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BILL ANALYSIS

Senate Fiscal Agency

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Senate Bill 41 (as enrolled)

Sponsor: Senator Connie Binsfeld

Senate Committee: Natural Resources and Environmental Affairs

House Committee: Conservation and Environment

Date Completed: 7-23-87

RATIONALE

Currently, 80% to 85% of Michigan's solid waste is disposed of in landfills. Although existing legal standards for landfills are designed to protect the public health and environment, some claim that serious problems with solid waste disposal still remain. Improper land disposal of solid waste, for example, has been blamed for approximately 13% of the known groundwater contamination problems in Michigan and 47% of the suspected problems. Further, many existing landfills are reaching capacity and it has become increasingly difficult to find new landfill sites because of the costs, public opposition, and lack of suitable locations at reasonable hauling distances from where solid waste is generated. In addition, many claim that the use of landfills means that millions of tons of valuable resources that could be used to provide energy and produce new products are wasted every year, and landfill sites continue to put valuable land to a low priority use.

To help alleviate the waste disposal problems plaguing the State, the Department of Natural Resources (DNR), through the Clean Michigan Fund, has developed a statewide solid waste management strategy involving a number of resource recovery alternatives that some say could reduce the State's dependence on landfills by up to 70%. Reportedly, use of such alternative waste management technologies would necessitate the establishment of waste-to-energy, solid waste transfer, recycling and composting facilities throughout the State. Many of these facilities are more costly than landfills, and unless the capital costs can be lowered, it appears unlikely that many public agencies will be able or inclined to construct and operate the facilities. In order to encourage public efforts to establish the facilities and programs necessary to implement the DNR's waste management strategy, it has been proposed that the State provide for the disposition of State surplus funds to invest in municipal bonds that would assist local units of government in promoting resource recovery alternatives.

CONTENT

The bill would amend Public Act 109 of 1855, which regulates the disposition of surplus State funds, to provide for the investment of such funds in a financial institution, investment company, or other legal entity that would be entitled to receive an investment for the purpose of assisting in the development of waste-to-energy facilities, solid waste transfer facilities, and recycling and composting facilities. The bill would do the following:

- Require the State Treasurer and the Director of the Department of Natural Resources to approve "eligible projects".
- Specify information an investment agreement would have to contain.

- Limit the amount of an investment to 10% of the average balance of the Common Cash Fund during the preceding 30 days.
- Provide for the General Fund to be credited with above average earnings on an investment, and reduced by the amount of below average earnings.
- Prohibit the State Treasurer from investing additional surplus funds as provided in the bill if the voters approved the issuance of general obligation bonds, and at least \$250 million of the proceeds of the bonds were to be used to promote solid waste management in the State.
- Take effect October 1, 1987.

"Eligible projects" would mean one or more of the following projects of a local unit that had been approved by the DNR Director and the State Treasurer:

- The construction, improvement, acquisition, or enlargement of a waste-to-energy facility.
- The construction, improvement, acquisition, or enlargement of a solid waste transfer facility.
- The construction, improvement, or enlargement of a recycling project or the acquisition of recycling equipment.
- The construction, improvement, or enlargement of a composting project or the acquisition of composting equipment.

The terms "composting project", "recycling project", "solid waste", "solid waste transfer facility", and "waste-to-energy" would be defined with reference to the Clean Michigan Fund Act. "Local unit" would mean a city, village, township, county, or an authority created by State law, or any combination of those entities when authorized by State law to act jointly.

Eligible Projects

Not less than 30 days before an investment was made, the Director of the Department of Natural Resources or his or her authorized representative and the State Treasurer would be required to prepare and submit to the members of the Joint Capital Outlay Subcommittee a list of projects that the Director and the Treasurer determined were eligible projects and the local units in which the eligible projects were located. Upon approval of the Joint Capital Outlay Subcommittee, the Treasurer could execute the investment authorized by the bill.

A project could not be approved by the Director and the Treasurer as an eligible project unless all of the following conditions were met:

- The Director determined that the project was located in a county that had an approved solid waste management plan.
- The Director determined that the project was consistent with the approved solid waste plan.

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- The Director determined that the project had all the permits required by State law that were applicable to the nature of the proposed project.
- The Director determined, if the project were a waste facility, that the "best available control technology" was utilized, as that term is defined in the Federal Clean Air Act, and that the resultant ash was tested for toxicity and appropriate disposal was assured.
- If the project were a waste-to-energy facility, either the project included the recycling of the recyclable portion of the project's projected waste stream, or the project application included a recycling feasibility analysis or other available information that indicated that recycling was not necessary or feasible, or was only necessary or feasible to a limited extent and that adding such a component would not be economically feasible. In addition, if any local unit that had an approved solid waste management plan operated a recycling project or received funding from the Clean Michigan Fund for a recycling project that included an analysis of the feasibility of recycling in the county in which the project was located, the requirements of this provision would have to be met for all local units within the planning area.
- The Treasurer determined that the project met the requirements of the bill and was economically feasible and that no similar project that was economically feasible without the expenditure of State funds was proceeding in a timely manner and had applied to the Director for any permit or license necessary for construction or operation in the county in which the project was located.

The Director and the Treasurer would be required to work together to assure that eligible projects were both economically viable and of assistance in developing and encouraging methods for the disposal of solid waste that were environmentally sound and maximized the use and reuse of valuable resources.

Notwithstanding any other provisions of the Act, the State Treasurer would be prohibited from investing additional surplus funds as provided in the bill if the voters approved the issuance of general obligation bonds, and at least \$250 million of the proceeds of the bonds were to be used to promote solid waste management in the State by funding eligible projects or similar solid waste management projects, promoting solid waste reduction, upgrading or closing existing landfills, or providing educational or technical assistance regarding solid waste management.

Investment Agreement/Earnings

Under the bill, the State Treasurer could invest surplus funds under his or her control in a financial institution, investment company, or other legal entity that would be entitled to receive an investment. The investment could be in the form of a deposit, repurchase agreement, guaranteed investment contract, banker's acceptances, or other security evidencing an obligation of the entity receiving investments to repay an investment under the terms and conditions contained in the investment agreement, including the rate of return, if any. The bill states that such an investment "is found and declared to be for a valid purpose". In addition to the terms and conditions prescribed by the investment agreement, the agreement would be required to provide for the following:

- The character, extent, and nature of security necessary for the investment.
- That the investment would have to be loaned to the Michigan Municipal Bond Authority for the purpose of investing the proceeds in a manner that would be consistent with and pursuant to the Shared Credit Rating

Act. The return of funds available to the Authority could be used only for the purpose of structuring, assisting, or benefiting an eligible project or paying principal and interest on any proceeds of the Authority that were used to benefit an eligible project.

- The term of the investment.

The amount of any such investment could not exceed 10% of the average balance of the State Common Cash Fund during the 30 days preceding the date on which the list of eligible projects was submitted to the Joint Capital Outlay Subcommittee. The percentage would be calculated after other investments made under the bill had been deducted. Earnings from an investment in excess of the average rate of interest earned during the same period on other surplus funds, other than surplus funds invested in eligible municipalities, qualified corporations, and owner-operators of a farm in the production of agricultural goods, would have to be credited to the State General Fund. If interest from an investment were below the average rate, the General Fund would be reduced by the amount of the deficiency on an amortized basis over the remaining term of the investment. A loss of principal from an investment would reduce earnings on the General Fund by the amount of that loss on an amortized basis over the remaining term of the investment.

MCL 21.143 et al.

FISCAL IMPACT

Senate Bill 41 provides for an alternative investment of the State's common cash funds. The revenue loss to the State General Fund from the proposal would be the interest earnings foregone from common cash investments made in solid waste projects versus investments in interest earning securities. Assuming the maximum allowable investment of \$225 million was made at a zero percent interest rate, the foregone interest earnings would equal approximately \$13.5 million per year.

ARGUMENTS

Supporting Argument

The bill would help facilitate statewide efforts to alleviate Michigan's waste disposal problems by promoting the development of alternative resource recovery technologies. It would help conserve energy and resources and reduce the incidence of air and water pollution in solid waste management practices. Market forces have not generated enough interest in creating solid waste treatment alternatives. The bill would authorize as much as 10% of the average balance of the Common Cash Fund (a figure that could be in the range of \$200 million) to be invested in municipal bonds that would provide an important impetus for local units of government to establish new and more ecologically efficient waste management alternatives.

Opposing Argument

The bill fails to specify how the funding would be shared among the various types of solid waste management alternatives outlined in the bill, or how much should be spent on a given project. Waste-to-energy facilities, for example, can be very expensive and could take up an inordinate share of available funding and preclude the development of recycling, composting, and other "low tech" solutions that help provide for a more comprehensive solid waste plan and in the future may be the most economically efficient method of solid waste resource recovery. We must not lock ourselves out of these options by putting all our horses in large capital outlay projects.

Opposing Argument

The bill contains no provisions that would enable the private sector to get a loan. There should be language outlining a way in which the private sector would be involved with the bill's eligible projects. The private sector could build and run these facilities more cheaply and efficiently than local governments could. Private enterprises should be able to get direct loans under this program and be independent of municipalities instead of having to go through them. The private sector should not be put at a disadvantage by the public sector.

Response: The private sector already is running waste management projects, and could continue to do so under contracts with local units.

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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.