



2001 ASSEMBLY BILL 895

March 7, 2002 - Introduced by Representatives HAHN, OTT, ALBERS, HINES, TOWNSEND and OWENS. Referred to Committee on Agriculture.

1 **AN ACT** *to amend* 88.63 (2); and *to create* 88.83 (6) of the statutes; **relating to:**
2 the authority of a drainage board to maintain drains, assessments levied by
3 drainage boards, and the dissemination of comprehensive plans.

Analysis by the Legislative Reference Bureau

Under current law, the owners of the majority of the land in a drainage district that is located entirely, or partly, within the boundaries of a city or village may petition the drainage board (board) having jurisdiction over the district to transfer jurisdiction of the district, or that part of the district that is located in the city or village, to the city or village. If the district is located only partially within a city or village, however, the district and the city or village must be in agreement regarding the terms of transfer. If, after a hearing, the board finds that the petition requirements have been met, the board must issue an order transferring jurisdiction. After a transfer, all proceedings regarding a drainage district, or part of a district, shall be under the city or village drainage law.

Also under current law, a city or village may adopt a resolution stating that the city or village is willing to accept a drain or part of a drain and to administer it under city or village drainage laws, and may petition the board with jurisdiction over the drain to transfer jurisdiction to the city or village. After a hearing the board may, but is not required to, issue an order transferring jurisdiction of the drain or part of the drain to the city or village.

Under this bill, if a city or village to which jurisdiction over a drainage district is transferred fails to maintain and repair the drains, the board may provide the city

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or village with written notice that describes the maintenance and repair that the board believes is necessary. If the maintenance and repair is not substantially completed within 60 days after the city or village receives the notification, the board may enter the drainage district and complete the necessary maintenance and repair, and may bill the city or village for its costs. If the city or village, within 60 days of receiving the notification, notifies the board in writing that the maintenance and repair described by the board is not needed, the board may take no further action and the matter must be submitted to arbitration.

Under current law, a board is required to establish a fund for the payment of costs of maintenance and repair. Whenever the amount of the fund falls below an amount specified by law, the board is required to levy an additional assessment for maintenance and repair. Under the bill, if the fund falls below an amount that allows for maintenance and repair, the board is required to levy an assessment for maintenance and repair.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 88.63 (2) of the statutes is amended to read:

2 88.63 **(2)** The board shall establish a fund for the payment of costs of
3 maintenance and repair. Whenever the amount of the fund falls below an amount
4 equivalent to ~~5% of the confirmed benefits currently in effect in the district that~~
5 allows for maintenance and repair, the board shall levy an additional assessment
6 under s. 88.23 for maintenance and repair. Assessments for costs of maintenance
7 and repair shall be apportioned on the basis of the confirmed benefits then in effect
8 in the district but may be made notwithstanding the fact that assessments of benefits
9 in the district may have been exhausted by previous assessments for other costs.
10 Assessments for costs of maintenance and repair, including costs incurred and per
11 diems earned by board members under sub. (1), are not limited by the extent of
12 unexhausted assessments of benefits in the district and shall not be counted in

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1 determining whether there are unexhausted assessments of benefits against which
2 assessments for costs other than those authorized by this section may be made.

3 **SECTION 2.** 88.83 (6) of the statutes is created to read:

4 88.83 (6) If a city or village, to which jurisdiction over a drainage district is
5 transferred under this section, fails in its maintenance and repair of the drains, as
6 that term is used in s. 88.63 (3), the board may provide the city or village with written
7 notice that describes the maintenance and repair that the board believes is
8 necessary. If the maintenance and repair as described by the board is not
9 substantially completed, not later than 60 days after the city or village receives the
10 written notice from the board, the board may enter the drainage district and
11 complete the necessary maintenance and repair. The board may bill the city or
12 village for the cost of completing the maintenance and repair, and the city or village
13 shall promptly pay the bill. If the city or village, not later than 60 days after the city
14 or village receives the written notice from the board, notifies the board in writing that
15 the maintenance and repair described by the board is not needed, the board may not
16 take any further action, except in response to a finding by an arbitrator, and the
17 matter shall be submitted to arbitration under ch. 788.

18 (END)