



Property Owners: Beware of Watershed Management Districts

by Aarne H. Frobom, Jr.

Summary

A proposal defeated by the Michigan House in December would have created “watershed management districts” to levy new property taxes for local anti-pollution measures and other purposes. The House was right to reject the flawed proposal, but property owners should be on the lookout for the issue to resurface in 2000.

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Most Michigan property owners probably have no idea which watershed they live in. Unless it floods their back yards, homeowners are unlikely to be able to name the creek that drains their land into the Great Lakes. Recent moves in the legislature, however, suggest that Michigan property owners may soon have to give these matters their undivided attention.

In December, the state House rejected a proposal (Chapter 22 of House Bill 4803) that would have put the name of homeowners’ watersheds on a surprise property-tax bill. That tax bill could have been in any amount, and for a project in another city that homeowners did not vote for, and for which there would have been no appeal. Though killed in December, the proposal is likely to arise again this year.

Michigan’s massive Drain Code is under review by the legislature. It’s about time, as drain projects have long generated complaints concerning the fairness of drain-maintenance assessments. Drain commissioners have a unique ability to mandate expensive public-works projects with little review or control. But proposals like what the House rejected last month could worsen that situation.

The defeated proposal would have allowed the creation of “watershed management districts” with broad, new powers to impose property taxes. Under this scheme, these districts would not just dig ditches, they could undertake any project “warranted to protect the public health or welfare or to protect and rehabilitate the waters of the district.” That rubbery definition could include just about any pollution-control, flood-control, or recreation scheme that local officials could dream up.

A management district could be created if one or more local governments petition a county commission. The district boundary could be any size, including any number of other municipalities. One official from each city would vote on whether a water problem warrants fixing and whether the proposed solution is “practical.” But the actual size and cost of the engineering work would be determined later, after the district is created.

Votes by watershed commissioners would carry weight in proportion to their city's population and acreage within the boundary. That sounds like it assures rough representation of citizens and property taxpayers. But each commission would get to fix its own rules for the weighting, and tax assessments do not have to be apportioned the same way. The costs of water projects would be assessed according to the "benefit" received by each jurisdiction, or in proportion to the blame for a problem. A majority of district members may decide that the blame lies in the part of the district with a minority of weighted votes and send the bill there.

Some problems do have to be solved at the level of a whole watershed, but the proposed law did not require that watershed management districts match the area drained by a stream. A district could cover any fraction of one or more watersheds. The boundary could be gerrymandered to assure that places wanting water projects have a majority of votes, dragging along as many unwilling participants as possible to spread out the cost, but not enough to vote down the project. That would bring a whole new dimension to "taxation without representation"!

For the first time, public lands could even be assessed a share of the cost greater than their contribution to runoff. That sounds fair, except that road, game, and park funds could be tapped by district commissioners in any amount they can get away with, and state taxpayers would not get any votes on the commission. This would likely generate a flood of taxpayer-financed litigation, as governments fight each other in the courts over the districts' assessments.

Michigan voters have approved taxing districts for parks, colleges, airports, transit, and other purposes—or rejected them, according to local needs and resources. The choice to create a new taxing authority ought to remain with the voters, and local governments ought to have the power to opt in or out. Michigan has no water problem so bad that it requires abandoning the right of property owners to decide when to tax themselves.

The House was right when it killed House Bill 4803's watershed management district proposal in December. Michigan taxpayers should be alert to the fact that efforts are underway in Lansing to resuscitate it. It is an idea that deserves to stay dead.

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