

THE DRAIN CODE OF 1956 (EXCERPT)
Act 40 of 1956

280.122 Drainage board; duties generally; voting; notice of meeting; affidavit of mailing; failure to receive notice; expense of notification; determination of necessity, percentages, and number of installments; order; drainage board as board of determination; submission of apportionment to board of arbitration; finality.

Sec. 122. Upon filing of a petition to locate, establish, and construct an intercounty drain the commissioner receiving the petition, within 20 days, shall notify by registered mail the drain commissioners interested and the director of the department of agriculture, who shall call a meeting within the time set forth in section 102. The commissioners and the director of the department of agriculture, or the director's deputy, who constitute the drainage board shall jointly take all steps and perform all acts and sign all papers as commissioners are required to do singly in the case of other drains, except as otherwise provided in this act. At a meeting of the board the director of the department of agriculture, or the director's deputy, shall not vote, except that the director or the director's deputy may cast the deciding vote in case of a tie. Notice shall be given of the time and place of the meeting by publication in a newspaper of general circulation in the county at least 10 days before the meeting. Notices shall also be served personally or by registered mail at least 10 days before the meeting on the county clerk and on the clerk of each township, city, and village in the district. The drain commissioner also shall send notice by first class mail of the time, date, and place of the meeting, not less than 10 days before the date of the meeting, to each person whose name appears upon the last city or township tax assessment roll as owning land liable to assessment for benefits, at the address shown on the roll. If an address does not appear on the roll, a notice need not be mailed to the person. The drain commissioner shall make an affidavit of the mailing and shall recite in the affidavit that the persons to whom the notice was mailed constitute all of the persons whose names and addresses appear upon the tax rolls as owning land liable to assessment for benefits. The affidavit shall be conclusive proof that notice was mailed to each person to whom notice is required to be mailed by this section. The failure to receive a notice by mail shall not constitute a jurisdictional defect invalidating a drain proceeding or tax, or both, if notice has been sent by first class mail as provided in this section. All expense of notification shall be paid by the drainage district when created. The board shall consider the petition and evidence offered, and if it is determined that the drain is necessary for the good of the public health, convenience, or welfare, it shall proceed to determine the percentage of the whole cost of construction which each county shall bear, and determine the number of installments in which the drain taxes shall be collected. If commissioners cannot agree on the apportionment between counties or the number of installments, the chairperson shall determine the apportionment or the number of installments. An order shall be prepared, signed by the chairperson, to be known as the first order of determination, showing the determination of necessity, determination of percentages, and determination of number of installments, and a copy of the order shall be filed in the office of the county drain commissioner of each county into which the drainage district extends. The drainage board shall be the board of determination and shall determine the question of necessity for drains located, established, and constructed under this chapter. If the drainage board cannot agree unanimously on the apportionment between counties, the matter shall be submitted to the board of arbitration in the manner prescribed in section 106 and that board's decision shall be final.

History: 1956, Act 40, Imd. Eff. Mar. 28, 1956;—Am. 1976, Act 341, Imd. Eff. Dec. 15, 1976;—Am. 1978, Act 235, Imd. Eff. June 15, 1978.

Popular name: Act 40