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BILL ANALYSIS

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House Bill 4688 (Substitute H-1 as passed by the House)  
Sponsor: Representative Neal Nitz  
House Committee: Agriculture  
Senate Committee: Agriculture

Date Completed: 2-6-08

### **CONTENT**

**The bill would amend Chapter 8 of the Drain Code (which deals with cleaning, maintenance, and repair of drains) to do the following:**

- Allow a drainage commissioner or drainage board to assess a drainage district in any one year up to \$2,500 per mile of drain if the district's drainage fund contained less than \$5,000 per mile, instead of assessing up to \$1,250 per mile if the fund contains less than \$2,500.**
- Increase the amount that a drain commissioner may spend without petition for necessary maintenance and repair of a drain in any one year from \$2,500 to \$5,000 per mile of drain, and exclude certain costs from the limit.**
- Permit that portion of the salaries, expenses, and benefits for certain employees that was directly attributable to a drain to be chargeable to the drain fund of a district, rather than requiring the salaries, expenses, and benefits of specified employees working incidental to the operation, repair, or maintenance of a drain to be paid from the county general fund.**
- Remove a provision making it a misdemeanor to violate Section 196 of the Code (the section the bill would amend).**

Currently, if the drain fund of a drainage district contains less than \$2,500 per mile of drain or fraction of a mile, the drain commissioner or drainage board may assess the drainage district for up to \$1,250 a mile or fraction of a mile in any one year.

Under the bill, instead, if a district's drain fund contained less than \$5,000 per mile or fraction of a mile of drain, the commissioner or drainage board could assess up to \$2,500 per mile or fraction of a mile in any one year. As currently required, the amount collected would have to be deposited in the district's drain fund for necessary inspection, repair, and maintenance of the drain.

Under the Code, if an inspection discloses that it is necessary to spend money for the maintenance and repair of a drain in order to keep it in working order, the drain commissioner (for a county drain) or the drainage board (for an intercounty drain) may without petition spend in any one year up to \$2,500 per mile or fraction of a mile for maintenance and repair of the drain.

The bill would increase that limit to \$5,000 per mile or fraction of a mile, exclusive of inspection and engineering fees and the cost of publication and mailing (and would refer to that amount in place of the current \$2,500 per mile throughout the section). The

determination of the maximum expenditure allowed without a petition or resolution would have to be based on the total number of miles or the location of the maintenance or repair.

Currently, the salaries, expenses, and benefits of clerical, administrative, and engineering employees of a drain commissioner or drainage board working incidental to the operation, repair, or maintenance of a drain must be paid as budgeted from the county general fund and are not chargeable to or by the drain fund of a drainage district.

Under the bill, instead, that portion of the salaries, expenses, and benefits of administrative and engineering employees under the supervision of a drain commissioner that were directly attributable, but not incidental, to a drain or otherwise not recovered by fees established by resolution or ordinance of the board of commissioners could be chargeable to the drain fund of a drainage district, except as otherwise provided.

Under the Code, a violation of Section 196 is a misdemeanor, punishable by imprisonment for up to one year, a maximum fine of \$1,000, or both. The bill would delete that provision.

MCL 280.196

Legislative Analyst: Curtis Walker

### **FISCAL IMPACT**

The bill's provisions regarding drain funds and maintenance expenses would have no fiscal impact on State government but could increase local unit revenue and expenses by an unknown amount. It is unknown how many local units have drain funds with balances between \$2,500 and \$5,000 per mile of drain, or the amount that would be assessed as a result of the bill. Similarly, it is unknown how many drains require maintenance and repair that would cost between \$2,500 and \$5,000 per mile of drain. It is also unknown to what extent excluding certain fees and expenses from consideration of the limits would affect local units.

To the extent that the removal of the misdemeanor penalty decreased convictions, local governments would incur decreased costs of misdemeanor probation and incarceration, which vary by county. Penal fine revenue benefits public libraries.

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.