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SFA



BILL ANALYSIS

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Senate Bills 901 through 904 (as introduced 2-19-98)
Sponsor: Senator Loren Bennett (S.B. 901 & 904)
 Senator Don Koivisto (S.B. 902 & 903)
Committee: Natural Resources and Environmental Affairs

Date Completed: 2-24-98

CONTENT

Senate Bill 901 would create the "Clean Michigan Initiative Act" to provide for the issuance of general obligation bonds to finance environmental and natural resources protection programs. **Senate Bills 902 and 903** would amend the Natural Resources and Environmental Protection Act (NREPA) to allow the Department of Environmental Quality (DEQ) to establish a nonpoint source pollution prevention and control grants program and a waterfront redevelopment grant program, respectively. **Senate Bill 904** also would amend the NREPA to provide implementation authority for bonds issued under the proposed Act.

The bills are tie-barred to each other. The following is a detailed description of the bills.

Senate Bill 901

General Obligation Bond

The State would be required to borrow up to \$500,000,000 and issue general obligation bonds, pledging the State's full faith and credit for the payment of principal and interest on the bonds, to finance environmental and natural resources protection programs that would do the following: clean up and redevelop contaminated sites, protect and improve water quality, reclaim and revitalize community waterfronts, enhance and increase recreational opportunities at State parks, and clean up contaminated sediments in Michigan waters. The bonds would have to be issued in accordance with conditions, methods, and procedures established under the law.

Bond Proceeds

The proceeds of the sale of the bonds, premium

and accrued interest on the delivery of the bonds, and any earned interest on the bonds' proceeds would have to be deposited in the State Treasury and credited to the Clean Michigan Initiative Bond Fund (proposed by Senate Bill 904). Money from the Fund could be disbursed only for authorized purposes. (Senate Bill 904 would add that the Department of Treasury could establish restricted subcontracts within the Fund as necessary. It also would require that the unencumbered balance in the Fund at the close of the fiscal year remain in the Fund and not revert to the General Fund.)

Vote

The question of borrowing up to \$500,000,000 and issuing general obligation bonds would have to be submitted to a vote of the State's qualified electors. The Secretary of State would have to perform necessary acts properly to submit the question to the qualified electors to vote on at the next general November election.

Appropriation

After the bonds were issued, a sufficient amount would have to be appropriated from the State's General Fund each fiscal year to pay promptly the principal of and interest on all outstanding bonds and costs incidental to their payment. The Governor would have to include the appropriation in his or her annual budget recommendation to the Legislature.

Senate Bill 902

Nonpoint Source Pollution Prevention and Control Grants Program

The bill would require the DEQ to establish a

nonpoint source pollution prevention and control grants program to provide grants to local units of government for nonpoint source pollution projects that do one or more of the following as approved by the Department: implement the physical improvement portion of watershed plans, reduce specific nonpoint source pollution, and support large-scale watershed programs consistent with the physical improvement portion of watershed plans. ("Nonpoint source" would mean water pollution from diffuse sources, including runoff from precipitation or snowmelt contamination through contact with pollutants in the soil or on other surfaces and either in filtrating into the groundwater or being discharged to surface waters, or runoff or wind causing erosion of soil into surface waters.)

For any grants issued under the bill, the DEQ would have to require that a local unit of government contribute 30% of the total project's cost from other public or private funding sources. The DEQ could approve in-kind services to meet all or a portion of the match requirement. The bill also would allow the Department to waive the match requirement if the grant applicant entered into a contract providing for maintenance of the project or practices that were funded under terms acceptable to the DEQ.

Application Process

Under the bill, a local unit of government wishing to apply for a grant would have to submit a grant application to the DEQ in the prescribed manner and containing the required information. The grant application would have to include a detailed description of the project the grant would fund; a discussion, if applicable, of how the project was consistent with an approved watershed plan; and a description of the total cost of the project and the source of the local government's contribution to the project.

Upon receiving a grant application, the Director of the DEQ would have to consider the proposed projects for funding and the extent that money would be available for grants, and issue grants for projects that the Director determined would assist in the prevention or control of pollution from nonpoint sources.

Watershed Plan

The bill provides that upon request, the DEQ would have to review and approve or disapprove a watershed plan that had been submitted. An acceptable watershed plan would have to address

the beneficial uses affected by nonpoint source pollution; pollutants affecting the beneficial uses; pollutant sources; and selected methods of controlling pollutants, including physical improvements, institutional changes, and an information or education campaign.

The DEQ would have to give public notice of its intent to approve a watershed plan and consider comments for 30 days. If two or more local units of government submitted plans for the same watershed, the DEQ would have to return the plans with direction to the local units to work together to develop a single watershed plan submitted by one local unit.

The bill also would add that the DEQ could promulgate rules to implement the bill's provisions.

Senate Bill 903

Waterfront Redevelopment Grant Program

The bill would require the DEQ to establish a waterfront redevelopment grant program. A local unit of government could apply for a grant to conduct a project that provided for the following: the response activities on waterfront property consistent with a waterfront redevelopment plan, the demolition of buildings and other facilities along a waterfront inconsistent with a plan, the acquisition or assembly of waterfront property consistent with a plan, and the public infrastructure and public facility improvements to waterfront property consistent with a plan. ("Waterfront" would mean land that was contiguous to any of the following: the Great Lakes or their connecting waterways; a lake, pond, or impoundment having a surface area of at least five acres; a river, stream, or creek; and any other body of water that had at least five acres of surface area and definite banks, a bed, and visible evidence of a continued flow or continued occurrence of water.)

The DEQ would have to require that a local unit provide at least 25% of the total project's cost from other public or private funding sources for any grant issued under the bill.

Under the bill, a local unit of government that desired to apply for a grant would have to prepare a waterfront redevelopment plan that would provide for the improvement of the waterfront. The plan would have to designate clearly the geographic area included within the waterfront planning area, and identify the economic impact on the improved area, the surrounding neighborhood, and the

waterfront planning area region.

Application Process

Under the bill, a local unit of government wishing to apply for a grant would have to submit a grant application to the DEQ in the prescribed manner and containing the required information. The grant application would have to include a detailed description of the project the grant would fund and how it would be used, including any private sector participation; a copy of the waterfront redevelopment plan and the area for the project; a discussion of how the project would significantly contribute to the local unit's economic and community redevelopment, or revitalization of adjacent neighborhoods; an explanation of how the project would provide for public access or recreational opportunities; the total cost of the project and the source of local unit's contribution; an identification of the intended use of the property, if the project included the purchase of property, and a timeline for its redevelopment; and other relevant information.

After receiving a grant application, the DEQ would have to forward a copy to the Michigan Jobs Commission. The DEQ and the Commission would have to review the applications jointly, and consider whether: the project was authorized by the bill; the submitted application complied with the bill; the project was consistent with the waterfront redevelopment plan for the area; the project provided significant public access or recreational opportunities; the project would significantly contribute to the local unit's economic and community redevelopment, or revitalization of adjacent neighborhoods; there was evidence of adverse economic and socio-economic conditions within the planning area; the plan was viable; and the project was innovative in comparison to other grant applications. The bill also would require the DEQ and the Commission and other resources available for the project; the level of public and private commitment to other aspects of the plan; the level of demonstrated commitment from other governmental agencies; the level of public and private commitment to improving abandoned real property with the planning area; the relation to a broader economic and community development plan for the local unit; and other relevant criteria.

The DEQ, with the Commission's approval, would have to issue grants for projects that met the bill's requirements and would contribute to the revitalization of waterfronts throughout the State

that were not being used in a manner that maximized economic and public value.

Senate Bill 904

Legislative Finding

The bill states the following legislative finding and declaration: "...that the environmental and natural resources protection programs implemented under the clean Michigan initiative act are a public purpose and of paramount public concern in the interest of the health, safety, and general welfare of the citizens of this state".

Bond Issuance

The bill describes the manner and form in which bonds would have to be issued under the proposed Act. Under the bill, the State Administrative Board would have to rotate legal counsel services when issuing bonds.

The State Administrative Board could authorize and approve insurance contracts, agreements for lines of credit, letters of credit, commitments to purchase bonds, and any other transaction to provide security to assure timely payment or purchase of any bond issued.

The State Administrative Board also could authorize the State Treasurer, within limitations contained in the Board's authorizing resolution, to do the following activities: sell, deliver, and receive payment for the bonds; deliver bonds to refund bonds; select which outstanding bonds would be refunded by new bonds; approve interest rates or methods necessary to complete transactions; and execute, deliver, and pay the cost of any transaction to provide timely payments or purchase of any bond.

Bonds issued under the proposed Act would be fully negotiable under the Uniform Commercial Code and the interest would be exempt from all taxation by the State or any political subdivision of the State. The bonds issued would be securities in which banking businesses, insurance businesses, and fiduciaries could properly and legally invest funds, including capital, belonging to them or within their control.

Fund Allocation

The total proceeds of all bonds issued under the proposed Act would have to be deposited into the proposed Clean Michigan Initiative Bond Fund and

allocated as follows:

- Up to \$325,000,000 for environmental contamination cleanup.
- Up to \$50,000,000 for waterfront improvement.
- Up to \$25,000,000 for contaminated river sediments cleanup.
- Up to \$50,000,000 for nonpoint source pollution prevention and control.
- Up to \$50,000,000 for State park infrastructure improvement.

The money allocated for cleanup of sites of environmental contamination would have to be used by the Department for corrective actions to address releases from leaking underground storage tanks; response and site assessment activities at environmental contamination sites; grants and loans (up to \$20,000,000) for brownfield redevelopment authorities; and grants (up to \$12,000,000) for the municipal landfill grant program.

The State Treasurer would have to direct the Fund's investment and allocate interest and earnings in the same proportion as earned on the investment of the proceeds of the bond issue.

Use of Funds

Money in the Fund could be used by the Department of Treasury for the cost of issuing bonds and by the DEQ for its costs. Up to 5% of the total amount of Fund allocations would have to be available for appropriation to pay Department costs directly associated with the completion of a project for which bonds were issued. The bill specifies a legislative intent that General Fund appropriations to the DEQ not be reduced as a result of Department costs funded under this provision.

The bill would require the Department to submit annually, by February 15, a list of all projects recommended to be funded under the bill that would be undertaken by the Department. The list would have to be submitted to the Governor, the House and Senate standing committees that would address natural resources and the environment, and the House and Senate Appropriations Committees. The list would have to be submitted before any request for supplemental appropriation of bond funds. It would have to include the nature of the project, the county, the estimated total cost, and other pertinent information. A project that was funded by a grant or loan with money from the Fund would not need to be included on the list.

The Legislature would have to appropriate prospective or actual bond proceeds for projects proposed to be funded. Appropriations would have to be carried over to succeeding fiscal years until the project was completed.

By December 31 each year, the DEQ would have to submit a list of projects financed under the bill to the Governor and the legislative committees described above. The list would have to include the name, address, and telephone number of the recipient or participant; the name, location, and nature of the project; the amount allocated; the county; and other pertinent information.

Grant or Loan

The following conditions would apply to the funds allocated for grants and loans to local units of government and brownfield redevelopment authorities. A recipient of a grant or loan could receive a maximum of one grant or loan per year up to \$1,000,000 per grant or loan. A grant or loan would be awarded only if the property were a "facility" and the proposed redevelopment of the property would result in measurable economic benefit that would exceed the requested grant amount or, the property had economic development potential based on the planned use of it.

The Department would have to consider the extent to which the grant or loan would contribute to the achievement of a balanced distribution of grants and loans throughout the State before making a grant or loan with money from the Fund.

A grant or loan recipient would have to keep an accounting of the money (subject to a postaudit) spent on the project in a generally accepted manner. A recipient also would have to obtain authorization from the Department before implementing a significant change to the proposed project.

Application

A grant or loan application would have to be made on a form or in a format prescribed by the DEQ, and the Department could require the applicant to provide any necessary information. The Department could not make a grant or a loan unless the applicant met the following conditions: demonstrated that the proposed project complied with all applicable State laws and rules, demonstrated the capability to carry out the proposed project, demonstrated that there was an identifiable source of funds for the future

maintenance and operation of the proposed project, had undergone an audit within the last 24 months, had not had any previous grant from the Department revoked or terminated or demonstrated an inability to manage a grant.

Revocation, Withholding, Cancellation, or Termination

The bill would allow the DEQ to revoke a grant or a loan made by the Department, or withhold payment if the recipient failed to comply with the terms and conditions of the grant or loan agreement, the bill's requirements, or rules. The Department could recover all funds awarded under a grant or loan that was revoked.

The Department also could withhold a grant or a loan until it determined that the recipient was able to proceed with the proposed project. The Department could withhold 10% of the grant or loan until the project was complete to assure timely completion of a project.

The Department could cancel a grant or loan offer if an approved applicant failed to sign a grant or loan agreement within 90 days of a written loan offer by the Department. The applicant could not appeal or contest a cancellation pursuant to this provision.

The Department could terminate a grant or loan agreement and require immediate repayment of the grant or loan if the recipient used grant or loan funds for any purpose other than for the approved activities specified in the grant or loan agreement. The Department would have to give the recipient written notice of the termination 30 days prior to the termination.

Loans

A loan that was made with money in the Fund would have to have a loan interest rate of up to 50% of the prime rate. Loan recipients would have to repay loans in equal annual installments of principal and interest beginning no later than five years after execution of a loan agreement and concluding no later than 15 years after execution of a loan agreement. Loan payments and interest would have to be deposited in the Fund.

Upon default of a loan, or upon the request of the loan recipient as a method to repay the loan, the Department of Treasury would have to withhold State payments from the loan recipient in amounts consistent with the repayment schedule in the loan agreement until the loan was repaid. The

Department must deposit the funds that were withheld into the Fund until the loan was repaid.

Proposed MCL 324.8801-324.8806 (S.B. 902)
Proposed MCL 324.79501-324.79506 (S.B. 903)
Proposed MCL 324.19601-324.19614 (S.B. 904)

Legislative Analyst: N. Nagata

FISCAL IMPACT

Senate Bills 901 and 904

The cost to sell and repay general obligation bonds depends on how long the bonds are issued for and the annual rate of interest that would have to be paid on the bonds. These bills would give the Department of Treasury flexibility in deciding how many years to issue the bonds for, but a reasonable assumption at this time is that the bonds would be issued for 25 years. In addition, given the current level of interest rates and Michigan's credit rating of AA+, these tax-exempt bonds would be sold at an annual interest rate of 4.8%. Based on these assumptions, issuing \$500 million in general obligation bonds would cost the General Fund/General Purpose budget about \$35 million annually or about \$870 million during the 25-year period (\$500 million in principal and \$370 million in interest). Additional costs totaling about \$5 million also would be incurred the year the bonds were sold, for underwriting fees and other costs associated with selling long-term bonds.

Senate Bill 904 would direct the use of \$500 million in bond revenues generated in Senate Bill 901. It could provide for as much as \$132 million in additional State funds for local environmental grants and loans. The remaining \$368 million would be allocated to the State; with \$318 million for cleanup of contamination sites and river sediments, and \$50 million for State park infrastructure improvements. The Department of Environmental Quality would be authorized to receive 5%, or \$16.25 million for administration of the environmental cleanup program.

Senate Bills 902 and 903

The bills would have no fiscal impact in that they outline the program to be funded by Senate Bill 901.

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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.