



**House
Legislative
Analysis
Section**

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LANDFILL IMPACT FEES

House Bill 4993 as passed by the House
Second Analysis (2-5-90)

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Sponsor: Rep. Carl F. Gnodtke

Committee: Conservation, Recreation, and Environmental Resources

THE APPARENT PROBLEM:

Many townships incur costs due to the operation of landfills within their jurisdiction. Several townships complain of costs due to destruction of roads from the transport through the township of solid waste to landfills, garbage blown to roadsides from trucks transporting solid waste to landfills, and incessant calls from concerned citizens about landfills. Many townships do not benefit monetarily from the operation of landfills within their jurisdiction and are not in a financial position to cover the costs associated with operation of a landfill. Legislation has been proposed to allow townships to recoup costs associated with the operation of landfill.

THE CONTENT OF THE BILL:

The bill would amend the Solid Waste Management Act to allow a municipality to charge an "impact fee" on waste disposed at a landfill located within the municipality and used by the public. The surcharge would be collected by the landfill owner or operator and paid to the municipality quarterly. For a landfill located in a village, the surcharge would be imposed by the township in conjunction with the village.

Generally, the bill would limit the surcharge to \$1 per ton municipal solid waste incinerator ash and to ten cents per cubic yard of other solid waste. A higher impact fee could be charged if the municipality had an agreement with the landfill to do so. Impact fees assessed to a landfill would have to be reduced by any amount of revenue paid or available to the municipality from the landfill under the terms of preexisting agreements.

Revenue collected under the bill would be used for any purpose that promoted the public health, safety, or welfare of the citizens of the municipality. However, the money could not be used for a legal action against the landfill paying it unless the landfill had commenced a legal action against the municipality.

The money could be deposited either in the municipality's general fund or into a trust fund established under the bill. If a municipality opted to establish a trust fund, that fund would have to be administered by a three-member board consisting of: the municipality's chief elected official; someone "from the municipality" appointed by the chief governing board of the municipality; and someone approved by the owners and operators of landfills within the municipality and appointed by the governing board of the municipality. The latter two individuals would be appointed to two-year terms.

MCL 299.424A

BACKGROUND INFORMATION:

The bill is the successor to House Bill 4633, a bill enrolled earlier this year and vetoed by the governor. In his veto message, the governor said that because the bill capped the amount of the surcharge at seven cents per cubic yard,

the bill inappropriately removed the flexibility that local governments needed to negotiate acceptable surcharges for new facilities that might be sited in the future. He noted that contract and settlements adopted by several local governments had provided for external costs at much higher rates than provided by the bill. He also noted that the bill could allow a reduction in the fee to the point where there was no fee whatsoever, and stated his belief that the concept of the bill should be revisited to provide for a floor, rather than a ceiling, for a solid waste impact fee amount. He also urged that the use of the funds be more clearly defined (the bill said the money could be spent on any cost incurred by the municipality related to the landfill's operation or for solid waste management).

FISCAL IMPLICATIONS:

The House Fiscal Agency reports that the bill has no fiscal implications. (2-2-90)

ARGUMENTS:

For:

Most townships receive no monetary benefits from the operation of a privately owned or commercially operated landfill within their jurisdiction. Therefore, townships are often stuck with the bill for costs associated with the operation of the landfill without any means of generating funds from the landfill to cover the costs. The bill would offer townships a means of obtaining reimbursement for costs incurred due to the operation of landfills within their jurisdiction. By providing a means for municipalities and landfills to agree to fees exceeding the bill's limits, the bill would accommodate the need for flexibility cited by the governor in his veto of this bill's predecessor. While some may wish to see stronger provision for higher fees, the bill's approach is a moderate and workable one that would not precipitate higher fees or landfill closings.

Against:

The bill's basic approach is flawed. Rather than limiting the fees that municipalities may charge for the many direct and indirect costs of landfills, the bill should allow fees to more directly reflect the true costs of landfills. It would be better to, for example, make the impact fee a percentage of the disposal fee charged by the landfill, and to set a minimum impact fee. While this doubtlessly would increase the fees charged by landfills, such an outcome would promote recycling and ensure that those who generate waste pay the costs of disposing of it.

Against:

The bill should be more specific in explaining how the fees collected under it may be spent. As it stands, the fee money could be spent on anything promoting the public health, safety, or welfare of the citizens of the municipality. If the fees are necessary because of costs associated with landfills, the money should be spent on those costs; the bill

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should specify what those costs are. In addition, there are unrecovered costs associated with landfills that are incurred by counties, whose public health departments inspect landfills, test well water, and deal with the local environmental and health problems presented by landfills.

Response: The breadth of the "health, safety, or welfare" language guarantees adequate flexibility for local units of government to spend the money where it is most needed. Because of the variety of costs that landfills can generate, it would be difficult to construct a sufficiently comprehensive list. Another option, limiting expenditures to costs related to the operation of a landfill, is vague and could put a municipality in the position of having to justify an expenditure by linking a specific cost to a specific landfill.

POSITIONS:

The Michigan Townships Association supports the bill. (2-5-90)

The Michigan United Conservation Clubs supports the bill. (1-26-90)

The Michigan Waste Industries Association supports the bill. (1-29-90)

The Michigan Recreation and Parks Association supports the concept of the bill. (1-26-90)

The Michigan Association of Counties supports the bill, providing it is amended to ensure some funding for county health department costs associated with landfill regulation enforcement. (1-24-90)

The Michigan Municipal League does not oppose the bill. (1-24-90)