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SFA

BILL ANALYSIS

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House Bill 4626 (Substitute S-2)
Sponsor: Representative Larry DeVuyst
House Committee: Conservation and Outdoor Recreation
Senate Committee: Natural Resources and Environmental Affairs

Date Completed: 10-16-01

CONTENT

The bill would amend Part 111 (Hazardous Waste Management) and Part 121 (Liquid Industrial Wastes) of the Natural Resources and Environmental Protection Act to do the following:

- Provide for the appropriation of revenue from hazardous waste disposal fees to implement the aquatic nuisance species control program and to fund hazardous waste management programs.**
- Create the hazardous waste and liquid industrial waste users account within the Environmental Pollution Prevention Fund.**
- Establish manifest processing user charges and penalties, site identification number user charges, and annual handler user charges and penalties.**
- Impose site identification user charges for liquid industrial waste.**

Hazardous Waste Disposal Fees

Under the Act, a fee is assessed on all hazardous waste disposed of in a landfill or solidification facility. The fee is based on the quantity of hazardous waste received at a facility, as specified by the generator on a manifest. The fees collected are deposited in the General Fund and appropriated to fund waste minimization and waste reduction assistance programs and to pay refunds to generators who document a reduction in waste. Under the bill, money from fees also would be appropriated to fund hazardous waste management programs for fiscal years 2001-02 and 2002-03, and up to \$500,000 to implement the aquatic nuisance species control program.

Hazardous Waste and 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. The bill, instead, specifies that money would be deposited into the Fund or into any account within the Fund. As currently provided, money from the transporter account would be appropriated to implement Part 111, and funds not spent for this purpose could be used for hazardous waste emergency response and cleanup activities.

The hazardous waste and liquid industrial waste users account also would be created within the Environmental Pollution Prevention Fund. The target revenue projection for this account would be \$1.6 million. The account would receive money collected from hazardous waste generators for manifest processing user charges and handler user charges, as well as money collected from hazardous waste generators, transporters, or treatment, storage, or disposal facilities for site identification number user charges, and from penalties imposed for late payment of these charges. The account also would receive money collected from liquid industrial waste generators, transporters, and facility owners for site identification number user charges and penalties.

The Department of Environmental Quality (DEQ) would have to spend money from the users account, upon appropriation, to implement the State's hazardous waste program in accordance with Part 111 and rules promulgated under it.

Manifest Processing User Charge

Under the Act, 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. Under the bill, beginning on October 1, 2002, a person required to prepare a manifest would have to submit to the DEQ a manifest processing user charge of \$6 per manifest and his or her tax identification number. Each calendar year, the DEQ could adjust the user charge as necessary to ensure that the total cumulative amount of all of the user charges assessed under the bill was consistent with the target revenue projection of \$1.6 million for the proposed hazardous waste and liquid industrial waste users account. The charge, however, could not exceed \$8 per manifest. Money collected under these provisions would have to be forwarded to the State Treasurer for deposit into the Environmental Pollution Prevention Fund and credited to the proposed users account.

A hazardous waste generator would have to pay the user charges using a form provided by the DEQ. Beginning in 2004, the DEQ would be required to send a form to each person subject to the manifest processing user charge, by February 28 of each year. The form would have 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 30 of each year, beginning in 2004.

A person who failed to provide timely and accurate information, a complete form, or the appropriate manifest processing user charge would be in violation of Part 111 and subject to both of the following:

- Payment of the manifest processing user charge and an administrative fine of 5% per month of the amount owed for each month that the payment was delinquent. The administrative fine, however, could not exceed 25% of the total amount owed.
- Beginning nine months after the date payment of the user charge was due, but not paid, at the request of the DEQ, an action by the Attorney General for the collection of the amount owed previously

and the actual costs to the Department in attempting to collect the amount owed.

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 DEQ. Beginning on October 1, 2002, the DEQ would have to assess a site identification number user charge of \$50 for each number it issued. The DEQ, however, could not issue a number under these provisions unless the Department had received the user charge and the tax identification number for the person applying.

(Under Part 111, "site identification number" would mean a number that was assigned by the EPA or its designee to each generator, each transporter, and each treatment, storage, or disposal facility. If the generator, transporter, or facility managed waste that was hazardous under Part 111 but not hazardous under the Solid Waste Disposal Act, "site identification number" would mean an equivalent number that was assigned by the DEQ.)

Annual Handler User Charge

Beginning on October 1, 2002, the DEQ would be required to assess annual handler user charges as described below.

A generator would have to pay a handler user charge that was the highest of the following applicable fees:

- \$100 for a generator who generated more than 100 but less than 1,000 kilograms of hazardous waste in any month during a calendar year.
- \$400 for a generator who generated 1,000 kilograms or more in any month and less than 900,000 kilograms during the calendar year.
- \$1,000 for a generator who generated 1,000 kilograms or more in any month and 900,000 kilograms or more during the calendar year.

An owner or operator of a treatment, storage, or disposal facility for which an operating license was required or had been issued under the Act would be required to pay an annual

handler user charge of \$2,000. A used oil processor or rerefiner, a used oil burner, or a used oil fuel marketer would have 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. A handler would have to pay the user charge for each of the above activities conducted during the previous calendar year.

A handler would have to pay the handler user charges 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 handlers by February 28 of each year, unless the charges had been suspended. Handlers would have to return the completed forms and the appropriate payment by April 30 of each year, beginning in 2003, unless charges had been suspended.

Notwithstanding any of these provisions, if the balance of the hazardous waste and liquid industrial waste users account exceeded \$3.2 million as of December 31 of any year, the DEQ would be required to suspend the user handler charges until October of the following year.

A handler who failed to provide timely and accurate information, a complete form, or the appropriate handler user charge would be in violation of Part 111 and subject to all of the following:

- Payment of the handler user charge and interest on the amount due based on the rate set in Section 6013(3)(b) of the Revised Judicature Act (which prescribes 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.
- 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 under the previous

provisions, together with the actual cost to the DEQ in attempting to collect the amounts.

Deposit of Collections

Money collected from manifest processing user charges, handler user charges, and site identification number user charges and from penalties imposed on late payments would have to be deposited into the Environmental Pollution Prevention Fund and credited to the proposed hazardous waste and liquid industrial waste users account.

Evaluation and Report

The bill would require that the DEQ maintain information regarding user charges as necessary to satisfy the bill's reporting requirements.

Beginning in 2005, the DEQ would have to evaluate the effectiveness and adequacy of the manifest processing user charges, the site identification user charges, and the handler 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 April 1 of each even-numbered year.

Liquid Industrial Waste

Currently, liquid industrial waste generators and transporters, and the owners and operators of facilities that accept liquid industrial waste, are required to obtain and use an identification number assigned by the EPA or the DEQ. The bill would refer to a "site identification number". Beginning on October 1, 2002, the DEQ would have to impose a site identification number user charge of \$50 on liquid industrial waste generators and transporters, and on the owners and operators of liquid industrial waste facilities. The DEQ could not issue a site identification number unless it had received the user charge and tax identification number for the person applying for the number. Money collected under these provisions for liquid industrial waste would have to be deposited into the Environmental Pollution Prevention Fund and credited to the hazardous waste and liquid industrial waste users account.

(Under Part 121, "site identification number" would mean a number that was assigned by the EPA or the DEQ to a generator, transporter, or facility. The DEQ could assign a number to a person or a facility to cover multiple unstaffed site that generated uniform types of liquid industrial waste.)

Further, the bill would amend the definition of "liquid industrial waste" to exclude a liquid that was not regulated under Part 615 (which governs oil and gas wells) that was generated in the drilling, operation, maintenance, or closure of a well, or other drilling operation, including the installation of cathodic protection or directional drilling, if either of the following applied:

- The liquid was left in place at the point of generation in compliance with Part 31 (Water Resources Protection), Part 201 (Environmental Remediation), or Part 213 (Leaking Underground Storage Tanks).
- The liquid was transported off-site from a location that was not a known facility, as defined in Section 20101, and the disposal complied with applicable provisions of Part 31 or Part 115 (Solid Waste Management), the disposal was not to a surface water, and the landowner of the disposal site had authorized the disposal.

MCL 324.11104 et al.

Legislative Analyst: N. Nagata

FISCAL IMPACT

The bill would result in an increase in revenue from various fees and charges, as well as a change in the distribution of revenue from existing sources.

The bill would allow specifically the appropriation of the revenue from hazardous waste disposal fees for two new purposes: 1) up to \$500,000 for the implementation of the aquatic nuisance species control program; and 2) support of the Department of Environmental Quality's hazardous waste program in FY 2001-02 and FY 2002-03. The FY 2001-02 appropriation act for the Department of Environmental Quality includes \$1,100,000 from hazardous waste disposal fees for the hazardous waste program. There is a projected balance of approximately \$10 million from this revenue source at the end of

FY 2000-01. Annual revenues are projected to be less than \$4 million, while FY 2001-02 appropriations from this source are nearly \$5.8 million.

The fees and charges created by the bill would result in increased revenue for the operation of the hazardous waste management program of between \$1.6 million and \$2.0 million annually. Based on 1998 data sources, the amounts generated by the site identification number charge would be approximately \$50,000; by the handler charges would be between \$1 million and \$1.2 million; and by manifest fees would be between \$500,000 and \$900,000. The operating costs of the program are greater than \$5 million annually, with approximately \$3.6 million supported by Federal sources, and the remainder by fees.

Fiscal Analyst: P. Graham

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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.