




Senate Fiscal Agency
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BILL ANALYSIS

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Senate Bill 79 (Substitute S-3 as enrolled)
Sponsor: Senator Michelle A. McManus
Committee: Natural Resources and Environmental Affairs

Date Completed: 4-4-05

RATIONALE

Part 115 of the Natural Resources and Environmental Protection Act requires every Michigan county to develop and implement a solid waste management plan. The plan must address a number of issues, such as the protection of public health, the assurance of adequate landfill capacity for the next 10 years, and the establishment of waste reduction and recycling goals. Under the Urban Cooperation Act, certain counties may choose to fund waste reduction and recycling efforts by imposing a surcharge of up to \$2 per month or \$25 a year on households within the county. (Before the surcharge is levied, a county must enter into an "interlocal agreement" with the cities, villages, and townships within it, relating to the collection and disposition of the surcharge.) Some county officials claim that the maximum surcharge is not enough to fund fully their recycling and waste reduction efforts, and question the exclusion of commercial businesses from the fee. It has been suggested that a county should be permitted to seek voter approval for a higher surcharge, and to decide if commercial businesses should be assessed under it.

CONTENT

The bill would amend the Urban Cooperation Act to do the following:

-- **Allow a county to charge a per-household waste reduction surcharge of up to \$4 per month or \$50 per year if it were approved by the voters of a participating unit of government.**

-- **Permit a county to impose the voter-approved surcharge on commercial businesses.**

-- **Permit the collection of the approved surcharge through any reasonable billing method approved by the county.**

Currently, by resolution, a county board of commissioners may impose a per-household surcharge on households within the county of up to \$2 per month, or \$25 per year, for waste reduction programs and for the collection of consumer source separated materials for recycling or composting. The consumer source separated materials include, but are not limited to, recyclable materials (as defined in Part 115 of the Natural Resources and Environmental Protection Act), household hazardous wastes, tires, batteries, and yard clippings. (In certain counties with a population of 690,000 or more, the agency responsible for preparing the county's solid waste management plan may impose the surcharge.)

The bill would retain the current surcharge and allow the increased surcharge with the approval of the voters of a participating unit of government. An election on the surcharge could not be held unless the county board of commissioners passed a resolution authorizing the election. The resolution would have to include the following:

-- The approval to hold the election.

-- The name of the individual designated to negotiate the interlocal agreement between the municipalities and townships within the county.

- A date by which each municipality and township within the county would have to elect to participate in the interlocal agreement and authorize the election.
- The amount of the proposed surcharge.
- Whether commercial businesses would be subject to the proposed surcharge.
- The date for the election.

("Commercial businesses" would mean businesses engaged in the sale, lease, or exchange of goods, services, real property, or any other thing of value. Commercial businesses would not include wholesale businesses engaged in the manufacturing of goods or materials or the processing of goods or materials.)

The initial authorization for the election would have to be for five years. Any subsequent authorization would have to be for a period of at least 10 years.

With the approval of the county, a municipality or township not part of an interlocal agreement establishing a surcharge could become subject to the agreement by otherwise complying with the requirements of Section 8a (the section the bill would amend).

The voter-approved waste reduction surcharge would be a mandatory charge and could be collected by any reasonable billing method approved by the county, including as part of billings for property taxes, water and sewage usage, or other services provided by the county to households and commercial businesses within the county.

The surcharge would not apply to vacant land, public utility-owned land, rights-of-way, or easements that did not generate solid waste.

MCL 124.508a

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

The bill could provide a more stable source of income for county recycling programs. Currently, some counties with landfills in their jurisdictions forgo interlocal agreements, choosing instead to charge an

"impact fee", based on the volume of solid waste deposited in the landfill. Under Part 115 of the Natural Resources and Environmental Protection Act (MCL 324.11532), landfill operators must collect the fee on behalf of the local unit of government, and the revenue must be used for any purpose that promotes the public health, safety, or welfare of its residents. Reportedly, some counties choose to assess an impact fee, rather than imposing a surcharge under an interlocal agreement, because the fee has the potential to raise more revenue. The fee, however, can be an unstable source of income. Under the bill, counties might choose to abandon impact fees if their voters supported higher surcharges under the Urban Cooperation Act. Because the revenue from these surcharges must be used specifically for waste reduction and recycling programs, these programs would be more evenly funded. Michigan has a low percentage of its solid waste recycled--at 20%, the worst among the Great Lakes states--and the bill could provide the means to improve this.

Response: It is unlikely that, during an economic downturn, voters would seek to increase fees imposed on them. The bill, therefore, would have little effect on recycling rates.

Opposing Argument

Under the bill, a county board of commissioners would decide whether commercial businesses would be subject to an increased waste reduction surcharge (provided it was approved by the voters). Currently, businesses are not subject to the existing surcharge, yet they generate a significant amount of solid waste. If county voters agreed to a higher surcharge to fund recycling, then commercial businesses also should pay.

Opposing Argument

While the bill has the potential to improve in-State recycling rates and thus reduce local waste deposited in landfills, it actually could increase trash imported from out of State. Most agree that the reason approximately 20% of all municipal solid waste in Michigan landfills is imported from Canada and other states is that Michigan contains an abundant amount of cheap landfill space--a result, some argue, of the requirement in Part 115 that counties maintain 10-year capacities in their landfills. Thus, merely reducing local trash in landfills

would leave more room for imported trash. Despite recent laws enacted to protect Michigan's landfills from hazardous, out-of-State trash (Public Acts 34 through 44 of 2004), much solid waste continues to pour in. Imported trash clogs the State's highways with heavy trucks and, unless the new laws are strictly enforced, may contain a higher percentage of contraband items, radioactive waste, and medical waste than in-State trash.

Legislative Analyst: Claire Layman

FISCAL IMPACT

The bill would have no effect on State revenue or expenditures. The bill would have an unknown impact on local unit expenditures and revenue. It is unknown how many counties or agencies would choose to hold elections to increase the surcharge, which of those local units would receive voter approval for any surcharges, or the future of programs should voters fail to approve the higher surcharge. To the extent that local units would have imposed the surcharge but failed to receive approval from the county's voters, the bill would reduce future local unit revenue. If, as a result, the county or agency chose not to pursue waste reduction programs or recycling programs, the bill also would reduce future expenditures from some local units. To the extent that such programs were funded but the surcharge or fee was not assessed (as a result of the election), local units would need to obtain the revenue from other sources.

This estimate is preliminary and will be revised as new information becomes available.

Fiscal Analyst: David Zin

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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.