

**RESOLUTION OPPOSING HB 5060 AND ADVOCATING FOR
REFORMS TO THE DRAIN CODE OF 1956**

WHEREAS, local governments and property owners are charged with assessments incurred as a result of drain construction and maintenance projects, and

WHEREAS, HB 5060 currently under consideration by the Michigan Legislature would increase the amount that could be assessed from \$5,000 to \$10,000 per mile per year without the consent of the impacted local government, and

WHEREAS, this added financial burden could prove excessive for rural townships with limited resources, and

WHEREAS, it is prudent for Drain Commissioners to maintain adequate levels of communication with local governments before undertaking large projects, and

WHEREAS, HB 5060 would undermine the authority of local governments to be involved in projects that significantly impact their financial stability,

BE IT RESOLVED, that the Sanilac County Board of Commissioners opposes HB 5060 as an unnecessary infringement on the rightful authority of local governments to have input on drain projects taking place in their locality.


WHEREAS, the Michigan Drain Code of 1956, as interpreted by an Attorney General opinion from 1944, makes a distinction between “new construction” and “maintenance” projects in regards to the requirement for an advertised bid process, and

WHEREAS, this distinction allows Drain Commissioners to avoid generally accepted procedures designed to maximize transparency and efficiency when soliciting services for drain maintenance projects, and

WHEREAS, this defect in the drain code has the potential to increase costs for local governments and property owners,

BE IT RESOLVED, that the Sanilac County Board of Commissioners urges the Michigan Legislature to amend the Drain Code of 1956 to require that drain maintenance projects follow the same advertising/bid policy currently required for drain construction projects.

The above mentioned resolutions are passed this 3rd day of March, 2020 and are to be forwarded to our members of the Michigan Legislature, The Governor, the Michigan Association of Counties and the Michigan Township Association.



Bob Conely, Chairman

ADDENDUM
TO
RESOLUTION OPPOSING HB 5060 AND ADVOCATING FOR
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The 1956 Drain Code (the "Code") as written is intended to ensure the safety and well-being of the citizens. It includes in numerous section that provide specific and detailed procedure that ensure that the taxpayers get the highest quality service at the best price. However, there are weaknesses within the Code that allow for misinterpretation and manipulations of the Code that allow the exact opposite effect.

The most critical area that need to be addressed relates to how drain improvements (as defined in the drain code) are treated as maintenance. Improvements extend the useful life of a drain, such as cleaning, deepening, widening, straightening etc. Maintenance are simpler things that could suddenly cause a disruption to the flow of the drain. Improvements require sight controls to ensure that the tax payers money is spent in a prudent and responsible fashion. Maintenance has virtually no defined financial controls that protect the tax payer. This loophole needs to be addressed and corrected.

The threshold for bidding requirements on maintenance work is triggered only if the total maintenance cost divided by total miles of the defined drain exceeds \$5,000 per mile. Many of the drains in our county exceed 40 miles in length, which means that the total maintenance cost would have to exceed \$200,000 in total before any bidding for the project would be required. Most of our townships annual budgets are less than \$100,000 and they cannot absorb such high costs.

Furthermore, the financial controls and documentation requirements for drain work that is not bid out and not petitioned fall to the lowest level possible and does not protect the public interest. This weakens or eliminates the public oversight function, proactive financial control or detective financial control. Due to the fact that public funds are spent in such a loosely controlled manner a total revamping of the maintenance work processes as defined in the Code need to be revised and updated to meet modern corporate oversight and generally accepted internal control processes.

Given the fact that virtually all of our county drain projects are defined as maintenance and the total cost are millions of dollars every year, we believe that the afore mentioned issues need to be addressed by the Michigan Legislature.