



Legislative Update

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Legislature Passes Drain Code Amendments

After much hard work and anticipation, the amendments to the Drain Code are now law. The Michigan Senate passed House Bills 4622 and 4793 on the last day of the 2013 session and the bills were signed by the Governor on December 30.

“Over the years, amending the Drain Code has always proven to be difficult and contentious,” said MACDC President Doug Enos. “Even though they may have been ‘low hanging fruit,’ these recent amendments were handled in outstanding fashion by Representative Pscholka.”

Public Act 261 amends Section 197 of the Drain Code to allow a drain commissioner or

drainage board to revise the boundaries of a drainage district under certain situations. Public Act 262 repeals the condemnation procedures within the Drain Code since the Uniform Condemnation Procedures Act applies.

MACDC has compiled draft notices and orders for Drain Commissioners to use in compliance with the new provisions of Section 197. There will be a presentation at the MACDC Winter Conference to discuss the changes to the Drain Code.

“Let’s hope we can continue this success with additional tweaks to the Code,” Enos said. “Good work to all.”

New MISS DIG Law to Take Effect in April

The Michigan Legislature voted in December to replace the existing MISS DIG law. The new law, known as the “MISS DIG Underground Facility Damage Prevention and Safety Act,” will go into effect on April 1, 2014.

The new law includes several definition additions and the adoption of the American National Standards Institute utility color code system, which identifies “sewers and drain lines” as requiring green flags to mark the underground locations.

The new law also clarifies that the requirement to flag underground facility locations does not apply to county or intercounty

drains by a county drain commissioner’s office or drainage board, however, the requirements do apply to sanitary sewers **established under the Drain Code**.

The Legislature also amended the governmental immunity statute to state that governmental immunity does not apply to any liability of a governmental agency under the new MISS DIG law.



Gibson Drain, Genesee County

COMMITTEE SPOTLIGHT

House Transportation and Infrastructure Committee

Committee Members

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 Bradford Jacobsen (R-Oxford)
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Chairman
Wayne
Schmidt

Currently scheduled meetings are available at: www.legislature.mi.gov

Legislative Committee Preparing for 2014 Session

Following the success of the first set of Drain Code amendments, the MACDC Legislative Committee is preparing for another round in 2014. The Committee discussed several ideas and decided on the next set of amendments to support in the Legislature, identifying issues that affect both county and intercounty drains:

Section 5: First, an amendment to Section 5 would add acquiring interests in real or personal property as a corporate power of a drainage district. This amendment is simply for clarification as drainage districts are already authorized to acquire property interests.

Section 101: Currently, Section 101 of the Drain Code does not provide municipalities the opportunity to file an application to lay out and designate an intercounty drainage district. A proposed amendment to Section 101 would allow municipal applications for intercounty drainage district

to be filed in the same manner as Section 51 for county drainage districts.

Section 247: This amendment would clarify that drainage boards may employ attorneys and that drainage districts are responsible for legal fees.

Section 327: Another amendment of interest would allow a road commission to apply for a new intercounty drainage district or petition for an intercounty drain to be located, established, or improved. Currently, Section 327 of the Drain Code is unclear as to whether a road commission may submit such an application and courts have interpreted the Section inconsistently.



Finally, the Committee will be tracking proposed legislation to overhaul all public notice provisions currently in statute, including several within the Drain Code, and make them more internet-friendly.

New Legislation of Interest to MACDC

The following bills of interest to Drain Commissioners and Associate Members are currently pending before the Legislature. Full text and up-to-date action for each bill can be found online on the Michigan Legislature's website at www.legislature.mi.gov.

LOCAL GOVT MANDATE PANEL

House Bills 5059 & 5060, introduced by Rep. Walsh (R-Livonia) and Rep. Kowall (R-White Lake) would create a local government mandate panel to facilitate and ensure compliance with Article 9 § 29 of the Michigan Constitution, also known as the Headlee Amendment, which prohibits its state unfunded mandates for local governments. These bills are in the House Committee on Appropriations.

COUNTY ROADS: WORK IN ROW

House Bill 5096, introduced by Rep. Schmidt (R-Traverse City), would extend to any person or entity the same cap on permit fees currently

established only for governmental units when a permit is requested from a county road commission for a work project within the right-of-way of a county road. This bill is in the House Committee on Energy and Technology.

SOS FILING THRESHOLD

Senate Bill 677, introduced by Sen. Schuitmaker (R-Lawton), would amend Public Act 222 to allow a governmental agency to adopt a hearing process for claims against a governmental agency for a sewage disposal system event similar to that outlined in Senate Bill 336. The bill clarifies that governmental agencies will be immune from liability for damages resulting from a sewage disposal system event if contemporaneously or within 24 hours of an extreme weather event. The bill defines an "extreme weather event" as rainfall of 1.4 inches or more in any hour, or 2.9 inches in any 24 hours. However,

MACDC is opposed to this timeframe as tributaries can delay the time it takes for rain to reach a main channel. This bill is in the Senate Committee on Judiciary.

OPEN MEETINGS: CLOSED SESSION

House Bill 5193, introduced by Rep. McMillin (R-Rochester Hills), would amend the Michigan Open Meetings Act to clarify that a public body may meet in a closed session to consult with an attorney regarding pending litigation, not anticipated litigation. This bill is in the House Committee on Oversight.

OPEN MEETINGS: REENACTMENT

House Bill 5194, introduced by Rep. McMillin (R-Rochester Hills) would amend the Michigan Open Meetings Act to provide that reenacting a decision to comply with the requirements of the Act does not provide a defense to criminal action. This bill is in the House Committee on Oversight.

EPA Takes Public Comment on Permit Exemptions

On December 11, representatives of the Environmental Protection Agency (EPA) Region 5 Water Division visited Lansing to discuss the proposed revisions to Michigan's Wetland Program set forth in Public Act 98 of 2013, including the permit exemptions for county drains.

The EPA held an informational meeting, followed by a formal public hearing, where representatives of various interest groups were allowed to speak in support or opposition to the revisions.

The purpose of the hearing was assist the EPA in determining whether the revisions in PA 98 are consistent with Section 404 of the Clean Water Act.

On behalf of MACDC, Tuscola County Drain Commissioner Robert Mantey, Washtenaw County Public Works Commissioner Evan Pratt and MACDC Legislative Counsel Stacy Hissong spoke in favor of the permit exemptions for county drains, specifically on issues of culvert extensions and the placement of spoils at historical spoil sights.

According to federal regulations, the revisions to the Wetlands Program do not become effective until they are approved by the EPA Regional Administrator and a notice of the decision is published in the Federal Register. The EPA did not indicate when a decision would be made.

Muskegon County Welcomes New Drain Commissioner

On November 7, a three-member special committee appointed Brenda Moore to fill the vacancy in the office of the Muskegon County Drain Commissioner following the passing of the late

Drain Commissioner Dave Fisher. "Even after 30 years in government, I realize there is so much to learn!" Moore said. "Thank goodness there are so many people willing to help."

Prior to her appointment, Moore served as the Muskegon Heights city planning and zoning administrator. She has also served as a past executive director of the Mona Lake Watershed Council.

Senator Jim Ananich (D - Flint)

LEGISLATOR SPOTLIGHT

Senator Jim Ananich (D-Flint) is serving his first term in the Michigan Senate. He currently represents the 27th district, which is located in western Genesee County.

Ananich previously served in the State House before being elected to the Senate in a May 2013 special election. Before coming to the House, Ananich served for four years on the Flint City Council, including one year as its President. A former teacher at Carmen-Ainsworth and Flint Community Schools, Ananich also worked as an education coordinator for Priority Children, helping train Genesee County youth secure internships and jobs.



Senator Jim Ananich

Senator Ananich currently serves on the Senate Economic Development, Transportation, Banking and Financial Institutions, and Health Policy Committees. In addition, he previously served on the House Agriculture and Appropriations

Committees. Finally, he was a co-founder of the Democratic Agriculture Caucus, which includes a diverse group of pro-agriculture legislators from every corner of Michigan. These roles have given him the opportunity to gain hands-on experience working to promote public works projects throughout the district and state.

Ananich has championed a number of economic development efforts that raise the potential for increasing good-paying local jobs, including the Karegondi Water Authority project. "The KWA effort will help create immediate and long-term jobs, allow our region to compete for growing industries, and help provide access to safe, more affordable water for our communities," Ananich said. "Genesee County Drain Commissioner Jeff Wright and the entire regional team deserve recognition for the dedication and collaboration they have demonstrated by moving this project forward."

Senator Ananich and his wife, Andrea, reside in Flint, Michigan.

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The Michigan Association of County Drain Commissioners is dedicated to safeguarding the health, safety and welfare of Michigan's citizens through the protection of property, surface waters and the environment. We seek to accomplish these goals by providing storm water management, flood control, drainage, development review and water quality programs.

We're on the web!

www.macdc.us