 473. (1) **After the confirmation of the apportionments**
6 **by the drainage board, the chairperson of the board shall prepare**
7 **a computation of the estimated cost of the drain project or, if**
8 **the actual cost has been ascertained, the actual cost, including**
9 **the items listed in section 261 and interest on any money**
10 **advanced pursuant to section 479.**

11 (2) ~~After the confirmation of the apportionments by the~~
12 ~~drainage board, the chairman~~ **preparation of the computation of**
13 **costs by the chairperson of the drainage board, the chairperson**
14 **of the board shall prepare a special assessment** ~~roll~~ **schedule**
15 **assessing the estimated cost of the drain, or if the actual cost**
16 **has been ascertained, then the actual cost and any interest on**
17 **bonds or other evidences of indebtedness,** against the several
18 public corporations in accordance with the confirmed
19 apportionments. The drainage board may provide for the payment
20 of the special assessments in any number of annual installments,
21 not exceeding 30, but an installment shall not be less than 1/4
22 of any subsequent installment. **The drainage board shall fix a**
23 **date, not later than 4 years after confirmation, for the payment**
24 **of the first installment so that each public corporation can make**
25 **a tax levy for the payment of the installment. Subsequent**
26 **installments shall become due annually on the same day and month**
27 **of subsequent years. A city or village may elect to spread the**

1 tax levy upon the county tax roll instead of the city or village
2 tax roll.

3 (3) Installments of assessments against the state and against
4 public corporations which collect their taxes beginning
5 approximately December 1 in each year shall become due and
6 payable on or before April 1 of each year. Installments of
7 assessments against other public corporations shall become due
8 and payable on or before the dates fixed by the drainage board,
9 depending upon the times of the collection of taxes by the public
10 corporations. The drainage board shall fix the commencement date
11 of interest to be paid upon unpaid installments, not to exceed an
12 amount sufficient to pay interest on bonds or other evidences of
13 indebtedness issued or to be issued by the drainage district. —
14 ~~which~~ **The** interest shall become due annually on the day and
15 month upon which the annual installments become due but may
16 become due in years before the due date of the first
17 installment. The drainage board may provide for the payment of
18 installments in advance of their respective due dates and may
19 prescribe the terms and conditions ~~thereof.~~ ~~The drainage board~~
20 ~~shall fix the date, not later than 4 years after confirmation on~~
21 ~~which the first installment of special assessments shall become~~
22 ~~due and payable so that each public corporation can make a tax~~
23 ~~levy for the payment, and subsequent installments shall become~~
24 ~~due annually on the same day and month of subsequent years. When~~
25 ~~chapter 25 is employed in the apportionment of costs, the above~~
26 ~~proceedings shall be altered and supplemented as provided in~~
27 ~~chapter 25~~ **for advance payments.**

1 (4) The special assessment schedule shall contain all of the
2 following:

3 (a) The name of each public corporation assessed.

4 (b) The total estimated cost of the project, or the actual
5 cost if the same actual cost has been ascertained by the time of
6 the preparation of the schedule.

7 (c) The percentage apportioned to each public corporation.

8 (d) The principal amount of the assessment against each
9 public corporation based on the percentage of apportionment.

10 (e) The interest portion of the assessment sufficient to pay
11 the interest on bonds or other evidence of indebtedness based
12 upon the percentage of apportionment.

13 (f) The amount of each installment if the assessment is
14 divided into annual installments.

15 (g) The due date of each installment.

16 Sec. 474. (1) ~~The special assessment roll shall contain~~
17 ~~the name of each public corporation assessed, the total estimated~~
18 ~~cost of the project, or actual cost if the same has been~~
19 ~~ascertained at the time of the preparation of the roll, the~~
20 ~~percentage apportioned to each public corporation, the amount of~~
21 ~~the assessment against each public corporation based upon the~~
22 ~~percentage of apportionment, and the amount of each installment~~
23 ~~if the assessment is divided into annual installments. After the~~
24 ~~special assessment roll has been prepared, it shall be presented~~
25 ~~to the drainage board for approval. When the roll has been~~
26 ~~approved, then a statement to that effect, signed by the chairman~~
27 ~~of the drainage board, shall be affixed to the roll~~ **chairperson**

1 of the drainage board prepares the special assessment schedule,
2 the chairperson shall present the schedule to the drainage board
3 for approval. If the drainage board approves the special
4 assessment schedule, the chairperson of the drainage board shall
5 affix to the schedule a signed statement to that effect setting
6 forth the date of approval. The ~~chairman~~ **chairperson** of the
7 drainage board shall then certify to each public corporation
8 assessed the ~~amount of the total assessment against it, the~~
9 ~~amount of the various installments if the assessment is divided~~
10 ~~into installments, the due date of each installment, and the rate~~
11 ~~of interest upon installments from time to time unpaid.~~ The
12 ~~chairman each~~ **assessment information in the assessment**
13 **schedule.**

14 (2) **Each** year, at least ~~30~~ **28** days before the time of the
15 levying of taxes by each public corporation, **the chairperson of**
16 **the drainage board** shall notify ~~it~~ **the public corporation** of
17 the amount of the installment and interest next becoming due, but
18 the failure to notify a public corporation shall not excuse it
19 from making payment of the installment and interest.

20 (3) On or before the due date of an installment, each public
21 corporation shall pay to the county treasurer the full amount
22 thereof, together with interest accruing to the due date. ~~If a~~
23 ~~public corporation fails or neglects to account to the county~~
24 ~~treasurer for the amount of an installment and interest, then the~~
25 ~~county treasurer shall advance the amount thereof from county~~
26 ~~funds if bonds or other evidences of indebtedness have been~~
27 ~~issued to finance the project, in anticipation of the collection~~

~~1 of the installment and interest pursuant to this chapter and the
2 county board of commissioners has previously acted, by a
3 resolution adopted by a 2/3 vote of its members elect, to pledge
4 the full faith and credit of the county for the prompt payment of
5 the principal of and interest on the bonds or evidences of
6 indebtedness.~~

~~7 ——— The county treasurer shall immediately notify the public
8 corporation of the amount advanced by the county on account of
9 the default by the public corporation in paying the installment
10 and interest assessed against it. The county treasurer shall
11 also notify the state treasurer, or other appropriate disbursing
12 official, who shall deduct the amount from moneys in his
13 possession belonging to the public corporation which are not
14 pledged to the payment of debts, but the state treasurer or other
15 official shall not withhold in any 1 year a sum greater than 25%
16 of the total amount owed by the delinquent public corporation as
17 stated in the notice from the county treasurer. Nothing in this
18 section shall permit the deduction of moneys in contravention of
19 the state constitution of 1963.~~

~~20 ——— The county board of commissioners of a county which has
21 advanced money for a public corporation and which has not been
22 reimbursed therefor, may order the public corporation and its
23 officers to levy upon its next tax roll an amount sufficient to
24 make the reimbursement on or before the date when its taxes
25 become delinquent; and the public corporation and its tax levying
26 and collecting officials shall levy and collect those taxes and
27 reimburse the county. The foregoing shall not prevent the county~~

~~1 from obtaining reimbursement by any other legal method.
2 Assessments against the state shall be certified to the state
3 highway commission and paid from state highway funds. The tax
4 levying officials of each of the other public corporations
5 assessed shall levy sufficient taxes to pay assessment
6 installments and interest as the same become due unless there has
7 been set aside moneys sufficient therefor. A city or village may
8 elect to spread the tax levy upon the county tax roll instead of
9 the city or village tax roll. If a special assessment roll is
10 prepared upon the basis of the estimated cost of the project,
11 then after the actual cost has been ascertained and determined by
12 the drainage board, the special assessments and the installments
13 thereof shall be corrected by adding any deficiency or deducting
14 any excess. The drainage board may order the corrections to be
15 made upon the original roll or may order that a new corrected
16 roll or a supplemental roll be prepared and submitted for
17 approval by the drainage board. When chapter 25 is employed in
18 the apportionment of costs, the above proceedings shall be
19 altered and supplemented as provided in chapter 25.~~

20 **Sec. 474a. (1) If a public corporation fails or neglects to**
21 **account to the county treasurer for the amount of an installment**
22 **and interest, then the county treasurer shall advance the amount**
23 **thereof from county funds if bonds or other evidences of**
24 **indebtedness have been issued to finance the project in**
25 **anticipation of the collection of the installment and interest**
26 **pursuant to this chapter and if the county board of commissioners**
27 **has previously acted, by a resolution adopted by a 2/3 vote of**

1 its members elect, to pledge the full faith and credit of the
2 county for the prompt payment of the principal of and interest on
3 the bonds or evidences of indebtedness.

4 (2) The county treasurer shall immediately notify the county
5 board of commissioners and public corporation of the amount
6 advanced by the county on account of the default by the public
7 corporation in paying the installment and interest assessed
8 against it. The county may use any legal means to obtain
9 reimbursement of the amount advanced.

10 (3) The tax levying officials of each of the other public
11 corporations assessed shall levy sufficient taxes to pay
12 assessment installments and interest as the same become due
13 unless there has been set aside money sufficient therefor. A
14 city or village may elect to spread the special assessment levy
15 upon the county tax roll instead of the city or village tax
16 roll. If a special assessment schedule is prepared upon the
17 basis of the estimated cost of the project, then after the actual
18 cost has been ascertained and determined by the drainage board,
19 the special assessments and the installments thereof shall be
20 corrected by adding any deficiency or deducting any excess. The
21 drainage board may order the corrections to be made upon the
22 original special assessment schedule or may order that a new
23 corrected schedule or a supplemental schedule be prepared and
24 submitted for approval by the drainage board. The proceedings in
25 this section may be altered and supplemented as provided in
26 chapter 25.

27 Sec. 476. (1) The drainage board may issue 1 or more series

1 of bonds for ~~and on behalf of~~ the drainage district, in
 2 anticipation of the collection of ~~any or all~~ installments of
 3 assessments, ~~or any part thereof,~~ and pledge the full faith and
 4 credit of the drainage district for the prompt payment of the
 5 principal thereof and the interest thereon. The bonds shall
 6 mature serially with the last maturity not later than 2-1/2 years
 7 after the due date of the last installment of the assessments.
 8 ~~and there may be~~ **The bonds may have** more than 1 principal
 9 maturity date during any 12-month period. The bonds shall be
 10 signed by the ~~chairman and at least 1 other member~~ **chairperson**
 11 **and secretary** of the drainage board ~~and the facsimile signature~~
 12 ~~of the chairman shall~~ **who shall cause their facsimile signatures**
 13 **to** be affixed to the interest coupons attached thereto.

14 (2) Collections of both principal and interest on all
 15 installments of assessments in anticipation of which bonds ~~shall~~
 16 ~~have been~~ **are** issued shall be kept in a separate bank account by
 17 the county treasurer and, ~~used for no other purpose than~~ **until**
 18 **the bonds are fully paid, shall be used solely for** the payment of
 19 principal and interest on ~~such~~ **the** bonds. ~~until the full~~
 20 ~~payment thereof.~~

21 Sec. 478. (1) The drainage board for each project shall
 22 continue in existence with such changes in personnel as shall
 23 result from changes in the officers constituting the board
 24 membership. It shall be responsible for the operation and
 25 maintenance of the drain. Any necessary expenses incurred in
 26 administration and in the operation and maintenance of the drain
 27 and not covered by contract shall be paid by the several public

1 corporations assessed for the cost of the drain. The assessments
2 shall be in the same proportion as the cost of the drain was
3 assessed unless the drainage board establishes a different
4 proportion for the assessments after notice and hearing as
5 provided in section 469.

6 (2) The drainage board ~~—, by resolution duly adopted by it,~~
7 ~~may relinquish jurisdiction and control over all or any part of a~~
8 ~~drain or drain project at any time when there is no outstanding~~
9 ~~indebtedness or contract liability of its drainage district, to~~
10 ~~the county, township, city or village in which all or the part of~~
11 ~~the drain or drain project is wholly located, if the county,~~
12 ~~township, city or village requests or consents to the~~
13 ~~relinquishment of jurisdiction and control by resolution duly~~
14 ~~adopted by its governing body. Indebtedness or contract~~
15 ~~liability of any drainage district which will be paid in full at~~
16 ~~the time of consummation of relinquishment of jurisdiction and~~
17 ~~control shall not be deemed to be outstanding. If relinquishment~~
18 ~~of jurisdiction and control is to a county, the resolution of the~~
19 ~~governing body of the county shall specify the county agency,~~
20 ~~such as board of public works, drain commissioner, board of~~
21 ~~county road commissioners, or parks and recreation commission,~~
22 ~~which shall be thereafter responsible for exercise of such~~
23 ~~jurisdiction and control. Any moneys in the drain fund of any~~
24 ~~drain, over all or any part of which jurisdiction and control is~~
25 ~~relinquished, shall be used to pay any indebtedness or contract~~
26 ~~liability of its drainage district, and the balance shall be~~
27 ~~turned over to the county, township, city or village to be used~~

1 ~~solely with respect to the drain, all or part thereof, over which~~
2 ~~jurisdiction and control is assumed. If the relinquishment of~~
3 ~~jurisdiction and control and the turnover of drain fund relates~~
4 ~~to a part of a drain or drain project, such relinquishment and~~
5 ~~turnover shall not become effective until consented to by~~
6 ~~resolution of the governing body of each public corporation which~~
7 ~~has paid a part of the cost of the drain or drain project, and~~
8 ~~for this purpose the board of county road commissioners and the~~
9 ~~state highway commission shall be deemed to be the governing body~~
10 ~~for the county and the state.~~ **may relinquish jurisdiction over**
11 **all or part of a drain as provided in section 395.**

12 Sec. 483. ~~Neither the final order of determination nor the~~
13 ~~final order of apportionment shall be subject to attack in any~~
14 ~~court, except by proceedings in certiorari brought within 20 days~~
15 ~~after the filing of such order in the office of the chairman of~~
16 ~~the board issuing the same. If no such proceeding shall be~~
17 ~~brought within the time above prescribed, the drain shall be~~
18 ~~deemed to have been legally established and the legality of the~~
19 ~~drain and the assessments therefor shall not thereafter be~~
20 ~~questioned in any suit at law or in equity, either on~~
21 ~~jurisdictional or nonjurisdictional grounds.~~ **The proceedings to**
22 **establish a drain and levy assessments are subject to review on**
23 **superintending control. A complaint seeking a writ of**
24 **superintending control for any error in proceedings occurring**
25 **before or in the final order of determination shall be filed not**
26 **more than 14 days after the final order is issued and for any**
27 **error in proceedings occurring after the final order of**

1 **determination, not more than 10 days after the hearing on**
2 **objections to apportionments. The proceedings shall be as**
3 **provided in section 161(2) and (3).**

4 Sec. 490. (1) Subject to the requirements of section 489a,
5 if the ~~legislative~~ **governing** body of a ~~public corporation~~
6 **city, village, or township**, which has been assessed under this
7 chapter, determines that a part of the lands in the public
8 corporation will be especially benefited by the drain project to
9 the extent of a portion of the amount assessed under this
10 chapter, the ~~legislative~~ **governing** body may cause that portion
11 of the assessment under this chapter to be specially assessed,
12 according to benefits, against the especially benefited lands, if
13 the special assessment method of financing is not inconsistent
14 with local financing policy for similar drains and sewers. The
15 special assessment shall be made under the statutory or charter
16 provisions governing special assessments in the ~~public~~
17 ~~corporation~~ **city, village, or township** to the extent
18 applicable. However, if there is not another drain assessment in
19 the district on this particular drain, the special assessment
20 proceedings may be initiated by resolution of the ~~legislative~~
21 **governing** body of the ~~public corporation~~ **city, village, or**
22 **township** without petition, after compliance with section 489a,
23 and a petition or written objection in opposition to the levying
24 of special assessments shall be advisory only and shall not
25 require a petition for the project, except as otherwise provided
26 in section 489a.

27 (2) After determining by resolution to proceed, the

1 ~~legislative~~ **governing** body shall cause a special assessment
2 roll to be prepared. After the special assessment roll is
3 prepared, the proceedings with respect to the special assessment
4 roll and the making and collection of the special assessments
5 shall be conducted pursuant to the statute or charter governing
6 special assessments in the ~~public corporation~~ **city, village, or**
7 **township**. However, the total assessment may be divided into not
8 more than 30 installments, and a person assessed, at the hearing
9 upon the special assessment roll prepared by the ~~public~~
10 ~~corporation~~ **city, village, or township**, may object to the
11 special assessment district previously established by the ~~public~~
12 ~~corporation~~ **city, village, or township**. Due consideration shall
13 be given to the objections. A hearing held under this section
14 shall not take the place of a meeting required under section
15 489a, unless notice **of the hearing** is prepared and mailed in the
16 manner prescribed by section 489a.

17 (3) If a special assessment is levied under this section, all
18 collections from the special assessment shall be used towards the
19 payment of the assessment at large against the ~~public~~
20 ~~corporation~~ **city, village, or township**. Each annual levy made
21 for the payment of the assessment at large shall be reduced by
22 the amount of money then on hand from special assessment
23 collections available for this use.

24 (4) This section ~~shall not be construed to~~ **does not** prevent
25 the assessment of ~~public corporations~~ **A city, village, or**
26 **township** at large under this chapter. In place of or in addition
27 to levying special assessments, the public corporation, under the

1 same conditions and for the same purpose, may exact connection,
2 readiness to serve, availability, or service charges to be paid
3 by owners of land directly or indirectly connected with the drain
4 project, or a combination of projects. ~~—, subject to section~~
5 ~~489a.~~

6 Sec. 491. (1) A petition **otherwise** meeting the requirements
7 of this chapter ~~as to petitioners, execution and filing~~ may
8 request, for reasons of public health, that jurisdiction be
9 assumed over all or a specified part of the bed, tributaries,
10 banks, and ~~flood plains~~ **floodplains** of a river, creek, or
11 watercourse, not part of an established drain. The petition
12 shall describe the existing or threatened conditions which cause
13 or increase the danger of flooding, pollution, ~~deseccation~~
14 **damage**, or obstruction of ~~such~~ **the** river, creek, or
15 watercourse, and shall specify, in general terms, the works,
16 property acquisition, actions, or procedures ~~deemed~~ **considered**
17 necessary to remove or lessen such danger.

18 (2) **The petitioners named in a petition under subsection (1)**
19 **shall include in the petition an agreement to pay, or accompany**
20 **the petition with a deposit in the amount of, the estimated cost**
21 **of the planning and engineering required to describe all of the**
22 **following:**

23 (a) **In recordable form, the bed, tributaries, banks, and**
24 **floodplains of the river, creek, or watercourse over which**
25 **jurisdiction is necessary and is to be assumed under the**
26 **petition.**

27 (b) **The work to be done under the petition.**

1 (c) The property to be acquired under the petition.

2 (3) Upon the filing of the petition with the agreement or
3 deposit to pay costs, the drain commissioner and drainage board
4 shall proceed under sections 466 and 467. The drainage board
5 shall hold a hearing to hear objections to the assumption of such
6 jurisdiction, to the petition and to the proposed work or
7 property as provided for other drain projects under this
8 chapter. Notice of the hearing shall contain the description as
9 approved and adopted by the drainage board.

10 (4) After the hearing, the drainage board shall issue its
11 final order of determination under section 467. The final order
12 of determination shall state whether or not the drainage board
13 will assume jurisdiction and perform the work proposed, if any.
14 The final order of determination shall contain the description of
15 the bed, tributaries, banks, and floodplains of the river, creek,
16 or watercourse over which jurisdiction has been assumed and shall
17 be recorded in the county records in the county in which any part
18 thereof is located. After the final order of determination is
19 recorded, no constructing, excavating, land filling, removing of
20 structures or vegetation, dumping, or discharging of sewers or
21 drains shall be permitted or continued in the bed, tributaries,
22 banks, or floodplains of the river, creek, or watercourse within
23 the recorded description thereof, except upon written order or
24 permit issued by the drainage board.

25 (5) The recording of the description does not appropriate,
26 terminate, or lessen any private rights in property, real or
27 personal, except property acquired under section 7. The

1 recording of the description constitutes a regulation and
2 limitation, for reasons of public health, of the use of the
3 public and private property therein described to remove or lessen
4 the danger of flooding, pollution, damage, or obstruction of the
5 river, creek, or watercourse, or part thereof, involved.

6 (6) Before any work, other than preparation of the
7 description and the approval, adoption, and recording of the
8 description, is done or rights in property are acquired by the
9 drainage board, pursuant to a petition under subsection (1), the
10 drainage board shall make a determination, following notice and a
11 hearing as provided in this chapter, as to the public
12 corporations to be assessed for the cost of the work or
13 acquisition. The hearing may be the same hearing provided for in
14 subsection (3).

15 (7) After the hearing and the determination to proceed with
16 the work, the drainage board shall proceed in the same manner and
17 have the same powers and duties as are provided for other drain
18 projects in this chapter.

19 Sec. 499. (1) After the construction of a county drain for
20 which none of the financing is obtained through special
21 assessments under section 490, the drainage board shall provide
22 for an amount from surplus construction funds sufficient to
23 inspect, repair, and maintain the drain as provided in section
24 ~~196~~ 199. After providing for inspection, repair, and
25 maintenance, the drainage board may apportion the balance of the
26 surplus construction funds to separate accounts to the credit of
27 the public corporations against which the cost of the drain is

1 assessed. The funds shall be credited in direct proportion to
2 amounts assessed and collected from the public corporations.

3 (2) Funds in an account apportioned to the credit of a public
4 corporation under this section shall be used only for the
5 following:

6 (a) To pay principal and interest on bonds issued to finance
7 the drain for which the assessment is imposed.

8 (b) If bonds are not sold, to pay assessments due from the
9 public corporation.

10 (c) At the request of the public corporation, to alleviate
11 drainage problems in that public corporation.

12 (3) A drainage board shall apply section 283 to surplus
13 construction funds instead of this section when state trunk line
14 funds are used.

15 Sec. 500. Assessments against a township shall be against
16 the township as a whole, including any village unless the
17 drainage board or the drain commissioner determines to assess a
18 village separately. In that case, all of the following apply:

19 (a) The assessment against the village shall be the
20 responsibility of the village.

21 (b) The assessment against the township shall exclude the
22 village.

23 (c) A tax or special assessment levied by the township to pay
24 the assessment against the township shall not be levied against
25 property assessable in the village.

26 CHAPTER 21 —

27 INTERCOUNTY DRAINS — AND PUBLIC CORPORATIONS —

1 Sec. 513. ~~-(1) Before filing a petition under this section,~~
2 ~~the legislative body of a public corporation shall first~~
3 ~~determine whether the drain project contemplated may necessitate~~
4 ~~the levy of a special assessment, fee, or charge under section~~
5 ~~539. If the legislative body determines that a special~~
6 ~~assessment, fee, or charge may be made under section 539, before~~
7 ~~filing a petition under this section, the legislative body shall~~
8 ~~proceed as prescribed in section 538a.~~

9 (1) ~~-(2) If it is necessary for the public health to locate,~~
10 ~~establish, and construct an intercounty drain, a petition for~~
11 ~~that purpose may be filed with the director of the department of~~
12 ~~agriculture signed by 2 or more public corporations which will be~~
13 ~~subject to assessments to pay the cost of the drain. To initiate~~
14 **the establishment of a drainage district and establishment and**
15 **the construction of a county drain that is necessary for the**
16 **public health or the maintenance and improvement of such a drain,**
17 **1 or more cities, villages, or townships that will be subject to**
18 **assessment to pay the cost of the drain may file a petition with**
19 **the director of agriculture as provided in section 14, and the**
20 **drain commissioner of the counties where the cities, villages, or**
21 **townships are located.** The petition shall state that it is filed
22 pursuant to this chapter, ~~and shall describe the location and~~
23 ~~route of the proposed drain sufficiently to determine with~~
24 ~~reasonable certainty the areas to be serviced by the drain.~~
25 **request the establishment of a drainage district and the**
26 **establishment and construction of a drain, and set forth the**
27 **reasons for the request. The petition may propose a location and**

1 route for the drain.

2 ~~(3) Not more than 20 days after the petition is filed, the~~
3 ~~director of the department of agriculture shall notify all public~~
4 ~~corporations in which any of the areas to be drained are located,~~
5 ~~as described in the petition, that a petition has been filed~~
6 ~~which may affect drainage in the public corporation.~~

7 (2) ~~-(4) A certified copy of the resolution of the governing~~
8 ~~body of each signer authorizing the affixing of the signature of~~
9 ~~the governing body to the petition shall be attached to the~~
10 ~~petition. The petition may be filed in more than 1 counterpart.~~
11 ~~For a petition filed by a county, the county board of~~
12 ~~commissioners shall authorize the execution, and for a petition~~
13 ~~filed by the state, the state transportation commission shall~~
14 ~~authorize the execution of the petition. The petition may be~~
15 **filed in more than 1 counterpart.** As provided in section 423, an
16 order of determination of the ~~water resources commission~~
17 **department of environmental quality** shall also serve as a
18 petition made pursuant to this chapter.

19 (3) **Not more than 28 days after the petition is filed, the**
20 **director of agriculture shall notify each public corporation**
21 **which may be subject to an assessment or in which is located any**
22 **of the areas to be drained, as described in the petition, that a**
23 **petition was filed.**

24 Sec. 515. There is created for each project petitioned for
25 under ~~the provisions of~~ this chapter, an augmented drainage
26 board to consist of the members of the drainage board together
27 with the ~~chairman~~ **chairperson** of the **county** board of

1 ~~supervisors~~ **commissioners** or a member of the county board of
2 **commissioners designated by that chairperson** and the ~~chairman~~
3 **chairperson** of the board of county auditors of each county
4 involved. If there is no board of county auditors in ~~any~~ a
5 county, then the ~~chairman~~ **chairperson** of the finance committee
6 of the **county** board of ~~supervisors shall act as a member of the~~
7 ~~augmented drainage board, and if~~ **commissioners or a member of**
8 **the county board of commissioners designated by that chairperson**
9 **shall be a member of the augmented drainage board if** there is
10 neither a board of county auditors nor a finance committee, then
11 the ~~chairman~~ **chairperson** of the **county** board of ~~supervisors~~
12 **commissioners** shall select 1 member of the **county** board of
13 ~~supervisors~~ **commissioners** of his or her county to act as a
14 member of the augmented drainage board. ~~The chairman~~ **the**
15 **chairperson** and secretary of the drainage board shall act as
16 ~~chairman~~ **chairperson** and secretary, respectively, of the
17 augmented drainage board. The ~~chairman~~ **chairperson** of the
18 **county** board of ~~supervisors~~ **commissioners** and any member of ~~a~~
19 **the county** board of ~~supervisors~~ **commissioners**, serving on the
20 augmented drainage board, shall receive ~~such~~ compensation,
21 mileage, and expenses, ~~as shall be provided by the augmented~~
22 ~~drainage board except that such compensation shall not exceed~~
23 ~~\$25.00 per diem exclusive of mileage and expenses for attendance~~
24 ~~at augmented drainage board meetings~~ **which shall be determined**
25 **as provided in section 52 for members of a board of**
26 **determination.**

27 Sec. 517. Upon receipt of a petition ~~as hereinbefore~~

1 ~~provided~~ **under this chapter**, the director of agriculture shall
 2 make a preliminary finding of the counties which, in his **or her**
 3 opinion, include public corporations that should be assessed
 4 under ~~the provisions of~~ this chapter for the cost of the
 5 proposed drain. ~~Upon the making of such preliminary finding,~~
 6 ~~the~~ **The** director of agriculture shall **then** give notice of the
 7 time and place of the first meeting of the drainage board and of
 8 the first meeting of the augmented drainage board, by sending a
 9 copy of ~~such~~ **the** notice and of ~~such~~ **the** preliminary finding
 10 by ~~registered~~ **first-class** mail to each member thereof, and to
 11 each ~~highway agency~~ **roadway authority** having jurisdiction over
 12 any ~~highway, road and street in said~~ **roadway in the** district.
 13 ~~—, which~~ **The** notice and finding shall be mailed not less than
 14 ~~10~~ **14** days ~~prior to~~ **before** the ~~time~~ **date** of the meeting.
 15 ~~In the event~~ **If** there ~~be~~ **is** no board of county auditors or
 16 finance committee in ~~any~~ **the** county, ~~involved,~~ then notice to
 17 the ~~chairman~~ **chairperson** of the **county** board of ~~supervisors~~
 18 **commissioners** of ~~such~~ **the** county shall ~~be deemed to be~~ **serve**
 19 **as** notice to the member of the **county** board of ~~supervisors~~
 20 **commissioners** to be selected by ~~him~~ **the chairperson under**
 21 **section 515**. The drainage board shall meet first ~~, for the~~
 22 ~~purpose of selecting~~ **to select** a secretary. Upon the selection
 23 of a secretary, the director of agriculture shall turn over to
 24 ~~such~~ **the** secretary the original petition and any other records
 25 in his **or her** office pertaining to the proposed drain.

26 Sec. 518. (1) Meetings of the drainage board, or of the
 27 augmented drainage board, may be called by the chairperson or 2

1 members of the board. ~~, on notice sent by registered mail to~~
2 ~~each member. The notice shall be mailed not less than 10 days~~
3 ~~before the time of the meeting.~~ **Notice of the meeting shall be**
4 **given as provided in section 8.**

5 (2) A majority of the members of the board ~~shall~~ constitute
6 a quorum for the transaction of business, but a lesser number may
7 adjourn from time to time. A meeting may be adjourned from time
8 to time. Unless otherwise provided herein, an action shall not
9 be taken by either of the boards except by a majority vote of **a**
10 **quorum of** its members.

11 (3) All orders issued by either the drainage board, or the
12 augmented drainage board, shall be signed by the chairperson and
13 secretary.

14 Sec. 519. (1) The augmented drainage board, at its first
15 meeting, shall consider the petition for the project **under this**
16 **chapter** and make a tentative determination as to the sufficiency
17 of the petition and the practicability of the proposed ~~drain~~
18 **project**, and further make a tentative determination of the public
19 corporations to be assessed. The augmented drainage board shall
20 give a name to the drain and to the drainage district. The
21 district shall be composed of the ~~public corporations~~ **cities,**
22 **villages, and townships** to be assessed for the cost of the
23 project.

24 (2) If the augmented drainage board, by resolution,
25 tentatively determines that there should be assessed a public
26 corporation in a county ~~other than those contained~~ **not** in the
27 tentative findings of the director of ~~the department of~~

1 agriculture, further proceedings shall not be taken by the
2 augmented drainage board, but the resolution shall have the
3 effect of amending the preliminary finding of the director of
4 ~~the department of~~ agriculture. The director of ~~the department~~
5 ~~of~~ agriculture shall proceed, as in the first instance, to call
6 a new meeting of the drainage board and the augmented drainage
7 board as enlarged by reason of the inclusion of the additional
8 public corporations in another county.

9 (3) After the augmented drainage board has made the
10 ~~determination specified in this section~~ **tentative determination**
11 **of the sufficiency of the petition and the practicability of the**
12 **proposed drain**, it shall fix a time, date, and place it will meet
13 to hear objections to the proposed drain and the petition for the
14 drain, and **to** the matter of assessing the cost of the drain to
15 the designated public corporations. Notice of the hearing shall
16 be ~~published twice in each county involved by inserting the~~
17 ~~notice in at least 1 newspaper published in the county,~~
18 ~~designated by the augmented drainage board. The first~~
19 ~~publication shall be made not less than 20 days before the time~~
20 ~~of hearing. The notice shall also be sent by registered mail to~~
21 ~~the clerk or secretary of each public corporation proposed to be~~
22 ~~assessed, except that a notice to the state shall be sent to the~~
23 ~~state highway director and a notice to a county shall be sent to~~
24 ~~both the county clerk and the county road commission. The~~
25 ~~mailing shall be made not less than 20 days before the time of~~
26 ~~hearing. The notice shall be signed by the secretary and proof~~
27 ~~of the publication and mailing of the notice shall be filed with~~

1 ~~the secretary. The augmented drainage board may provide a form~~
2 ~~to be substantially followed in the giving of such notice given~~
3 **as provided in section 8.**

4 (4) After the hearing, the augmented drainage board shall
5 make a determination as to the sufficiency of the petition, the
6 practicability of the ~~drain, whether the drain should be~~
7 ~~constructed~~ **project, whether the project is necessary and**
8 **conducive to public health, and, if so,** the public corporations
9 to be assessed, and shall issue its order accordingly. The order
10 shall be known as the final order of determination. A public
11 corporation shall not be eliminated from, or added to, those
12 tentatively determined to be assessed without a rehearing after
13 notice **given as provided in section 8.**

14 (5) After the augmented drainage board ~~has made~~ **makes** the
15 determinations, further action in respect to the drain shall be
16 taken by the drainage board. The augmented drainage board may be
17 reconvened by its chairperson or 2 members of the board, upon
18 notice given for the purpose of making a correction or addition
19 to its proceedings.

20 **Sec. 519a. (1) After the drainage board enters the final**
21 **order of determination, the drainage board shall proceed in the**
22 **same manner as provided in section 467a.**

23 (2) If, after the receipt of the plans, specifications,
24 estimate of cost, and descriptions of the lands or rights-of-way
25 needed for the proposed drain, the drainage board determines that
26 the project is not practical, the drainage board shall notify the
27 public corporations in the district by first-class mail of the

1 intent to reject the petition. The notice shall specify the
2 reasons for the proposed rejection. The notice shall also
3 specify a time, date, and place for a public hearing to hear
4 objections to the rejection of the petition. At the public
5 hearing, the drainage board shall elicit testimony and evidence
6 with regards to the proposed rejection. Following the receipt of
7 testimony, the drainage board shall determine whether or not the
8 petition should be rejected. If the rejection is determined to
9 be practical, the drainage board shall enter an order of
10 rejection and apportion all costs incurred to the district as if
11 the project had been built and the costs shall be subsequently
12 assessed and paid as provided in this chapter. A determination
13 to reject a petition does not limit the right to file another
14 petition.

15 Sec. 520. (1) ~~The drainage board shall proceed to secure~~
16 ~~from a competent engineer, plans, specifications, and an estimate~~
17 ~~of cost of the proposed drain, which when approved and adopted by~~
18 ~~the board shall be filed with the secretary thereof. In~~
19 ~~approving the plans and specifications, the drainage board shall~~
20 ~~not be limited to the route of the drain described in the~~
21 ~~petition or the final order of determination. The~~ **For each**
22 **county affected, the** drainage board shall tentatively establish
23 the percentage of the cost of the drain or of the several
24 sections or parts thereof which is to be borne by public
25 corporations. ~~in each county affected and by the state on~~
26 ~~account of any state highway, and by the county on account of any~~
27 ~~county highway.~~ The percentage of the cost apportioned to public

1 corporations ~~in~~ **for** each county shall then be apportioned by
2 the drain commissioner among public corporations to be assessed
3 in the county, which determination shall be filed with the
4 secretary of the drainage board. In making the apportionments
5 ~~hereunder, there shall be taken into consideration the benefits~~
6 ~~to accrue to each public corporation and also the extent to which~~
7 ~~each public corporation contributes to the conditions which make~~
8 ~~the drain necessary. Apportionments against the state shall be~~
9 ~~based upon the benefits and contributions as related solely to~~
10 ~~the drainage of state highways, and those against the county~~
11 ~~shall be based as related solely to the drainage of its county~~
12 ~~highways.~~ **to cities, villages, and townships, the drainage board**
13 **shall consider the benefits to accrue to each city, village, or**
14 **township and also the extent to which each city, village, or**
15 **township contributes to the conditions that make the drain**
16 **necessary, subject to section 500. Apportionments against this**
17 **state or a county shall relate solely to state trunk line**
18 **highways or county roads, respectively. The apportionment of**
19 **benefits for state trunk line highways and the portion paid by**
20 **county road commissions for benefit to county roads must be paid**
21 **pursuant to section 14a of 1951 PA 51, MCL 247.664a.** Before a
22 tentative apportionment ~~shall be~~ **is** made, the drainage board
23 shall designate the area to be served by the drain project, which
24 may or may not include all of the area in a ~~public corporation~~
25 **city, village, or township** to be assessed, and may divide the
26 drain into sections or parts for purposes of apportionment or
27 construction. ~~Nothing herein contained shall prohibit a~~ **The**

1 county ~~from assuming any~~ **may assume an** additional cost of the
2 drain ~~if~~ **by the vote of** 2/3 of the members elect of the county
3 board of commissioners. ~~vote in favor thereof.~~

4 (2) The apportionment shall apply only to the proposed drain
5 **project, and separate concurrent maintenance apportionments for**
6 **the drain may be established.** The apportionments for extensions
7 or other work subsequently performed under section 535 shall be
8 reestablished by the board. ~~When chapter 25 is employed in the~~
9 ~~apportionment of costs, the above~~

10 (3) The proceedings ~~shall~~ **in this section may** be altered
11 and supplemented as provided in chapter 25.

12 Sec. 521. ~~After the tentative apportionments of cost have~~
13 ~~been made, the drainage board shall set a time, date, and place~~
14 ~~it will meet and hear objections to the apportionments. Notice~~
15 ~~of the hearing shall be published twice in each county involved~~
16 ~~by inserting the notice in at least 1 newspaper published in the~~
17 ~~county, designated by the drainage board. The first publication~~
18 ~~is to be not less than 20 days before the time of hearing. The~~
19 ~~notice shall also be sent by registered mail to the clerk or~~
20 ~~secretary of each public corporation proposed to be assessed,~~
21 ~~except that a notice to the state shall be sent to the state~~
22 ~~highway director and a notice to a county shall be sent both to~~
23 ~~the county clerk and the county road commission. The mailing~~
24 ~~shall be made not less than 20 days before the time of hearing.~~
25 ~~The notice shall be signed by the secretary and proof of the~~
26 ~~publication and mailing of the notice shall be filed with the~~
27 ~~secretary. The drainage board may provide a form to be~~

~~1 substantially followed in the giving of the notice. The notice~~
~~2 shall include tentative apportionments to the several public~~
~~3 corporations. After the hearing, the drainage board may confirm~~
~~4 the apportionments as tentatively made, or, if it considers the~~
~~5 apportionments to be inequitable, it shall readjust the~~
~~6 apportionments. Before readjusted apportionments are confirmed,~~
~~7 the drainage board shall set a time, date, and place for a~~
~~8 rehearing and shall give notice of the hearing. The notice shall~~
~~9 also set forth the apportionments as readjusted. It shall then~~
~~10 issue its order setting forth the several apportionments as~~
~~11 confirmed. The order shall be known as the final order of~~
~~12 apportionment~~ **The intercounty drainage board or a public**
~~13 corporation has the same powers and duties with respect to an~~
~~14 intercounty drain under this chapter as the county drainage board~~
~~15 or a public corporation, respectively, under section 469.~~

~~16 Sec. 524. The drainage board shall designate the treasurer~~
~~17 of 1 of the counties involved as the treasurer for ~~said board.~~~~
~~18 He **the drainage district. The treasurer** may designate 1 or more~~
~~19 of his **or her** deputies ~~who may~~ to act for ~~him~~ **the treasurer**~~
~~20 in the performance of any of his **or her** duties under this~~
~~21 section. ~~Such~~ **The** treasurer and any such deputy shall serve~~
~~22 without additional compensation. ~~He~~ **The treasurer** and each~~
~~23 deputy county treasurer so designated shall furnish a bond in~~
~~24 ~~such sum as shall be fixed~~ **the amount specified** by the drainage~~
~~25 board, conditioned upon the faithful discharge of his **or her**~~
~~26 duties. ~~, the premium thereon to~~ **The premium on the bond shall**~~
~~27 be paid by the drainage board. ~~Moneys~~ **Money** held by the~~

1 treasurer shall be paid out only upon order of the drainage
2 board, except that ~~no such order shall be~~ **an order is not**
3 required for the payment of principal and interest on bonds.

4 Sec. 525. (1) ~~After the confirmation of the apportionments~~
5 ~~by the drainage board, the secretary of the board shall prepare a~~
6 ~~special assessment roll assessing the estimated cost of the~~
7 ~~drain, or if the actual cost has been ascertained, then the~~
8 ~~actual cost, against the several public corporations in~~
9 ~~accordance with the confirmed apportionments. The drainage board~~
10 ~~may provide for the payment of the special assessments in any~~
11 ~~number of annual installments, not exceeding 30, but an~~
12 ~~installment shall not be less than 1/4 of any subsequent~~
13 ~~installment. Installments of assessments against the state and~~
14 ~~against public corporations which collect their taxes beginning~~
15 ~~approximately December 1 in each year shall become due and~~
16 ~~payable on or before April 1 of each year. Installments of~~
17 ~~assessments against other public corporations shall become due~~
18 ~~and payable on or before the dates as shall be fixed by the~~
19 ~~drainage board, depending upon the times of the collection of~~
20 ~~taxes by the public corporations. The drainage board shall fix~~
21 ~~the commencement date of interest to be paid upon unpaid~~
22 ~~installments, not to exceed an amount sufficient to pay interest~~
23 ~~on bonds or other evidences of indebtedness issued or to be~~
24 ~~issued by the drainage district, which interest shall become due~~
25 ~~annually on the day and month upon which the annual installments~~
26 ~~become due but may become due in years before the due date of the~~
27 ~~first installment. The drainage board may provide for the~~

1 ~~payment of installments in advance of their respective due dates~~
2 ~~and may prescribe the terms and conditions of payment. The~~
3 ~~drainage board shall fix the date, not later than 4 years after~~
4 ~~confirmation for the payment of the first installment so that~~
5 ~~each public corporation can make a tax levy for the payment~~
6 ~~thereof and subsequent installments shall become due annually on~~
7 ~~the same day and month of subsequent years. A city or village~~
8 ~~may elect to spread the tax levy upon the county tax roll instead~~
9 ~~of the city or village tax roll. When chapter 25 is employed in~~
10 ~~the apportionment of costs, the above proceedings shall be~~
11 ~~altered and supplemented as provided in chapter 25. The drainage~~
12 ~~board and the chairperson of the drainage board shall proceed in~~
13 ~~the manner provided in section 473.~~

14 (2) After the chairperson of the drainage board prepares the
15 special assessment schedule, the chairperson shall present the
16 schedule to the drainage board for approval. If the drainage
17 board approves the special assessment schedule, the chairperson
18 of the drainage board shall affix to the schedule a statement to
19 that effect signed by the chairperson and secretary of the
20 drainage board. The chairperson of the drainage board shall then
21 certify to each public corporation assessed the assessment
22 information in the assessment schedule.

23 (3) Each year, at least 28 days before the time of the
24 levying of taxes by each public corporation, the secretary of the
25 drainage board shall notify the public corporation of the amount
26 of the installment and interest next becoming due, but the
27 failure to notify a public corporation shall not excuse it from

1 making payment of the installment and interest.

2 (4) On or before the due date of an installment, each public
3 corporation shall pay to its county treasurer the full amount
4 thereof, together with interest accruing to the due date. Not
5 more than 14 days after a public corporation pays a special
6 assessment installment to its county treasurer, the county
7 treasurer shall forward to the drainage board the amount paid.

8 (5) The intercounty drainage board, an officer of an
9 intercounty drainage board, a public corporation, or any other
10 person shall proceed in the same manner with respect to an
11 intercounty drain under this chapter as provided under sections
12 473, 474a to 479, 483 to 485, 490, 491, and 500 except as
13 follows:

14 (a) The period under section 483 to file a complaint for
15 superintending control for an error in proceedings occurring
16 before or in the final order of determination shall begin when
17 the final order is filed in the office of the secretary of the
18 intercounty drainage board.

19 (b) A petition under section 491 for assumption of
20 jurisdiction by an intercounty drainage board shall otherwise
21 meet the requirements of this chapter.

22 Sec. 532. ~~Any~~ An action arising from the provisions of
23 this chapter ~~except such actions as may be brought directly in~~
24 ~~the supreme court~~ may be brought in the circuit court of ~~any~~ a
25 county in which ~~any~~ a part of the intercounty ~~drain~~ involved
26 is located: ~~Provided, That on request by any party to said~~
27 ~~action made prior to the time said action is instituted, or~~

1 ~~within 30 days after receipt of service of process, the presiding~~
 2 ~~circuit judge of Michigan shall appoint a circuit judge to hear~~
 3 ~~said action~~ **drainage district is located, subject to the**
 4 **Michigan rules of court.**

5 Sec. 540. ~~When~~ **If** 2 or more public corporations,
 6 constituting as a whole contiguous territory, are served by 1 or
 7 more intercounty drains or by a combination of 1 or more
 8 intercounty drains and 1 or more county drains, and it is
 9 necessary for the public health to supplement such existing drain
 10 or drains by constructing 1 or more relief drains, which may
 11 consist of new drains and branches and connections thereto or
 12 ~~extensions, enlargements, branches, connections or improvements~~
 13 ~~described in section 535 to~~ **improvements to or consolidations of**
 14 existing drains, or any combination thereof, then the entire
 15 project may be constructed and financed as a whole under the
 16 provisions of this chapter and the word "drain" ~~shall be deemed~~
 17 ~~to include~~ **includes** such a project.

18 Sec. 541. (1) A petition **otherwise** meeting the requirements
 19 of this chapter ~~as to petitioners, execution and filing~~ may
 20 request, for reasons of public health, that jurisdiction be
 21 assumed over all or a specified part of the bed, tributaries,
 22 banks, and ~~flood plains~~ **floodplains** of a river, creek, or
 23 watercourse, not part of an established drain. The petition
 24 shall describe the existing or threatened conditions which cause
 25 or increase the danger of flooding, pollution, ~~deseccration~~
 26 **damage**, or obstruction of such river, creek, or watercourse, and
 27 shall specify, in general terms, the works, property acquisition,

1 actions, or procedures, ~~deemed~~ **considered** necessary to remove
2 or lessen such danger.

3 (2) The petitioners named in a petition under subsection (1)
4 shall include in the petition an agreement to pay, or accompany
5 the petition with a deposit in the amount of, the estimated cost
6 of the planning and engineering required to describe all of the
7 following:

8 (a) In recordable form the bed, tributaries, banks, and
9 floodplains of the river, creek, or watercourse over which
10 jurisdiction is necessary and is to be assumed under the
11 petition.

12 (b) The work to be done under the petition.

13 (c) The property to be acquired under the petition.

14 (3) Upon the filing of the petition with the agreement or
15 deposit to pay costs, the drainage board shall proceed as
16 described in sections 517 and 519. The description shall be
17 obtained and approved and adopted by the drainage board. The
18 drainage board shall hold a hearing to hear objections to the
19 assumption of such jurisdiction, to the petition therefor and to
20 the proposed work or property acquisition shall be held as
21 provided for other drain projects pursuant to this chapter.
22 Notice of the hearing shall contain the description as approved
23 and adopted by the drainage board.

24 (4) After the hearing, the drainage board shall determine
25 whether or not it will assume such jurisdiction and perform the
26 work proposed, if any, and shall issue its order accordingly.
27 The order shall be known as the "final order of determination".

1 The final order of determination shall contain the description of
2 the bed, tributaries, banks, and floodplains of the river, creek,
3 or watercourse over which jurisdiction has been assumed and shall
4 be recorded in the county records in the county in which any part
5 thereof is located. After the final order of determination is
6 recorded, no constructing, excavating, land filling, removing of
7 structures or vegetation, dumping, or discharging of sewers or
8 drains shall be permitted or continued in the bed, tributaries,
9 banks, or floodplains of the river, creek, or watercourse within
10 the recorded description thereof, except upon written order or
11 permit issued by the drainage board.

12 (5) The recording of the description does not appropriate,
13 terminate, or lessen any private rights in property, real or
14 personal, except property acquired under section 7. The
15 recording of the description constitutes a regulation and
16 limitation, for reasons of public health, of the use of the
17 public and private property therein described to remove or lessen
18 the danger of flooding, pollution, damage, or obstruction of the
19 river, creek, or watercourse, or part thereof, involved.

20 (6) Before any work, other than preparation of the
21 description and the approval, adoption, and recording of the
22 description, is done or rights in property are acquired by the
23 drainage board, pursuant to a petition filed under
24 subsection (1), the drainage board shall make a determination,
25 following notice and a hearing as provided in this chapter, as to
26 the public corporations to be assessed for the cost of the work
27 or acquisition. The hearing may be the hearing provided for in

1 subsection (2). After the hearing and the determination to
 2 proceed with the work, the drainage board shall proceed in the
 3 same manner and have the same powers and duties as are provided
 4 for other drain projects in this chapter.

5 CHAPTER 23 —

6 ~~PENALTIES.~~ SANCTIONS

7 Sec. 601. If ~~any~~ a drain commissioner is interested
 8 directly or indirectly in the profits of ~~any~~ a contract, job,
 9 work, or services, other than official services, to be performed
 10 for the drainage district, he ~~is deemed to be~~ or she is guilty
 11 of a misdemeanor. ~~—, and the office of such commissioner shall be~~
 12 ~~deemed vacant and the commissioner so convicted shall be~~
 13 ~~incapable of again holding the office of county~~ Upon conviction
 14 of an individual under this section, his or her office as drain
 15 commissioner is vacated, and he or she is ineligible to again
 16 hold the office of drain commissioner.

17 Sec. 602. ~~If any person shall wilfully~~ A person who
 18 willfully or maliciously ~~remove any~~ removes a section or grade
 19 stake set along the line of ~~any drain, or obstruct or injure any~~
 20 ~~drain, he shall be deemed guilty of a misdemeanor, and upon~~
 21 ~~conviction thereof shall be punished by a fine not exceeding~~
 22 ~~\$100.00 and the costs of prosecution, or in default of the~~
 23 ~~payment thereof, by imprisonment in the county jail not exceeding~~
 24 ~~90 days.~~ a drain, or obstructs or damages a drain, is guilty of
 25 a misdemeanor punishable by a fine of not more than \$100.00 and
 26 the costs of prosecution, or in default of the payment of the
 27 fine, by imprisonment for not more than 93 days.

1 force ~~at the time such step was taken. Any drain proceedings~~
 2 ~~pending when this act takes effect shall be completed in the~~
 3 ~~manner prescribed in this act. when the step is taken. However,~~
 4 **if a petition under this act was filed before the effective date**
 5 **of the 2003 amendatory act that amended this section, steps taken**
 6 **on or after the effective date of the 2003 amendatory act that**
 7 **amended this section in proceedings under that petition shall be**
 8 **governed by the law in effect on the day before the effective**
 9 **date of the 2003 amendatory act that amended this section.**

10 CHAPTER 25

11 ALTERNATE PROCEDURES

12 Sec. 626. ~~When~~ **If** 2 or more public corporations other
 13 than the state or a county or counties are to be assessed, the
 14 drainage board, or if appropriate in chapter 21 proceedings, the
 15 drain commissioner, may determine that costs to be assessed to
 16 the public corporations, in excess of those apportioned for
 17 drainage to ~~state or county highways~~ **roadways**, shall not be
 18 apportioned by the establishment of a fixed percentage of costs
 19 to be borne by each public corporation, but that the costs shall
 20 be assessed at large to all of the public corporations in the
 21 aggregate and apportioned annually between the public
 22 corporations on the basis of the relative valuations, as
 23 equalized, of each within the area served by the drain. ~~if~~
 24 ~~the~~ **The** drainage board or drain commissioner shall ~~determine~~
 25 ~~that~~ **base the determination on whether** this method of
 26 apportionment will more fairly result in the costs of the drain
 27 being apportioned in accordance with the benefits to be derived

1 therefrom. Notice of tentative apportionment in the ~~foregoing~~
2 manner **provided in this section** shall include a calculation of
3 the apportionment of costs between public corporations assessed
4 in the aggregate based on the latest available valuations.

5 Sec. 627. When employing this chapter, the ~~chairman~~
6 **chairperson** of the drainage board in chapter 20 proceedings or
7 the secretary of the drainage board in chapter 21 proceedings
8 shall prepare a special assessment roll. ~~which~~ **The special**
9 **assessment roll** shall contain the name of each public corporation
10 assessed, the total estimated or actual cost of the project, the
11 fixed percentage of the cost, if any, apportioned to public
12 corporations, and to ~~the state or counties~~ **roadway authorities**
13 for drainage of ~~highways~~ **roadways**, the aggregate amount
14 assessed at large against all other public corporations, and if
15 the assessment is divided into annual installments, the amount of
16 each installment, listed separately for the state and counties
17 and for public corporations assessed a fixed percentage if
18 applicable, and in the aggregate for all other public
19 corporations. After approval of the roll by the drainage board,
20 the ~~chairman~~ **chairperson** shall then send a certified copy of
21 the roll to each public corporation assessed.

22 Enacting section 1. Sections 4, 5, 11, 21a, and 22,
23 chapter 4, chapter 6, sections 193, 194, 195, 196, 197, 198, 246,
24 248, 268, 271, 272, 281, 321, and 325, chapters 14, 15, and 16,
25 sections 424, 426, 427, 428, 432, and 434, chapter 19, and
26 sections 461, 470, 471, 480, 482, 485, 492 to 498, 511, 522, 523,
27 526 to 531, 533 to 539, 542 to 549, and 621 of the drain code of

1 1956, 1956 PA 40, MCL 280.4, 280.5, 280.11, 280.21a, 280.22,
2 280.71 to 280.88, 280.121 to 280.135, 280.193, 280.194, 280.195,
3 280.196, 280.197, 280.198, 280.246, 280.248, 280.268, 280.271,
4 280.272, 280.281, 280.321, 280.325, 280.341 to 280.384, 280.424,
5 280.426, 280.427, 280.428, 280.432, 280.434, 280.441 to 280.448,
6 280.461, 280.470, 280.471, 280.480, 280.482, 280.485, 280.492 to
7 280.498, 280.511, 280.522, 280.523, 280.526 to 280.531, 280.533
8 to 280.539, 280.542 to 280.549, and 280.621, are repealed.