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BILL ANALYSIS

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House Bill 4382 (Substitute H-1)

Sponsor: Representative Carl Gnodtke

House Committee: Towns and Counties

Senate Committee: Local Government and Veterans

Date Completed: 3-22-88

SUMMARY OF HOUSE BILL 4382

(Substitute H-1) as passed by the House:

The bill would amend the Drain Code to:

- Increase the amount that could be spent in a year for the maintenance and repair of a drain.
- Provide that surplus construction funds could be deposited in a drain fund for the inspection, repair, and maintenance of the drain.
- Permit a drain commissioner or drainage board to assess a drainage district, for an amount specified in the bill, if the drain fund for that district contained less than a certain amount of funds needed for inspection, repair, and maintenance of the drain.
- Require that the powers and duties of a drain commissioner in a charter county, with a population of more than 2 million at the time the charter was adopted (Wayne County), be performed by a person designated in accordance with the county's charter.

Drain Maintenance Costs

The bill would increase from \$800 to \$3,000 per mile or fraction of a mile the amount that the drain commissioner for a county drain, or the drainage board for an intercounty drain, could spend in any one year for the maintenance and repair of a drain without petition.

Currently, the Code specifies the amount as \$800 per mile or fraction of a mile or 2% of the original cost of the drain and 2% of the extensions of the drain.

Assessments

An assessment for the actual cost of inspection, repair, and maintenance on a drain, or an assessment to be deposited in the drain fund of a drainage district, would have to be made according to benefits received. The expenditure limit of \$3,000 per mile of drain or fraction of a mile would have to be used to calculate the maximum amount that the drain commissioner or drainage board could assess in any one year without a petition or request from a public corporation. The property in a drainage district that benefited from the inspection, repair, or maintenance of the drain would be subject to assessment for that work. A determination of the maximum assessment allowed without petition or request, or of the property that was subject to assessment, would have to be based on the number of miles of drain and areas of the drainage district that received the benefits, and not on the actual number of miles or actual location of the inspection, repair, or maintenance.

If the total expenditure were more than \$3,000 per mile or fraction of a mile, all real property owners subject to an assessment within the drainage district would have to be notified of the assessment by publication in a newspaper of general circulation within the drainage district and by first class mail to the name and address that appeared on the last city or township assessment roll. The drain commissioner would have to make an affidavit of mailing, which would be conclusive proof that the notices were mailed. Failure to receive the notices by mail would not constitute a jurisdictional defect invalidating a drain tax if notice by publication had been given.

Drain Fund

Surplus construction funds remaining after construction of a drain had been completed, or funds remaining after work performed under a petition for maintenance or improvements under the Code had been completed, could be deposited in the drain fund of a drainage district and could be spent for inspection, repair, and maintenance of the drain. Currently, surplus construction funds must be used for maintenance of the drain but cannot exceed the cost of maintaining the drain for one year.

If at any time the drain fund contained less than \$3,000 per mile or fraction of a mile of drain, the drain commissioner or drainage board could assess the drainage district for an amount not more than \$1,500 a mile or fraction of a mile in any one year. The assessment would have to be deposited in the drain fund for inspection, repair, and maintenance of the drain.

Charter Counties and Drain Projects

The powers and duties of a drain commissioner in a county organized under a charter adopted under Public Act 293 of 1966, which provides for the establishment of charter counties, whose charter prescribed an elected county executive, and that had a population of more than 2 million at the time the charter was adopted, would have to be performed by a person designated in accordance with the county's charter.

In a charter county that met the requirements specified in the bill, the county executive would be required to provide, by reorganization plan, for a method of administering projects petitioned for under the Code. The requirements in the Code for "substantive actions and determinations" would have to be followed in administering each project. The county executive, or designee, alone could execute by signature bonds or other obligations of the drainage district

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incurred pursuant to the Code. Pending adoption of a reorganization plan, the method for administering projects in effect would have to continue.

MCL 280.4 et al.

Legislative Analyst: L. Arasim

FISCAL IMPACT

House Bill 4382 (H-1) would have no fiscal impact on State government. Passage of the bill could result in a shifting of local resources away from units of local government to the office of drain commissioner. The actual amount of this shifting would depend on the extent of surplus funds available after a drain construction project was complete.

Fiscal Analyst: G. Olson

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.