



Legislative Update

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Election Update

As the general election draws nearer, here's what you need to know about potential changes in the state legislature:

House of Representatives

The Democratic Party currently holds the majority in the House of Representatives, but all seats are up for election this year. While it is too early to predict whether the Democrats will maintain their majority or whether the House will flip to a Republican majority, the election will have major impacts on lawmaking over the next two years.

- **Democratic Majority** – If the Democrats maintain their majority, it will continue the current trifecta, with the Democratic Party controlling both legislative chambers and the Governor's office. If this happens, the Democrats will have two more years to push their policy forward, and it is expected that there will be a relatively quiet lame duck.
- **Republican Majority** – If the House flips and the Republicans gain the majority, it will break

the current Democratic trifecta and make it necessary to obtain bipartisan support for bills over the next two years. If this happens, lame duck is expected to be very busy as the Democratic Party pushes bills forward while they still maintain control.

Senate

The Democratic Party currently holds the majority in the Senate, and there are no seats up for election this year. The only anticipated change in the Senate makeup would occur if Democratic Senator Kristen McDonald Rivet, who currently represents the 35th District (Bay County; Saginaw County; and portions of Genesee, Midland, and Tuscola Counties) wins the election for a seat in the US House of Representatives. If that happens, it will leave a vacant seat in the Senate, which will likely be filled by a special election in the Spring. However, because the Democrats currently have a 2-seat majority in the Senate, this is not expected to change the current balance of power.

Things to Know if Your Legislator Calls You

In every election year, there is a period known as "lame duck" following the general election in November. During this period, legislation can move quickly and Drain Commissioners may receive calls from their State legislators regarding various drain-related bills. Below is a list of the bills you may receive a call about and what you should know if your legislator calls you:

HB 5188 (Increase of Maintenance Limit)

- **Sponsor:** Rep. O'Neal
- **What it does:** HB 5188 would increase the annual non-petitioned drain maintenance limit to \$10,000 per mile of drain with an annual adjustment for inflation.

- **Status:** A substitute for HB 5188 was passed by the House and is currently before the Senate Committee on Local Government.
- **MACDC's position:** MACDC supports HB 5188.

HB 5189 (Section 197/135 Adding a County)

- **Sponsor:** Rep. Bezotte
- **What it does:** HB 5189 would amend the process for adding or removing a county to a drainage district under Sections 135 and 197 to create consistency with other sections of the Drain Code.

- **Status:** HB 5189 was passed by the House and is currently before the Senate Committee on Local Government.
- **MACDC’s position:** MACDC *supports* HB 5189.

HB 5190 (Compensation for Attending Meetings)

- **Sponsor:** Rep. Hill
- **What it does:** HB 5190 would replace instances of “per diem” in the Drain Code with “reasonable compensation” and “necessary expenses” to clarify the difference between reimbursement for expenses and compensation for service.
- **Status:** HB 5190 was passed by the House and is currently before the Senate Committee on Local Government.
- **MACDC’s position:** MACDC *supports* HB 5190.

HBs 4382 & 4383 (Chapter 22)

- **Sponsors:** Reps. Morse and VanderWall
- **What they do:** HBs 4382 and 4383 propose to “rewrite” Chapter 22 of the Drain Code to allow for stormwater management at the watershed level.
- **Status:** HBs 4382 and 4383 are currently before the House Committee on Local Government and Municipal Finance.
- **MACDC’s position:** MACDC *supports* HBs 4382 and 4383.

SB 663 & HB 5205 (EGLE Part 31 Rulemaking Authority)

- **Sponsors:** Rep. Dievendorf and Sen. Shink
- **What they do:** SB 663 and HB 5205 would remove the prohibition on EGLE from promulgating rules under Part 31 of NREPA. More information as to what this means for Drain Commissioners is available in the article below.
- **Status:** SB 663 was passed by the Senate and is currently before the House Committee on Natural Resources, Environment, Tourism and Outdoor Recreation. HB 5205 is currently before the House Committee on Natural Resources, Environment, Tourism, and Outdoor Recreation.
- **MACDC’s position:** MACDC *opposes* SB 663 and HB 5205.

What should I do if I receive a call? – If you receive a call from your legislator regarding a specific bill, you should:

1. Explain what the bill does;
2. Let them know whether MACDC supports or opposes the bill; and
3. Let Deena Bosworth and Stacy Hissong know that you received a call.

If you would like additional information or support in responding to a legislator, contact Deena at (517) 282-1647 or bosworth@micounties.org or Stacy at (517) 974-2304 or shissong@fsbirlaw.com.

Update on EGLE Part 31 Rulemaking

In the fall of 2023, Senate Bill 663 and House Bill 5205 were introduced by Senator Shink and Representative Dievendorf. Both bills propose to reinstate rulemaking authority for the Department of Environment, Great Lakes and Energy (“EGLE”) under Part 31 of the Natural Resources and Environmental Protection Act. EGLE is requesting this rulemaking authority (which has been suspended since 2006) in an attempt to reach compliance with national standards involving various programs including the National Flood Insurance Program (“NFIP”).

How Would Part 31 Rulemaking Impact Me?

If either of the bills is enacted, EGLE will be able to promulgate new rules and will likely also revise or eliminate existing rules related to floodplains and water quality under Part 31. As a Drain Commissioner, this is concerning because many of the permitting exemptions we rely on for drain projects are created by administrative rules that will likely be removed in order to reach NFIP compliance. Specifically,

MACDC anticipates that if either bill is passed, permits will be required for most maintenance and petition work on drains, including:

- Excavation
- Riprap/soil erosion and sedimentation control measures
- In-stream structures
- Leveling spoils
- Crossing replacements and extensions
- New crossings
- Outfall/outlet pipes

It is also anticipated that these permits will require trucking and testing spoils any time work is completed within a floodplain.

What is the Current Status of the Legislation?

Senate Bill 663 was passed by the Senate in June and referred to the House Committee on Natural Resources, Environment, Tourism and Outdoor Recreation, and House

Bill 5205 was referred to the same committee. MACDC opposes both bills and has participated in several discussions with EGLE and the bill sponsors to attempt to negotiate alternative approaches to reach NFIP compliance while still

maintaining crucial permitting exemptions. After these discussions proved unsuccessful, MACDC began working with other interested organizations to form a coalition to fight passage of the bills.

Legislation of Interest

The following bills of interest to Drain Commissioners and Associate Members are currently pending before the Legislature. Full text and up-to-date action for each bill can be found online on the Legislature's website at www.legislature.mi.gov.

HB 4770 House Bill 4770 was introduced by Rep. Hill on June 15, 2023. If enacted, the bill would amend sections 74 and 381 of the Drain Code to “clean up” the statutory language and include gender neutral language. HB 4770 was referred to the House Committee on Government Operations.

HB 5335 House Bill 5335 was introduced by Representative Andrews on November 11, 2023. If enacted, HB 5335 would amend the Drain Code to allow assessment of lands owned or controlled by the Michigan Department of Natural Resources. HB 5335 was referred to the House Committee on Local Government and Municipal Finance.

HB 5738 House Bill 5738 was introduced by Rep. Paiz on May 23, 2024. If enacted, HB 5738 would update the membership of a Section 514 drainage board in cases where the project involves two charter counties, one of those counties has an appointed rather than elected drain commissioner and a population of 1,000,000 or more, and the only municipalities subject to assessment are three cities. HB 5738 was referred to the House Committee on Local Government and Municipal Finance.

SBs 393 & 394 Senate Bills 393 and 394 were introduced by Sen. Bayer on June 15, 2023. If enacted, the bills would eliminate the Environmental Science Advisory Board and the Environmental Permit Review Commission and Environmental Permit Panel relating to permits under Part 13 of NREPA. SB 393 and a substitute for SB 394 were passed by the Senate. SB 393 was read for the third time in the House and postponed temporarily. SB 394 was placed on a third reading in the House.

HB 5901 House Bill 5901 was introduced by Rep. Aiyash on July 31, 2024. If enacted, HB 5901 would remove certain provisions related to the Environmental Permit Review Commission and the Environmental Permit Panel in Part 13

of NREPA. The bill would also create certain Part 13 permit requirements for projects located in overburdened communities. HB 5901 was referred to the House Committee on Natural Resources, Environment, Tourism and Outdoor Recreation.

HB 5674 House Bill 5674 was introduced by Rep. Prestin on April 25, 2024. If enacted, HB 5674 would amend the Administrative Procedures Act to create an Environmental Rules Committee to oversee EGLE's rulemaking under the Act. HB 5674 was referred to the House Committee on Government Operations.

HB 4939 House Bill 4939 was introduced by Rep. Morgan on September 5, 2023. If enacted, HB 4939 would add a Part 4 to NREPA dealing with public trust resources. The bill would require EGLE to review and update its rules regarding the protection of the public trust in the waters of the state, including groundwater. HB 4939 was referred to the House Committee on Natural Resources, Environment, Tourism and Outdoor Recreation.

HB 5532 House Bill 5532 was introduced by Rep. Rogers on February 29, 2024. If enacted, HB 5532 would prohibit the operation of boats in “wake sport mode” in water depths less than 20 feet and closer than 500 feet from the shoreline or dock, a raft, a designated bathing area, or a moored or anchored vessel. HB 5532 was referred to the House Committee on Natural Resources, Environment, Tourism, and Outdoor Recreation.

SB 645 Senate Bill 645 was introduced by Sen. Shink on November 8, 2023. If enacted, the bill would add mosquito pesticides to the list of pesticides that MDARD must notify individuals on the Pesticide Notification Registry prior to application. It would also update the distance at which MDARD must notify a registrant from a physician recommended distance to 500 feet from the registrant's primary residence. SB 645 was referred to the Senate Committee on Natural Resources and Agriculture.

SBs 299, 300 & HBs 4479, 4480 Senate Bills 299 and 300 were introduced by Sen. Singh and House Bills 4479

and 4480 were introduced by Reps. Skaggs and Rheingans, respectively, on April 27, 2023. If enacted, the sets of tie-barred bills would amend the Public Health Code to create statewide septic legislation. SBs 299 and 300 were referred to the Senate Committee on Energy and Environment, and HBs 4479 and 4480 were referred to the House Committee on Natural Resources, Environment, Tourism and Outdoor Recreation.

HBs 5118 & 5119 House Bills 5118 and 5119 were introduced by Rep. Hood on October 10, 2023. If enacted, HB 5118 would authorize a local unit of government to create a property assessed clean energy program to finance projects related to renewable energy systems, energy efficiency improvements, water usage and sewage treatment improvements, air quality improvements, and environmental hazard projects. The tie-barred bills were referred to the House Committee on Energy, Communications, and Technology.

SBs 605-611 & HBs 5241-5247 Senate Bills 605-611 were introduced by Sens. Irwin, Moss, Chang, Geiss, McCann, Shink, and McMorrow on October 24, 2023, and House Bills 5241-5247 were introduced by Reps. McKinney, Morgan, Neeley, Skaggs, Arbit, Tsernoglou, and Koleszar on October 25, 2023. The bills are part of a “Polluter Pay” package that would create more stringent cleanup standards and require polluter accountability for environmental cleanup and other impacts of pollution. The Senate bills were referred to the Senate Committee on Energy and Environment, and the House bills were referred to the House Committee on Natural Resources, Environment, Tourism and Outdoor Recreation.

HBs 5419 & 5420 House Bills 5419 and 5420 were introduced by Reps. Schuette and Hoadley, respectively, on February 1, 2024. If enacted, the tie-barred bills would defer the payment of special assessments for an owner of a homestead who is 65 or older or totally and permanently disabled and who meets certain household income requirements until one year after the owner’s death or transfer of the property. HBs 5419 and 5420 were referred to the House Committee on Tax Policy.

SB 480 Senate Bill 480 was introduced by Sen. Hertel on September 12, 2023. If enacted, the bill would amend the Land Division Act to increase the number of parcel splits allowed for the first 10 acres of a parent parcel or tract. SB 480 would also allow a municipality to authorize additional splits by ordinance. A substitute for SB 480 was passed by the Senate and referred to the House Committee on Local Government and Municipal Finance.

HB 4987 House Bill 4987 was introduced by Rep. Wozniak on September 14, 2023. If enacted, HB 4987 would amend the Marketable Record Title Act to allow a property owners’ association to file a notice of claim to preserve an interest subject to expiration. The bill would also specifically exempt certain interests from extinguishment, including conservation easements, subdivision restrictions, and master deeds. HB 4987 was referred to the House Committee on Regulatory Reform.

HB 4981 House Bill 4981 was introduced by Rep. BeGole on September 14, 2023. If enacted, HB 4981 would create additional eligibility requirements for the office of county sheriff. A substitute for the bill was passed by the House and referred to the Senate Committee on Elections and Ethics.

SB 154 & HB 4220 Senate Bill 154 and House Bill 4220 were introduced by Sen. Webber and Rep. Tisdell, respectively, on March 8, 2023. The identical bills would amend the FOIA’s definition of “public record” to include records prepared, owned, used, in the possession of, or retained by an officer, employee, contractor, volunteer, or other agent of the public body in the scope of their duties to the public body. SB 154 has been referred to the Senate Committee on Civil Rights, Judiciary, and Public Safety, and HB 4220 was referred to the House Committee on Judiciary.

HB 4428 House Bill 4428 was introduced by Rep. Coleman on April 19, 2023. HB 4428 would create a new act entitled the “local government public notice act,” which would set forth specific methods and requirements for local governments and other governmental entities to provide certain public notices. HB 4428 was referred to the House Committee on Local Government and Municipal Finance.

HB 5614 House Bill 5614 was introduced by Rep. Hood on March 20, 2024. If enacted, HB 5614 would amend Part 31 of NREPA to remove the prohibition on EGLE from promulgating rules beyond those specifically authorized in the statute. The bill would also create PFAS testing requirements for sewage sludge prior to its use in land application. HB 5614 was referred to the House Committee on Energy, Communications, and Technology.

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