Legislative Analysis

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MARINA DREDGING LOAN ORIGINATION ACT

Senate Bill 252 (Substitute S-3)
Sponsor: Sen. Jack Brandenburg
House Committee: Natural Resources
Senate Committee: Outdoor Recreation and Tourism

Complete to 3-20-13

A SUMMARY OF SENATE BILL 252 AS REPORTED FROM HOUSE COMMITTEE

Senate Bill 252 (S-3) would establish a low-interest loan program within the Department of Treasury to provide financial assistance to eligible privately owned, commercial marinas to help pay for dredging costs. The state would pay loan origination fees to financial institutions. The bill would set guidelines for the issuance of marina dredging loans by financial institutions to eligible marinas and would appropriate $1 million to the Department of Treasury to operate the loan program.

The stated purpose of the marina dredging loan program is to provide financial assistance to eligible marinas and to alleviate financial distress caused by low water levels affecting recreational watercraft use, as well as related economic impacts.

The marina dredging loan program being created in Senate Bill 252 (S-3) is structurally similar to the agricultural disaster loan program created through Public Act 193 of 2012.

A detailed section-by-section analysis follows later.

FISCAL IMPACT:

Senate Bill 252 would appropriate $1.0 million to the Department of Treasury in FY 2012-13 for a Marina Dredging Loan Origination Act. Under the bill, the state would pay a loan origination fee to a financial institution (as defined in the bill) equal to 5% of the original principal amount of a loan to an eligible marina (as defined in the bill) for the purposes of dredging. Loans are capped at $500,000 per eligible marina, which would cap the state's share per loan at $25,000. From the funding appropriated in the bill loan origination fees, the state could support up to $20.0 million in marina dredging loans to eligible marinas. The appropriations would be considered a work project with an estimated completion date of March 1, 2014. March 1, 2014 would be the final date for financial institutions to report to the Department of Treasury on the amount of loans made under the program. The total fiscal impact, while capped at $1.0 million, would depend on participation in the program.

The departments of Treasury and Attorney General would realize increased administrative duties and costs associated with administration of the program. No appropriation is made to support those costs. Therefore, costs associated with administration of the program would be absorbed under current appropriation levels.

DETAILED SUMMARY:

Section 1 - Name of the Act
The act would be known and cited as the Marina Dredging Loan Origination Act.

Section 2 - Definitions
The bill defines a number of important terms used through the bill.

"*Dredging costs*" would mean the costs associated with dredging that were incurred after February 1, 2013, including costs of removal, disposal, and testing of sediments, and the costs associated with obtaining necessary permits required to conduct dredging.

"*Eligible marina*" would mean a privately owned, commercial facility that meets the following requirements:

- Extends into or over the Great Lakes, their connecting waters, or an inland lake or stream.
- Provides docking, mooring, or launching services for recreational boating and does not limit services based on religion, race, color, creed, national origin, sex, marital status, disability, age, sexual orientation, or family status.
- Has received all of the permits required by law from the Department of Environmental Quality and the U.S. Army Corp of Engineers for the dredging to be conducted with loan funds.

"*Marina dredging loan*" would mean a loan or the refinancing of all or a portion of a loan made to the owner of an eligible marina for dredging costs necessitated by low water levels to accommodate the use of the marina by recreational watercraft.

Section 3 - Establishment of program
The bill would allow the State Treasurer to establish a marina dredging loan origination program that meets the following requirements:

- A qualified financial institution must make marina dredging loans before March 1, 2014.
- A person receiving a loan must pay an interest rate authorized under the new act and established by the qualified financial institution.
- The state would pay loan origination fees on a first come, first served basis for administrative costs incurred by the qualified financial institution equal to 5% of the original principal amount of the loan.

Marina dredging loans would have to comply with the following requirements:

- Interest would be set by the qualified financial institution at a rate of not more than 2.5% or the adjusted prime rate (as defined in at MCL 205323) minus 0.75%.
- The term of the loan could not exceed five years.

- The first principal payment required under the loan could not occur before 24 months after the loan is issued.

Marina dredging loans would not be able to exceed $500,000 per eligible marina.

Section 4 - Duties of State Officers/Financial Institutions

The State Treasurer would be allowed to take any necessary action to ensure the successful operation of the program, including entering into agreements with qualified financial institutions.

The Attorney General would be required to approve as to the legal form all documents relating to the payment of a loan origination fee by the state.

Every qualified financial institution participating in the program would have to (1) report the principal amount of loans made under the program to the State Treasurer by March 1, 2014, and (2) file an affidavit with the State Treasurer signed by a senior executive of the institution stating the institution is in compliance with the program and this bill.

Financial institutions would be required to forward a copy of any affidavits executed and filed with the State Treasurer upon the treasurer's request. The affidavit and its copies would have to be destroyed by both parties once the loan is repaid. The bill also declares the program is found and declared to be for a valid public purpose.

Section 5 - Appropriation for program

The bill would appropriate $1 million from the General Fund for Fiscal Year ending September 30, 2013, to the Department of Treasury to pay loan origination fees. The bill states the appropriation is a work project appropriation and any unencumbered or un-allotted funds would be carried forward into the next fiscal year.

The bill also states the following in compliance with Section 451a(1) of the Management and Budget Act:

- The purpose of the project is to provide financial assistance to eligible marinas and to alleviate financial distress caused by low water levels impacting recreational watercraft use and related economic impacts through the program.
- The work project will be accomplished through the use of payments to qualified financial institutions for marina dredging loan origination fees for administrative costs incurred by qualified financial institutions.
- The total estimated completion cost of the work project is $1 million.
- The estimated completion date of the work project is March 1, 2014.

POSITIONS:

Michigan Department of Natural Resources supports the bill. (3-19-13)

Michigan Department of Treasury supports the bill. (3-19-13)

Michigan Association of Convention and Visitors Bureaus supports the bill. (3-19-13)

Michigan Bankers Association supports the bill. (3-19-13)

Michigan Boating Industries Association supports the bill. (3-19-13)

Michigan Environmental Council supports the bill. (3-19-13)

Michigan Municipal League supports the bill. (3-19-13)

National Marine Manufacturers Association supports the bill. (3-19-13)

A representative of Belle Maer Harbor testified in support of the bill. (3-19-13)

BACKGROUND INFORMATION AND DISCUSSION:

Michigan has more registered boats than almost any other state in the country and the industry has a substantial economic impact. Several factors have led water levels in the Great Lakes basin to drop dramatically over the past several years. The low water levels have resulted in many marinas needing to dredge sediment and other debris in order to provide access, which can be very costly. According to testimony, nearly 80% of the registered boats in Michigan are docked at private marinas, making accessibility to these facilities vitally important to the state's economy.

While Senate Bill 233 (H-1), also on the House calendar, would provide a supplemental appropriation to fund emergency dredging projects in 49 <u>public</u> recreational harbors on or near the Great Lakes, private facilities appear to be left to foot the entire cost of any dredging costs they undertake. In response, Senate Bill 252 would establish a low-interest loan program for eligible privately owned, commercial marinas to help pay for dredging costs. The program would allow private marina operators to apply for loans in hopes of spreading out their costs over several years and not jeopardizing immediate cash flow.

The program is structured similarly to the Agriculture Disaster Loan program of 2012 and is intended to provide financial assistance to the boating industry, which is facing extreme environmental conditions through no fault of its own. Any loans originated through the program would be made through a private lender using private funds and the private lender would carry the risks associated with the loan.

Some have been concerned that public funds are going to be used to subsidize loans being made to private marinas and harbors. Others feel that the public should have access to any private marina that utilizes the program. According to testimony, public and private marinas generally operate in the same way in that individuals are required to pay for the use of boat slips at both marinas. The difference is in who maintains the operation: public marinas are supported through the use of public funds and private marinas operate as private businesses and are thus supported through the use of private funds. Supporters of the bill believe that most private marinas offer transient slips and thus the public is able to utilize private facilities. Additionally, the public is generally able to rent a boat slip at a private marina, just as they would at a public marina. In order to be eligible for a loan under the bill, marinas cannot limit services based on religion, race, color, creed, national origin, sex, marital status, disability, age, sexual orientation, or family status. However, some have suggested that language be added to the bill requiring private marinas utilizing the program to reserve a specific number of boat slips for public use.

In addition to being structurally similar to the Agricultural Disaster Loan Program established through Public Act 193 of 2012, the program being created in this bill is also similar to the marine dredging loan program created through Public Act 280 of 2000.

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