

Representative Todd Porter
and members of the House Energy and Natural Resources Committee

RE HB 1391

Thank you, Mr. Chairman and members of the committee, for giving me the opportunity today to speak in support of HB 1391. I will limit my testimony to the Section 2 amendment of this bill, specifically paragraphs 2 & 3 of 61-16.1-45 on page 2.

In 2016 the Sargent County WRB passed a Resolution of Necessity for an improvement project on Drain 11. It was proposed to be a \$3.9 million project funded as follows:

#####

The District plans to fund and finance the Project as follows:

- 1. Total project cost: \$3.9M***
- 2. State Water Commission Cost-Share: \$1.4M***
- 3. Sargent County Commission Crossing Cost-Share (for drain/road crossing improvements): \$200K***
- 4. Local Share total: \$2.28M paid as follows:***
 - a. Six-Year Bond Amount Max: \$1.7M (approximately \$283K max levy over six years)***
 - b. Remainder of local share: Funds on hand***

Let's go back to paragraph 3 of the proposed amendment. "If the cost of, or obligation for, cleaning and repairing of any drain exceeds the total amount that may be levied by the board in any six year period, the board shall obtain the approval of the majority of the landowners before obligating the district for the costs." Nothing is said there about reducing the local share cost of the project by funds on hand. The Sargent County WRB is deliberately ignoring the "cost" aspect of paragraph 3 and instead, focuses on a whacky "obligation" definition. Obligation to them is only the \$1.7 million bond and interest on the bond is in addition to the \$1.7 million! The \$1.3 million that had already been spent on engineering and ROW acquisition before the purchase of the bond and the bond

interest, mysteriously don't count as obligation to the Drain 11 landowners. Believe me I know it was an obligation as I helped pay for it!

Paragraphs 2 & 3 of current legislation, in my mind, speak to Legislative intent of landowner protection. The WRB can accumulate a fund equal to six years of maximum levy but if the costs exceed the six-year maximum, landowners should have a say in how their money is spent. That six-year maximum levy is the tipping point for landowner protection. But in Sargent County, in 2021 landowners in Drain 11 paid the sixth year of maximum levy to build up a reserve fund to help pay for the Drain 11 improvement project. Now six more years of maximum levy are required to finance the \$1.7 million dollar construction bond. That is at least 12 years at maximum levy and likely will go beyond 12 years. Yet that is being ignored by my WB solely for the purpose of constructing a \$4 million project without a landowner vote.

The question for this committee is, "Do you feel the legislative intent of current legislation is being followed?" If not, the addition of that extra sentence of proposed legislation to paragraph 3 will end the misinterpretation that is taking place and landowners will be guaranteed a vote. Please consider giving this bill a "Do Pass" recommendation.