Drainage Work Group
HF-2011 / SF-2029 – Discussion Paper
Section 103E.011 Drainage Authority Powers, Subd. 5. Use of external sources of funding.
DRAFT, Al Kean, BWSR, 8-7-16

HF-2011 / SF-2029 Language
Section 1. Minnesota Statutes 2014, section 103E.011, subdivision 5, is amended to read:

Subd. 5. Use of external sources of funding. Notwithstanding other provisions of this chapter, a drainage authority may accept and use funds from sources other than, or in addition to, those derived from assessments based on the benefits of the drainage system for the purposes of watershed-based planning and implementation for the drainage system, wetland preservation or restoration, or creation of water quality improvements or flood control. The sources of funding authorized under this subdivision may also be used outside the benefited area but must be within the watershed of the drainage system.

Brief History of Section 103E.011, Subd. 5
This subdivision was added to drainage law in 2000. Up until then, it was not clear that a Chapter 103E drainage system could accept and use external sources of funding, in addition to drainage system assessments, for the purposes indicated. This provision was/is a substantial authority enabling the integration of public program funds with private drainage system funds for multipurpose water management involving Chapter 103E public drainage systems.

Questions and Considerations
1) During the discussions that led to DWG consensus recommendations to update Section 103E.015 Considerations Before Drainage Work is Done, there was concern about trying to make drainage law the primary driver of watershed-based, multipurpose water management, rather than local water planning law and One Watershed - One Plan. The recommended and adopted updates to Section 103E.015 were understood to better enable coordination of local water planning, 1W1P and Chapter 103E drainage system administration for multipurpose water management, while avoiding concerns about drainage law overlap with local water planning law. This includes the requirements in Section 103E.015, Subd. 1. Environmental, land use, and multipurpose water management criteria, as well as Subd. 1a. Investigating potential use of external sources of funding and technical assistance.

2) Existing Section 103E.011, Subd. 5 enables the use of external sources of funding and drainage system assessments within the watershed of the drainage system for specific purposes, including water quality improvements. Use of this authority is promoted by the Clean Water Fund Multipurpose Drainage Management Grant Program administered by BWSR. However, could the proposed language provide clearer authority for drainage authorities to use external sources of funding for multipurpose water management planning that benefits the drainage system and other purposes?

3) Are there potential unintended consequences that need discussion?

4) Because “storage” of surface and/or subsurface runoff is a very important water management objective in Minnesota at present and going forward, might Section 103E.011, Subd. 5 be improved by adding “water storage” to the list of specific uses for external sources of funding? Following is example language.
Subd. 5. **Use of external sources of funding.** Notwithstanding other provisions of this chapter, a drainage authority may accept and use funds from sources other than, or in addition to, those derived from assessments based on the benefits of the drainage system for the purposes of wetland preservation or restoration, or water storage, or creation of water quality improvements, or flood control, including associated planning and implementation. The sources of funding authorized under this subdivision may also be used outside the benefited area but must be within the watershed of the drainage system.

**Summary of DWG Discussions**

1) Consideration 1 above is a substantial concern for at least some DWG members.

2) The existing language in Section 103E.011, Subd. 5 does not preclude the use of external sources of funding for planning for the specific uses identified, but maybe could use clarification.

3) Some drainage engineers are trying to incorporate storage into drainage projects, with external sources of funding.

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