



COUNTY ROAD ASSOCIATION OF MICHIGAN

417 SEYMOUR - P.O. BOX 12067 - LANSING, MI 48901

TELEPHONE 517.482.1189 - FAX 517.482.1253

Talking Points- Storm Water Utilities

Summary:

Senate Bill 256, introduced by Sen. Patty Birkholz (R-Allegan), would create the Storm Water Utility Act to allow a local unit of government (county, municipalities, townships, not local road agencies or drain commissioners) to adopt a storm water utility ordinance (if a local storm water system exists or the local unit wants to create a new system) providing for a storm water system development charge and/or a storm water fee on real property to finance a storm water management program. This program does not exclude or exempt anyone (includes ALL public or private property, including road agency property and right-of-way) but allows for credits for activities or conditions that benefit or reduce the cost of service to the storm water system. Depending on the system costs, this could be a significant expense to local road agencies.

CRAM position:

CRAM opposes this legislation

Background:

Several communities had adopted storm water fees which were ruled to be a violation of the Headlee Amendment under Bolt v. City of Lansing. Senator Birkholz, in coordination with regional planning authorities developed this program to meet the conditions of the three-part test established in Bolt. State and local road agencies, municipalities and drain commissioners were not included in the discussions on this legislation. After legislation was introduced, workgroups were scheduled to try to negotiate the many concerns raised by these public and private entities. To date, the interest of the road commissions have not been resolved.

The legislation is also opposed by the Michigan Manufacturers Association because factories often include large amounts of impervious area and may be subject to substantial fees.

CRAM's concerns on this legislation include:

- Roads and bridges are not exempt under this program. To comply with the three-part test established in Bolt v. City of Lansing, no exemptions are allowed. All public or private property, including road agency property and right-of-way are included, but credits are allowed for activities or conditions that benefit or reduce the cost of service to the storm water system;
- Local road agencies may or may not be required to pay a charge or fees (based on a benefit v. burden methodology) assessed by the local unit of government. A road agency could be charged even if the local road agency has no road jurisdiction within the local storm water district. If a local road agency water system flows into a local storm water system, there would be a charge or fee for the flowing quantity depositing into the local storm water system; and
- Every local unit of government has the ability to charge its residents for storm water run-off into the local storm water utility. Road agencies have no such authority to charge adjacent property owners.