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SEWER SEPARATION/SPECIAL ASSESSMENTS

House Bill 4147 as introduced First Analysis (2-28-01)

Sponsor: Rep. Joseph Rivet
**Committee: Local Government and
Urban Policy**

THE APPARENT PROBLEM:

Until the 1970s, it was customary for the developers of residential neighborhoods to design, and for civil engineers in local governments to approve, combined storm and sanitary sewers. Residential and municipal drainage systems were installed so that the sewage run-off that collected in the sewage leads from a home's sanitary drains was combined with the rainwater run-off that collected in a home's footing drains. In this way, sanitary drains and storm drains could use the same system of sewers. During the past two decades, builders and local officials have grown increasingly aware that the combination of sanitary and storm run-off in one system of sewers presents an unacceptable health hazard. The health hazard occurs during any period of heavy rainfall or snowmelt when the water's volume exceeds the sewer's capacity. At those times the rain or snow water "combines" with the sewage in the sewer, and it overflows. To prevent overflows, some local units of government have passed ordinances to require property owners to "disconnect" their storm drains from their sewage drains, in order to separate the run-off from their homes. Since separating a combined storm and sewer system is very expensive to individual homeowners, sometimes costing \$2,500 or more for each property, some local units have established special assessment districts so that homeowners in a residential area can share the costs. Assessment districts of this kind can help to make the sewer drain improvements affordable for those on fixed incomes such as some senior citizens.

In addition to local ordinances that regulate residential construction, Michigan has passed laws to require communities to separate their storm and sanitary sewers, and, since 1993, has provided funds to communities to help them pay for new, or upgrade existing, separated systems in which wastewater is treated before it is returned to rivers or lakes. See *BACKGROUND INFORMATION* below. Compliance with the laws is monitored in the state by the Department of Environmental Quality (DEQ), and by

the federal Environmental Protection Agency (EPA). According to committee testimony, the EPA is expected to promulgate new rules under the Clean Water Act (CWA) within five to seven years. Those rules likely will prohibit combined sewer and storm drains without exception. During the interim, local units of government are being encouraged to adopt policies that require citizens to separate their drains and to prevent overflows. Some charter townships want to levy special assessments to pay for the expense of separating storm water drains from sanitary sewers on private property. While townships may already have the authority to do this under current law, the Charter Township Act does not specifically authorize charter township officials to levy such assessments. Accordingly, legislation has been introduced that would enable a charter township to do this.

THE CONTENT OF THE BILL:

Currently, under the Charter Township Act, a charter township may determine the necessity of local and public improvements, such as paving streets that are not part of the county highway system, and laying sidewalks and storm and sanitary sewers. The act also specifies that a charter township may maintain or operate the improvements. Further, under the act, the charter township may determine that all or part of the improvement's expense be defrayed by special assessment on lands abutting or benefiting from the improvement. House Bill 4147 would amend the act to include the "separation of storm water drainage and footing drains from sanitary sewers on privately owned property for a public purpose" under such improvements. As a result of the bill, a special assessment could be levied on a project to separate stormwater systems from sanitary sewers.

MCL 42.31

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BACKGROUND INFORMATION:

Combined Sewer Overflows. The problem of combined sewer overflows poses a threat to the state's many bodies of fresh water, including the Great Lakes. It has been reported that as a result of such overflows, up to 20 billion gallons of contaminated wastewater are discharged into state waterways annually. Combined sewer overflows are those that carry both municipal waste and storm water in a single conduit, or pipe, to a wastewater treatment facility. When heavy rain or melted snow fills these systems to capacity, the storm water "combines" with the sanitary sewage in the pipes, and, if the combined volumes of storm water and sanitary sewage exceed the capacity of the municipal treatment plant, the excess volume is diverted away from the plant and "overflows" untreated, and is discharged into lakes and streams. The pollution problem occurs frequently in areas of the state that lack sewer systems able to handle both storm water and wastewater safely. Along with raw sewage, combined sewer overflows dump pesticides, fertilizers, oil and grease, and untreated toxic substances into Michigan waters.

To protect the public health, municipalities in which overflows occur are required to inform the state, the public, and affected communities of a discharge and to be responsible for necessary testing. Under the Natural Resources and Environmental Protection Act, a municipality must notify the Department of Environmental Quality, newspapers, and affected (downstream) municipalities, when it discharges untreated sewage from a combined sewer system.

In response to concerns about storm water runoff, 1987 amendments to the federal Clean Water Act included provisions that specifically addressed storm water discharges. Under those amendments and subsequent federal rules, states to whom enforcement had been delegated under the National Pollutant Discharge Elimination System (NPDES) program and the Clean Water Act must have storm water discharge permit programs meeting certain criteria. To help ensure compliance with the laws, and to assist communities as they build and pay for separate systems, Michigan has created the Storm Water Fund (whose revenues come from discharge permit fees), and also provides financial assistance to communities through the State Water Pollution Control Revolving Fund. In addition, villages can issue bonds for combined sewer overflow abatement facilities.

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, the bill would have no fiscal impact on the state. (2-20-01)

ARGUMENTS:***For:***

The bill would simply make it clear that charter townships can levy special assessments for the purpose of paying for projects separating storm water systems from sanitary sewers. The Charter Township Act already permits special assessments for the laying of storm and sanitary sewers, but not specifically for separating storm and sanitary sewers on private property.

POSITIONS:

The Department of Treasury does not oppose the bill. (2-27-01)

Analyst: J. Hunault/R. Young

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.