



# SENATE BILL No. 893

March 5, 1996, Introduced by Senators DE BEAUSSAERT and CARL and referred to the Committee on Natural Resources and Environmental Affairs.

A bill to amend section 423 of Act No. 40 of the Public Acts of 1956, entitled as amended

"The drain code of 1956,"

being section 280.423 of the Michigan Compiled Laws.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 423 of Act No. 40 of the Public Acts of  
2 1956, being section 280.423 of the Michigan Compiled Laws, is  
3 amended to read as follows:

4 Sec. 423. (1) ~~A municipality, industry, public or private~~  
5 ~~corporation, individual, partnership association, or any other~~  
6 ~~entity~~ A PERSON shall not continue to discharge or permit to be  
7 discharged into any county drain or intercounty drain of the  
8 state any sewage or waste matter capable of producing in the  
9 ~~drains~~ DRAIN detrimental deposits, ~~objectional~~ OBJECTIONABLE  
10 odor nuisance, injury to drainage conduits or structures, or

1 CAPABLE OF PRODUCING such pollution of the waters of the state  
2 receiving the flow from the drains as to injure livestock,  
3 destroy fish, ~~life or be injurious to~~ OR INJURE public health.  
4 ~~Nothing herein contained shall be construed to prevent~~ THIS  
5 SECTION DOES NOT PROHIBIT the conveyance of sewage or other waste  
6 through drains or sewers that will not ~~cause the above named~~  
7 PRODUCE THESE injuries.

8 (2) Disposal plants, filtration beds, and other mechanical  
9 devices ~~as will~~ TO properly purify the flow of any drain may be  
10 constructed ~~and become~~ AS a part of any established drain, AND  
11 the cost of construction ~~thereof to~~ SHALL be paid for in the  
12 same manner as PROVIDED FOR IN THIS ACT FOR other drainage costs.  
13 ~~as in this act provided.~~ Plants, beds, or devices may be  
14 described in the petition for the location, establishment, and  
15 construction of drains or in the petition for the cleaning, wid-  
16 ening, deepening, straightening, or extending of drains, or in  
17 the application for the laying out of a drainage district.  
18 Petitions for the construction of plants, beds, and devices for  
19 use on any established drain may be filed by the same persons and  
20 shall be received and all proceedings had thereon in the same  
21 manner as other petitions for any drainage construction under  
22 this act.

23 (3) If the ~~water resources commission~~ DEPARTMENT OF NATU-  
24 RAL RESOURCES determines that sewage or wastes carried by any  
25 ~~existing~~ county or intercounty drain constitutes unlawful dis-  
26 charge as prescribed by section ~~6 of Act No. 245 of the Public~~  
27 ~~Acts of 1929, as amended, being section 323.6 of the Compiled~~

1 ~~Laws of 1948~~ 3109 OF THE NATURAL RESOURCES AND ENVIRONMENTAL  
2 PROTECTION ACT, ACT NO. 451 OF THE PUBLIC ACTS OF 1994, BEING  
3 SECTION 324.3109 OF THE MICHIGAN COMPILED LAWS, that 1 or more  
4 users of the drain are responsible for the discharge of sewage or  
5 other wastes into the drain, and ~~such users of the drain and the~~  
6 ~~sources of pollution are identified in the order of the water~~  
7 ~~resources commission and~~ that the cleaning out of ~~such~~ THE  
8 drain or the construction of disposal plants, filtration beds, or  
9 other mechanical devices to purify the flow of ~~such~~ THE drain  
10 is necessary, ~~it may issue an order of determination to the~~  
11 ~~drain commissioner, as prescribed by section 7 of Act No. 245 of~~  
12 ~~the Public Acts of 1929, as amended, being section 323.7 of the~~  
13 ~~Compiled Laws of 1948, to that effect~~ THE DEPARTMENT MAY ISSUE  
14 TO THE DRAIN COMMISSIONER AN ORDER OF ABATEMENT IDENTIFYING SUCH  
15 USERS AND POLLUTANTS, UNDER SECTION 3112 OF ACT NO. 451 OF THE  
16 PUBLIC ACTS OF 1994, BEING SECTION 324.3112 OF THE MICHIGAN  
17 COMPILED LAWS. The order of ~~determination~~ ABATEMENT consti-  
18 tutes a petition calling for the construction of disposal facili-  
19 ties or other appropriate measures by which the unlawful dis-  
20 charge may be abated or purified. The order of ~~determination~~  
21 ABATEMENT serving as a petition ~~shall waive~~ IS IN LIEU OF the  
22 determination of necessity by a drainage board pursuant to  
23 ~~chapters 20 and 21 or~~ CHAPTER 20 OR 21, A DETERMINATION OF  
24 NECESSITY BY a board of determination pursuant to section 72, ~~or~~  
25 ~~102,~~ OR A DETERMINATION OF PRACTICABILITY BY A DRAINAGE BOARD  
26 UNDER SECTION 103, whichever is applicable. A copy of the  
27 findings of the ~~water resources commission~~ DEPARTMENT shall be

1 attached to the order of ~~determination which shall require no~~  
2 ~~other signature than that of the water resources commission under~~  
3 ~~their name of office~~ ABATEMENT. Upon receipt of the order of  
4 ~~determination~~ ABATEMENT, the drain commissioner or the drainage  
5 board shall proceed as provided in this act to locate, establish,  
6 and construct a drain. If the responsible users of the drain are  
7 determined to be public corporations in the drainage district,  
8 the drain commissioner or the drainage board shall proceed as  
9 provided in chapters 20 and 21, as may be appropriate, using the  
10 order of ~~determination~~ ABATEMENT as the final order of determi-  
11 nation of the drainage board. If the responsible users are  
12 determined to be private persons, the drain commissioner shall  
13 proceed as provided in chapters 8 and 9, using the order of  
14 ~~determination as his~~ ABATEMENT AS THE first order of  
15 determination.

16 (4) Plans and specifications for the construction as part of  
17 a drain of any disposal plant, filtration bed, or other mechani-  
18 cal device to properly purify the flow of ~~such~~ THE drain shall  
19 be prepared by the drain commissioner or the drainage board,  
20 subject to the approval of the state director of public health.  
21 Contracts for such construction shall be let in the manner pro-  
22 vided in this act. To meet the cost of any preliminary engineer-  
23 ing studies for the construction of abatement or purification  
24 facilities, the drain commissioner or the drainage board shall  
25 apportion the ~~per cent of such~~ cost among the several parcels  
26 of land, highways, and municipalities benefited thereby in the  
27 same manner as provided in chapter 7 or against the public

1 corporations affected by the order of determination in the same  
2 manner as provided in chapters 20 and 21. The costs and charges  
3 for maintenance shall be apportioned and assessed each year. If  
4 the apportionment is the same as the last recorded apportionment,  
5 a day of review or a hearing on apportionments is not necessary,  
6 but if the apportionment is changed, notice of a day of review or  
7 a hearing on apportionments shall be given to each person ~~or~~  
8 ~~public corporation~~ whose percentage is raised.

9 (5) Land may be acquired as a site for the construction of  
10 such plants, beds, and devices, and releases ~~thereof~~ OF LAND  
11 may be obtained in the same manner ~~as~~ AS PROVIDED IN THIS ACT  
12 FOR other lands ACQUIRED for right of way. ~~as in this act~~  
13 ~~provided. It shall be unlawful to~~

14 (6) A PERSON SHALL NOT connect sewage or other waste to A  
15 county or intercounty ~~drains~~ DRAIN except with the written  
16 approval of the appropriate commissioner or the drainage board  
17 indorsed upon a written application for such service and the pay-  
18 ment of a service fee of not to exceed \$50.00 for each connection  
19 to a covered drain. ~~This fee~~

20 (7) THE FEE PROVIDED FOR IN SUBSECTION (6) shall be set and  
21 collected by the drain commissioner, as approved by the ~~board of~~  
22 ~~supervisors~~ COUNTY BOARD OF COMMISSIONERS or the drainage board,  
23 and deposited with the county treasurer, to be credited to the  
24 drain fund set up for the maintenance or construction of ~~such~~  
25 THE drain. The commissioner or the drainage board shall keep a  
26 record of applications made and the action ~~thereon~~ ON THE  
27 APPLICATIONS. The commissioner or the drainage board may reject

1 applications for or require such ~~necessary~~ modification in  
2 requested applications for sewer connections to county drains as  
3 NECESSARY to attain the objectives set forth in this section.

4       (8) ~~The drain commissioner or drainage board may make and~~  
5 ~~cause to be made, surveys, studies and investigations for the~~  
6 ~~purpose of investigating subject~~ SUBJECT to the review and  
7 approval of the ~~water resources commission, the requirements of~~  
8 ~~municipalities, industrial and commercial establishments, indi-~~  
9 ~~vidual and collective groups or occupants of lands or drainage~~  
10 ~~districts for any~~ DEPARTMENT OF NATURAL RESOURCES, THE DRAIN  
11 COMMISSIONER OR DRAINAGE BOARD MAY STUDY THE REQUIREMENTS OF PER-  
12 SONS FOR flood control or drainage projects including sewage dis-  
13 posal systems, storm sewers, sanitary sewers, combined sanitary  
14 and storm sewers, sewage treatment plants, and all other plants,  
15 works, instrumentalities, and properties useful in connection  
16 with the collection, treatment, and disposal of sewage and indus-  
17 trial wastes or agricultural wastes or run-off, to abate pollu-  
18 tion or decrease the danger of flooding. ~~of the waters of the~~  
19 ~~affected public corporations and to the end~~ THE OBJECTIVE OF  
20 SUCH STUDIES SHALL BE that sewers, drains, and sewage disposal  
21 facilities ~~shall be~~ ARE made available to ~~the aforesaid, which~~  
22 ~~are~~ PERSONS situated within the territorial limits of any drain-  
23 age district or proposed drainage district ~~and which may need or~~  
24 ~~require the construction of facilities or drainage improvements~~  
25 ~~in~~ AS NECESSARY FOR the protection of public health and the pro-  
26 motion of the general welfare.

1 (9) The drainage board or drain commissioner may cooperate,  
2 negotiate, and enter into contracts. ~~with other governmental~~  
3 ~~units and agencies or with any public or private corporation~~  
4 ~~including the United States of America, and to take such steps~~  
5 ~~and perform such acts and execute such documents as may be~~ THE  
6 DRAINAGE BOARD OR DRAIN COMMISSIONER MAY DO WHAT IS necessary to  
7 take advantage of any ~~act heretofore or hereafter enacted by the~~  
8 ~~congress of the United States which may make~~ FEDERAL LAW THAT  
9 MAKES available funds for any of the purposes ~~above mentioned~~  
10 OF THIS SECTION.

11 (10) Failure to comply with any of the provisions of this  
12 section ~~shall subject~~ SUBJECTS the offender to the penalties  
13 described in section 602. HOWEVER, A PERSON WHO VIOLATES SUBSEC-  
14 TION (6) IS GUILTY OF A MISDEMEANOR PUNISHABLE BY A FINE OF NOT  
15 MORE THAN \$25,000.00 AND THE COSTS OF PROSECUTION, OR IN DEFAULT  
16 OF PAYMENT OF THE FINE OR COSTS, BY IMPRISONMENT FOR NOT MORE  
17 THAN 90 DAYS.

18 (11) AS USED IN THIS SECTION, "PERSON" MEANS AN INDIVIDUAL,  
19 PARTNERSHIP, CORPORATION, ASSOCIATION, GOVERNMENTAL ENTITY, OR  
20 OTHER LEGAL ENTITY.