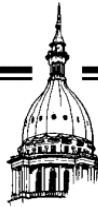




Senate Fiscal Agency
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BILL ANALYSIS



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Senate Bill 215 (as introduced 2-21-13)
Sponsor: Senator Jack Brandenburg
Committee: Outdoor Recreation and Tourism

Date Completed: 3-5-13

CONTENT

The bill would amend Public Act 105 of 1855, which governs surplus funds in the State Treasury, to re-establish a program allowing the investment of surplus State funds to facilitate marina dredging loans for facilities on the Great Lakes or their connecting waters. The bill would do the following:

- Limit the amount of a loan made by a participating financial institution to \$500,000.
- Establish a limit of \$30.0 million on the aggregate amount of investments made under the bill.
- Prohibit a marina dredging loan from being made more than 10 years after the bill took effect.
- Prescribe the terms of an investment agreement between the State Treasurer and a participating financial institution.
- Establish revised eligibility criteria for a marina dredging loan.
- Allow the State Treasurer to prevent new marina dredging loans if changes in water levels diminished the need for them.
- Require the State's General Fund balance to be adjusted based on the investment earnings of dredging loan funds relative to the earnings of other surplus fund investments.
- Require the State Treasurer to report to the Legislature annually regarding the disposition of money invested for purposes of facilitating the loans.

(Public Act 280 of 2000 established the previous marina dredging loan program, and prohibited participating financial institutions from making loans under the program after July 10, 2003.)

Marina Dredging Loan Eligibility

Public Act 280 of 2000 authorized the State Treasurer to invest surplus funds under his or her control in certificates of deposit or other instruments of a qualified financial institution for the purpose of facilitating marina dredging loans. The State Treasurer had to endeavor to make these investments in financial institutions so that the loans would be conveniently available in all geographic regions in Michigan.

Public Act 280 defined "dredging" as the removal of sediments from bottomland, and defined "marina dredging loan" as 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. The bill would retain these definitions.

The bill would define "dredging costs" as the costs associated with dredging that are incurred after the bill's effective date, including costs of removal, disposal, and testing of sediments, and costs associated with obtaining permits required to conduct dredging. (The original definition referred to these costs incurred after January 1, 2000.)

Public Act 280 of 2000 defined "eligible marina" as a privately owned, commercial facility in Michigan that meets all of the following requirements:

- Extends into or over the Great Lakes or their connecting waters that are navigable by motorized watercraft from a Great Lake.
- Has received the permits required by law from the Department of Environmental Quality and the U.S. Army Corps of Engineers for the dredging to be conducted with loan funds.
- Provides mooring facilities for not more than 200 recreational watercraft through the use of docks, slips, or broadside mooring.

The bill would retain this definition but delete the last condition.

Originally, an eligible marina also had to provide docking, mooring, or launching services available to the general public for recreational boating. Marinas that limited their services based on membership or residency requirements were not eligible. The bill would eliminate the requirement that the services be available to the general public. The bill also would delete the provision excluding marinas that limited their services based on membership or residency requirements. Instead, the bill would prohibit an eligible marina from limiting its services based on religion, race, color, creed, national origin, sex, marital status, disability, age, sexual orientation, or family status.

Investment Agreement

The bill would require the investment agreement for a marina dredging loan to contain the term of the investment, which could not be more than 10 years. In addition, the agreement would have to require the following:

- That the interest accruing on the investment would not exceed the interest the financial institution earned on marina dredging loans made after the date of the investment.
- That the financial institution would provide good and ample security as required by the State Treasurer, and would identify the loans and any terms and conditions made after the date of the investment that were attributable to that investment, together with other information required by Public Act 105 of 1855.
- That a loan made by the financial institution that was attributable to the investment would be issued at a rate or rates of interest established in the agreement.
- That the loan would be issued for a repayment period of not more than seven years.
- That the financial institution would not release the loan unless the applicant certified that it was an eligible marina.

The agreement also would have to require that, to the extent the financial institution had not made marina dredging loans in an amount at least equal to the amount of the investment within 90 days after the investment, the rate of interest payable on that portion of the outstanding investment would be increased to a rate of interest provided in the agreement, with the increase applied retroactively to the date on which the State Treasurer made the investment.

In addition, the agreement would have to include incentives for the early repayment of the investment and for the acceleration of payments in the event of a State cash shortfall, if required by the State Treasurer, and other terms prescribed by the State Treasurer.

(All of these requirements applied to an investment agreement under the original loan program.)

The bill also would require the agreement to include a provision that a marina dredging loan made by the financial institution that was attributable to the investment could not be made later than 10 years after the bill took effect.

Under the original loan program, the agreement had to include a requirement that a loan attributable to the investment would not exceed \$75,000. The bill would increase the maximum amount to \$500,000.

Previously, the aggregate amount of investments could not exceed \$20.0 million. The bill would increase this amount to \$30.0 million.

The bill would retain a requirement that the Attorney General approve documentation for an investment as to legal form.

Loan Program Necessity

Under the original program, upon a determination by the Directors of the Departments of Natural Resources and Environmental Quality that the need to facilitate marina dredging loans had significantly diminished based on changes in Great Lakes water levels, the State Treasurer could take actions necessary to ensure that no new marina dredging loans that were attributable to an investment for that purpose were made. The determination would not affect existing dredging loans. Under the bill, these provisions would apply to the new loan program.

Investment Earnings; Compliance

Under the bill, earnings from an investment made to facilitate dredging loans that exceeded the average rate of interest earned during the same period on other surplus funds, subject to certain exceptions, would have to be credited to the State's General Fund. If interest from an investment were below the average interest rate earned during the same period on other surplus funds, the General Fund would have to be reduced by the amount of the deficiency on an amortized basis over the remaining term of the investment. A loss of principal from an investment would have to reduce the earnings of the General Fund by the amount of the loss on an amortized basis over the remaining term of the investment. (These provisions also applied to the first dredging loan program.)

The bill would retain a provision authorizing the State Treasurer to take any necessary action to ensure the successful operation of the dredging loan provisions, including making investments with financial institutions to cover the administrative and risk-related costs associated with a loan.

The bill also would retain a requirement that each financial institution in which the State Treasurer made an investment for dredging loans file an annual affidavit stating that the institution is in compliance with the terms of the investment agreement.

Annual Report

Public Act 280 required the State Treasurer annually to prepare and submit to the Legislature a report regarding the disposition of money invested for purposes of facilitating marina dredging loans. The report had to include the following information:

- The total number of eligible marina owners who had received a loan.
- The total number and amounts of the loans that were issued, by county.
- The name of each financial institution participating in the loan program and the amount invested in each institution.

Under the bill, this reporting requirement would apply beginning in 2013.

MCL 21.142d et al.

Legislative Analyst: Julie Cassidy

FISCAL IMPACT

The proposed program would have an unknown impact on the State General Fund. The investment returns would be determined by investment agreements. Depending on the terms of the agreements, the State's earnings from the program could be either more or less than the earnings on State common cash, which would affect General Fund revenue. If loans to marinas were not repaid, the loss would accrue to the General Fund.

As described above, a program for marina dredging loans was enacted in 2000. That program allowed the issuance of loans for three years, made 15 loans to marinas with total principal of \$761,178. All of those loans were repaid within seven years as required. The bill would expand the previous program to allow loans to be made over a 10-year period beginning with the effective date of the bill, to increase the maximum loan from \$75,000 to \$500,000, and to increase the total funds that could be provided by the State from \$20.0 million to \$30.0 million. It also would expand eligibility for the program to include any size of marina; previously, the program was limited to marinas with not more than 200 slips or moorings. Eligibility also would be expanded to allow marinas with membership or residency requirements to participate, as long as those requirements were not discriminatory based on religion, race, color, creed, national origin, sex, marital status, disability, age, sexual orientation, or family status.

Fiscal Analyst: Elizabeth Pratt

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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.