



**House  
Legislative  
Analysis  
Section**

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**LAKE BOARD AMENDMENTS  
RECEIVED**

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House Bill 4331 as introduced  
First Analysis (6-1-88)

Mich. State Law Library

Sponsor: Rep. Carl F. Gnodtke

Committee: Marine Affairs and Port Development

**THE APPARENT PROBLEM:**

The Inland Lake Improvement Act provides an administrative framework for conducting lake improvement projects such as dredging. Upon its own initiative or upon receiving a petition from two-thirds of the lakefront property owners, a local unit of government establishes a lake board (whose membership is specified by the act) to investigate the need for and manage the project. A project is funded through a special assessment levied against property owners who benefit from the project; property owners are assessed in proportion to the benefits derived.

Three criticisms have been lodged against the act:

- (1) Although public entities may voluntarily share in the costs of a lake improvement project, they are not required to pay the way private landowners are. Many believe this to be unfair.
- (2) The act is silent on how a lake board is to be dissolved, and thus offers no assurances that a dissolution will be orderly, that surplus funds are disbursed appropriately, or that a dissolution would not occur if a deficit existed.
- (3) The act requires a lake board to retain a professional engineer to prepare certain feasibility studies. Because an engineer is not necessarily an expert in aquatic ecology, it is sometime necessary to hire other experts, as well. Costs could be reduced and efficiency improved if a board did not have to hire an engineer to prepare the required reports.

**THE CONTENT OF THE BILL:**

The bill would amend the Inland Lake Improvement act to:

- make the state and its political subdivisions, including, but not limited to, school districts and local units of government, liable for lake improvement assessments just as other property owners are.
- establish procedures for dissolving a lake board. A lake board could be dissolved through a resolution adopted by a majority of the local governing body which established the board (or a majority of such bodies, if more than one was involved), through petition from two-thirds of the owners of lakefront property, through a resolution adopted by the board itself if it found a proposed project to be unfeasible, and through completion of the project. Excess funds would be returned to the appropriate local units of government. A board could not be dissolved if a financial deficit existed.
- allow required feasibility studies to be performed by consultants other than professional engineers; under current law, a board must hire an engineer.
- clarify that the "preliminary costs" that may be funded by a county revolving fund may include lake studies and environmental studies.

MCL 281.902 et al.

**FISCAL IMPLICATIONS:**

According to the Department of Natural Resources, annual costs to the state for assessments on DNR property are estimated at \$30,000 to \$40,000; however the department says, a lake board project on a lake with major state ownership could result in a large state expenditure. (1-11-88) The Department of Transportation says the bill would result in state liability for the cost of improving state-owned lake property, but does not offer an estimate of the cost. (4-8-87)

**ARGUMENTS:**

**For:**

The present system of assessment of lake improvement projects is unfair to private property owners who must pay not only their share of a project's costs, but the shares that rightfully should be paid by the owners of public property benefited by a project. The burden is even more objectionable where public development of lakefront property greatly increases the use of a lake. If the general public may enjoy the benefits, then the general public should pay its share of project costs. Those costs generally are not very high, compared to many budget items. Annual maintenance costs for a weed control project typically run about \$20,000. Governmental units that believed they had been assessed a disproportionate share of project costs could appeal assessments just like any other landowner. Indeed, if the state believes a project to be environmentally unsound, it already has the authority under the act to intervene to protect the natural resources. Good projects can be stalled for a lack of money, and the bill would offer a larger and more equitable pool of funds from which to draw.

**Response:** Appeal procedures under the act apparently are limited to filing an objection with the lake board.

**Against:**

The bill is bad public policy. In allowing a lake improvement board to levy an assessment against the state, the bill would make state government, which represents all the people, subordinate to a local entity with more narrowly defined interests. The bill could increase costs for state and local governments when adequate funds are especially hard to come by, and could discourage local governments from establishing lake boards unless petitioned by landowners. While many annual maintenance projects are relatively inexpensive, other projects may run into hundreds of thousands of dollars. According to the DNR, payment for assessments against lands under its jurisdiction would come from the Game and Fish Protection Fund. The Department of Transportation reports that its property that is adjacent to inland lakes, including the operating portion

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of highways and railroads, would also be affected. Moreover, according to the DNR, the bill would not guarantee to lake boards that state funds would be forthcoming; disbursement of state money is dependent on the legislative appropriations process.

***Against:***

Requiring local units of government to pay lake improvement assessments could trigger Article 9, Section 29 of the state constitution, which requires the state to reimburse local governments for newly-mandated state costs. Thus, there is a possibility that the state would end up paying a local government's share of the costs.

***Response:*** Since Article 9, Section 29 applies only to expenses mandated by the state and since the state would not be mandating that projects be undertaken, the constitutional requirement would not apply.

***For:***

The bill would correct an oversight in the act by providing procedures, modeled on the way a Berrien County lake board was successfully disbanded, for the orderly dismantling of a lake board. It would protect local units of government against having to pay a district's debts if a lake board dissolved in the face of a deficit.

***For:***

The bill could reduce costs for lake boards by allowing them to hire consultants other than engineers to conduct studies required by the act.

***Against:***

The bill fails to define "consultant," and offers no assurance that such persons will be competent. Further, the language is contradictory in that it would allow a "consultant or other professional" to conduct an "engineering study," rather than differentiating between studies that ought to be done by engineers, necessary for construction and other major projects, and other types of feasibility studies that could be handled by other experts.

***POSITIONS:***

The Michigan Lakes and Streams Association supports the bill. (5-27-88)

The Michigan Townships Association supports the bill. (5-26-88)

The Michigan Association of Counties supports the bill. (5-26-88)

The Michigan Association of County Drain Commissioners supports the bill. (5-31-88)

The Consulting Engineers Council of Michigan, Inc. opposes the bill as currently written because it would allow a non-engineer to perform an engineering study. (5-31-88)

The Department of Natural Resources opposes the bill. However, the department would support the bill if it were amended to delete the provision to make the state and local governments liable for lake improvement assessments, and instead condition state payment for lake improvement projects on DNR-owned land on legislative approval, in the same manner as other appropriation requests. (5-26-88)

The Department of Transportation opposes the bill. (5-26-88)