

HAZARDOUS WASTE FEES

House Bill 4626

Sponsor: Rep. Larry DeVuyst

Committee: Conservation and Outdoor
Recreation

Complete to 5-21-01

A SUMMARY OF HOUSE BILL 4626 AS INTRODUCED 4-19-01

House Bill 4626 would amend part 111 and 121 of the Natural Resources and Environmental Protection Act (NREPA), concerning hazardous waste management and liquid industrial wastes, respectively, and would add a new section to the act to establish manifest processing user charges, site identification number user charges, and annual handler user charges. The bill would also establish a hazardous waste and liquid industrial waste users account within the Environmental Pollution Prevention Fund, as follows:

Hazardous Waste Disposal Fees. Under the act, a fee is assessed on all hazardous waste disposed of in a landfill or solidification facility. Certain kinds of hazardous waste -- such as incinerator ash, certain treated waste, and hazardous waste from a contaminated site -- are exempt from the fee requirement. In addition, a generator who documents a reduction in waste due to a process change is entitled to a refund. The fees collected are deposited in the general fund and appropriated to pay refunds and to fund waste minimization and waste reduction assistance programs. Under the bill, money from fees would also be appropriated, for fiscal years 2002 and 2203 only, for hazardous waste management.

Liquid Industrial Waste Users Account. Currently, the act provides for a hazardous waste transporter account within the Environmental Pollution Prevention Fund, and specifies that money or other assets may be deposited there and used to implement the hazardous waste management provisions of the act. Funds not expended for this purpose may be used for hazardous waste emergency response and cleanup activities. House Bill 4626 would specify, instead, that money currently deposited into the transporter account would be deposited into the fund or into any account within the fund. In addition, the bill would create a hazardous waste and liquid industrial waste users account within the fund. Under the bill, money from this account would be appropriated to implement the hazardous waste management program. The target revenue projection for the hazardous waste and liquid industrial waste users account would be \$1,600,000.

Manifest Processing User Charge. Currently, the act specifies that a hazardous waste generator must provide a separate manifest to a transporter for each load of hazardous waste that is transported to property off the site where it was generated. The bill would add that, beginning on October 1, 2002, a person required to prepare a manifest would have to submit a manifest processing user charge of \$6 per manifest, and his or her tax identification number, to the DEQ. Each calendar year, the DEQ could adjust the user charge, as necessary to ensure that the total cumulative amount of the user charges assessed under the provisions of the bill were consistent with the target revenue projection for the proposed hazardous waste and liquid industrial waste

users account. However, the bill would specify that the user charge could not exceed \$8 per manifest. Money collected under these provisions, and from penalties imposed on late payments, would be deposited into the Environmental Pollution Prevention Fund and credited to the proposed hazardous waste and liquid industrial waste users account.

Beginning in 2004, the DEQ would be required to send a form to each person subject to the manifest processing user charge, by February 28th of each year. The form would be used to specify the number of manifests prepared by that person and processed by the DEQ during the previous fiscal year. The form would have to be completed and returned to the DEQ with the appropriate payment by April 30th of each year. Failure to provide timely and accurate information, a complete form, or the appropriate manifest processing user charge would be a violation, subject to all of the following:

- Payment of the user charge and interest on the amount due, based on the rate set under Section 6013(3)(B) of the Revised Judicature Act, concerning the interest rates that may be charged on judgments, using the full increment of the amount due as principal, and calculated from the payment's due date until the delinquent payment is finally made in full.

- Beginning six months after the date payment is due, but not paid, a civil fine equal to five times the amount of the applicable manifest processing user charge.

- Beginning nine months after the date payment is due, but not paid, at the request of the DEQ, an action by the attorney general for the collection of the amounts owed previously and the actual costs to the department in attempting to collect those amounts.

Site Identification Number User Charge. The bill would require that a generator, transporter, or treatment, storage, or disposal facility obtain and use a site identification number assigned by the U.S. Environmental Protection Agency (EPA) or the department. Beginning on October 1, 2002, the DEQ would have to assess a site identification number user charge of \$50 for each number it issued. However, the DEQ could not issue a number under these provisions unless the user charge and the tax identification number for the person applying had been received by the department.

(The bill provides two definitions of "site identification number." Under Part 111 of the act, which regulates hazardous waste management, it would mean a number that is assigned by the EPA or by its designee to each generator, each transporter, and each treatment, storage, or disposal facility. If the generator or transporter or the treatment, storage, or disposal facility managed wastes that were deemed hazardous under the act, but not hazardous under the Solid Waste Disposal Act, then "site identification number" would refer to an equivalent number that had been assigned by the DEQ. Under Part 121 of the act, which regulates liquid industrial waste, the bill specifies that a "site identification number" means a number that is assigned by the EPA or the DEQ to a generator, transporter, or facility. The department could assign a number to a person or a facility to cover multiple unstaffed sites that generate uniform types of liquid industrial waste.)

Annual Handler User Charge. Beginning on October 1, 2002, the DEQ would be required to assess annual handler user charges as follows:

- A generator would have to pay a handler user charge that was the highest of the following applicable fees: a generator who generated more than 100 but less than 1,000 kilograms of hazardous waste in any month during a calendar year would pay \$100; one who generated 1,000 kilograms or more in any month, but less than 900,000 kilograms during the calendar year, would pay \$400; and one who generated 1,000 kilograms or more in any month and 900,000 kilograms or more during the calendar year would pay \$1,000.

- An owner or operator of a treatment, storage, or disposal facility for which an operating license was required or for which one had been issued under the provisions of the act would be required to pay an annual handler user charge of \$2,000 to the DEQ.

- A used oil processor or rerefiner, used oil burner, or used oil fuel marketer, as defined in the rules promulgated under the act, would be required to pay an annual handler user charge of \$100.

- The handler user charges would be based on each of the activities engaged in by the handler during the previous calendar year for each of the above activities conducted during the previous calendar year.

- Payment of the handler user charges would have to be made using a form provided by the DEQ. The handler would have to certify that the information on the form was accurate. Beginning in 2003, the DEQ would have to send forms to the handlers by February 28th of each year, unless the charges had been suspended (see below). Handlers would have to return the completed forms and the appropriate payment by April 30th of each year, unless charges had been suspended.

A handler who failed to provide timely and accurate information, a complete form, or the appropriate handler user charge would be in violation of the act and subject to all of the following:

- Payment of the handler user charge and interest on the amount due based on the rate set under Section 6013(3)(B) of the Revised Judicature Act, concerning the interest rates that may be charged on judgments, using the full increment of the amount due as principal, and calculated from the due date for the payment until the delinquent payment was finally made in full;

- Beginning six months after the date payment was due, but not paid, a civil fine equal to five times the amount of the applicable handler user charge; and

- Beginning nine months after the date payment was due, but not paid, at the request of the department, an action by the attorney general for the collection of the amounts owed, together with the actual cost to the department in attempting to collect the amounts specified above.

As with manifest processing user charges, money collected under these provisions and from penalties imposed on late payments would be deposited into the Environmental Pollution Prevention Fund and credited to the proposed hazardous waste and liquid industrial waste users account.

Suspension of Charges. The bill would also specify that, notwithstanding any other provision of the act, if the balance of the hazardous waste and liquid industrial waste users account created under the bill exceeded \$3.2 million, the DEQ would be required to suspend the handler user charges until October of the following year.

Liquid Industrial Waste. The bill would require that provisions for site identification numbers and site identification number user charges for liquid industrial wastes under Part 121 of the act be handled by the DEQ in the same manner as is provided for hazardous waste management under Part 111 of the act.

Evaluation and Report to the Legislature. Beginning in 2005, the DEQ would have to evaluate the effectiveness and adequacy of the manifest processing user charges and the site identification number user charges collected relative to the overall revenue needs of the state's hazardous waste management program. Beginning in 2006, the DEQ would have to summarize its findings in a report and provide that report to the legislature by no later than April 1st of each even-numbered year.

Analyst: R. Young

■This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.