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Senate Bill 217 (Substitute S-4 as reported)
Sponsor: Senator Gerald Van Woerkom

Committee: Agriculture, Forestry, and Tourism

## **CONTENT**

The bill would amend the Drain Code to revise and consolidate certain provisions and do the following:

- -- Reduce the number of petitions and petitioners necessary to establish or construct a county drain.
- -- Increase the number of public hearings conducted before a drain could be established or constructed.
- -- Permit landowners to petition for a drainage project to enhance or improve the drain's natural resources value and its function.
- -- Increase from \$1,500 to \$2,500 per mile the amount that may be spent per year on maintenance of a drain, and provide for replenishment of a drain fund if it fell below \$5,000 per mile; and, for county or intercounty drains, permit these amounts to be increased by up to \$5,000 per mile and \$10,000 in a drain fund.
- -- Revise the method by which the costs and benefits of a county drain project may be apportioned to counties, municipalities, private landowners, and public corporations.
- -- Replace references to "the public health, convenience and welfare" (in regard to the need for establishing, constructing, or maintaining a drain) with references to "the public health, safety, or welfare".
- -- Increase from three to five the number of disinterested individuals who must sit on a board of determination.
- -- Require that members of a board of determination be selected from a pool of eligible candidates chosen by a drain commissioner.
- -- Require that a board of determination reconsider a project if a bid were over \$250,000 or exceeded the original cost estimate by more than 25%.
- -- Require an inspection at least every three years of a drain constructed, restored, or improved after the bill's effective date.
- -- Provide for civil fines up to \$10,000 if a person refused to remove an obstruction in a drain.
- -- Provide for the manner and timing of additional notices required under the Code.

The bill also would repeal specific sections and chapters of the Code.

MCL 280.1 et al Legislative Analyst: Claire Layman

## **FISCAL IMPACT**

The bill would increase State expenses by an unknown and likely negligible amount and have little to no effect on State revenues. The bill also would have an indeterminate impact on both local unit revenues and expenses. Without knowing the specific drains that would be affected by the bill, or the costs related to the drains and the properties included in the drain districts, it is impossible to evaluate the fiscal impact of the bill. Generally, the bill

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would do little to change the total cost of a drain, although the allocation of the costs could be different.

The most significant aspects of the bill that would affect the cost of drains are the provisions relating to the minimum funds that must be present in the drain fund for a drain. Because these minimums would be increased under the bill, the total cost of any given drain would be larger. Costs paid by the fund also could be minimally higher under the bill, given that the bill would require each drain to be inspected at least every three years, while current law allows annual inspection of drains. To the extent that inspections are not occurring at least every three years, some drains would have higher inspection costs. The effect of more frequent inspection on repair and maintenance expenses is unknown. More frequent inspections could possibly lower or increase the cost of repairs and maintenance compared with current law. However, to the extent that drain funds would require a higher balance and increased inspections would increase at least inspection costs, entities responsible for paying drain assessments could see more frequent and possibly larger assessments than under current law.

The allocation of costs for a drain could change under the bill. For example, when bonds issued to fund a drain mature, if there are insufficient funds to pay the bonds, an additional assessment may be levied. Current law excludes certain properties from the additional assessment, while the bill would remove those exclusions. As a result, if and when additional assessments are required, some taxpayers could receive a smaller assessment than under current law while other, previously exempt taxpayers, would receive an assessment. On the other hand, if such circumstances are infrequent and/or the deficiencies are generally small, the changes would be minimal. To the extent that the apportionment of benefits and costs would be altered by any provision in the bill from those under current law, some entities would receive smaller assessments while other entities would receive larger assessments.

State and local expenses could be increased because current law exempts certain properties owned by these entities from additional assessments when the balance in a drain fund is insufficient to pay any outstanding bonds that are due, and the bill would repeal that exemption. Local units also could incur increased expenses because of more frequent inspections of some drains. State and local revenues could increase negligibly under the bill if property values were increased as the result of presumably better maintained drains and/or increasing the number of drains established relative to the number of drains needed.

Local units could also incur greater expenses because of the increased hearing requirements and larger membership requirements for drain boards. Such costs would be offset by increased revenues assessed against entities affected by a drain. In addition, the bill would increase local unit revenues to the extent that individuals would be subjected to penalties for not removing obstructions from drains. No estimate is available for the number of such individuals.

This estimate is preliminary and will be revised as new information becomes available.

Date Completed: 3-3-04 Fiscal Analyst: David Zin

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.