

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

280.391 Abandoned and vacated drains; procedure; private rights; new drain.

Sec. 391.

Any drain or part thereof which has ceased to be of public utility and is no longer necessary or conducive to the public health, convenience and welfare may be declared to be abandoned and vacated in the manner herein provided. Any 5 freeholders of lands in a drainage district or the governing body of any public corporation in whose limits a drain or part thereof is located may petition for the abandonment and vacation of a drain or part thereof. The petition shall be addressed to and filed with the commissioner or drainage board having jurisdiction of such drain. The commissioner or drainage board shall hold a meeting to hear objections to the petition and to the abandonment and vacation of a drain or part thereof therein requested, and shall give notice of such meeting by posting in 5 public places in the drainage district and by publication in a newspaper of general circulation in the drainage district which posting and publication shall occur at least 10 days before the date of such meeting. Private rights of persons acquired by reason of the establishment and construction of such drain or part thereof shall not be interfered with, or in any way be impaired by such abandonment and vacation. If it is determined at such meeting that the drain or part thereof should be abandoned and vacated, the commissioner or drainage board shall issue an order to that effect and file the same with the commissioner of the county or counties involved. Easements or rights-of-way for the drain or part thereof abandoned and vacated or easements or portions thereof no longer necessary for drainage purposes shall be conveyed or released by the commissioner or drainage board on behalf of the drainage district. If it be contemplated to construct a new drain or part thereof on or near the line of an existing drain or part thereof this may be accomplished without abandonment and vacation of the existing drain or part thereof and the easements or rights-of-way of the existing drain or part thereof may be used for this purpose: Provided, however, That if the contemplated project materially damages the property owner beyond the existing easement, or if it materially burdens the existing easement, then the commissioner or drainage board shall secure an additional easement for the contemplated project. It shall not be necessary to abandon and vacate an existing drain or part thereof made unnecessary by a new drain or part thereof until the new drain is constructed and ready for service.

History: 1956, Act 40, Imd. Eff. Mar. 28, 1956 ;-- Am. 1964, Act 107, Eff. Aug. 28, 1964

Popular Name: Act 40