

Bond Case Briefs

Municipal Finance Law Since 1971

New MI Drain Code Amendments Signed into Law.

On Dec. 29, Governor Whitmer signed two Drain Code amendments into law—House Bills 5126 and 5504, now Public Acts 281 and 291, respectively. Public Act 281 does not go into effect until March 29, 2021, however Public Act 291 is effective immediately. Below are summaries of the more significant revisions to the Drain Code:

Public Act 281 (House Bill 5126, Effective March 29, 2021)

Public Act 281 amends Section 135 to allow a county drainage district or intercounty drain drainage district be extended into a new county by a petition signed by five freeholders or a municipality (previously a petition under Section 135 could only be brought by 50% or more of the landowners affected by the drain or the proposed drain). A petition under Section 135 can now be combined with a petition under Section 192 (maintenance and improvement of an intercounty drain).

Public Act 281 also amends Section 154 to separate the notice of letting (advertisement for bids) and the notice of the day of review of apportionments. The notice of letting must only be posted on the drain commissioner or county's website at least 10 days before the bid letting. The notice for the day of review must now be published only once (instead of twice), mailed to property owners, and served (by personal service or certified mail) on the county clerk, a member of the road commission, township supervisors, and city and village clerks at least 10 days before the day of review. The notice for the day of review must now also include all of the following:

- A statement describing how comments on the apportionment of benefits may be submitted and how they will be considered;
- For notices mailed to property owners, the estimated percentage and dollar amount apportioned to that person's land, the estimated annual dollar amount apportioned to that person's land, and the estimated project assessment duration. A drain commissioner or drainage board may adjust any of these without notice or an additional meeting to review apportionments;
- The name or number of the drain;

The address of the drain commissioner or county's website, as applicable, and that the following information will be available on that site:

- A description of the drainage district or a map depicting the drainage district;
- The number and length of sections, average depth and width of each section, and if the drain will be a closed drain, the amount and specifications of all tile or pipe required;
- The location, number, type, and size of all culverts and bridges;
- The conditions upon which the contract will be awarded.

The full text of Public Act 281 is available [here](#).

Public Act 291 (House Bill 5504, Effective Immediately)

Public Act 291 amends various sections of the Drain Code as summarized below:

- Section 31: Requires a drain commissioner to make a list each year by Nov. 1 of the drainage districts that are assessed for maintenance. The list must include the drain name and the amount assessed annually. The list must be posted on the drain commissioner or county's website.
- Section 196: Adds legal fees into the enumerated costs that are excluded from costs of 'maintenance and repair.'
- Section 196: Clarifies that the costs associated with the inspection, maintenance, and repair of a drain can be financed and assessed for up to 10 years.
- Section 196: Prohibits a drain commissioner or drainage board from levying an additional maintenance assessment if a previous maintenance assessment is ongoing, unless an emergency is declared by the drain commissioner or drainage board, or if the additional expenditure is approved by each municipality that is affected by more than 20% of the cost.
- Section 221: Requires a drain commissioner or drainage board publicly bid all petitioned projects under Chapters 4, 6, and 8.
- Section 221: Requires a drain commissioner or drainage board publicly bid maintenance projects under Section 196 unless the work is performed by (1) county staff; or (2) a prequalified contractor. A drain commissioner or drainage board must maintain a list of all prequalified contractors. The list and the criteria adopted by the drain commissioner or drainage board must be posted on the drain commissioner or county's website.
- Section 434: Increases the principal threshold of borrowing subject to the Municipal Finance Act. Previously, if a borrowing was greater than \$300,000, it was subject to the Municipal Finance Act. Under Public Act 291 the Municipal Finance Act applies for borrowings greater than \$600,000.

The full text of Public Act 291 is available [here](#).

December 31, 2020