



**House
Legislative
Analysis
Section**

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DRAIN MAINTENANCE FUNDS

FILED

MAY 23 1989

House Bill 4727

Sponsor: Rep. James A. Kosteva

Committee: Towns and Counties

Mich. State Law Library

Complete to 5-3-89

A SUMMARY OF HOUSE BILL 4727 AS INTRODUCED 4-27-89

The bill amend the Drain Code to would allow surplus drain construction funds to be deposited in a fund established for drain repair, inspection, and maintenance, and would add certain exemptions to the annual expenditure limits for drain maintenance and repair.

In addition, the bill would exempt Wayne County from the code's provisions governing the selection of a county drain commissioner, and instead require it to designate, in accordance with its charter, someone to perform the duties of drain commissioner. It also would specify membership on drainage boards for Wayne County.

Drain maintenance funds. The Drain Code currently requires that surplus funds from assessments for drain construction or maintenance be used for maintenance of the drain; however, the funds so used cannot exceed the cost of maintaining the drain for one year. The bill would allow a drain commissioner or drainage board to establish a maintenance fund for each drainage district, using surplus funds remaining after completion of the construction of a drain, or of work performed for drain maintenance or improvements.

Exemptions from limitations for maintenance and repair. Under the Drain Code, there is an annual upper limit to the amount a drain commissioner or drainage board can spend for maintenance and repair of drains without first being petitioned by two or more governmental units that would be assessed to pay the costs. (Currently, this annual expenditure limit is \$800 per mile, or fraction of a mile, or two percent of the original cost of the drain and its extensions.) However, if the cost of maintenance and repair of drain includes utility charges, the drain commissioner or drainage board may exceed this annual limitation and levy special assessments sufficient to pay those utility charges without first getting approval from the affected local units of government.

In addition to the current exemption of utility charges from the limitation on the amount that could be spent annually on maintenance and repair, the bill would add exemptions for costs to service pumping stations, sewage treatment facilities, or retention basins.

Charter counties. A county organized under the charter county act (Public Act 293 of 1966), with an elected executive and a population of more than 2,000,000 when the charter was adopted, would be exempted from the Drain Code's requirements regarding the election of county drain commissioners. (This provision would apply to Wayne County only.) Instead of electing a drain commission, Wayne County would be required to designate someone, in accordance with the county's charter, to assume the powers and duties of the drain commissioner.

Wayne County also would be required to have a drainage board consisting of three people: the person designated by the county charter to carry out the

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administrative duties of the drain commissioner (or his or her designee), the county commissioner whose district would be assessed for the greatest portion of the cost of the project (or his or her designee), and someone appointed by the county executive. Initially, the chairperson of the drainage board (who would be the person designated by the county charter to carry out the drain commissioner's administrative duties) would decide, when the petition for the project was filed, which county commissioner was qualified to sit on the drainage board. After the final order of apportionment had been issued (which sets out the boundaries of the drainage district), the county commissioner from the district paying the largest portion of the assessment would become the county commissioner member and serve until another apportionment was established requiring the seating of another commissioner.

Finally, in administering each intracounty drain project initiated by petition, Wayne County would have to follow the requirements in the code's chapter on intracounty drains for "substantive actions and determinations," subject to and in accordance with any applicable provisions of the county's charter.

MCL 280.4 et al.