Legislative Analysis

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ALLOW FOR MANDATORY REDEMPTION OF BONDS TO FINANCE DRAINS

House Bill 4758 as introduced
Sponsor: Rep. Al Pscholka
Committee: Local Government
Complete to 9-8-15

SUMMARY:

House Bill 4758 would amend nine sections of the Michigan Drain Code to allow for the payment of the bonds utilized to fund drain projects, either at their maturity, or upon mandatory redemption.[1] Currently, the law allows for the payment of the bonds only at maturity. A more detailed description of the bill follows.

Under various circumstances, House Bill 4758 authorizes county treasurers to disburse the special assessments deposited into a drain fund to pay (or retire) mature drainage bonds, or to pay for the bonds upon their mandatory redemption. Further, the bill authorizes county drain commissioners who now determine the amount, form, maturity, and rate of interest of the bonds, to also determine their mandatory redemption requirements, if any.

Now under the law, bonds issued under the drain code must specify on their face that they are payable out of the installments of drain taxes to be collected, and they must be signed by the commissioner on behalf of the drainage district, as well as countersigned by the county clerk. The bonds are then payable in annual installments equal in number to the installments of taxes, and they mature between March 1 and June 1 of the year following the due dates of the installments of taxes. House Bill 4758 would retain all of these provisions, and extend them to bonds that are subject to mandatory redemption.

Also under current law, when the landowners in any city, village, or township are delinquent in their drain assessments, the local governing body may agree, by resolution, to advance the amount of the delinquent assessments from their general funds, if that is necessary to pay the principal and interest on drain bonds, as they mature. House Bill 4758 would retain these provisions, and extend them to bonds that are subject to mandatory redemption.

Currently, a county drain commissioner is responsible for seeing that all drain tax installments are collected and paid into the county treasury, where they must be credited to

[1] A 'Mandatory Redemption Schedule' comprises the specified dates when a bond issuer is required to redeem all or a portion of the outstanding issues of a bond prior to its maturity. Generally, the issuer is required to redeem all or a portion of the bonds according to the call or pre-payment provisions of the bond contract. For example, some types of mandatory redemptions occur either on a scheduled basis, or when a specified amount of money is available in a sinking fund. Bonds may be redeemed at a specified price, usually at par, and the bondholder will receive any accrued interest to the redemption date.

the drain fund. The funds are then used solely to pay off bonds or notes as they mature. House Bill 4758 would retain these provisions, and extend them to all bonds that are subject to mandatory redemption.

Currently, a drain commissioner is responsible for levying additional special drainage assessments if those in effect cannot raise sufficient money to pay all outstanding bonds when they are due. House Bill 4758 would retain the commissioner's authority to increase drain assessments, and extend that authority to those occasions when the assessments were insufficient to pay the bonds subject to a mandatory redemption schedule.

The Drain Code also allows an appointed drain board to issue bonds on behalf of both drainage districts and water management districts, and it requires the drain board to promptly pay the principle and interest when those bonds mature. House Bill 4758 would require these prompt payments when bonds mature, and also when bonds are subject to mandatory redemption.

MCL 280.132 et al

FISCAL IMPACT:

Under provisions of the Drain Code, Public Act 40 of 1956, drainage districts are authorized to borrow money and issue bonds for drain projects. These bonds are issued in anticipation of, and are payable from, special assessments made against private property and public corporations within the drainage district. In addition, a county in which the drainage district is located may pledge its full faith and credit as additional security for the payment of the bonds. With respect to intercounty drainage districts, two or more counties may pledge their full faith and credit as additional security for the payment of the bonds.

A memo provided by the Dickinson Wright law firm indicates that under current law, bonds issued by drainage boards can only be issued as serial bonds. The amendments proposed in House Bill 4758 would allow the use of another type of municipal bond format, term bonds. [The expression "term bonds" is not used in the bill; the change allowing the use of term bonds would be made through the addition of the phrase "or be subject to mandatory redemption."]

The memo indicates that the use of term bonds for drainage district project financing has the potential of reducing drainage district borrowing costs by increasing the pool of interested institutional investors. A reduction in borrowing costs would reduce the assessed costs paid by property owners, including local units of government and the state of Michigan. [County road commissions and the Michigan Department of Transportation are assessed the drainage district project costs based on a determination of benefits to the road or highway in the drainage district, subject to the limitation of Section 14a of Public Act 51 of 1951, MCL 247.664a.]

It should be noted that term bonds are not beneficial in every financing as compared to serial bonds. Term bonds carry a single fixed interest rate over the term of the bond. Serial bonds have the benefit of paying interest on a diminishing principal amount. Any cost savings from a term bond would depend on the structure and pricing of the bond issue.

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