SFA BILL ANALYSIS

Senate Fiscal Agency • Lansing, Michigan 48909 • (517) 373-5383

Senate Bill 330 (as reported without amendment)
Sponsor: Senator Art Miller, Jr.
Committee: Local Government and Veterans

Date Completed: 11-30-87

RATIONALE

Chapter 21 of the Drain Code authorizes the creation of drainage boards and drainage districts for the purpose of constructing intercounty drains, in which the drain extends into two or more counties. The drainage board establishes the percentage of the costs of the drain and assesses each public corporation (counties, cities, villages, townships, metropolitan districts, the State, or authorities created by State statute) in the drainage district. While a large drainage project can cost millions of dollars, a project often is completed at less cost than estimated. Since a project is almost always completed before bonds to fund the project are paid off, there often is a surplus in the construction fund. The Code prescribes the procedures for disposing of surplus funds. The drainage board is required to use any surplus funds after completion of a construction project for one year's maintenance costs. The board also may direct that the surplus be invested. If bonds had been issued, the board is required to authorize the transfer of funds to the bonds and interest account. After all outstanding drain orders or bonds have been paid, the drainage board must pay any surplus funds, minus the cost of one year's maintenance of the drain, to the public corporations which had been assessed for the project, in direct proportion to the amounts that each unit had been assessed. Upon receipt of the surplus funds, the local units are required to apply the returned surplus funds to drainage problems in their respective jurisdiction. On the other hand, the Code permits a drainage board to use surplus funds before the bonds have expired on intracounty drain projects, which serve one county, to pay off drain projects as they come due, use the extra funds for other drain projects, or pay off a public corporation's assessments. Some people feel that drainage boards for intercounty drain projects also should be given this flexibility in using surplus funds stemming from unexpired bonds.

CONTENT

Senate Bill 330 would amend Chapter 21 of the Drain Code, which deals with intercounty drains, to provide for an alternative method of apportioning surplus funds remaining after the completion of an intercounty drain construction project, but before all bonds on the project are paid.

The bill would allow surplus funds (after providing for one year's maintenance) from intercounty drain projects that did not obtain financing through special assessments under Section 539 of the Code, to be apportioned by the drainage board to separate accounts, to the credit of the public corporations against which the cost of the drain project was assessed. (A "public corporation" would include any city, township, village, county, or the State.) Those apportioned surplus funds could be used only for the following:

- To pay principal and interest on bonds that were issued to finance the drain construction project.
- To pay assessments due from the public corporation, if bonds were not sold.
- At the request of a public corporation, to alleviate drainage problems in that public corporation.

MCL 280.547 et al.

FISCAL IMPACT

Senate Bill 330 would clarify the use of surplus funds after the construction of a drainage project. The bill would have no fiscal impact on local government.

ARGUMENTS

Supporting Argument

County drain boards often find that after completion of a drain project, the fund used to construct the drain has netted a surplus. A surplus sometimes can result when the actual cost of a project turns out to be less than the original cost estimates. In other cases, some drain projects were bonded 20 or 30 years ago and a surplus of funds developed over the years. These funds then were invested and interest accrued on them. Surplus funds for intercounty drain projects, however, cannot be used until bonds on that project have expired. The bill would allow drain boards for intercounty drain projects the flexibility to decide where the surplus could be best used, as now allowed in the Code for intracounty drains.

Opposing Argument

Spending these surplus funds before the bonds have expired would not be a financially sound policy.

Response: Under the Code, the costs of an intercounty drain project are assessed against local units of government. Bonds may be issued to finance the project in anticipation of the collection of payments, which generally are divided into annual installments, from the local governments involved. These local governments then can levy millages to retire this debt. There is no risk in permitting the use of surplus funds that may have generated over the years even before the bonds have come due. Local governments are billed annually over the life of the bond issue to pay off the bonds. Most localities likely would continue at the same rate since there is no requirement in the Code that bonds be paid off early. Thus, regular payments still would be made. If a surplus were to develop, rather than having to wait to use these surplus funds until the bonds were retired, which could be as long as 10 to 30 years, it would be more beneficial if local communities could have more immediate access to a surplus. This would be particularly helpful in those instances in which a large surplus existed and a municipality needed a drainage project to alleviate an imminent drain problem because the surplus could be used to finance the new project, which still would have to be approved by the drainage board.

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