



Senate Fiscal Agency  
P.O. Box 30036  
Lansing, Michigan 48909-7536

## BILL ANALYSIS



Telephone: (517) 373-5383  
Fax: (517) 373-1986

Senate Bill 662 (as introduced 11-9-23)  
Sponsor: Senator Rosemary Bayer  
Committee: Local Government

Date Completed: 1-22-24

**CONTENT**

**The bill would amend Part 307 (Inland Lake Levels) of the Natural Resources and Environmental Protection Act (NREPA) to do the following:**

- **Modify the definition of "normal level" related to inland lakes to allow for temporary variations resulting from weather or natural events.**
- **Exempt financing for dams under Part 307 from a current cap on the total amount of bonds and notes that a special assessment district may issue.**
- **Modify other requirements of dam financing under Part 307.**

Under Part 307, a county board may establish a normal lake level for an inland lake within its jurisdiction by initiating a proceeding within a circuit court to do so. After the court determines the normal level of that inland lake the county may specify a delegated authority to maintain that level. The delegated authority, defined as a county drain commissioner or any person designated by the county to fulfill the requirements of Part 307, may acquire or construct a dam for this purpose, including through the use of bonds or notes payable by special assessments.

**Inland Lake Level Measurements**

Currently, "normal level" means the level or levels of the water of an inland lake that provide the most benefit to the public; that best protect the public health, safety, and welfare; that best preserve the natural resources of the state; and that best preserve and protect the value of property around the lake. A normal level must be measured and described as an elevation based on national geodetic vertical datum. Under the bill, a normal level also could be measured and described as an elevation based on geodetic vertical datums including those that could define a range of operations based on tolerance, operational or weather conditions, seasonality, or other regional specific issues.

In addition, the bill would specify that an inland lake would be considered maintained at its normal level during temporary variations resulting from weather or natural events or if a county or its delegated authority operated lake level infrastructure in a manner that could fluctuate an inland lake's level from an elevation or elevations based on a geodetic datum but was reasonably intended to maintain an elevation or elevations based on a geodetic datum established as a normal level. This provision would apply retroactively.

**Requirements for the Issuance of Bonds and Notes**

Under Part 307, all issuance of bonds or notes for inland lake projects are subject to the Revised Municipal Finance Act. This Act prescribes requirements relative to the borrowing of

money and the issuance of certain debts and securities. In addition, the Act imposes certain duties, requirements, and filing fees upon political subdivisions of the State.

Under the bill, bonds, notes, and other obligations issued under Part 307 would be exempt from Section 505 of the Revised Municipal Finance Act, which generally caps the allowed total amount of these special assessment obligations.<sup>1</sup>

### Special Assessment District Powers

Part 307 allows a delegated authority to accept the advance of work, material, or money in connection with a normal level project. The obligation to repay an advance out of special assessments may be evidenced by a note or contract. The bill would delete these provisions.

Instead, under the bill, a special assessment district could borrow money or accept an advance of work, material, or money from a public or private corporation, a partnership, an association, an individual, or the Federal government or any agency of the Federal government for payment of financing of any costs in connection with a normal level project, including all the following:

- Costs of easement and land acquisition.
- Engineering fees.
- Financing costs.
- Legal fees.
- Costs of a preliminary, feasibility, practicability, environmental assessment, or impact study.
- Any other permissible costs under Part 307.

The special assessment district would have to pay or provide reimbursement for the obligations listed above, with or without interest as agreed upon, when funds were available. The obligation of the special assessment district could be evidenced by a contract or note. The contract or note could pledge the full faith and credit of the special assessment district and could be made payable out of any of the following:

- Assessments made or to be made against public corporations at large, or against lands in the special assessment district.
- The proceeds of lake level orders, notes, or bonds issued by the special assessment district.
- Any other available funds.

A contract or note described above would not be subject to the Revised Municipal Finance Act unless the principal amount of the obligation was more than \$600,000; however, if the principal amount of the obligation were \$600,000 or less, the contract or note would be subject to the Agency Financing Reporting Act.<sup>2</sup> Projects in which advances or loans were made by any public corporation, the Federal government, or any agency of the Federal government would not be subject to the Revised Municipal Finance Act or the Agency Financing Reporting Act.

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<sup>1</sup> Generally, Section 505 puts a cap on the total amount of municipal securities issued by special assessments to 12% of the assessed value of the taxable property, in addition to other limitations on how many municipal securities a municipality can issue in a calendar year. "Security" means evidence of debt, such as a bond, note, contract, obligation, refunding obligation, certificate of indebtedness, or other similar instrument issued by a municipality, which pledges payment of the debt by the municipality from an identified source of revenue.

<sup>2</sup> Generally, the Agency Financing Reporting Act prescribes requirements for the reporting of the issuance of certain debt and securities.

The county board of commissioners, by a majority vote of its members, could pledge the full faith and credit of the county for the payment of a contract or note of the special assessment district. The bill specifies that all notes previously issued under Section 30717 of NREPA (the Section that governs the acceptance and repayment of advances) would have to be considered validly issued.

MCL 324.30701 et al.

Legislative Analyst: Alex Krabill

### **FISCAL IMPACT**

As the language of the bill is permissive, there would be no mandatory fiscal impact on the State or local units of government. By exempting water level project financing from Section 505 of the Revised Municipal Finance Act, municipalities would have a borrowing cap removed under the bill. This would give municipalities more freedom and autonomy to borrow for water level projects; however, nothing in the bill would require municipalities to do so.

Fiscal Analyst: Jonah Houtz  
Michael Siracuse

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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.