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BILL



ANALYSIS

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House Bill 5278 (Substitute H-2 as passed by the House)
Sponsor: Representative Ben Glardon
House Committee: Local Government
Senate Committee: Local Government

Date Completed: 3-22-16

CONTENT

The bill would amend the Drain Code to do the following regarding the process for recovering costs when revolving fund money has been spent, or a drainage district is obligated to pay for engineering, legal, and administrative services, and no intracounty drain improvement has been completed within five years:

- Extend the cost-recovery process to the payment of principal and interest on notes.**
- Require a report to the county board of commissioners if an improvement had not been completed within five years after a petition was filed.**

The bill also would make the cost-recovery process for intercounty drainage districts consistent with the process for intracounty drainage districts.

County Drainage District

Section 306 of the Code applies to a drain commissioner when overseeing a county drainage district. Under Section 306, when revolving fund money has been spent or a drainage district is obligated to pay expenses for engineering, legal, and administrative services, and no improvement has been completed after the drain commissioner's order designating a drainage district or the entry of the first order of determination under Section 72 of the Code, the drain commissioner may report the fact to the county board of commissioners. If an improvement has not been completed within five years after the date of the drain commissioner's order designating a drainage district or the first order of determination, the drain commissioner must report that fact to the board of commissioners. The board of commissioners may spread the cost against the property of the original petitioners for a drain improvement, if the sum is too small to justify spreading the cost over the drainage district, or may order that the cost be spread over the district and apportioned to the parties in the district that would have benefited from the improvement.

Under the bill, the process described above also would apply to pay for principal and interest on notes. The drain commissioner's report to the county board of commissioners would have to be made if an improvement had not been completed within five years after the drain commissioner's order designating a county drainage district, the entry of the first order of determination under Section 72, or the filing of a petition, if a petition had been filed, whichever was later.

(Section 72 provides for the drain commissioner or the chairperson of the county board of commissioners to appoint a board of determination to meet and determine the necessity of a proposed drain and whether the drain is conducive to public health, convenience, or welfare.)

Intercounty Drainage District

Section 307 of the Code applies to a drainage board when overseeing an intercounty drainage district. Under Section 307, when revolving fund money has been spent and no improvement has been completed within five years after an order designating an intercounty drainage district, the drainage board must apportion the cost between counties. The amount apportioned must be recovered by each county as provided in Section 306 for the recovery of spent revolving fund money in an intracounty drain district.

Under the bill, the process described above would apply if revolving fund money were spent or a drainage district were obligated to pay expenses for engineering, legal, or administrative services or to pay principal and interest on notes, and if the improvement were not completed within five years after the date of the drainage board's order designating an intercounty drainage district, the entry of the first order of determination under Section 122, or the filing of a petition for a drain improvement, if a petition had been filed, whichever was later.

(Section 122 provides for the creation of an intercounty drainage board consisting of the drain commissioners of the affected counties and the Director of the Department of Agriculture and Rural Development, upon the filing of a petition to locate, establish, and construct an intercounty drain. The drainage board is the board of determination and must determine the question of necessity for drains located, established, and constructed in the intercounty drainage district.)

MCL 280.306 & 280.307

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have no impact on State revenue or expenditure, but would alter the allocation of costs related to certain revolving funds associated with drainage districts. Because the bill would not alter the mills that may be authorized for revolving funds, but would affect only the expenses that may be reimbursed by such mills, any impact would likely be minimal. The new costs that would be included relate to debt incurred by projects financed through the revolving funds. The proposed change is largely technical because the bill would not alter the costs that can be covered by a revolving fund, and the Drain Code restricts any debt to covering costs that may be covered by the revolving fund.

Fiscal Analyst: David Zin

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