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BILL ANALYSIS

Senate Fiscal Agency

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House Bill 4993 (Substitute S-2 as reported)

Sponsor: Representative Carl F. Gnodtke

House Committee: Conservation, Recreation, and Environment

Senate Committee: Natural Resources and Environmental Affairs

Date Completed: 3-20-90

RATIONALE

Many Michigan municipalities incur considerable costs related to the operation of landfills within their jurisdiction. Several townships reportedly have complained of costs due to damage to roads caused by the transport of solid waste to landfills for disposal, decreased property values near landfills, and garbage blown to roadsides from trucks that haul waste. Since many local units of government 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 a landfill's operation, some people believe that the State should allow municipalities to recoup these costs through the imposition of an impact fee.

CONTENT

The bill would amend the Solid Waste Management Act to allow a municipality to impose an impact fee on solid waste or incinerator ash disposed of in a landfill located within the municipality. If the landfill were located in a village, the impact fee would have to be imposed by the township in agreement with the village. The bill would take effect on July 1, 1990.

The impact fee would have to be "assessed uniformly on all wastes accepted for disposal" and could be up to 10 cents per cubic yard of solid waste or municipal incinerator ash. A municipality could enter into an agreement with the landfill's owner or operator to set higher impact fees than those provided in the bill, however. The fees would have to be collected by

the owner or operator of the landfill and paid to the municipality on a quarterly basis no later than 30 days after the end of each calendar quarter. The fees would have to be reduced by the amount of any landfill revenue paid or available to the municipality pursuant to any preexisting agreements, including special use permits, contracts, court settlements, or trusts.

A municipality that imposed landfill impact fees could deposit the fee revenue in its general fund or establish a trust fund. Money deposited in the general fund could be used for any purpose that promoted the public health, welfare, or safety of the municipality's citizens. Landfill impact fee revenue deposited in a trust fund would have to be administered by a board of trustees consisting of the municipality's chief elected official, an individual from the municipality appointed by its governing board, and a person appointed by the governing board who was approved by the owner(s) or operator(s) of a landfill(s) located within the municipality. Appointees to a trust fund board would serve two-year terms. Money in the trust fund could be spent upon a majority vote of the trustees for any purpose that promoted the public health, welfare, or safety of the municipality's citizens. Fee revenue, regardless of whether it was deposited in the general fund or a trust fund, could not be used to bring or support a lawsuit against a landfill's owner or operator who collected impact fees unless the owner or operator instituted a suit or other legal action against the municipality.

Proposed MCL 292.424a

H.B. 4993 (3-20-90)

SENATE COMMITTEE ACTION

The House-passed version of the bill would have allowed an impact fee of up to \$1 per ton of municipal solid waste and provided that, if a landfill were located in a village, the bill's "surcharge" would have to be imposed by the township in "conjunction" with the village. The Senate Committee on Natural Resources and Environmental Affairs adopted a substitute (S-2) to the bill that would allow an impact fee of up to 10 cents per cubic yard of incinerator ash (i.e., the same level as for disposal of solid waste) and provides that, if a landfill were located in a village, the bill's "impact fee" would have to be imposed by the township in "agreement" with the village. The substitute also added an effective date of July 1, 1990.

BACKGROUND

The bill is similar to House Bill 4633, which was enrolled in 1989 and vetoed by the Governor. In his veto message, the Governor contended that House Bill 4633 inappropriately removed the flexibility that local governments needed to negotiate acceptable surcharges for new facilities that could be sited in the future, because it would have capped the amount of the surcharge at seven cents per cubic yard. He noted that contract and settlements adopted by several local governments had provided for external costs at higher rates than provided by House Bill 4633. He also urged that the concept of the bill be revisited to provide for a floor, rather than a ceiling, for a solid waste impact fee and that the acceptable uses of the fee revenue be more clearly defined. (House Bill 4633 provided that the money could be spent on any cost incurred by the municipality related to the landfill's operation or for solid waste management.)

FISCAL IMPACT

The bill would generate an indeterminate amount of revenue for local governments, depending on the fee set, amount and type of solid waste involved, and whether the cubic yards were compacted.

Assuming all solid waste in the State (estimated to be 11.8 million tons or 41.3 million cubic yards) was subject to the maximum 10-cent-per-cubic-yard impact fee, approximately \$4.13 million in local revenue could be generated from

noncompacted waste or \$1.18 million from compacted waste. Information regarding incinerator ash quantity is not available at this time.

ARGUMENTS

Supporting Argument

Most local units receive no monetary benefit from the operation of a privately owned or commercially operated landfill within their jurisdiction. Consequently, these municipalities often are left to bear the costs associated with the operation of the landfill without any means of generating adequate revenue from the landfill to cover those costs. The bill would provide for a potential revenue source for costs incurred due to the operation of landfills.

Opposing Argument

Rather than limiting the fees that municipalities could charge for the many direct and indirect costs associated with hosting a landfill, the bill should allow fees to reflect more directly the true costs of landfills. It would make more sense to establish the impact fee as a percentage of the disposal fee charged by the landfill, and to set a minimum rather than maximum impact fee. While this approach probably would result in higher fees than those proposed by the bill, it also could encourage waste reduction and recycling and would ensure that those who generated waste paid the costs of disposing of it.

Opposing Argument

The bill should be more specific in explaining how the fees collected under it could be spent. Under the bill, the fee revenue could be used on anything promoting the health, safety, or welfare of the municipality's citizens. If the fees are necessary because of costs associated with landfills, expenditures should be limited to those specific costs. Further, there are unrecouped costs associated with landfills that are incurred by counties as well as municipalities. County public health departments inspect landfills, test well water, and deal with the local environmental and health problems presented by landfills. There should be some provision for reimbursement of costs to counties.

Response: The breadth of the bill's language would guarantee adequate flexibility for local units of government to spend impact fee revenue where it is most needed. Since there is a large variety of costs associated with landfills, it would

be difficult to construct a sufficiently comprehensive list of approved costs. The other option, simply mandating that expenditures of fee revenue be limited to costs related to the operation of a landfill, is too vague and could put a municipality in the position of having to justify an expenditure by linking a specific cost to a specific landfill.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.