

DRAIN CODE SPECIAL ASSESSMENTS ON DNR LANDS

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House Bill 4118 (H-1) as reported from committee

Sponsor: Rep. Bill G. Schuette

Committee: Government Operations

Complete to 5-13-25

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

SUMMARY:

House Bill 4118 would amend the Drain Code to allow special assessments to pay the cost of construction of a drain to be levied on lands owned or controlled by the Department of Natural Resources (DNR) in an amount determined by the drain commissioner. Currently, all state-owned lands (except state highways) are exempt from such assessments. The bill would remove DNR lands from this exemption.

Apportionment

In assessing the costs of constructing a drain, the drain commissioner apportions the benefits of the drain, and consequent liability for payment, on a percentage basis, among the following:

- Any township, city, or village traversed or benefited by the drain, on the basis of benefits to the public health, convenience, or welfare.
- Any road authority (city or village, county road commission, or the Michigan Department of Transportation) on the basis of benefits to or the improvement of a street, road, or highway under its jurisdiction.
- Any piece or parcel of land, on the basis of benefits to the land over and above those apportioned above.

The bill would newly provide that the last bulleted item above includes land under the ownership or control of the DNR.

Review of apportionment

Under the bill, if an apportionment of benefits is made against state lands owned or controlled by the DNR and the DNR director does not consent to the apportionment in writing, the drain commissioner would have to notify the director by certified mail of the percentage apportioned against the lands and the date, time, and place for a review of the apportionment by the drain commissioner at a public meeting as generally provided by the code. The notice would have to be mailed at least 20 days before the review.

However, within 10 days after receiving a notice described above, the DNR director could file an objection to the apportionment with the drain commissioner, in which case the apportionment of benefits would be reviewed by the director of the Michigan Department of Agriculture and Rural Development (MDARD). The drain commissioner would have to notify the DNR and MDARD directors of the date, time, and place for a review of the apportionment. At the meeting, the MDARD director, or their deputy, would have to review the apportionment made against the state lands owned or controlled by the DNR and listen to the proofs and allegations of the parties, and could view the lands benefited. The written decision on the apportionment under these provisions would be final.

MCL 280.151 et seq.

BRIEF DISCUSSION:

According to committee testimony, the exemption of DNR-owned land from special assessments levied to pay costs related to a drain places an extra burden on other property owners in the drainage district that benefit from the drain and are assessed accordingly, since the assessment liability that would otherwise be attributable to DNR land must be reallocated among those other owners for payment. This situation also disproportionately affects some areas of the state more than others, based on how much land in the drainage district is owned by the DNR. Supporters of the bill argue that this additional burden on some property owners is unfair, and that the DNR should be assessed for benefits derived from a drain (as the Michigan Department of Transportation now is) to more equitably distribute the costs of those benefits.

FISCAL IMPACT:

House Bill 4118 may increase costs for the Department of Natural Resources if the provisions of the bill provide for drain special assessments to be levied against the department. The extent of this potential cost increase is unclear at present, as the number of assessments levied on the department as a result of the bill is unclear. The bill does not provide funding to support these potential increased costs, they are likely to be absorbed by extant funding, and the bill is unlikely to directly affect departmental revenues. The department's FY 2024-25 funding totals \$534.6 million Gross (\$76.8 million GF/GP) and 2,545.3 FTE positions.

The bill would require MDARD to review and decide on objections made by the DNR to the drain commissioner's apportionment of benefits. This review activity would likely be carried out by MDARD's Intercounty Drain Program, although the review process would be for the apportionment of benefits to DNR for land affected by both intercounty and single-county drains.

MDARD indicates that this proposed process would be similar to the process used by MDARD's Intercounty Drain Program in the review of the apportionment of benefits to the Michigan Department of Transportation for state highways under section 14a of 1951 PA 51.

It is not clear how many apportionments of benefit assessments would be appealed by the DNR, and thus it is not clear what additional resources, if any, MDARD would require. MDARD's Intercounty Drain program is currently funded at \$883,000 general fund revenue, with 5.0 full-time equated positions dedicated to the program.

The bill is unlikely to affect local government costs or revenues.

POSITIONS:

Representatives of the Michigan Association of County Drain Commissioners testified in support of the bill. (3-13-25)

The following entities indicated support for the bill:

- Michigan Farm Bureau (3-20-25)
- Michigan Townships Association (3-13-25)

The Department of Natural Resources indicated opposition to the bill. (3-13-25)

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