

Legislative Analysis



TIME EXTENSIONS FOR RESIDENTIAL SEWER LINE CONNECTIONS IN CITIES OVER 80,000

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House Bill 4200 (Substitute H-2)
Sponsor: Rep. Robert Gosselin
Committee: Government Operations

First Analysis (2-16-05)

BRIEF SUMMARY: The bill would amend the Public Health Code to extend the time frame for connecting to available city sewer lines in cities with populations of 80,000 or more.

FISCAL IMPACT: The bill would have no apparent fiscal impact on the state or local governmental units.

THE APPARENT PROBLEM:

In some sections of mature cities where homes were built before the existence of municipal sewer systems, homeowners maintain separate on-site septic systems to accommodate each residence's wastewater needs. When a municipal sewer system is expanded to serve more customers, all or a portion of the cost is generally assessed to the property owners who are adjacent to, and would benefit from, the sewer extension and who reside within the special assessment district established by the municipal government. That special assessment paid by the property owners covers the cost of the design, engineering, and construction of the improvements to the sewer system. In addition, upon completion of the sewer system, the nearby property owners pay a one-time connection fee (customarily called a 'tap-in' fee) which typically varies in cost, between \$6,000 and \$10,000 depending on the distance from the home to the sewer line, although the local unit may defer all or a portion of the fee if the property owner is unable to pay the fee.

Under the Public Health Code, property owners must connect to an available municipal sewer system if so required by the local government. In the City of Troy (Oakland County) there are approximately 450 separate on-site septic systems constructed about 40 years ago whose owners maintain them (at their own expense) according to local ordinances. Although these on-site septic systems will eventually fail, many continue to function adequately, and many property owners do not wish to finance the construction and expansion of municipal sewer systems through connection fees and special assessments, since they already pay to maintain their septic fields. This opposition has reportedly stymied the expansion of the municipal sewer system – an expansion said to be needed by some of the residents in the area whose on-site septic systems have already failed, and also to foster commercial development in the region.

The City of Troy would like to give homeowners with septic systems in proper working order the choice of opting out of the connection fee.

THE CONTENT OF THE BILL:

The bill would amend the Public Health Code (MCL 333.12753) to allow for extensions of the time frame for connecting to available city sewer lines in cities with populations of 80,000 or more.

The health code requires structures in which sanitary sewage originates to be connected to an available public sanitary sewer in a city, village, or township and provides deadlines for the connection.

House Bill 4200 would add that, in a city with a population of 80,000 or more, the owner of a residential structure required to be connected to an available sanitary sewer could request an extension of the time limit. Upon request, the city could grant an extension for a period of time it determined appropriate, or for as long as an existing septic tank disposal system was in satisfactory operating condition and did not constitute a threat to the public health, safety, or welfare.

The bill would require the Department of Environmental Quality to adopt guidelines to assist local health departments in determining what septic tank disposal systems are in satisfactory operating condition.

The added provisions would only apply if less than two percent of the residential units within the city are not connected to the public sanitary sewer.

In addition, the code currently provides that local units can require sewer connections within a shorter time period "for reasons of public health." The bill would make that provision apply "for reasons of public health, safety, or welfare."

ARGUMENTS:

For:

Local units of government that provide sewer system services should have the option of allowing their citizens to delay connecting to a sewer extension, if the residents have an adequate, personally maintained septic system. This option will give local officials more flexibility to design and finance sewer construction projects when those projects are thwarted by citizens who resist costly connection fees because they have other sewer services. Moreover, the scope of the bill is greatly limited, by applying only to cities with a population of at least 80,000 and where fewer than two percent of the residential units within the city are not connected to the municipal sewer system.

Response:

Officials from the Department of Environmental Quality testified that it is their opinion that the existing statute already provides local municipalities with flexibility in requiring residents to connect to their municipal sewer systems. The current deadlines apply only where the local unit requires a sewer connection, and a local unit could already design a requirement that allows for exceptions. The Public Health Code provides, in part, that structures shall be connected to an available (that is, within 200 feet) public sanitary

sewer system *if required* by the local municipality, and that the connection shall be made: (1) *before* the municipality requires the connection or (2) within 18 months after the municipal sewer is first constructed or after the structure to be connected to the sewer is built. There does not appear to be a blanket requirement that all sanitary sewer connections be completed within 18 months. [See MCL 333.12753(3)]

Against:

The bill would permit on-site septic systems to continue to operate even after the municipal sewer system is constructed provided that the septic system "is in satisfactory operating condition." This would require regular ongoing inspections conducted by the local government, local health department, or the DEQ. Unfortunately, these inspections typically do not occur with any regularity, as the local government, local health department, or DEQ do not have the capacity to conduct these inspections. There is no provision for funding these inspections. The bill would also require the DEQ to adopt guidelines to assist local health departments in determining which septic systems are operating in a satisfactory manner. This, the DEQ notes, "would be a substantial and time consuming undertaking," for which the bill provides no additional funding.

Response:

There appeared to be an understanding at the committee hearing on the bill that amendments would be forthcoming attempting to address some of the department's concerns.

POSITIONS:

Representatives from the City of Troy testified in support of the bill. (2-15-05)

The Department of Environmental Quality does not support the bill. (2-15-05)

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■ 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.