

HOUSE BILL NO. 4382

April 12, 2023, Introduced by Reps. Morse, Tsernoglou, Paiz, Hood, Liberati, Churches, Rheingans, Byrnes, Fitzgerald, O'Neal, Glanville, Rogers, Brabec, Weiss, VanderWall and Aiyash and referred to the Committee on Local Government and Municipal Finance.

A bill to amend 1956 PA 40, entitled
"The drain code of 1956,"
by amending sections 551, 552, 553, 555, 556, 557, and 558 (MCL
280.551, 280.552, 280.553, 280.555, 280.556, 280.557, and 280.558).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 551. ~~Whenever~~ **As** used in this chapter, ~~except when~~ **unless**
2 otherwise indicated by the context:
3 ~~(a) The term "state" shall be deemed to mean the state of~~
4 ~~Michigan.~~

1 ~~(b) The term "public corporation" shall be deemed to include~~
2 ~~the state of Michigan, counties, cities, villages, townships,~~
3 ~~metropolitan districts and authorities created by or pursuant to~~
4 ~~state statutes.~~

5 ~~(c) The term "agencies" shall be deemed to include those~~
6 ~~officers, boards, commissions and other bodies created by public~~
7 ~~corporations or by the federal government, which are authorized to~~
8 ~~act in their own names.~~

9 ~~(d) The term "director of agriculture" shall be deemed to mean~~
10 ~~the director of agriculture of the state of Michigan.~~

11 ~~(e) The term "project" shall be deemed to mean any flood~~
12 ~~control or drainage project petitioned for or undertaken under the~~
13 ~~provisions of this chapter in any water management district or~~
14 ~~subdistrict. The term shall be deemed to include any alteration of~~
15 ~~streams, rivers, drains, lakes, reservoirs, ponds, swamps, marshes,~~
16 ~~or any other waters, and any of the watersheds thereof. The term~~
17 ~~shall also include any dike, dam, reservoir, pumping station or~~
18 ~~other works involved in such alteration.~~

19 **(a) "Activities" means stormwater management activities, which**
20 **may include, but are not limited to, stormwater review, stormwater**
21 **ordinance drafting, public education concerning stormwater, and the**
22 **acquisition, ownership, construction, improvement, maintenance, or**
23 **conservation of, or other exercise of jurisdiction or control over,**
24 **property rights or stormwater control facilities, infrastructure,**
25 **or equipment.**

26 **(b) "Agency" means an officer, board, commission, or other**
27 **body created by a public corporation or by the federal government**
28 **that is authorized to act in his, her, or its own name.**

29 **(c) "Benefit" means an advantage to public corporations, the**

1 inhabitants of public corporations, or property that results from a
2 water management program, including, but not limited to, a benefit
3 as a result of the contribution of stormwater, a benefit from
4 drainage and flood control of stormwater, or a benefit from the
5 elimination of water conditions that jeopardize the public health,
6 safety, or welfare. The verb "benefit" has a corresponding meaning.

7 (d) "County road agency" means any of the following:

8 (i) A county road commission.

9 (ii) A body that has the powers of a county road commission in
10 a county that adopts a charter under 1966 PA 293, MCL 45.501 to
11 45.521.

12 (iii) The county board of commissioners, if a board of county
13 road commissioners of a county is dissolved as provided in section
14 6 of chapter IV of 1909 PA 283, MCL 224.6.

15 (e) "Day of review" means the public meeting under section 564
16 to review the apportionment of benefits.

17 (f) "Department" means the department of agriculture and rural
18 development.

19 (g) "Director" means the director of the department of
20 agriculture and rural development.

21 (h) "District description order" means an order entered under
22 section 557(3).

23 (i) "Municipality" means a city, village, or township.
24 "Municipal" has a corresponding meaning.

25 (j) "Necessity order" means an order entered under section
26 558(4).

27 (k) "Public corporation" means this state, a county, or a
28 municipality.

29 (l) "Water management board" means a board created under

1 **section 553(1).**

2 (m) **"Water management commission" means a commission created**
3 **under section 553(3).**

4 (n) ~~(f) The term "water~~ **"Water** management district" shall be
5 ~~deemed to mean~~ **means** the area comprising all or part of 3 or more
6 ~~contiguous counties within a single drainage basin in~~ **for** which a
7 ~~project~~ **water management program** is petitioned ~~for~~ or undertaken
8 under the ~~provisions of this chapter. ,~~ and shall include such
9 ~~counties and all public corporations within such area as shall be~~
10 ~~subject to assessment for the cost of such project.~~

11 (g) ~~The term "subdistrict" shall be deemed to mean the area~~
12 ~~comprising that portion of a water management district in which a~~
13 ~~project is petitioned for under the provisions of this chapter,~~
14 ~~which project benefits only 1 or more public corporations within~~
15 ~~the water management district. The term shall include only the~~
16 ~~public corporations or corporations so specially benefited by the~~
17 ~~project.~~

18 (h) ~~The term "commission" shall be deemed to mean the water~~
19 ~~management commission of a water management district.~~

20 (i) ~~The term "board" shall be deemed to mean the water~~
21 ~~management board of a water management district.~~

22 (j) ~~The term "benefit" or "benefits" shall be deemed to mean~~
23 ~~advantages resulting from a project to public corporations, the~~
24 ~~inhabitants of public corporations, and property within public~~
25 ~~corporations. The term shall be limited to benefits which result~~
26 ~~from the drainage and control of water, and shall include such~~
27 ~~factors as: elimination of flood damage; elimination of water~~
28 ~~conditions which jeopardize the public health or safety; increase~~
29 ~~of the value or use of lands and property arising from improved~~

1 ~~drainage and elimination of floods; and the advantageous use to~~
2 ~~which water may be directed as a result of the project, and~~
3 ~~incidental thereto, for agricultural, conservation and recreational~~
4 ~~purposes.~~

5 **(o) "Water management plan" means a plan approved under**
6 **section 560.**

7 **(p) "Water management program" means the activities to be**
8 **performed under a water management program order.**

9 **(q) "Water management program order" means an order entered**
10 **under section 561b.**

11 ~~Sec. 552. (1) Whenever it shall be necessary for the public~~
12 ~~health, safety or welfare to establish a water management district~~
13 ~~to undertake a project in all or part of 3 or more contiguous~~
14 ~~counties in this state for purposes of flood control or drainage, a~~
15 ~~petition therefor may be filed with the director of agriculture,~~
16 ~~signed by 3 or more public corporations, and, if a district with 8~~
17 ~~or more counties, by 3 or more counties, which will be subject to~~
18 ~~assessments to pay the cost of such project. Such petition shall~~
19 ~~state that it is filed pursuant to the provisions of this chapter,~~
20 ~~shall set forth the proposed name of the district and the necessity~~
21 ~~for the project in the interest of the public health, safety or~~
22 ~~welfare; and shall contain a general description of the type,~~
23 ~~purpose and location of the proposed project, which description~~
24 ~~need be only sufficiently accurate as to determine with reasonable~~
25 ~~certainty the waters, works and territory involved in the project~~
26 ~~and the public corporations to be benefited thereby. A map showing~~
27 ~~the boundaries of the proposed district and a certified copy of the~~
28 ~~resolution of the governing body of each public corporation,~~
29 ~~authorizing its signature thereto, shall be attached to the~~

1 ~~petition. Such petition may be filed in more than 1 counterpart.~~ A
2 petition may be filed to establish a water management program.
3 Under the petition process in this chapter, establishment of a
4 water management program follows the establishment of, first, a
5 water management district and, second, a water management plan.
6 Pursuant to a petition under this chapter, an existing water
7 management program may be superseded by a new water management
8 program. The new water management program shall be consistent with
9 the existing water management plan in its current form or as
10 amended under the petition process. Pursuant to a petition under
11 this chapter, a water management plan and water management program
12 may be established for a water management district if a previous
13 petition process resulted in the establishment of a water
14 management district but not a water management plan or water
15 management program.

16 (2) A petition under subsection (1) may be filed in more than
17 1 counterpart. If a petition involves a proposed or previously
18 established water management district with lands in only 1 county,
19 the petition shall be filed with the drain commissioner and signed
20 by any of the following:

21 (a) Authorized officials of 2 or more public corporations that
22 will be subject to assessments under section 563(3)(b) or (c) for
23 proceedings related to the petition. However, if only 1
24 municipality will be subject to assessments at large for benefits
25 to public health, the petition need be signed by only that
26 municipality.

27 (b) At least 50 property owners whose lands would be subject
28 to assessment.

29 (c) If there are fewer than 500 property owners whose lands

1 would be subject to assessment, by at least 10% of such property
2 owners.

3 (3) If a petition involves a proposed or established water
4 management district with lands in 2 or more counties, the petition
5 shall be filed with the drain commissioner of 1 of those counties
6 and signed by any of the following:

7 (a) Authorized officials of 2 or more public corporations that
8 will be subject to assessments under section 563(3)(b) or (c) for
9 proceedings related to the petition.

10 (b) At least 50 property owners whose lands would be subject
11 to assessment.

12 (c) If there are fewer than 500 property owners whose lands
13 would be subject to assessment, by at least 10% of such property
14 owners.

15 (4) A petition under this section shall meet all of the
16 following requirements:

17 (a) State that it is filed under this chapter.

18 (b) Describe the geographic area for which a water management
19 program is sought sufficiently to determine the public corporations
20 that will receive a benefit from a water management program.

21 (c) State that a water management program is necessary for the
22 public health, safety, or welfare.

23 (d) For each public corporation whose authorized official
24 signed the petition, be accompanied by a copy of the authorizing
25 resolution of the governing body of the public corporation.

26 (5) If a petition is filed under subsection (2), the drain
27 commissioner with whom the petition is filed shall review the
28 signatures. If a petition is filed under subsection (3), the drain
29 commissioner shall forward the petition to the director. The

1 director shall identify the counties that will be included in whole
2 or in part in the water management district. The director shall
3 notify the drain commissioner of each affected county and each
4 drain commissioner shall review the signatures for the drain
5 commissioner's county.

6 (6) A reviewing drain commissioner under subsection (5) shall
7 determine the eligibility of property owners to sign a petition
8 under this section and, if the petition's sufficiency is being
9 determined under subsection (2) (c) or (3) (c), the number of
10 property owners with lands in the proposed or established water
11 management district, as of the date the petition was filed, by
12 diligent inquiry into the records in the office of the register of
13 deeds, the probate court, and the circuit court of the respective
14 county. The drain commissioner shall report his or her findings
15 under this subsection to the water management board.

16 (7) If required by the drain commissioner with whom the
17 petition is filed, a petitioner shall submit a deposit with the
18 petition, in an amount determined by that drain commissioner, to
19 pay for any costs incurred in relation to the petition if the
20 petition is dismissed under section 557.

21 ~~Sec. 553. (1) There is created for each water management~~
22 ~~district petitioned for under the provisions of this chapter, a~~
23 ~~water management commission consisting of (a) the drain~~
24 ~~commissioner of each county within the district; (b) 1~~
25 ~~representative of each county within the district, to be appointed~~
26 ~~by the county board of supervisors in the usual manner employed by~~
27 ~~such county in appointing members to county boards or commissions;~~
28 ~~(c) 1 representative of each city or village within the district~~
29 ~~with a population of 5,000 or more, and 1 additional representative~~

~~1 for each 20,000 of population or any major fraction thereof by
2 which the population of such city or village exceeds 10,000, to be
3 appointed by the governing body, but no city or village shall have
4 more than 10 representatives; (d) 1 director of a soil conservation
5 district to be designated by the directors of all such districts
6 within a water management district; and (e) the director of
7 agriculture, who shall serve as chairman of the commission. County
8 soil conservation district and city or village representatives
9 shall be resident property owners of the district and shall serve
10 at the pleasure of the appointing body. Each member of the
11 commission appointed by a county board of supervisors and county
12 soil conservation districts shall receive such compensation,
13 mileage and expenses as shall be provided by the water management
14 commission except that such compensation shall not exceed \$25.00
15 per diem exclusive of mileage and expenses for attendance at water
16 management commission meetings. Members who are drain
17 commissioners, or who are county or city employees, shall be
18 reimbursed for actual and necessary expenses but shall not receive
19 any other compensation. The director of agriculture or his deputy
20 shall not receive any compensation or reimbursement for expenses
21 incurred as a member of the commission. A vote of 3/5 of all of the
22 members of the commission shall be required to approve any
23 preliminary or final order of determination, official plan, final
24 order of apportionment, or other matter involving any assessment or
25 increase in assessment of costs. **If a petition is filed to establish
26 a water management program, a water management board is created. A
27 water management board consists of the following members, as
28 applicable:**~~

29 **(a) For a water management district with lands in only 1**

1 county:

2 (i) The drain commissioner of the affected county, who shall
3 serve as chairperson.

4 (ii) One member representing each municipality subject to
5 assessment at large for benefits to public health. However, if
6 there is only 1 such municipality, the water management board shall
7 include 2 members representing that municipality. A member
8 representing a municipality shall be selected as provided in
9 section 556.

10 (b) For a water management district with lands in 2 or more
11 counties, except as provided in subdivision (c):

12 (i) The director or the director's designee, who shall serve as
13 chairperson.

14 (ii) The drain commissioner of each affected county.

15 (c) Subject to subsection (2), for a water management district
16 with lands in 2 or more counties, at least 1 of which has an
17 appointed rather than an elected drain commissioner and a
18 population of more than 1,000,000:

19 (i) The director or the director's designee, who shall serve as
20 chairperson.

21 (ii) The drain commissioner of each affected county.

22 (iii) An individual appointed by the drain commissioner of each
23 affected county. The appointee shall be an elected official, or his
24 or her designee, of a municipality subject to assessment at large
25 for the water management program. The appointee shall serve for a
26 2-year term and shall not be appointed for successive terms unless
27 the municipality that he or she represents is the only municipality
28 in the county subject to assessment at large. Following the
29 completion of the 2-year term, the drain commissioner shall, if

1 possible, appoint an elected official, or his or her designee, from
2 a different municipality subject to assessment at large for the
3 project. If an appointee fails or refuses to serve or is
4 disqualified, the drain commissioner shall appoint a successor to
5 serve for the remainder of the term.

6 (2) Subsection (1)(c) does not apply if an affected county has
7 a population of more than 1,000,000 and was organized pursuant to
8 1973 PA 139, MCL 45.551 to 45.573.

9 (3) If a water management district for which a petition is
10 filed includes lands in 2 or more counties, a water management
11 commission is also created. A water management commission consists
12 of the following members:

13 (a) The members of the water management board, with the
14 chairperson and secretary of the water management board also
15 serving as chairperson and secretary of the water management
16 commission.

17 (b) The chairperson of the county board of commissioners for
18 each affected county.

19 (c) The chairperson of the finance committee of the county
20 board of commissioners for each affected county. If there is no
21 finance committee in a county, then the chairperson of the county
22 board of commissioners shall select 1 member of the county board of
23 commissioners to act as a member of the water management
24 commission.

25 (4) A water management board or commission shall determine
26 reasonable compensation for and approve necessary expenses of each
27 member of the water management board or commission, respectively,
28 serving on behalf of a county or municipality for each meeting
29 attended. A drain commissioner or the director shall not receive

1 any additional compensation or reimbursement for expenses incurred
2 as a member of a water management board or commission.

3 (5) Unless a water management district and water management
4 program have previously been established, the water management
5 board and any water management commission are dissolved if either
6 of the following occurs:

7 (a) The petition to establish a water management program is
8 found insufficient under section 557.

9 (b) A water management program is found not necessary under
10 section 558.

11 ~~Sec. 555. (1) This section shall pertain to either the water~~
12 ~~management commission or the water management board. Meetings may~~
13 ~~be called by the chairperson or 2 members of either body, upon~~
14 ~~notice sent by registered mail. Except as provided in section 556,~~
15 **the chairperson of a water management board or commission shall**
16 **call each meeting of the water management board or commission,**
17 **respectively, by providing notice** to each member. The notice shall
18 ~~be mailed not less than 10 days before the time of the meeting. be~~
19 **provided by email requesting read receipt verification and by**
20 **first-class mail. The notice shall specify the time, date, and**
21 **place of the meeting. An affidavit of the chairperson that notice**
22 **as required by this subsection was sent is conclusive proof of**
23 **notification.**

24 (2) A majority of the members ~~shall of a water management~~
25 **board or commission** constitute a quorum for the transaction of **its**
26 **business. ~~but~~ A vote in favor by a majority of the members of the**
27 **water management board or commission present and voting is required**
28 **for any action of the board or commission. However, a lesser number**
29 **may adjourn from time to time. ~~A meeting may be adjourned from time~~**

1 ~~to time. Unless otherwise provided in this act, an action shall not~~
 2 ~~be taken by either body except by a majority vote of the members~~
 3 ~~present and voting. In the event of the adjournment of a hearing,~~
 4 ~~it shall not be~~

5 **(3) If a meeting of a water management board or commission is**
 6 **adjourned, it is not** necessary to ~~advertise~~ **provide notice of** the
 7 adjournment. ~~of the hearing. Orders issued by either body shall be~~
 8 ~~signed by its chairperson and secretary.~~

9 **(4) The chairperson shall sign orders entered by a water**
 10 **management board or commission.**

11 **(5) A water management board or commission shall conduct its**
 12 **business in compliance with the open meetings act, 1976 PA 267, MCL**
 13 **15.261 to 15.275. A writing that is prepared, owned, used,**
 14 **possessed, or retained by a water management board or commission in**
 15 **performing an official function is subject to the freedom of**
 16 **information act, 1976 PA 442, MCL 15.231 to 15.246.**

17 **(6) A water management board shall select a treasurer and a**
 18 **secretary.** The secretary shall prepare and sign ~~duplicate originals~~
 19 ~~of the minutes of the proceedings of the body, one to be retained~~
 20 ~~by the chairperson and the other to be filed with the director of~~
 21 ~~the department of agriculture.~~ **water management board.** The
 22 originals of all proceedings and records **of the water management**
 23 **board** shall be kept on file ~~with the secretary. The director of the~~
 24 ~~department of agriculture may require the secretary to furnish~~
 25 ~~certified copies of records of either body in the office of the~~
 26 ~~secretary for filing in his or her office, and the certified copies~~
 27 ~~filed shall have the same force and effect as the originals.~~
 28 ~~Meetings shall be open to the public, and records of either body~~
 29 ~~shall be considered public records and available for inspection~~

1 ~~during regular office hours~~.in the chairperson's office. The
2 chairperson's office is the principal office of the water
3 management board for purposes of this act and any other applicable
4 laws of this state.

5 Sec. 556. (1) ~~Within 30 days following receipt of a petition~~
6 ~~as provided in section 552 of this act, the director of agriculture~~
7 ~~shall review the petition for sufficiency and accuracy, shall make~~
8 ~~a preliminary finding of the counties which in his opinion include~~
9 ~~public corporations that should be assessed under the provisions of~~
10 ~~this chapter, and shall mail written notice of the first meeting of~~
11 ~~the water management commission to the county clerk and drain~~
12 ~~commissioner of each such county, to the highway agencies having~~
13 ~~jurisdiction over all highways, roads and streets in said district,~~
14 ~~to the secretary of each soil conservation district and~~ **The**
15 **chairperson shall call the first meeting of the water management**
16 **board. Not less than 45 days before the meeting, the chairperson**
17 **shall provide notice specifying the time, date, and place of the**
18 **meeting by certified mail to the following:**

19 (a) **For a proposed water management district with lands in**
20 **only 1 county, to the supervisor of each township and the clerk of**
21 **each** city or village ~~clerk of each city and village within such~~
22 ~~counties with a population of 5,000 or more according to the latest~~
23 ~~or each succeeding federal decennial census, which in his opinion~~
24 ~~are subject to assessment for the cost of the project. Such notice~~
25 ~~shall request the appointment of a representative of each public~~
26 ~~corporation so notified to the commission and shall state the time~~
27 ~~and place of the first meeting, which shall be held not less than~~
28 ~~30 nor more than 45 days following the mailing thereof. In the~~
29 ~~event a county board of supervisors of any such county~~ **subject to**

1 **assessment at large for benefits to public health. The notice shall**
 2 **request that the governing body of the municipality appoint a**
 3 **member to the water management board, or 2 members if there is only**
 4 **1 municipality subject to assessment at large for benefits for**
 5 **public health. If the governing body of a municipality does not**
 6 **meet in a regular or special session ~~prior to~~ before the date of**
 7 **the first meeting of the ~~commission, the chairman of the board of~~**
 8 **~~supervisors~~ water management board, the chairperson of the**
 9 **governing body, or, if there is only 1 municipality subject to**
 10 **assessment at large for benefits to public health, the chairperson**
 11 **and his or her designee, shall represent the ~~county~~ municipality at**
 12 **the first meeting, and the ~~board of supervisors~~ governing body**
 13 **shall appoint a member or 2 members, as applicable, to the**
 14 **~~commission~~ water management board at ~~its~~ the governing body's next**
 15 **regular or special session.**

16 **(b) For a proposed water management district with lands in 2**
 17 **or more counties, to the drain commissioners of those counties.**

18 **(2) A member of the water management board appointed by a**
 19 **governing body under subsection (1) (a) serves at the pleasure of**
 20 **the governing body.**

21 **(3) Failure of ~~the~~ a governing body of any public corporation**
 22 **~~entitled to representation~~ to appoint a member to the ~~commission~~**
 23 **~~shall~~ water management board under subsection (1) (a) does not**
 24 **prevent the inclusion of ~~such public corporation~~ in the water**
 25 **management district, ~~nor~~ of lands in the municipality or exempt it**
 26 **the municipality from assessment or other obligations imposed by**
 27 **this chapter. ~~, but such public corporation shall be without~~**
 28 **~~representation until it shall appoint a member. The director of~~**
 29 **~~agriculture shall also send notice of the first meeting to the~~**

1 ~~director of the department of conservation, the state highway~~
 2 ~~commissioner and the county road commission of each county within~~
 3 ~~the district.~~

4 Sec. 557. **(1)** ~~The commission shall elect a temporary~~
 5 ~~secretary, and may adopt rules of procedure or by-laws, not~~
 6 ~~inconsistent with the provisions of this chapter. The commission~~
 7 ~~shall also consider the petition for the project, and shall make a~~
 8 ~~tentative determination as to the sufficiency of the petition and~~
 9 ~~the necessity and practicability of the proposed project. If the~~
 10 ~~commission shall determine that the petition is insufficient, it~~
 11 ~~may enter an order amending or supplementing such petition, which~~
 12 ~~order shall be deemed to constitute a part of the petition. If such~~
 13 ~~order shall result in the inclusion of any additional public~~
 14 ~~corporation which is entitled to designate a member to the~~
 15 ~~commission, the commission shall adjourn the meeting and shall~~
 16 ~~notify the clerk of such public corporation of the time and place~~
 17 ~~of the adjourned meeting, which notice shall be given in conformity~~
 18 ~~with the requirements of the notice provided for in section 556 of~~
 19 ~~this act.~~**At its first meeting after a petition is filed under**
 20 **section 552, a water management board shall do both of the**
 21 **following:**

22 **(a) Determine the sufficiency of the petition, after**
 23 **considering the findings under section 552 as to the number of**
 24 **signatures from eligible signers and, if applicable, the number of**
 25 **persons eligible to sign the petition.**

26 **(b) Unless the water management district has already been**
 27 **established under this chapter, make a preliminary finding of the**
 28 **boundaries of the water management district.**

29 **(2)** ~~If the commission shall at any time determine that the~~

~~1 project is not necessary or practicable, water management board~~
~~2 determines that the petition is insufficient, it shall order the~~
~~3 petition dismissed, enter an order in writing dismissing the~~
~~4 petition, and proceedings under such the petition shall be thereby~~
~~5 terminated. Where a petition for a project has been dismissed, such~~
~~6 project shall not be petitioned for again under this act for a~~
~~7 period of 1 year. If the commission shall find the project~~
~~8 necessary and practicable and the petition, in original form or as~~
~~9 amended by order of the commission, sufficient, it shall proceed~~
~~10 forthwith to select a name for the district, elect a water~~
~~11 management board, and make a tentative determination of the public~~
~~12 corporations to be assessed for the costs of the project. The~~
~~13 commission shall procure preliminary plans which include an~~
~~14 estimate of costs of the project, benefits which will result~~
~~15 therefrom to the various public corporations comprising the~~
~~16 district, and the extent to which each public corporation~~
~~17 contributes to the conditions which make the project necessary. The~~
~~18 commission shall make a tentative determination, based upon such~~
~~19 plans, of the percentage of costs to be assessed to each public~~
~~20 corporation comprising the district, and shall~~ **If a petition under**
~~21 section 552 is dismissed, the costs of the proceedings related to~~
~~22 the petition shall be paid first from any deposit accompanying the~~
~~23 petition. If there is no deposit or the deposit is insufficient,~~
~~24 the balance of the costs shall be paid from the revolving drain~~
~~25 fund of each county in the proposed water management district, or~~
~~26 both.~~

27 (3) If the water management board finds that the petition is
 28 sufficient, it shall enter a district description order to that
 29 effect. The district description order shall set forth in writing

1 all of the following:

2 (a) The name of the water management district.

3 (b) Unless the water management district has already been
4 established, the tentative boundaries of the water management
5 district.

6 (4) If the proposed water management district will include or
7 the established water management district includes lands in 2 or
8 more counties, the water management board shall transmit a written
9 copy of ~~such determination, the district description order~~ together
10 with the petition ~~, any orders amendatory and supplementary~~
11 ~~thereto, and the preliminary plan to the water management~~
12 ~~board.~~ **commission.**

13 Sec. 558. (1) ~~The~~ **After the** water management board **enters a**
14 **district description order, the chairperson** shall ~~fix~~ **set** a time,
15 date, and place ~~it will meet to hear objections to the proposed~~
16 ~~project, the petition for the project, and to the assessments of~~
17 ~~costs as contained in the tentative determination of the~~
18 ~~commission.~~ **for a hearing to do all of the following:**

19 (a) Receive evidence and hear objections in relation to the
20 petition.

21 (b) Determine the necessity of a water management program for
22 the public health, safety, or welfare.

23 (c) Unless the water management district has already been
24 established, determine the boundaries of the water management
25 district.

26 (d) Determine the municipalities subject to assessment at
27 large for benefits to public health.

28 (e) Determine the public corporations subject to assessment
29 for benefits to state highways, county roads, or city or village

1 streets.

2 (2) The hearing shall be conducted by the water management
3 board if the petition involves a proposed or established water
4 management district with lands in only 1 county. Otherwise, the
5 hearing shall be conducted by the water management commission.

6 (3) Notice of the hearing shall be ~~published twice in each~~
7 ~~county involved by inserting the notice in at least 1 newspaper~~
8 ~~designated by the board and published and circulated in the county.~~
9 ~~The first publication shall be not less than 20 days before the~~
10 ~~time of hearing. Notice shall also be sent by registered mail to~~
11 ~~the clerk or secretary of each public corporation proposed to be~~
12 ~~assessed, except that a notice to the state shall be sent to the~~
13 ~~state highway director and the director of the department of~~
14 ~~natural resources and a notice to a county shall be sent to both the~~
15 ~~county clerk and the county road commission. The mailing shall be~~
16 ~~made not less than 20 days before the time of the hearing. The~~
17 ~~notice shall be signed by the secretary of the board and proof of~~
18 ~~the publication and mailing of the notice shall be filed with the~~
19 ~~secretary. The board may provide a form to be substantially~~
20 ~~followed in the giving of the notice. After the hearing, the board~~
21 ~~shall made a preliminary determination as to the sufficiency of the~~
22 ~~petition, the necessity and practicability of the project, whether~~
23 ~~the project should be undertaken, the public corporations to be~~
24 ~~assessed, and shall issue a preliminary order accordingly. The~~
25 ~~order shall be known as the preliminary order of determination. A~~
26 ~~public corporation shall not be eliminated from, or added to, those~~
27 ~~tentatively determined to be assessed without a rehearing after~~
28 ~~notice, except as provided in section 559.~~**provided by the drain**
29 **commissioner of each affected county as follows:**

1 (a) By publication in a newspaper of general circulation in
2 the county not less than 20 days before the date of the hearing.

3 (b) By first-class mail, sent not less than 10 days before the
4 date of the hearing, to each person whose name appears on the last
5 municipal tax roll as owning land within the proposed or
6 established water management district in the county, at the address
7 shown on the roll. If an address does not appear on the roll, a
8 notice need not be mailed to the person.

9 (c) By certified mail, sent not less than 10 days before the
10 date of the hearing, to all of the following:

11 (i) The county clerk.

12 (ii) The county road agency if the county is subject to
13 assessment for benefits to county roads.

14 (iii) The clerk of each city and village in the county subject
15 to assessment for benefits to city or village streets or assessment
16 at large for benefits to public health.

17 (iv) The supervisor of each township subject to assessment at
18 large for benefits to public health.

19 (d) By certified mail, sent not less than 10 days before the
20 date of the hearing, to the director of the state transportation
21 department or his or her designee if this state is subject to
22 assessment at large for benefits to a state highway.

23 (4) After receiving evidence and testimony, the water
24 management board or commission, as applicable under subsection (2),
25 shall do both of the following:

26 (a) Determine all of the following:

27 (i) The necessity of a water management program for public
28 health, safety, or welfare.

29 (ii) If the water management program is necessary, the

1 boundaries of the water management district, unless the water
2 management district has already been established.

3 (iii) If the water management district is necessary, the public
4 corporations subject to assessment under section 563(3)(b) or (c).

5 (b) If the water management program is necessary, enter a
6 necessity order. The necessity order shall set forth in writing the
7 water management board's or commission's determinations under
8 subdivision (a).

9 (5) Unless a water management district has already been
10 established, upon entry of a necessity order, the water management
11 district is established, subject to any appeals provided under this
12 chapter.

13 (6) If the water management board or commission finds that the
14 water management program petitioned for is not necessary, all of
15 the following apply:

16 (a) The water management board or commission, as applicable,
17 shall enter a no-necessity order in writing dismissing the
18 petition.

19 (b) Another such petition shall not be filed for 1 year.

20 (c) The costs of the proceedings related to the petition shall
21 be assessed as follows:

22 (i) Except as provided in subparagraph (ii), to public
23 corporations, at large based on apportionments developed at the
24 discretion of the drain commissioner for each affected county,
25 subject to approval by the water management board.

26 (ii) For a petition to establish a water management program in
27 an existing water management district, to the water management
28 district.

29 (7) Within 10 days after entry of a necessity order, the drain

1 commissioner for each county shall notify each municipality that is
2 liable to pay a percentage of the cost of the proceedings related
3 to the petition by reason of benefits at large for public health.

4 (8) Within 10 days after entry of a necessity order, the owner
5 of any land in the proposed or established water management
6 district, the state transportation department, or any city,
7 village, or county having control of any street or road in the
8 water management district, that is aggrieved by the determination
9 of the water management board or commission may institute an action
10 in the circuit court for the county in which the real property is
11 located for a ruling whether that determination is supported by
12 substantial, material, and competent evidence.

13 (9) After a water management commission enters a necessity
14 order, any further action pursuant to the petition shall be taken
15 by the water management board.

16 Enacting section 1. This amendatory act does not take effect
17 unless Senate Bill No. ____ or House Bill No. 4383 (request no.
18 00505'23) of the 102nd Legislature is enacted into law.