

SENATE BILL No. 1294

June 15, 2004, Introduced by Senator BRATER and referred to the Committee on Agriculture, Forestry and Tourism.

A bill to amend 1956 PA 40, entitled
"The drain code of 1956,"
by amending sections 601 and 602 (MCL 280.601 and 280.602) and by
adding section 551a, chapter 22A, and sections 615 and 616.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER 22 —

WATER MANAGEMENT

DISTRICTS AND SUBDISTRICTS

Sec. 551a. This chapter does not apply in a county unless,
pursuant to section 608, chapter 22A does not apply in that
county.

CHAPTER 22A

WATERSHED MANAGEMENT

Sec. 585. As used in this chapter, unless the context
indicates otherwise:

1 (a) "Advisory board" means a watershed management district
2 advisory board established under section 592.

3 (b) "Benefit" or "benefits" means the advantages resulting
4 from a plan or project to public corporations, the residents of
5 public corporations, and property within public corporations.
6 Benefits include, but are not limited to, benefits that result
7 from the management and control of water, such as elimination or
8 reduction of flood damage, elimination or reduction of water
9 quality conditions that jeopardize the public health, safety, or
10 welfare, increase of the value or use of lands and property
11 arising from improved water quality, increased usefulness of the
12 water for agricultural or recreational uses, reduction of
13 flooding, improved drainage, and remedying a public corporation's
14 contributions to the conditions that make a plan necessary.

15 (c) "Commission" means the watershed management commission of
16 a district.

17 (d) "District", unless the context clearly indicates
18 otherwise, means a watershed management district.

19 (e) "Executive committee" means the watershed management
20 district executive committee established under section 591.

21 (f) "Petition filer" means the person who filed a petition
22 under section 586 to initiate procedures to establish a
23 district.

24 (g) "Plan" means a watershed management plan adopted under
25 section 595.

26 (h) "Project" means an activity set forth in the plan.

27 (i) "Public corporation" means a county, township, city, or

1 village.

2 (j) "Study" or "watershed study" means the process by which
3 the objectives of the petition under section 586 or objectives
4 identified by the commission are investigated and resolved,
5 setting forth the watershed management plan.

6 (k) "Watershed" means a geographic area of any size from
7 which water seeks a common outlet, including, but not limited to,
8 a creekshed, catchment area, drainage basin, drainage district,
9 or river basin.

10 Sec. 586. (1) To initiate procedures to establish a
11 watershed management district and develop a watershed management
12 plan, a petition shall be filed with the county board of
13 commissioners in a county where all or a portion of the proposed
14 watershed management district is to be located and established.

15 (2) The petition shall state that it is filed under this
16 chapter, request the establishment of a district, propose a name
17 for the district, and provide information showing that the
18 district is warranted to protect the public health or welfare or
19 to protect and rehabilitate the waters of the proposed district.
20 The petition shall identify the common outlet for the waters of
21 the proposed district. The petition shall include a general
22 description of the location of the proposed district which may
23 consist of a map generally outlining the boundaries of the
24 proposed district. The petition shall also request the
25 development of a watershed management plan and identify the
26 objectives to be investigated. The petition may specify persons
27 or entities that should be considered for membership on any

1 appointed watershed advisory board.

2 (3) A petition for the establishment of a district shall be
3 signed by 1 of the following, as applicable:

4 (a) For a district lying wholly within the boundaries of 1
5 county, by a resolution of the governing body of at least 1
6 public corporation lying wholly or partly within that county and
7 wholly or partly within the district.

8 (b) For a district lying wholly or partly within 2 or more
9 counties, by resolutions of the governing bodies of at least 2
10 public corporations lying wholly or partly within those counties
11 and wholly or partly within the district.

12 Sec. 587. The petition filer shall also file with the board
13 of county commissioners a cash deposit sufficient to pay the
14 costs, as determined by the county board of commissioners, of
15 notice upon each affected public corporation, publication of
16 notice for the first meeting of the commission, and publication
17 of the first hearing. Any unused funds from the deposit shall be
18 returned to the person filing the petition. If a district is
19 established, the balance of the deposit shall be considered a
20 cost of the watershed management district, shall be collected in
21 the first assessment, and shall be returned to the petitioner
22 upon collection of the first assessment.

23 Sec. 588. (1) Within 42 days following receipt of the
24 petition, the county board of commissioners shall review the
25 petition for sufficiency under section 586. If the petition is
26 insufficient under section 586, the county board of commissioners
27 shall return the petition to the filer of the petition with a

1 written explanation of the reasons that the petition is
2 insufficient.

3 (2) If the county board of commissioners finds that the
4 petition is sufficient, a watershed management commission is
5 established for the proposed district. The commission shall
6 consist of the following members:

7 (a) The drain commissioner of each county within the
8 district.

9 (b) The chief elected official or an elected official
10 designated by the chief elected official of each public
11 corporation with lands within the district.

12 (c) The director of the department of environmental quality
13 or a person designated by the director as a nonvoting member.

14 (d) The director of the department of natural resources or a
15 person designated by the director as a nonvoting member.

16 (e) Unless the district lies wholly within the boundaries of
17 1 county, the director of agriculture or a person designated by
18 the director.

19 (3) Within 28 days of determining that the petition is
20 sufficient, the county board of commissioners shall do both of
21 the following:

22 (a) Make a preliminary finding of the public corporations
23 subject to assessment under this chapter.

24 (b) By first-class mail provide notice of the first meeting
25 of the watershed management commission to all of the following:

26 (i) The county clerk, drain commissioner, and chairperson of
27 the county road commission of each county subject to assessment

1 under this chapter.

2 (ii) The chairperson of each conservation district within the
3 proposed watershed management district.

4 (iii) The clerk of each city, village, and township having
5 lands within the proposed district.

6 (iv) The director of agriculture.

7 (v) The director of the department of environmental quality.

8 (vi) The director of the department of natural resources.

9 (vii) The director of the state transportation department.

10 (viii) The chairperson of any watershed council established
11 under part 311 of the natural resources and environmental
12 protection act, 1994 PA 451, MCL 324.31101 to 324.31119, whose
13 watershed lies wholly or partly within the district.

14 (4) The notice shall include a copy of the petition and shall
15 request each notified public corporation to designate a
16 representative to the commission and state the time and place of
17 the first meeting which shall be not less than 42 and not more
18 than 63 days following the mailing of the notice. Failure of the
19 governing body of a public corporation to designate a
20 representative to the commission does not prevent the inclusion
21 of the public corporation in the district or exempt it from
22 assessment or other obligations under this chapter.

23 (5) The county board of commissioners with whom the petition
24 was filed shall also publish a notice of the first meeting of the
25 commission in a newspaper of general circulation in the proposed
26 district.

27 (6) Each county board of commissioners whose county lies

1 wholly or partly within the boundaries of the district shall by
2 first-class mail deliver a copy of the notice under subsection
3 (3) (b) to any interested party that has made a written request to
4 be notified regarding watershed management district petitions.

5 Sec. 589. (1) At the first meeting of the commission, the
6 commission shall elect a chairperson, vice-chairperson, and
7 secretary from among its members. The chairperson of the
8 commission may vote only if necessary to cast the deciding vote
9 in case of a tie.

10 (2) At its first meeting, the commission shall establish the
11 voting authority of its voting members. The voting authority of
12 members described in section 588(2) (b) shall be weighted. The
13 weighting shall be based upon a combination of the percentage of
14 total population of the proposed district that resides in the
15 public corporation represented by each member and the percentage
16 of the total acreage in the proposed district that lies in the
17 public corporation represented by each member. The commission
18 shall adjust the voting authority, if necessary, upon the
19 commission's final determination of the district boundary.

20 (3) The commission shall designate the drain commissioner of
21 1 of the counties in the district to serve as treasurer of the
22 district. Money held by the district's treasurer shall only be
23 paid out upon the order of the commission except for the payment
24 of principal and interest on notes or bonds. The commission
25 shall cause the accounts of the district's treasurer to be
26 audited annually by a certified public accountant. The expense
27 of the audit shall be paid by the district. The district's

1 treasurer shall invest the funds as directed by the commission.
2 Unless the commission directs otherwise, the funds shall be
3 invested in interest bearing accounts in the name of the
4 district.

5 (4) The commission shall adopt rules of district procedures
6 or bylaws not inconsistent with this chapter.

7 (5) The business that the commission, the executive
8 committee, if any, or the advisory board may perform shall be
9 conducted at a public meeting of the commission, the executive
10 committee, or the advisory board held in compliance with the open
11 meetings act, 1976 PA 267, MCL 15.261 to 15.275.

12 (6) A meeting of the commission shall be called by the
13 chairperson or 2 or more members of the commission by sending
14 notice of the meeting by first-class mail to each member not less
15 than 20 days before the date of the meeting. A majority of the
16 members shall constitute a quorum for the transaction of
17 business, but a lesser number may adjourn from time to time.
18 Unless otherwise provided in this act, an action shall not be
19 taken except by a majority vote of the members present and
20 voting.

21 (7) The commission shall meet at least once annually before
22 April 1. The first meeting of the commission each year shall be
23 considered its annual meeting. At its annual meeting, the
24 commission shall do all of the following:

25 (a) Appoint members of the watershed advisory board and
26 executive committee and such other committees as it considers
27 appropriate.

1 (b) Approve assessments for district operation and watershed
2 management plan implementation.

3 (c) Approve an annual work plan and annual budget for the
4 district for the ensuing year, and conduct other business.

5 (d) Issue an annual report stating progress toward the
6 petition.

7 (e) Conduct other business.

8 (8) A copy of the annual report and budget shall be prepared,
9 published, and provided to all public corporations in the
10 district, the department of agriculture, the department of
11 environmental quality, and the department of natural resources.

12 (9) Orders issued by the commission shall be signed by the
13 chairperson and the secretary.

14 (10) The secretary shall prepare and sign triplicate
15 originals of the minutes of the proceedings of the body. The
16 secretary shall retain 1 original, file 1 original with the
17 chairperson, and file 1 original with the director of the
18 department of agriculture. The originals of all proceedings and
19 records shall be kept on file with the secretary.

20 (11) A writing prepared, owned, used, in the possession of,
21 or retained by the commission in the performance of an official
22 function is subject to the freedom of information act, 1976 PA
23 442, MCL 15.231 to 15.246.

24 Sec. 590. (1) At the first meeting, the commission shall
25 tentatively determine the practicality of the petition and
26 whether a district is warranted to protect the public health or
27 welfare or to protect and rehabilitate the waters of the

1 district. If the commission determines that the petition is not
2 practical, the commission may return the petition to the petition
3 filer for supplementation and refinement. If such refinement
4 results in the inclusion of additional public corporations which
5 are entitled to designate a member of the commission, the
6 commission shall notify the clerk of the public corporation of
7 the time and place to reconvene the commission. If the
8 commission at any time determines that the district is not
9 warranted to protect the public health or welfare or to protect
10 and rehabilitate the waters of the district, it shall order the
11 petition dismissed and proceedings under the petition shall be
12 terminated. If a petition is so dismissed, a petition that is
13 the same or substantially the same shall not be filed under this
14 chapter for 1 year after the date of dismissal.

15 (2) If the commission tentatively finds that the petition is
16 practical and that the watershed management district is warranted
17 to protect the public health or welfare or to protect and
18 rehabilitate the waters of the district, it shall promptly select
19 a name for the district and make a tentative determination of the
20 public corporations to be assessed for the cost, and fix a time,
21 date, and place to hear objections to the establishment of the
22 district and public corporations subject to assessment. The
23 hearing shall take place within 42 days of the tentative
24 determination of the public corporations to be assessed. Notice
25 of the hearing shall be published twice in a newspaper of general
26 circulation in the district. The publication shall not be less
27 than 21 days before the date of the hearing. The notice shall

1 also be sent by first-class mail to the clerk of each public
2 corporation proposed to be assessed not less than 21 days before
3 the date of the hearing. The notice shall be signed by the
4 chairperson and proof of the publication and mailing of the
5 notice shall be filed in his or her office. The proof shall be
6 considered conclusive evidence of the publication and mailing.
7 The commission may provide a form to be substantially followed in
8 giving of notice.

9 (3) After the hearing, the commission shall determine whether
10 the petition is practical and the district is warranted to
11 protect the public health or welfare or to protect and
12 rehabilitate the waters of the district and, if so, the public
13 corporations to be assessed. The commission shall issue its
14 order accordingly. The order shall set forth the voting
15 authority of the voting members of the commission. The order
16 shall be known as the order designating the watershed management
17 district. A public corporation shall not be eliminated from or
18 added to those tentatively determined to be assessed without a
19 rehearing after notice.

20 (4) The commission shall publish notice of the order
21 designating the district in a newspaper of general circulation in
22 the district. The notice shall give a general description of the
23 common outlet and the location of the district as shown by the
24 order. In addition, the commission shall serve a copy of the
25 order by first-class mail on the clerk of each public corporation
26 within the district, the director of agriculture, the director of
27 the department of environmental quality, the director of the

1 department of natural resources, and the secretary of each soil
2 conservation district within the proposed district.

3 (5) Not more than 28 days after publication of notice of the
4 order designating the district, a public corporation aggrieved by
5 the order designating the district may file an appeal in the
6 circuit court for the county where that public corporation is
7 located.

8 Sec. 591. (1) The commission shall function as the
9 governing body of the district. Actions taken by the commission
10 shall be taken in the name of the district.

11 (2) After the commission issues its order designating the
12 district, it may appoint a watershed management district
13 executive committee. Only members of the commission are eligible
14 to be members of the executive committee. The members of the
15 executive committee shall be elected by a vote of the majority of
16 the members of the commission. However, each drain commissioner
17 serving on the commission shall be a member of the executive
18 committee.

19 (3) The executive committee shall perform administrative and
20 ministerial duties as directed by the commission and outlined in
21 its bylaws. The executive committee's duties may include conduct
22 of meetings and public hearings for purposes of recommending a
23 watershed management plan and recommending implementation of the
24 plan. The executive committee may prepare and make
25 recommendations as to the apportionment of costs and the review
26 of expenditures. However, the adoption of the final plan,
27 implementation of the plan, final apportionment of costs,

1 adoption of an annual budget, and authorization of assessments
2 shall be approved by the majority of the commission.

3 Sec. 592. (1) After the issuance of the order designating
4 the district, the commission shall develop the tentative scope of
5 the watershed study which shall guide the development of the
6 watershed management plan.

7 (2) The commission shall appoint a watershed management
8 district advisory board. The commission shall invite the
9 department of natural resources, the department of environmental
10 quality, the state transportation department, and any watershed
11 council established under part 311 of the natural resources and
12 environmental protection act, 1994 PA 451, MCL 324.31101 to
13 324.31119, conservation district, or board of county road
14 commissioners whose watershed, conservation district, or county
15 lies wholly or partly within the watershed management district to
16 appoint a representative to the advisory board. The commission
17 may consider as members of the advisory board those persons or
18 entities which were specified as part of the petition, and any
19 other person or entity with an interest in the district,
20 including, but not limited to, federal, state, county, and
21 municipal agencies, regional planning agencies, property owners,
22 and interest groups. It is intended that the advisory board
23 include members who will represent a balance of the interests
24 existing in the district.

25 (3) At its first meeting, the advisory board shall elect a
26 chairperson and secretary. Minutes shall be kept at all
27 meetings, and records of all proceedings and recommendations of

1 the advisory board shall be filed in the office of the
2 chairperson of the commission.

3 (4) The commission shall appoint at least 1 member of the
4 commission to the advisory board. Once the advisory board has
5 been established, the commission shall periodically review the
6 membership based upon demographic information concerning the
7 district and revise the membership as necessary to ensure a
8 balance of all interests in the district.

9 (5) The advisory board, in conjunction with the commission or
10 its executive committee, or both, shall further define the scope
11 of the watershed study. The watershed study or the plan may
12 include 1 or more of the following:

13 (a) Preparation of plans.

14 (b) Problem assessment.

15 (c) Special studies.

16 (d) Water quality, water quantity monitoring, or biological
17 monitoring.

18 (e) Modeling.

19 (f) Data gathering.

20 (g) Education and education programs.

21 (h) Purchase of lands, acquisition of conservation or other
22 easements or rights-of-way, or purchase of development rights.

23 (i) Development of ordinances and regulatory programs
24 recommended for consideration by public corporations.

25 (j) Mapping.

26 (k) Publications.

27 (l) Testing.

1 (m) Hydrological engineering, analysis, and modeling.

2 (n) Development and drafting of recommended management
3 practices.

4 (o) Any other component considered appropriate by the
5 commission to accomplish the purpose of this chapter, other than
6 construction activities which constitute maintenance,
7 improvement, or construction of a drain or construction
8 activities within boundaries of the watercourse.

9 (6) The advisory board shall conduct public meetings to
10 gather input on the scope of the watershed study. The advisory
11 board shall prepare its recommendation for the scope of the
12 watershed study. The recommendation shall be forwarded to the
13 commission.

14 (7) Upon receipt of the advisory board's recommendation, the
15 commission shall convene to decide whether or not to tentatively
16 adopt the scope of the watershed study.

17 Sec. 593. (1) If the commission tentatively adopts the
18 scope of the watershed study, the commission shall set a time,
19 date, and place for a meeting to hear any objections to the
20 proposed scope of the watershed study. After hearing any
21 objections to the proposed scope of the watershed study and
22 giving the objections due consideration, the commission shall
23 finalize the scope of the watershed study, adopt the scope of the
24 watershed study, and tentatively apportion benefits in a first
25 order of determination.

26 (2) Interested parties may appeal the scope of the plan or
27 the apportionment of benefits to the circuit court in the county

1 where they reside within 21 days of the issuance of the first
2 order.

3 (3) The commission shall not proceed with the preparation of
4 the watershed study while any appeals are pending.

5 Sec. 594. (1) After any appeals have been resolved, the
6 commission shall authorize the advisory board to conduct the
7 watershed study. The commission shall establish operating
8 procedures for the advisory board to conduct the watershed study
9 and develop the draft plan.

10 (2) After the first order of determination has been entered,
11 the commission may contract with persons to assist in the
12 watershed study and assist the advisory board in the preparation
13 of the draft plan. The commission may hire employees and
14 determine their compensation. An employee shall not be a member
15 of the commission or any advisory board.

16 (3) The advisory board shall obtain public input on the draft
17 plan through a public participation process that may include
18 public information meetings, news releases, and other
19 activities. As a minimum, the advisory board shall convene at
20 least 1 public hearing to solicit comments on the draft plan.
21 The advisory board shall give due consideration to any
22 recommendation submitted by landowners, public corporations, and
23 other interested parties.

24 (4) Promptly after completion of the watershed study and
25 preparation of a draft watershed management plan, the advisory
26 board shall submit its report and recommendations to the
27 commission.

1 Sec. 595. (1) After receipt of the written report and
2 recommendations from the advisory board, the chairperson of the
3 commission shall forward the report and recommendations to the
4 members of the commission and set the time, date, and place for a
5 meeting to decide whether or not to tentatively adopt the draft
6 plan. If the commission tentatively adopts the draft plan, the
7 chairperson of the commission shall give notice of the time,
8 date, and place of a public hearing to hear objections to the
9 draft plan and the proposed apportionment of costs of
10 implementation of the draft plan to the designated public
11 corporations. Notice of the hearing shall be published twice in
12 a newspaper of general circulation in the district. The first
13 publication shall be not less than 21 days before the date of the
14 hearing. Notice shall also be sent by first-class mail to the
15 clerk of each public corporation proposed to be assessed not less
16 than 21 days before the date of the hearing. The chairperson of
17 the commission shall sign and file in his or her office an
18 affidavit of the published and mailed notice. The affidavit is
19 conclusive proof of the publication or mailing of the notice.

20 (2) At the hearing, the commission shall receive testimony
21 and evidence as to the practicality of the draft plan. If the
22 commission feels that additional information is needed before a
23 draft plan can be adopted, it may adjourn while the additional
24 information is gathered, but an adjournment shall not be for
25 longer than 63 days. After the hearing, the commission shall
26 make a determination of the practicality of the draft plan. If
27 the commission determines that the draft plan is practical, it

1 shall enter a final order of determination adopting the draft
2 plan as the plan. The commission shall also enter a final order
3 of apportionment establishing the final apportionments to the
4 public corporations to be assessed. The orders shall be filed in
5 the office of the secretary of the commission.

6 (3) Apportionments of benefits under this chapter shall be
7 based upon benefits to the public corporations to be assessed,
8 the extent to which the public corporation derives special
9 benefit directly related to actions proposed by the plan, and
10 whether a public corporation or owners of land in the public
11 corporation specifically requested a provision of the plan.

12 Sec. 596. If the plan as set forth in the final order of
13 determination proposes the establishment, construction,
14 maintenance, or improvement of a county or intercounty drain, the
15 establishment, construction, maintenance, or improvement shall be
16 implemented pursuant to the appropriate provisions of this act
17 and be subject to the jurisdiction of the respective drain
18 commissioner or drainage board. The commission may petition for
19 work outlined in the plan, but only pursuant to chapters 20 and
20 21.

21 Sec. 597. The commission shall at least every 5 years
22 review and reevaluate the plan and its implementation. In so
23 doing, the commission shall seek the input and recommendations of
24 the advisory board. The commission may receive a petition to
25 supplement, amend, or expand the plan. If such a petition is
26 received, the commission shall proceed consistent with this
27 chapter from the point in the proceedings immediately following

1 the order designating the district.

2 Sec. 598. Public corporations may advance funds for the
3 payment of any part of the costs incurred by a district and shall
4 be repaid by the district when funds are available. Before the
5 issuance of bonds, the commission may assess preliminary costs in
6 an equitable manner against public corporations in the district
7 and collect the assessed costs. The costs of all of the
8 following are subject to assessment:

9 (a) Establishing the district.

10 (b) Development of the scope of the watershed study.

11 (c) Administrative staff, office, and other expenses of the
12 commission and advisory board.

13 (d) Implementation of the plan.

14 (e) Acquiring interest in lands. (f) Engineering, legal,
15 consultant, and other professional fees.

16 (g) Service and publication of all notices.

17 (h) Interest on all bonds or notes for the first year they
18 are to be issued and all payments and interest on bonds or notes
19 issued before the assessment.

20 (i) Other items identified and allocated in the annual
21 budget.

22 (j) Possible contingent expenses, in an amount not exceeding
23 10% of the other costs which are to be assessed against public
24 corporations.

25 Sec. 599. (1) Any action arising from this chapter may be
26 brought in the circuit court of any county in which any part of
27 the district involved is located.

(2) Neither the final order of determination nor the final order of apportionment is subject to attack in any court except by superintending control proceedings brought within 28 days after the filing of the order in the office of the secretary of the commission. Unless successfully challenged in proceedings brought within this time, the district is legally established and the legality of the plan and the assessments shall not be questioned in any suit at law or equity.

9 (3) Subsection (2) does not apply unless all notices given
10 under this chapter contain a copy of subsection (2).

11 Sec. 600. (1) The commission, its advisory board, or an
12 executive committee is not authorized to perform a duty,
13 specifically delegated to a drain commissioner or drainage board
14 under this act.

(2) The commission, its advisory board, or an executive committee is not governed by the procedural or other provisions contained in this act other than this chapter except as otherwise specified. However, if not contrary to the expressed provisions of this chapter, any provision or provisions in other chapters of this act may be incorporated by recital or by references into any order or resolution of the commission.

22 ~~CHAPTER 23.~~

23 _____PENALTIES.

24 Sec. 601. ~~If any commissioner is interested directly or~~
25 ~~indirectly in the profits of any contract, job, work or services,~~
26 ~~other than official services, to be performed for the drainage~~
27 ~~district, he is deemed to be guilty of a misdemeanor, and the~~

1 ~~office of such commissioner shall be deemed vacant and the~~
2 ~~commissioner so convicted shall be incapable of again holding the~~
3 ~~office of county drain commissioner.~~ Any assessments made under
4 this chapter do not constitute indebtedness of a public
5 corporation for purposes of any charter, statutory, or
6 constitutional debt limitation. Taxes levied by a public
7 corporation for the payment of such assessments are not within a
8 statutory or charter tax limitation.

9 Sec. 602. ~~If any person shall wilfully or maliciously~~
10 ~~remove any section or grade stake set along the line of any~~
11 ~~drain, or obstruct or injure any drain, he shall be deemed guilty~~
12 ~~of a misdemeanor, and upon conviction thereof shall be punished~~
13 ~~by a fine not exceeding \$100.00 and the costs of prosecution, or~~
14 ~~in default of the payment thereof, by imprisonment in the county~~
15 ~~jail not exceeding 90 days.~~ The commission may acquire the
16 necessary lands or rights-of-way as identified in the plan. Such
17 acquisition shall be by voluntary sale or release, or by gift or
18 grant.

19 Sec. 603. (1) The commission may enter a contract with any
20 federal agency under which the federal agency will pay the whole
21 or any part of the cost of the plan or will perform the whole or
22 any part of the work connected with the plan.

23 (2) The commission may also contract with any private or
24 public corporation in respect to any matter connected with the
25 plan. Such a contract with a public corporation may provide that
26 any payments made or work done by the public corporation shall be
27 in lieu of all or part of the assessments for the cost of the

1 plan.

2 Sec. 604. After the confirmation of the apportionment, the
3 commission shall direct the secretary of the commission to
4 prepare a special assessment roll assessing the estimated cost of
5 the plan, or if the actual cost has been ascertained, the actual
6 cost against the public corporations in accordance with the
7 confirmed apportionments. The commission may provide for the
8 payment of the special assessments in any number of approximately
9 equal annual installments, not exceeding 20. Installments of
10 assessments against the state and against public corporations
11 which collect their taxes beginning approximately December 1 in
12 each year are due by April 1 of each year. Installments of
13 assessments against public corporations are due by the date or
14 dates fixed by the commission depending on the time or times for
15 the collection of taxes by the public corporations. The
16 commission shall fix the rate of interest to be paid upon unpaid
17 installments at not more than 6%. Interest is due annually on
18 the day and month upon which the annual installments are due.
19 Any installment or installments may be paid in advance of the due
20 date with interest computed to the next installment due date.
21 The commission shall fix the time or times for the payment of the
22 first installment so that each public corporation may make a tax
23 levy for the payment of the installment.

24 Sec. 605. (1) The special assessment roll shall contain
25 the name of each public corporation assessed; the total estimated
26 cost of the plan, or the actual cost if the actual cost has been
27 ascertained at the time of the preparation of the roll; the

1 percentage apportioned to each public corporation; the amount of
2 the assessment for each public corporation based upon the
3 percentage of apportionment; and the amount of each installment
4 if the assessment is divided into annual installments. After the
5 secretary prepares the special assessment roll, the secretary
6 shall present the special assessment roll to the commission for
7 approval. If the commission approves the roll, a statement to
8 that effect setting forth the date of approval shall be signed by
9 the chairperson and secretary of the commission and affixed to
10 the roll.

11 (2) The chairperson of the commission shall then certify to
12 each public corporation assessed the amount of the total
13 assessment against it, the amount of the various installments if
14 the assessment is divided into installments, the due date of each
15 installment, and the rate of interest upon unpaid installments.
16 The treasurer shall also each year, at least 30 days before the
17 time of the levying of taxes by each public corporation, notify
18 the public corporation of the amount of the installment and
19 interest next becoming due. However, the failure to so notify
20 any public corporation does not excuse it from making payment of
21 the installment and interest.

22 (3) On or before the due date of an installment, each public
23 corporation shall pay to its county treasurer the amount of the
24 installment, together with interest accruing to the due date.
25 Within 15 days after receiving a payment, the county treasurer
26 shall forward the amount so paid to the treasurer of the
27 commission. If a public corporation ails or neglects to pay the

1 county treasurer the amount of the installment and interest, the
2 county treasurer shall advance the amount to the treasurer of the
3 commission from county funds and deduct the amount from any
4 funds, other than those pledged for the payment of debts, of the
5 public corporation. If a county advances funds for a public
6 corporation under this section but is not reimbursed, the county
7 board of commissioners may order the public corporation and its
8 officers to levy upon its next tax roll an amount sufficient to
9 reimburse the county on or before the date when the public
10 corporation's taxes become delinquent. The public corporation
11 and its tax levying and collecting officials shall levy and
12 collect such taxes and reimburse the county. Nothing in this
13 section prevents the county from obtaining reimbursement from any
14 other legal method. The tax levying officials of each of the
15 public corporations assessed shall levy sufficient taxes to pay
16 assessment installments and interest as they become due unless
17 sufficient money has been set aside.

18 (4) If a special assessment roll is prepared upon the basis
19 of the estimated cost of the plan, then after the actual cost has
20 been ascertained and determined by the commission, the special
21 assessments and the installments shall be corrected by adding any
22 deficiency or deducting any excess, or refunding the amount of
23 any prepaid assessments in excess of the assessment based upon
24 actual costs. The commission may order such corrections to be
25 made upon the original roll or may order that a new corrected
26 roll be prepared and submitted for approval by the commission.

27 Sec. 606. (1) The commission may issue bonds or notes for

1 and on behalf of the watershed management district, in
2 anticipation of the collection of any or all installments of
3 assessments, and pledge the full faith and credit of the district
4 for the prompt payment of the principal and interest.

5 (2) A district may borrow money or accept the advance of
6 work, material, or money from a public or private corporation,
7 partnership, association, individual, or any agency of the
8 federal government for payment for the preparation or
9 implementation of the plan, to be reimbursed by the district,
10 with or without interest as may be agreed, when funds are
11 available. The obligation of the district to make the repayment
12 or reimbursement may be evidenced by a contract or note. The
13 contract or note may pledge the full faith and credit of the
14 district and may be made payable out of the assessments made
15 against public corporations or out of any other available funds,
16 and the contract or note shall not be considered to be an
17 obligation within the meaning of the revised municipal finance
18 act, 2001 PA 34, MCL 141.2101 to 141.2821. The total amount of
19 principal owed for obligations under this section shall not
20 exceed \$600,000.00.

21 (3) This section does not apply to advances or loans made by
22 any public corporation, the federal government, or any agency of
23 the federal government.

24 (4) A county board of commissioners by a majority vote of 2/3
25 of its members may pledge the full faith and credit of a county
26 for the payment of a note of the district.

27 Sec. 607. If the original assessment is insufficient to

1 pay the principal and interest on bonds and notes issued in
2 anticipation of the collection of the assessment, then the
3 commission shall make such additional assessments, as necessary.
4 The additional assessments shall be apportioned to the same
5 public corporations in the same relative amounts as the original
6 assessments.

7 Sec. 608. This chapter does not apply in a county in which
8 there is a county ordinance providing that this chapter does not
9 apply in that county.

10 CHAPTER 23

11 SANCTIONS

12 Sec. 615. If a commissioner is interested directly or
13 indirectly in the profits of a contract, job, work, or services,
14 other than official services, to be performed for a drainage
15 district, he or she is guilty of a misdemeanor. Upon conviction,
16 his or her office is vacated and he or she is ineligible to again
17 hold the office of commissioner.

18 Sec. 616. A person who willfully or maliciously removes
19 any section or grade stake set along the line of any drain, or
20 obstructs or damages a drain, is guilty of a misdemeanor
21 punishable by a fine of not more than \$100.00 and the costs of
22 prosecution, or in default of the payment of the fine, by
23 imprisonment for not more than 93 days.