

HOUSE BILL No. 4203

February 16, 1989, Introduced by Reps. Owen, Bennett, Trim, DeMars, Bartnik and Perry Bullard and referred to the Committee on Conservation, Recreation and Environment.

A bill to amend sections 17 and 18 of Act No. 64 of the Public Acts of 1979, entitled as amended "Hazardous waste management act," as amended by Act No. 228 of the Public Acts of 1987, being sections 299.517 and 299.518 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 17 and 18 of Act No. 64 of the Public
2 Acts of 1979, as amended by Act No. 228 of the Public Acts of
3 1987, being sections 299.517 and 299.518 of the Michigan Compiled
4 Laws, are amended to read as follows:

5 Sec. 17. (1) A site review board shall be established to
6 review and grant or deny final approval for each site construc-
7 tion permit application that is referred to the board by the
8 director. When more than 1 construction permit application for
9 interrelated facilities on a single site within the same

1 municipality are submitted by the same applicant, reviewed
2 concurrently by the department, and referred to the board by the
3 director, a single board shall be established to review the site
4 applications concurrently but shall grant or deny final approval
5 for each application individually. A board shall consist of 9
6 voting members and a nonvoting chairperson to be appointed as
7 provided in subsection (2).

8 (2) The following 9 members and 1 nonvoting chairperson
9 shall serve on every board established to review a site construc-
10 tion permit application:

11 (a) ~~Seven~~ FIVE members shall be members appointed by the
12 governor, with the advice and consent of the senate. The ~~7~~ 5
13 members on each board shall include a geologist, a chemical engi-
14 neer, and a toxicologist, each of whom are on the faculty of an
15 institution of higher education within the state, a representa-
16 tive from a manufacturing industry, ~~2 representatives of the~~
17 ~~public,~~ and a representative of a municipality. Subject to the
18 other requirements of this subdivision, the governor may appoint
19 more than 1 geologist, chemical engineer, toxicologist, represen-
20 tative from a manufacturing industry, and representative of a
21 municipality. ~~and more than 2 representatives of the public.~~
22 However, only 1 geologist, chemical engineer, toxicologist, rep-
23 resentative from a manufacturing industry, and representative of
24 a municipality, ~~and only 2 representatives of the public,~~ as
25 randomly designated by the director, shall serve on a particular
26 board. The member who represents municipalities shall be
27 associated with a municipality or municipal association that is

1 or represents the same type of municipality in which a facility
2 is proposed to be located. A member representing a municipality
3 ~~or the public~~ shall not serve on a site review board that is
4 evaluating an application for a facility located within a county
5 or municipality which directly employs the member or in which the
6 member resides. A vacancy shall be filled for the unexpired por-
7 tion of the period in the same manner as the original
8 appointments. All members appointed by the governor, including a
9 chairperson appointed pursuant to subdivision (c), shall be
10 appointed to serve on site review boards for a period of 3 years,
11 and may be appointed for additional 3-year periods. In addition,
12 a member may serve beyond the expiration of the member's 3-year
13 period of service for so long a period of time as is necessary to
14 complete action on construction permit applications pending at
15 the expiration of the member's 3-year period of service.

16 (b) ~~One member~~ TWO MEMBERS shall be appointed by the gov-
17 erning body of the municipality in which the treatment, storage,
18 or disposal facility is primarily proposed to be located to serve
19 on the board which is established to consider a particular con-
20 struction permit application. ~~One member~~ TWO MEMBERS shall be
21 appointed by the county board of commissioners OF THE COUNTY in
22 which the treatment, storage, or disposal facility is proposed to
23 be located and shall be ~~a resident~~ RESIDENTS of the county
24 where the facility is proposed to be located. The members serv-
25 ing pursuant to this subdivision shall serve until the particular
26 construction permit application subject to their review is

1 approved, or until the application is rejected and is no longer
2 subject to review.

3 (c) An attorney shall be appointed by the governor, with the
4 advice and consent of the senate, to serve as a nonvoting chair-
5 person on each board established to review a site construction
6 permit. The chairperson shall have experience in conducting
7 formal meetings where sworn testimony is received. Subject to
8 the other requirements of this subdivision, the governor may
9 appoint more than 1 chairperson. However, only 1 chairperson,
10 designated by the director, shall serve on a particular board.

11 (3) THE MEMBERS OF A BOARD SHALL RECEIVE PER DIEM COMPENSA-
12 TION AS DETERMINED ANNUALLY BY THE LEGISLATURE AND REIMBURSEMENT
13 FOR ACTUAL AND NECESSARY EXPENSES INCURRED IN PERFORMANCE OF
14 THEIR OFFICIAL DUTIES.

15 (4) ~~-(3)-~~ The director or an authorized representative of
16 the director shall notify the local governing body of the munici-
17 pality and county government of a construction permit application
18 filed with the department.

19 (5) ~~-(4)-~~ Five of the 9 voting members of the board shall
20 constitute a quorum for the transaction of business of the board
21 and the concurrence of 5 voting members of the board shall con-
22 stitute a legal action of the board. All meetings of the board
23 shall be conducted pursuant to the open meetings act, Act No. 267
24 of the Public Acts of 1976, as amended, being sections 15.261 to
25 15.275 of the Michigan Compiled Laws.

26 (6) ~~-(5)-~~ The director shall make staff available to assist
27 a board in carrying out its responsibilities.

1 (7) ~~(6)~~ A site review board that is established ~~before~~
2 ~~the effective date of the amendatory act that added this~~
3 ~~subsection~~ PRIOR TO DECEMBER 28, 1987 shall proceed and fulfill
4 its duties pursuant to the applicable law in effect when the site
5 review board was established.

6 Sec. 18. (1) Except as otherwise provided in section 21a, a
7 person shall not establish a treatment, storage, or disposal
8 facility without a construction permit from the director. A
9 person proposing the establishment of a treatment, storage, or
10 disposal facility subject to the construction permit requirement
11 of this act, but not including a limited storage facility, shall
12 make application for a construction permit to the director on a
13 form provided by the director or an authorized representative of
14 the director.

15 (2) If an amendment to this act or to the rules promulgated
16 under this act subjects activities lawfully being conducted at a
17 treatment, storage, or disposal facility at the time the amend-
18 ment takes effect to the operating license requirements of this
19 act solely because of the amendment, the activities carried out
20 at the facility prior to the effective date of the amendment
21 shall not be subject to the construction permit requirements of
22 this act, except for an expansion of the facility with respect to
23 such activities beyond its original authorized design capacity or
24 beyond the area specified in an original permit, license, or
25 other authorization or an alteration of the method of hazardous
26 waste treatment or disposal.

1 (3) The application for a construction permit shall contain
2 the name and residence of the applicant, the location of the
3 proposed treatment, storage, or disposal facility, and other
4 information specified in this section, by rule, or by federal
5 regulation issued under title II of the solid waste disposal
6 act. The application shall be accompanied by a construction
7 permit application fee. The director shall establish by rule,
8 the scale for determining the initial construction permit appli-
9 cation fee. The fee shall be based upon the cost to the depart-
10 ment of reviewing the construction permit application. The scale
11 shall be based on characteristics including site size, projected
12 waste volume, nature of the waste, hydrogeological characteris-
13 tics, and the type of facility. The permit fees shall be depos-
14 ited in the general fund of the state. The application shall
15 include a copy of the actual published notice as described in
16 subsection (9) and a determination of existing hydrogeological
17 characteristics specified in a hydrogeological report and moni-
18 toring program consistent with rules promulgated pursuant to this
19 act, an environmental assessment, an engineering plan, and the
20 procedures for closure and postclosure monitoring. The environ-
21 mental assessment shall include, at a minimum, an evaluation of
22 the proposed facility's impact on the air, water, and other natu-
23 ral resources of the state; and also shall contain an environmen-
24 tal failure mode assessment.

25 (4) Except as otherwise provided in this subsection, the
26 construction permit application shall include a disclosure
27 statement which includes:

1 (a) The full name and business address of all of the
2 following:

3 (i) The applicant.

4 (ii) The 5 persons holding the largest shares of the equity
5 in or debt liability of the proposed facility. The director may
6 waive all or any portion of this requirement for an applicant
7 that is a corporation with publicly traded stock.

8 (iii) The operator, if known.

9 (iv) If known, the 3 employees of the operator who will have
10 the most responsibility for the day-to-day operation of the
11 facility.

12 (v) Any other business entity listed in the definition of
13 person in section 5(2) in which any person required to be listed
14 in ~~subdivisions~~ SUBPARAGRAPHS (i) to (iv) has at any time had
15 25% or more of the equity in or debt liability of that business
16 entity. The director may waive all or any portion of this
17 requirement for an applicant that is a corporation with publicly
18 traded stock.

19 (B) THE FINANCIAL STATUS OF THE OPERATOR, INCLUDING A STATE-
20 MENT OF ASSETS, LIABILITIES, AND ANY FINANCIAL AGREEMENTS, AS
21 REQUIRED BY THE DIRECTOR.

22 (C) ~~(b)~~ All convictions for criminal violations of ~~any~~
23 AN environmental statute ~~promulgated~~ ENACTED by a federal,
24 state, Canadian, or provincial agency for each person required to
25 be listed under this subsection. If debt liability is held by a
26 chartered lending institution, information required in this
27 ~~subsection and subsection (4)(c) and (d)~~ SUBDIVISION AND

1 SUBDIVISIONS (D), (E), AND (F) shall not be required from that
2 institution.

3 (D) ALL VIOLATIONS OF AN ENVIRONMENTAL STATUTE ENACTED BY A
4 FEDERAL, STATE, CANADIAN, OR PROVINCIAL AGENCY FOR EACH PERSON
5 REQUIRED TO BE LISTED UNDER THIS SUBSECTION, INCLUDING ALL
6 INSTANCES OF NONCOMPLIANCE WITH A PERMIT ISSUED UNDER 1 OF THESE
7 STATUTES.

8 (E) ~~(c)~~ A listing of all environmental permits or licenses
9 issued by a federal, state, Canadian, or provincial agency held
10 by each person required to be listed under this subsection which
11 were permanently revoked because of noncompliance.

12 (F) ~~(d)~~ A listing of all activities at property owned or
13 operated by each person required to be listed under this subsec-
14 tion, if the incident resulted in a threat or potential threat to
15 the environment, and public funds were used to finance an activ-
16 ity to mitigate the threat or potential threat to the environ-
17 ment, except if the public funds expended to facilitate the miti-
18 gation of environmental contamination were voluntarily and expe-
19 ditiously recovered from the applicant or other listed person
20 without litigation.

21 (5) If any information required to be included in the dis-
22 closure statement changes, or is supplemented after the filing of
23 the statement, the applicant, permittee, or licensee shall pro-
24 vide that information to the department in writing, within 30
25 days of the change or addition.

26 (6) Notwithstanding any other provision of law, the director
27 may deny an application for a construction permit if there are

1 any listings pursuant to subsection ~~(4)(b), (c), or (d)~~ (4)(C),
2 (D), (E), OR (F) as originally disclosed or as supplemented.

3 (7) A person may indicate an interest in being placed on a
4 department organized mailing list to be kept informed of any
5 rules, plans, construction permit applications, contested case
6 hearings, public hearings, or other information or procedures
7 relating to the administration of this act. A charge may be
8 required by the director to cover the cost of the materials.

9 (8) There is created within the state treasury a revolving
10 fund. When a site construction permit application is referred to
11 a site review board by the director, the applicant shall pay a
12 \$25,000.00 fee to be placed in this fund. The \$25,000.00 fee
13 shall be in addition to the application fee in subsection (3).
14 This fund shall cover THE PER DIEM COMPENSATION OF BOARD MEMBERS,
15 the expenses of the ~~site review~~ board members, the chairperson,
16 a mediator, and any other expenses necessary to the deliberations
17 of the board. The director or an authorized representative of
18 the director shall administer the fund and authorize
19 expenditures. The director or an authorized representative of
20 the director shall maintain records to support any expenses
21 charged to the fund. If expenses payable from the fund exceed
22 the \$25,000.00 fee paid by the applicant, the additional expenses
23 shall be paid from money appropriated by the legislature to the
24 revolving fund created in this subsection. Any unexpended por-
25 tion of an applicant's \$25,000.00 fee that is not expended to pay
26 the expenses listed in this subsection shall be reimbursed to the
27 applicant after the site review board process is concluded.

1 (9) An application for a site construction permit shall not
2 be complete unless it includes a copy of a newspaper notice which
3 the applicant published at least 30 days prior to submittal of
4 the application in a newspaper having major circulation in the
5 municipality and the immediate vicinity of the proposed treat-
6 ment, storage, or disposal facility. The required published
7 notice shall contain a map indicating the location of the pro-
8 posed treatment, storage, or disposal facility and information on
9 the nature and size of the proposed facility. In addition, the
10 notice shall contain all of the following information provided by
11 the director or an authorized representative of the director:

12 (a) A description of the application review process.

13 (b) The location where the complete application package may
14 be reviewed.

15 (c) How copies of the complete application package may be
16 obtained.