



Legislative Fiscal Bureau

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TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: LRB 4073 and LRB 4077: Milwaukee Metropolitan Sewerage District Dredged Material Management Facility

LRB 4073 and LRB 4077 (hereafter referred to as "the bill") are identical companion drafts that would establish provisions by which a metropolitan sewerage district that includes a first-class city (the Milwaukee Metropolitan Sewerage District) could construct and finance a dredged material management facility (DMMF).

BACKGROUND

Milwaukee Metropolitan Sewerage District

The Milwaukee Metropolitan Sewerage District (MMSD) is created under Subchapter II of Chapter 200 of the statutes. The District provides sewerage and storm water management services for 28 jurisdictions in Milwaukee, Ozaukee, Waukesha, and Racine Counties. The District is overseen by a board of 11 commissioners. The statutes give the District the general authority to plan, design, construct, operate and maintain sewerage transmission infrastructure and sewage treatment facilities, storm sewers, and other facilities and structures for the collection and transmission of storm water and groundwater. Further, s. 200.35 of the statutes authorizes several specific activities, including waterway diversions or stream improvements to manage storm water.

MMSD's revenues consist of two primary sources. Operating revenues consist mostly of user charges for sewerage conveyance and treatment paid by the municipalities that are part of the District, as well as fertilizer (Milorganite) sales. Additionally, s. 200.55 (6) of the statutes authorizes MMSD to levy a property tax to pay principal, interest, and any premiums on general obligation bonds or notes issued by the District to finance its capital budget. Audited financial statements for the District show 2019 operating revenues of \$99.1 million and property tax revenues of \$100 million.

Milwaukee Estuary Area of Concern and Dredged Material Management Facility

Under the 1987 Great Lakes Water Quality Agreement, the Milwaukee Estuary area encompassing parts of the Milwaukee, Menomonee, and Kinnickinnic Rivers has been classified as an Area of Concern (AOC) due to pollution occurring throughout the watershed. Part of the basis for the AOC designation is the accumulation of toxic substances in riverbeds from past industrial activities, while other identified impairments of the area are attributed to ongoing activities in the heavily urbanized area. To ultimately resolve the Milwaukee Estuary's impairments and remove the AOC designation, planning has identified multiple remedial actions, including: (a) dredging of contaminated sediments in tributaries and nearshore waters of Lake Michigan; (b) nonpoint source pollution control; (c) wetland and waterway improvements for water quality and recreational purposes; and (d) enhancing fish and wildlife habitat and populations.

Dredging of contaminated sediment would include approximately 10.9 miles of the Milwaukee, Kinnickinnic, and Menomonee Rivers, as well as some nearshore portions of Lake Michigan, with an estimated 1.4 million cubic yards of contaminated sediment to be removed. Funding of approximately \$260 million is expected mostly from the federal Great Lakes Legacy Act, primarily for dredging activities.

Planning has identified a dredged material management facility (DMMF) as the most cost-effective method for proper disposal of contaminated sediment from the rivers' beds, as opposed to hauling dredge spoils to landfills for disposal. A DMMF would function by receiving contaminated sediment in a secured, walled containment facility that prevents migration of toxic substances outside the structure. The DMMF would allow dredge spoils to settle over time and water to evaporate. Over time, the land formed from the accumulated sediment can be capped and reclaimed for other uses.

The DMMF would occupy approximately 42 acres of lakebed southeast of downtown Milwaukee situated north of, and adjoining, an existing Jones Island sediment combined disposal facility along the eastern side of Interstate 794. The DMMF is designed to store up to 1.9 million cubic yards of sediment. The project is estimated to take two to four years.

MMSD indicates that the current estimated cost of the DMMF is \$96.2 million. The Department of Natural Resources (DNR), MMSD, and other state, local and private entities would contribute various cash and in-kind amounts to the DMMF project, which is the primary local commitment to match federal funding. However, MMSD would primarily finance the DMMF and manage construction. MMSD intends to finance the project using district general obligation bonding authority and a loan under the federal Water Infrastructure Finance and Innovation Act (WIFIA). The WIFIA loan program is administered by the U.S. Environmental Protection Agency for eligible local, state, tribal, and federal water and wastewater infrastructure and rehabilitation projects. WIFIA loans can fund up to 49% of project costs. Interest rates on WIFIA loans are set based on the rate for similarly termed U.S. Treasuries on the date of loan closing. It is assumed that the MMSD project could borrow 49% of the \$96.2 million project total, or \$47.1 million, under a maximum repayment term of 30 years and at an estimated interest rate of perhaps 2% to 2.5%. WIFIA also allows loan repayment to be deferred for five years from the first disbursement of loan proceeds.

SUMMARY OF BILL

The bill would amend obsolete language under s. 200.35 of the statutes relating to a 1990s MMSD shore protection project to grant the MMSD Commission the authority to construct the DMMF. The authority would expire January 1, 2032. The bill would provide that MMSD, notwithstanding requirements to the contrary, shall cover costs of the facility through its capital budget, and that bonds or notes issued to finance the DMMF are to be payable over a period of 35 years. Finally, the bill would allow the MMSD Commission to reserve space in the dredged material management facility for disposal of sediment from flood management projects. MMSD and DNR indicate that the remaining 0.5 million cubic-yard capacity not currently allocated to Milwaukee Estuary AOC dredging could be used by the District or the City of Milwaukee in the future for those purposes.

The bill would not directly affect other provisions regarding MMSD powers or its regulatory or taxing authority. A nonstatutory provision would specify that the bill takes effect on the date of a resolution passed by the MMSD Commission, providing that the District's tax levy to finance its capital budget would not exceed increases of 3% per year through 2027. The MMSD Commission would be required to pass such a resolution by December 31, 2021. If no resolution were to pass by that date, the bill would be void. The nonstatutory provision would further provide that the 3% could be exceeded to address circumstances under a city, county, or state emergency declaration, as well as an emergency or disaster declaration made by the Federal Emergency Management Agency. Any exceedance would have to be approved by the MMSD Commission by a two-thirds majority vote of commissioners.

FISCAL EFFECT

The bill would allow MMSD to finance the debt obligations under both its general obligation bond issuance and the WIFIA loan repayment from its tax levy. The District indicates that the WIFIA loan process requires the statutory change to specifically authorize the project in statutes before the District can proceed with the loan. The District reports that it would not anticipate any appreciable change in its recent historical year-over-year levy changes owing to the financing of the DMMF. MMSD staff indicate that the District's levy has increased an average of approximately 2% over the last 10 years.

In addition to capital financing that MMSD would provide, DNR has preliminarily committed \$5 million to the Milwaukee Estuary AOC and the construction and permitting of the DMMF. The DNR contribution is allocated from available bonding authority for removal of contaminated sediment in the Great Lakes and tributaries. State funding that may be allocated to the DMMF would reduce financing costs that MMSD would otherwise incur.

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