

REVOLVING FUNDS FOR DRAINS

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House Bill 5278 (H-2) as reported from committee

Sponsor: Rep. Ben Glardon

Committee: Local Government

Complete to 3-3-16

Analysis available at
<http://www.legislature.mi.gov>

(Enacted as Public Act 115 of 2016)

SUMMARY:

House Bill 5278 would amend Chapter 12 of the Drain Code of 1956, which deals with revolving funds for drains. The intent is to make Section 307, which addresses intercounty drainage districts, mirror Section 306, which addresses single-county drainage districts. This would provide consistency and give the drain commissioner discretion in assessing additional costs of incomplete projects to the parties who would have benefited from the project.

Section 306: County Drainage Districts

Section 306 of the Code applies to a drain commissioner when overseeing a county drainage district. Currently, when revolving fund money has been spent or is owed on engineering, legal, and administrative services, and no improvement has been completed within a period of five years from the order designating the district or entry of the first order of determination, the drain commissioner must report that to the county commissioners, and then the sum can be spread against the designated district or, if a small enough sum, against the property of the original petitioners. House Bill 5278 would add *payment of principal and interest on notes* to the expenditures the section applies to. It also would include, in addition to the order designating the district or entry of the first order of determination "*or the filing of a petition, if a petition has been filed, whichever is later.*"

Under the bill, as is the case now, if a sum is spread against the property of the original petitioners, it must be spread as the commissioners consider just and equitable. However the bill would eliminate language stating, "*based on the same benefit theory as if the improvement had been completed.*"

Section 307: Intercounty Drainage Districts

Section 307 applies to a drainage board when overseeing an intercounty drainage district. Currently, whenever revolving fund moneys have been expended and no improvement has been completed for a period of five years after the order designating an intercounty drainage district, the drainage board is to apportion the cost between counties.

House Bill 5278 would rewrite this provision to say that if money has been expended or a drainage district is obligated to pay *expenses for engineering, legal, or administrative services, or to pay principal and interest on notes*, and if an improvement has not been completed within five years after (1) the order designating a drainage district, (2) *the entry of the first order of determination under Section 122 (see below)*, or (3) *the filing of a petition, whichever is later*, then the drainage board would apportion the costs between the counties.

The first order of determination in Section 122 refers to a finding by the drain commissioners in the various counties creating an intercounty drainage district, which shows why the district

is necessary, the breakdown of the percentages paid by each county, and number of installments in which the drain taxes will be collected.

Additionally, as in current law, if a drain commissioner of one of the counties disagrees with the apportionment of costs among counties within an intercounty drainage district, an arbitration board composed of drain commissioners from unaffected counties in the state will review the apportionment and issue a final decision.

BACKGROUND:

This bill is understood to address a problem facing the Misteguay Creek Inter-County Drainage Board, made up of Saginaw, Genesee, and Shiawassee counties. As part of an ongoing project, the Inter-County Board secured a loan to pay back a promissory note. However, the loan did not cover additional liabilities the drain board had accrued, or liabilities expected to continue to accrue before construction on the project begins. Both Saginaw and Genesee can draw from their revolving funds to pay for the unfunded liabilities, but Shiawassee does not have a large enough revolving fund.

Currently, there is no mechanism whereby a drainage district which loans funds to another drainage district in the same county is guaranteed to be repaid those funds, even if the project does not move forward. This bill is intended to provide that remedy, and bring the language for intercounty drainage districts in line with county drainage districts.

Please refer to this article for information on the Misteguay Creek Inter-County Drainage Board:

http://tricitycitizen.mihomepaper.com/news/2016-01-10/Front_Page/Plans_for_Misteguay_Creek_InterCounty_Drainage_Dis.html

FISCAL IMPACT:

A fiscal analysis is in process.

POSITIONS:

The Michigan Association of County Drain Commissioners supports this bill. (2-17-16)

The Michigan Soybean Association supports this bill. (2-17-16)

Representatives of the Michigan Department of Agriculture and Rural Development testified and indicated neutrality on this bill. (2-17-16)

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.