



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536



Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

House Bill 4642 (Substitute H-1 as passed by the House)
Sponsor: Representative Jeff Mayes
House Committee: Agriculture
Senate Committee: Agriculture

Date Completed: 2-6-08

CONTENT

The bill would amend Chapter 1 (Drains) of the Drain Code to do the following:

- Revise the requirements for a drain to be considered a public drain located in a public easement or right-of-way.**
- Require, rather than permit, a drain commissioner to release to a landowner an easement or right-of-way if the drain no longer is necessary for drainage purposes.**
- Require a drain commissioner or drainage board to consider any protests or public comments received during a 30-day period, before determining that an easement was not necessary for drainage purposes.**

The bill is described in detail below.

Currently, the following are considered public drains located in public easements or rights-of-way, which are valid and binding against any owners of any property interest who became owners after the location and establishment of the drain, the existence of the drain became visible, or the written drain easement or right-of-way was executed:

- All established drains regularly located and established under law existing at the time of location and establishment and visibly in existence, which were established as drains.
- All drains visibly in existence in written drain easements or rights-of-way on file in the office of the drain commissioner.

The bill would remove the requirement that a drain be visibly in existence if it is in written drain easements or rights-of-way on file with the office of the drain commissioner, and would refer to drains evidenced in written drain easements or rights-of-way on file.

The bill specifies that drains that were visibly in existence would be open or closed drains that could be visibly identified by banks, slopes, manhole covers, or other structures that would identify the existence of a drain.

The Code permits a drain commissioner, on behalf of a drainage district, to convey or release to the fee owners easements or rights-of-way or portions of easements or rights-of-way no longer necessary for drainage purposes. The bill would require, rather than permit, a drain commissioner to do that. The bill also would refer to landowners, instead of fee owners.

The Code requires a drain commissioner or drainage board to give at least 30 days' notice of the intention to release excess easements under those provisions. The notice must give a general description of the excess easements to be released and the date any taxpayers may appear to protest the release. After that date, if no protests are received, the drain commissioner or drainage board may release the easements or portions of the easements not necessary for drainage purposes; the bill would delete this provision.

Under the bill, the drain commissioner or drainage board would have to consider any protests or public comments received by the date given in the notice before determining that an easement or portion of an easement was not necessary for drainage purposes and before releasing the excess easements or portions of the easements.

MCL 280.6

Legislative Analyst: Curtis Walker

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: David Zin

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.