

Legislative Analysis



DISSOLUTION OF LAKE IMPROVEMENT BOARDS

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House Bill 4379 (Substitute H-1)

Sponsor: Rep. Eileen Kowall

Committee: Natural Resources, Tourism, and Outdoor Recreation

First Analysis: 5-23-11

BRIEF SUMMARY: House Bill 4379 (H-1) would amend the Natural Resources and Environmental Protection Act (NREPA) by altering the procedure by which a lake improvement board may be dissolved. Currently, for a public inland lake, a public hearing to dissolve a lake improvement board must be held upon petition of 2/3 of the property owners owning land abutting the lake. This legislation would add a similar provision requiring a public hearing to be called upon petition of the property owners who have been assessed at least 2/3 of the cost of the most recent improvements, excluding the amount assessed to local units at large. (This allows property owners whose property is not abutting the lake but who are being assessed the same opportunity to petition for the dissolution of a lake board.)

FISCAL IMPACT: House Bill 4379 would have no fiscal impact to the State of Michigan. It does not appear that the provisions of the bill would have any significant fiscal impact to local units of government.

THE APPARENT PROBLEM:

Hundreds of lake boards have been established to provide for the maintenance and improvement of inland lakes. Once a lake board is established only those living directly on the lake or the appropriate local units of government can cause a lake improvement board to be dissolved. Local units can instruct a lake board, via resolution, to undertake lake improvement projects. The lake board is charged with determining the scope of the improvement project and is given authority to establish a special assessment district, which includes all parcels of land and local units that will benefit from the improvement project.

Public Act 522 of 2004 establishes a procedure for dissolving a lake improvement board, basically reversing the process by which a lake board is established. The problem arises when a lake improvement board expands the parcels that are assessed beyond the lakefront properties, because the act provides no recourse for those whose property is away from the lake (non-riparian owners) to affect their assigned assessment. Some believe if non-riparian property owners are being assessed by a lake improvement board they should have a role in dissolving the board. This proposed legislation would amend the section of NREPA governing lake improvement boards and their dissolution to give non-riparian property owners a role in dissolving a lake board.

THE CONTENT OF THE BILL:

This bill would amend NREPA (at MCL 324.30929) by altering the way in which a lake improvement board could be dissolved. Currently, for a public inland lake, a public hearing to dissolve a lake improvement board must be held upon petition of 2/3 of the property owners owning land abutting the lake. This legislation would add a similar provision requiring a public hearing to be called upon petition of the property owners who have been assessed at least 2/3 of the cost of the most recent improvements, excluding the amount assessed to local units at large¹. These two forms of seeking dissolution would apply to lake improvement boards on both public and private inland lakes. Currently, this section of NREPA appears to only apply to lake improvement boards for public inland lakes.

This bill would continue to allow for the governing body of each relevant local unit to hold a public hearing on dissolution of a board on its own initiative. However, this would only apply to lake improvement boards on public inland lakes.

As is currently in statute, a lake board would be dissolved if, after a public hearing, the governing body of each local unit in which all or part of the lake is located determines the lake improvement board is no longer necessary because the reasons it was established no longer exist. Certain other requirements must also be met, including (1) all outstanding indebtedness and expense of the lake board are paid in full, (2) any excess funds are refunded based on the last approved special assessment roll, and (3) the lake board itself determines it is no longer necessary for the improvement of the lake, because the reasons for its establishment no longer exist, and adopts an order approving its dissolution.

BACKGROUND INFORMATION:

Current statute (MCL 324.30903) requires the composition of a lake improvement board to consist of the following: (1) a member of the county board of commissioners appointed the board chairperson of each county affected by the lake improvement project; (2) a single representative of each local unit of government, other than a county, affected by a project, or if there is only one such local unit of government, two representatives of that local unit of government, appointed by the legislative body of the local unit of government; and (3) the county drain commissioner or his or her designee, or a member of the county road commission in counties that do not have a drain commissioner.

ARGUMENTS:

For:

Supporters say that if a landowner is being charged for a lake improvement project through a special assessment, he or she should have a say in the process of dissolving a lake improvement board.

¹ When determining the percentage of the project paid for by land owners, the amount is calculated from the remaining balance after local units have met their obligation. For example, if the total cost of a project is \$100,000 and local units are assessed \$50,000, then the 2/3 threshold would be on the remaining \$50,000 instead of the original amount of \$100,000.

Against:

There was no opposition to this legislation at the committee level.

POSITIONS:

Oakland County Commissioner Tom Middleton testified in support of the bill. (5-10-11)

The Michigan Townships Association supports the bill. (5-10-11)

The Michigan Association of County Drain Commissioners supports the concept of the bill. (5-10-11)

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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.