

HOUSE BILL No. 5375

December 13, 1989, Introduced by Reps. Nye, Dolan, Trim, Middaugh, Pridnia and Banks and referred to the Committee on Conservation, Recreation and Environment.

A bill to facilitate the development of local emergency planning and community right-to-know activities; to create a commission and certain committees and to provide for their powers and duties; to provide for the enforcement of certain provisions of federal law; to prescribe the powers and duties of certain persons; and to prescribe penalties and provide remedies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. As used in this act:

2 (a) "Commission" means the state emergency planning and com-
3 munity right-to-know commission created in section 2.

4 (b) "Committee" means the local emergency planning commit-
5 tees appointed under section 3.

6 (c) "Facility" means a building, equipment, structures, and
7 other stationary items that are located on a single site or on
8 contiguous sites and that are owned or operated by the same

1 person or by any person who controls, is controlled by, or is
2 under common control with that person. "Facility" may mean a
3 motor vehicle, rolling stock, and aircraft as provided in title
4 III.

5 (d) "Local emergency planning district" or "district" means
6 a district designated by the commission pursuant to section 2.

7 (e) "Local unit of government" means a county, city, town-
8 ship, or village.

9 (f) "Person" means an individual, corporation, partnership,
10 association, the state or federal government or a political sub-
11 division, or any other legal entity.

12 (g) "Title III" means the emergency planning and community
13 right-to-know act, title III of Public Law 99-499, 42 U.S.C.
14 11001 to 11005, 11021 to 11023, and 11041 to 11050.

15 Sec. 2. (1) A state emergency planning and community
16 right-to-know commission is established in the department of nat-
17 ural resources.

18 (2) The commission shall be appointed by the governor and
19 shall consist of all of the following members:

20 (a) The director of the department of natural resources.

21 (b) The director of the department of agriculture.

22 (c) The director of public health.

23 (d) The director of the department of state police.

24 (e) A representative of a local emergency response agency.

25 (f) Two representatives of local units of government who are
26 associated with agencies charged with the protection of the

1 public health and the environment from the threat of hazardous
2 materials.

3 (g) A representative of an environmental advocacy
4 organization.

5 (h) A representative of an industrial facility with more
6 than 300 employees required to file reports under this act or
7 title III.

8 (i) A representative of a facility with less than 300
9 employees required to report under this act or title III.

10 (j) Two representatives of labor organizations.

11 (k) A representative of an academic program engaged in
12 health and safety education and training.

13 (l) Two members of the general public.

14 (m) A representative of a local unit of government.

15 (n) A representative of a private agricultural
16 organization.

17 (3) The commission shall do all of the following:

18 (a) Designate each county in this state as an emergency
19 planning district to facilitate the preparation and implementa-
20 tion of emergency plans.

21 (b) Appoint members to local emergency planning districts.

22 (c) Notify the administrator of the environmental protection
23 agency of facilities subject to the requirement of title III and
24 this act by notifying the administrator of both of the
25 following:

26 (i) Each notification received by the commission required
27 under section 302(c) of title III.

1 (ii) Each facility designated by the commission as having
2 filing responsibilities under this act or title III.

3 (4) Review the plans of each local emergency planning com-
4 mittee and make recommendations to the submitting committee
5 regarding revisions of the plan that may be necessary to coordi-
6 nate the plan with the emergency response plans of other emer-
7 gency planning districts.

8 (5) The department of natural resources shall provide staff
9 assistance for the commission. All other state agencies shall
10 provide assistance to the commission upon request of the
11 commission.

12 (6) The business that the commission may perform shall be
13 conducted at a public meeting of the commission held in compli-
14 ance with the open meetings act, Act No. 267 of the Public Acts
15 of 1976, being sections 15.261 to 15.275 of the Michigan Compiled
16 Laws. Public notice of the time, date, and place of the meeting
17 shall be given in the same manner required by Act No. 267 of the
18 Public Acts of 1976.

19 (7) A writing in the possession of the commission in the
20 performance of an official function shall be made available to
21 the public in compliance with the freedom of information act, Act
22 No. 442 of the Public Acts of 1976, being sections 15.231 to
23 15.246 of the Michigan Compiled Laws.

24 Sec. 3. (1) As soon as possible, each county board of com-
25 missioners shall submit to the commission nominations regarding
26 potential candidates for membership on the local emergency
27 planning committee for the county for which the board serves.

1 (2) The commission shall utilize the submitted nominations
2 in appointing a local emergency planning committee for each
3 district. The membership of each local emergency planning com-
4 mittee shall consist of at a minimum 1 representative of each of
5 the following:

- 6 (a) Elected state officials.
- 7 (b) Elected local officials.
- 8 (c) Law enforcement interests.
- 9 (d) Civil defense interests.
- 10 (e) Firefighting interests.
- 11 (f) First aid interests.
- 12 (g) Health interests.
- 13 (h) Environmental interests within the district.
- 14 (i) Hospital personnel.
- 15 (j) Transportation personnel.
- 16 (k) Broadcast and print media.
- 17 (l) Community interests.
- 18 (m) Owners and operators of facilities subject to the
19 requirements of this act and title III.
- 20 (n) Agricultural interests.
- 21 (o) Labor interests.
- 22 (p) Education interests.
- 23 (3) Each committee shall appoint a chairperson and establish
24 rules for the operation of the committee. The rules of the com-
25 mittee shall include procedures to assure public notice of all
26 committee activities and meetings.

1 (4) Each committee shall schedule public meetings to discuss
2 the development of an emergency plan for the district and shall
3 receive public comment on a proposed plan.

4 (5) Emergency plans for a district that are formulated by a
5 committee shall be distributed to the public for comment.

6 (6) Each committee shall appoint a coordinator for the dis-
7 semination of information required under this act and under sec-
8 tion 312 of title III.

9 Sec. 4. A person who serves on the commission and a person
10 who serves on a local emergency planning committee shall not be
11 liable in a civil action for damages resulting from an act or
12 omission arising out of and in the course of the good faith per-
13 formance of the person's duties provided for under this act or
14 title III unless the person's act or omission was the result of
15 the person's willful misconduct or gross negligence.

16 Sec. 5. The state may enforce the reporting requirements of
17 sections 302, 303, and 304 of title III and may impose pursuant
18 to state law the enforcement provisions provided in section 325a
19 and b of title III, if the enforcement does not duplicate any
20 penalty or fine imposed under federal law.

21 Sec. 6. A person may file an action under this act against
22 the commission, county board of commissioners, and a local emer-
23 gency planning committee to compel the entity to fulfill its
24 responsibility under this act.

25 Sec. 7. The commission shall submit to the legislature rec-
26 ommendations pertaining to a fee system that is equitable and
27 based on the hazard for facilities that are subject to the

1 reporting requirements of section 302 of title III, in relation
2 to other reporting facilities, and that takes into account the
3 threat that each category of reporting facility poses to the
4 public health, safety, and welfare and the environment.

5 Sec. 8. A local unit of government shall not enact an ordi-
6 nance in conflict with this act.