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BILL ANALYSIS

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Senate Bill 883 (Substitute S-1 as passed by the Senate)
Sponsor: Senator Alan Sanborn
Committee: Natural Resources and Environmental Affairs

Date Completed: 1-16-04

RATIONALE

In the 2002 general election, Michigan voters approved the Great Lakes water quality bond proposal, authorizing the State to borrow up to $1 billion and issue general obligation bonds to finance sewage treatment works projects, storm water projects, and nonpoint source projects that improve the State's water quality. Public Act 397 of 2002 added Part 197 to the Natural Resources and Environmental Protection Act to implement the bond proposal, effective November 5, 2002. Under Part 197, not more than 10% of the bonds may be sold in any year.

The cost of necessary municipal sewer system construction, maintenance, and improvement projects throughout the State over the next few years is expected to be significant. In addition, due to Federal storm water regulations, most urban communities in Michigan will face additional costs associated with water pollution control requirements within the next few years. (For more information on both the Federal regulations and the Great Lakes water quality bonds, please see **BACKGROUND**, below.) In light of the funds needed for municipal sewer systems in the near future, it has been suggested that the maximum amount of bonds allowed to be sold every year should be increased.

CONTENT

The bill would amend Part 197 of the Natural Resources and Environmental Protection Act to increase the amount of Great Lakes Water Quality bonds that may be issued in any year from 10% to 20%.

In making the determination to issue these bonds, the Department of Environmental Quality (DEQ) would have to consider the availability of the workforce to conduct sewage treatment, storm water, and nonpoint source projects, to ensure a competitive bidding process.

MCL 324.19703

BACKGROUND

Great Lakes Water Quality Bonds

The total proceeds of all bonds issued or sold at public or private sale must be deposited in the Great Lakes Water Quality Bond Fund, which was created within the State Treasury under Public Act 397 of 2002. The State Treasurer must distribute the money as described below:

Ninety percent must be deposited into the State Water Pollution Control Revolving Fund (SRF)which provides low-interest loans to assist municipalities in funding wastewater treatment improvements. The projects may include wastewater treatment plant upgrades or expansions, combined sewer overflow abatement, new sewers designed to reduce existing sources of pollution, nonpoint source pollution management measures, and other related wastewater treatment efforts. Qualified municipalities must meet Federal and State program requirements, and demonstrate environmentally sound water pollution control project plans.

Ten percent must be deposited into the Strategic Water Quality Initiatives Loan Program, under which the Michigan Municipal Bond Authority, in consultation with the DEQ, provides low-interest loans to municipalities to provide assistance for one or both of the following sewage system improvements:

improvements to reduce or eliminate the amount of groundwater or storm water entering a sanitary sewer lead or a combined sewer lead; and upgrades or replacements of failing on-site septic systems that were adversely affecting public health and/or the environment.

NPDES Phase II Final Rule

Since 1973, the Federal Clean Water Act has required that all facilities discharging pollutants from a direct point source into the waters of the United States obtain a permit under the National Pollutant Discharge Elimination System (NPDES) program. A "direct point source" is a pipe or manmade ditch that deposits waste directly into a body of water. The majority of facilities with point-source discharges are industrial and commercial facilities, and municipal treatment works that receive domestic sewage from residential and commercial customers. An NPDES permit establishes how much pollution may be discharged based on wastewater flow, the amount of conventional and toxic pollutants in the discharge, the quality of the water into which pollutants are discharged, the potential impact of the discharge on public health, and the proximity of the discharge to nearby coastal waters.

The U.S. Environmental Protection Agency (EPA) established a two-tiered NPDES Storm Water Program in 1990 to address nonpoint source pollution (i.e., runoff) from municipal separate storm sewer systems (MS4s), construction sites, and certain industrial activities. Phase I identified the most significant contributors of storm water discharges (large MS4s, which serve populations of at least 100,000, and construction sites of at least five acres) and required those sources to obtain NPDES permits. The Phase II Final Rule was promulgated in 1999 and extended the permit requirements to smaller MS4s and construction sites, which are required to implement storm water discharge best management practices. Operators of regulated small MS4s must fully implement their storm water management programs by the end of the first permit term, typically a five-year period.

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

The bill would expedite Michigan's progress toward improving sewer systems, enhancing the quality of the waters of the State, and protecting public health and the environment. In view of the high cost of health care, and the importance of tourism, recreation, and agriculture to the State's economy, it makes fiscal sense to keep the drinking water and groundwater safe, clean up beaches, and protect lakes and streams. Funding for wastewater projects is badly needed. According to Committee testimony, the need is estimated at $1 billion in Detroit and $53 billion in southeastern Michigan; and approximately $100 billion is needed throughout the State to ensure that municipal sewer systems are adequate and in compliance with the new Federal regulations.

The bill would give municipalities increased flexibility in upgrading their sewer systems, especially in response to the Phase II Final Rule. Although communities must bear the cost of pre-engineering and preparation work, they do not have to provide matching funds for actual infrastructure construction and improvements. The lack of a local match requirement likely will encourage some communities to request the loans. By increasing the amount of bond proceeds available for loans in a year, the bill would give local governments more options to correct their combined sewer overflow and sanitary sewer overflow projects. Homeowners also would benefit, as the improvements would help to reduce the amount of inflow to municipal systems and prevent sewage backups. Furthermore, the projects could result in 4,000 to 5,000 new construction jobs throughout the State.

Supporting Argument

Reportedly, after a bond sale in Wayne County, there were not enough construction workers to do the necessary work, which resulted in higher bids. In order to ensure competitive bidding, the bill would require the DEQ to consider the size of the available work force in determining to issue Great Lakes water quality bonds.

Legislative Analyst: Julie Koval

FISCAL IMPACT

This bill would double to $200 million the amount of Great Lakes Water Quality bonds that the State is authorized to sell in a single year. The bond revenue supports the State Revolving Fund (loans for local water pollution control projects) and the Strategic Water Quality Initiatives Fund (septic system upgrades and other projects). No bonds have been issued, although it is anticipated that approximately $1 million in bonds will be sold later this fiscal year to support the Strategic Water Quality Initiatives Fund. Assuming 20-year bonds issued at a constant rate of 5%, debt service on an additional $100 million in bonds would be approximately $8 million. Debt service on general obligation bonds is paid from the General Fund.

Fiscal Analyst: Jessica Runnels

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