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SEWER SEPARATION/SPECIAL ASSESSMENTS

House Bill 4799 (Substitute H-1) First Analysis (6-7-01)

Sponsor: Rep. Tony Stamas
**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. For instance, in June 1996 residents of the City of Midland suffered major sewage overflows when a particularly intense storm hit the city with over four inches of rainfall in approximately two and a half hours. It had rained fairly consistently during the two weeks preceding the storm, and the pipes carrying the city's waste and storm water on to the wastewater treatment facility could no longer handle the volume. Since then, the city has replaced those pipes with pipes twice their size, which should help prevent future problems. Still, city officials believe that a comprehensive, long-term solution would necessarily include the separation of footing drains from sewage drains.

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. Other local ordinances require that new homes be built with separate storm and sewage drains. In addition to such local ordinances, 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). 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. Since separating a combined storm and sewer system is very expensive to individual homeowners, sometimes costing \$2,500 or more for each property, some cities would like to establish special assessment districts so that homeowners in a residential area can share the costs. Some cities want to levy special assessments to pay for the expense of separating storm water drains from sanitary sewers on private property, and the Home Rule City Act does not authorize this.

THE CONTENT OF THE BILL:

House Bill 4799 would amend the Home Rule City Act to permit a city, in order to protect the public health, to adopt an ordinance providing for the separation of storm water drainage and footing drains from sanitary sewers on privately owned property. The city's legislative body could determine that the separation was a public improvement made for a public purpose. Further, it could provide for the coverage of the cost of the improvement by means of a special assessment on lands that benefited from the improvement or by any other lawful charge.

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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:

Fiscal information is not available.

ARGUMENTS:***For:***

Overflows of combined waste water and storm water pose serious public health risks, wherever they occur. Thus, cities should be permitted to require the separation of storm water drainage and footing drains from sanitary sewers on private property, as a public improvement. Since doing so can be quite expensive—and may be prohibitively expensive for elderly homeowners on a fixed income and low-income homeowners in general—the city should be allowed to defray the expense by a special assessment upon lands that benefit from the separation.

Against:

Some homeowners already have their footing drains connected to a sump pump for discharge to a storm sewer. They may be construed as benefiting from the improvements to other homeowners' property, since combined storm and sanitary sewers pose a public health risk. However, they are not contributing to the public health risk, and thus requiring them to pay for improvements on others' private property is unfair. The bill should exempt such homeowners from special assessments and any other means by which the city provides for payment of the expense of separating storm and footing drains from sanitary sewers on private property.

POSITIONS:

The Michigan Municipal League supports the bill. (6-5-01)

Analyst: J. Caver

■ 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.