

SENATE BILL No. 715

August 5, 2009, Introduced by Senators VAN WOERKOM, JELINEK, KUIPERS and BIRKHOLZ and referred to the Committee on Local, Urban and State Affairs.

A bill to amend 1956 PA 40, entitled
 "The drain code of 1956,"
 by amending section 154 (MCL 280.154).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 154. (1) The commissioner shall give notice **AS DESCRIBED**
 2 **IN SUBSECTION (2)** for the receiving of bids for the construction of
 3 the drain and for the holding of a public meeting ~~. At the meeting~~
 4 ~~a review shall be made of~~ **TO REVIEW** the apportionment of benefits.
 5 ~~The notice shall specify the time and place of receiving bids, and~~
 6 ~~the time and place of the meeting for review of apportionment. The~~
 7 meeting shall be not less than 5 nor more than 30 days after the
 8 date set for receiving bids.

9 (2) The notice **UNDER SUBSECTION (1)** shall be given by
 10 publication of at least 2 insertions in a newspaper published and

1 of general circulation in the county. The first publication shall
2 be at least 10 days before the date set for receiving bids. The
3 drain commissioner shall send notice by first class mail of the
4 time, date, and place of the meeting, at least 10 days before the
5 date of the meeting, to each person whose name appears upon the
6 last city or township tax assessment roll as owning land within the
7 special assessment district, at the address shown on the roll. If
8 an address does not appear on the roll, then notice need not be
9 mailed to the person. The drain commissioner shall make an
10 affidavit of the mailing and shall recite in the affidavit that the
11 persons to whom the notice was mailed ~~—~~constitute all of the
12 persons whose names and addresses appear upon the tax rolls as
13 owning land within the particular special assessment district. The
14 affidavit ~~shall be~~ **IS** conclusive proof that notice was mailed to
15 each person to whom notice is required to be mailed. If notice has
16 been sent by first class mail as provided in this section, the
17 failure to receive notice by mail ~~shall~~ **DOES** not constitute a
18 jurisdictional defect invalidating a drain proceeding or tax. If
19 the board of determination determines that the drain is necessary
20 for the protection of the public health and that the whole cost of
21 the drain, except that part which may be apportioned for benefits
22 to highways, shall be apportioned to municipalities, then mailing
23 of individual notices to persons owning land within the special
24 assessment district as provided in this ~~section shall~~ **SUBSECTION IS**
25 not ~~be~~ required.

26 ~~——(2) The notice shall also contain the names of the counties,~~
27 ~~cities, townships, or villages to be assessed at large, and shall~~

1 be personally served on the county clerk and 1 or more members of
2 the road commission of a county or road district, the supervisor of
3 a township, the mayor of a city, and the president of a village to
4 be assessed at large.

5 (3) The notice UNDER SUBSECTION (1) shall contain ~~a~~ALL OF THE
6 FOLLOWING:

7 (A) THE DATE, TIME, AND PLACE OF RECEIVING BIDS.

8 (B) THE DATE, TIME, AND PLACE OF THE MEETING FOR THE REVIEW OF
9 THE APPORTIONMENT.

10 (C) A STATEMENT THAT THE REVIEW OF APPORTIONMENT WILL
11 DETERMINE THE AMOUNT OF DRAIN ASSESSMENTS AGAINST LAND INCLUDED IN
12 THE DRAINAGE DISTRICT.

13 (D) A STATEMENT THAT DRAIN ASSESSMENTS AGAINST LAND WILL BE
14 COLLECTED IN THE SAME MANNER AS PROPERTY TAXES.

15 (E) A STATEMENT THAT IF DRAIN ASSESSMENTS AGAINST LAND ARE
16 COLLECTED BY INSTALLMENT, THE LAND OWNER MAY PAY THE ASSESSMENTS IN
17 FULL WITH ANY INTEREST TO DATE AT ANY TIME AND THEREBY AVOID
18 FURTHER INTEREST CHARGES.

19 (F) THE NAME OF EACH COUNTY, TOWNSHIP, CITY, OR VILLAGE TO BE
20 ASSESSED AT LARGE.

21 (G) A description of the land constituting the special
22 assessment district for the drain. The description may be stated by
23 designating the boundaries of the special assessment district by
24 streets, highways, parcels, or tracts of land or by describing the
25 tracts or parcels of land constituting the district. A tract or
26 parcel need not be subdivided beyond the point where the whole of
27 the tract or parcel is within the drainage district. ~~or to describe~~

1 ~~the drain further than by reference to it by its~~

2 (H) **THE** name or number **OF THE DRAIN**.

3 (I) ~~The notice shall also state the number and length of~~
 4 ~~sections, the average depth and width of each section, and in case~~
 5 ~~of~~ **IF THE DRAIN WILL BE A** closed drains **DRAIN**, the amount and
 6 specifications of all tile or pipe required.

7 (J) ~~The notice shall contain the location, number, type, and~~
 8 ~~size of all culverts and bridges. and the~~

9 (K) **THE** conditions upon which the contract will be awarded.

10 (4) The notice **UNDER SUBSECTION (1)** need not contain minutes
 11 of survey or **A** table of cuttings. ~~which~~ **THESE** shall be kept on file
 12 in the office of the drain commissioner.

13 (5) ~~(3)~~ Bids shall be received and ~~computation of the total~~
 14 ~~cost of the drain shall be made~~ **COMPUTED** before the time set for
 15 review of the apportionment. ~~, and the~~ **THE** computation shall be
 16 open to inspection. If the computation is not completed before the
 17 day of review, the review may be adjourned from time to time, not
 18 more than 20 days in all, for the completion of the computation, or
 19 a new hearing may be called with similar notice, by publication and
 20 service at least 10 days before the hearing. If the contracts on
 21 which the computation was based are not executed and new contracts
 22 ~~shall be~~ **ARE** let at a higher price, ~~a corrected~~ **THE** computation
 23 shall be ~~made~~ **CORRECTED** and a new review held with a similar
 24 notice. At the **DATE**, time, and place fixed in the notice, or at
 25 another **DATE**, time, and place to which the county drain
 26 commissioner may adjourn the hearing, the apportionment of benefits
 27 and the lands ~~comprised within~~ **CONSTITUTING** the special assessment

1 district shall be subject to review for at least 1 day. The review
 2 shall be held open from 9 a.m. until 5 p.m. ~~On~~**AT** the review, the
 3 county clerk or the county road commission may appear on behalf of
 4 the county or a road district; the supervisor ~~or commissioner of~~
 5 ~~highways~~ of a township may appear on behalf of a township; the
 6 mayor or an officer of the city designated by the mayor may appear
 7 for a city; the president may appear on behalf of a village. At the
 8 review the county drain commissioner shall hear the proofs and
 9 allegations, ~~and~~ shall carefully reconsider and review the
 10 description of land comprised within the special assessment
 11 district, the several descriptions and apportionment of benefits,
 12 and **SHALL** define and equalize the land as is just and equitable.

13 (6) ~~(4) When~~**IF** an apportionment of benefits is made against a
 14 state trunk line highway, unless the ~~state highway~~ director **OF THE**
 15 **STATE TRANSPORTATION DEPARTMENT** consents in writing to the
 16 apportionment, the drain commissioner, at least 20 days before the
 17 review on the ~~trunk line~~**HIGHWAY**, shall notify by registered mail
 18 the ~~state highway~~ director **OF THE STATE TRANSPORTATION DEPARTMENT**
 19 of the percentage apportioned against the highway and the date,
 20 time, and place fixed for a review of apportionment of benefits. If
 21 the ~~state highway~~ director **OF THE STATE TRANSPORTATION DEPARTMENT**
 22 desires to have the apportionment of benefits reviewed by the
 23 director of the department of agriculture, the ~~state highway~~
 24 director **OF THE STATE TRANSPORTATION DEPARTMENT**, within 10 days
 25 from the receipt of the notice, shall file with the drain
 26 commissioner an objection to the apportionment. The drain
 27 commissioner shall notify the director of the department of

1 agriculture of the date, time, and place fixed for the review of
2 apportionments, and at the meeting the director of the department
3 of agriculture, or a deputy of the director, shall review the
4 apportionment made against the state trunk line highway ~~—AND~~
5 listen to the proofs and allegations of the parties, and may view
6 the highway benefited. The action and decision on the apportionment
7 **UNDER THIS SUBSECTION, WHEN** reduced to writing, ~~shall be~~ **IS** final.