

Legislative Analysis



REDUCE PERMIT FEES FOR COUNTY ROAD COMMISSIONS APPLYING OIL FIELD BRINE

Mitchell Bean, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 4820 (Substitute H-3)

Sponsor: Rep. Goeff Hansen

Committee: Tourism, Outdoor Recreation, and Natural Resources

Revised First Analysis (3-4-08)

BRIEF SUMMARY: Oil field brine contains toxic chemicals with the potential to contaminate ground and surface waters. Its disposal, transportation, and use are regulated by federal and state laws. Michigan allows its use on roads for dust and ice control under restrictions found in the groundwater discharge permit program. House Bill 4820 would create a special exception for county road commissions and their subcontractors that apply oil field brines to roads, reducing the applicable annual groundwater discharge permit fee from \$1,500 to \$100. As introduced, the bill would have eliminated the permit and permit fee for up to three applications per year. The current H-3 substitute retains the permit requirement but reduces the applicable fee for road commissions and their subcontractors from \$1,500 to \$100.

FISCAL IMPACT: Not all county road commissions currently apply oil field brine on roads. The DEQ estimates this bill will reduce Groundwater Discharge Fee revenue by approximately \$18,000. Total revenue from Groundwater Discharge Fees in FY 2007-08 is estimated to be \$1,339,000.

THE APPARENT PROBLEM:

Many local units of government and county road commissions are called upon to provide dust and ice control as a public service to their citizens. While dust is usually considered a nuisance, it can also be a significant safety and health hazard (e.g., impairing visibility or aggravating respiratory disease). Applying oil field brines to gravel roads is reportedly the lowest cost method of dust control.

On the other hand, these brines, a byproduct of oil and gas production, contain many chemical substances that potentially pose environmental and health hazards. Among other things, oil brines contain chlorides and aromatic hydrocarbons. One of the chemicals it contains, benzene, is a known human carcinogen. In the 1980's, Michigan's Supervisor of Wells attempted to phase out the use of oil field brines for dust control in Michigan altogether because of environmental concerns, a step that was contested in a lawsuit by some county road commissions who found the product to be useful and economical.

Currently, the use of oil field brine for dust and ice control is allowed in Michigan but only in accordance with a groundwater discharge permit. To qualify for a general permit, a county road commission (or other applicant) must, among other things, certify that the

brine is from an approved source (i.e., the brine has been tested for certain chemical contaminants in accordance with the Supervisor of Wells law) and that applicant will follow all applicable rules. (A copy of the general permit setting forth applicable rules can be found at

http://www.michigan.gov/documents/deq/wb-groundwater-generalpermit-Rule2215-O5-5FieldBrine_206269_7.pdf)

A general permit is good for five years, but an annual fee of \$1,500 must be paid in each of the five years. Generally speaking, northern counties may apply brine up to three times a year; southern counties may apply brine up to four times. (The different limit is based on part on differences in the type, permeability, and porosity of the soils found in different parts of the state.)

The bill in its current version would reduce the fee for a permit authorizing the use of oil field brine from \$1,500 to \$100 as a means of assisting county road commissions with their budget shortfalls. A lower permit fee would perhaps encourage other counties who currently do not use this product to begin doing so.

THE CONTENT OF THE BILL:

The bill would amend Section 3122 of the Natural Resources and Environmental Protection Act to reduce the annual groundwater discharge permit fee for a county road agency or its contractors when applying oil field brine to roads from \$1,500 to \$100. The fee for all other entities needing a groundwater discharge permit would remain at the level specified in Section 3122.

MCL 324.3122

ARGUMENTS:

For:

County Road Commissions are facing serious budget constraints. Applying oil field brine is reportedly the lowest cost alternative for dust and ice control available to them. Reducing the annual groundwater discharge fee from \$1,500 to \$100 will make this option even more economical. The bill would help out financially struggling counties, particularly rural counties with a lot of unpaved roads.

Against:

Earlier versions of the bill that eliminated the permit requirement altogether for up to three brine applications per year would have endangered public health and the environment.

Although the permit requirement has been restored in the Substitute H-3 version, which would keep oversight in place, the fee reduction called for in the bill would be harmful. The bill would cut revenue to a DEQ program that is already seriously underfunded and has a program-wide permit backlog. Even without this cut, the DEQ does not have the

resources to do the level of inspection, monitoring, and compliance assistance it believes necessary. Given that fee increases are apparently off the table in this fiscal year, thereby freezing revenue for the department, why reduce the DEQ's already inadequate budget with this reduction in revenue?

Although currently 12 or fewer road commissions currently use oil field brine, this bill may encourage others to use brine for dust or ice control. Why would the Legislature want to encourage the use of a product that the state once tried to phase out altogether because of environmental and public health concerns?

Also, is it fair to reduce the fee for some organizations and not others? This bill would open the door to further revenue losses by setting the precedent of reduced fees for certain groups. This would encourage others to make similar requests.

POSITIONS:

The County Road Association of Michigan supports the bill. (2-20-08)

The Department of Environmental Quality opposes the bill. (2-20-08)

Clean Water Action opposes the bill. (2-28-08)

The Michigan Environmental Council, previously listed as neutral, *opposes* the bill. (2-28-08)

Legislative Analyst: Shannan Kane
Fiscal Analyst: Kirk Lindquist

■ 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.