

## TEXTILE RECYCLING BIN ACT

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**House Bills 4862 & 4863 as introduced**  
**Sponsor: Rep. Lee Chatfield**  
**Committee: Local Government**  
**Complete to 10-13-15**

Analysis available at  
<http://www.legislature.mi.gov>

### SUMMARY:

House Bill 4862 would create a new act to be known as the "Textile Recycling Bin Act," which would allow a local unit of government (defined to mean a county, city, village, or township) to adopt an ordinance prohibiting a person from placing or operating a textile recycling bin outdoors without a permit, but would restrict the terms of the ordinance to those described in the bill. The bill prohibits a local unit of government from enacting or enforcing an ordinance other than one the bill describes.

*A textile recycling bin* is a receptacle intended for the collection from the public of donations of used clothing, shoes, textiles, household items, books, magazines, other salvageable personal property, or wastepaper, for the purpose of reuse or recycling.

House Bill 4863 would amend the Michigan Zoning Enabling Act (MCL 125.3205) to specify that a zoning ordinance would be subject to the Textile Recycling Bin Act created with the enactment of House Bill 4862. It is tie-barred to House Bill 4862 so that it would not go into effect unless House Bill 4862 were also enacted into law.

### House Bill 4862

#### *Local Ordinances*

As noted above, the bill would allow a local unit of government (defined to mean a county, city, village, or township) to adopt an ordinance prohibiting a person from placing or operating a textile recycling bin outdoors without a permit, but would restrict the terms of the ordinance to those described in the bill. The bill prohibits a local unit of government from enacting or enforcing an ordinance other than one the bill describes.

However, the bill also specifies that it does not prohibit a local unit of government from adopting or enforcing a zoning ordinance that: a) prohibits bins in certain zoning districts; b) limits the number of bins that may be placed on a lot or parcel; and/or c) requires bins to be set back specified distances from structures such as roads, driveways, sidewalks, buildings, utility poles, or traffic signs.

#### *Local permit*

To obtain a permit, an application would be filed with the local unit. A separate permit is required for each textile recycling bin, but a single application could seek permits for up to 10 bins. There would be no limit on the number of applications that could be filed or permits that can be issued. The local unit of government could charge an application fee,

up to \$75 (regardless of the number of bins), or the actual reasonable costs of processing the application, whichever is less. The application would be valid for up to one year, and would be renewable. Each bin would have to display a sticker (color-coded each year to correspond to motor vehicle registration decals).

### ***Permit application***

Under the bill, the permit application would have to include all of the following: a) the applicant's name, address, telephone number, electronic mail address, website address (if any), and fax number (if any) for the applicant's registered office; b) the name and contact information of the applicant's resident agent under Section 241 of the Business Corporation Act, or Section 241 of the Nonprofit Corporation Act; c) a certificate of good standing with the state under those acts, issued within the past 90 days; d) the manner in which any clothing or other donations are expected to be used, sold, or distributed; e) the name and telephone number of any entity that will receive some or all of the donations, or the proceeds, if the applicant is a for-profit business; f) the address and, as precisely as possible, location where each bin will be placed, and the name of any business location; and g) written consent from the property owner. The bill would prohibit a local unit of government from granting an application for a permit if the application was not complete.

### ***Operator's responsibilities under local ordinance***

The bill would permit a local unit of government to adopt an ordinance prohibiting a person from operating a textile recycling bin, unless the person did all of the following: a) provided proof to the local clerk of a certificate of liability insurance of at least \$1 million for all permitted bins; b) maintained the appearance of the bin (including fresh paint, readable signage, and general upkeep); c) maintained a telephone number to receive complaints that was answered live during the hours of 9 a.m. to 5 p.m.; d) provided the property owner with a contact telephone number; e) removed graffiti and trash after being notified of its presence; and f) repaired, replaced, or removed a damaged bin within five business days after receiving notice of its condition.

Also the bin operator would have to ensure that the front of the bin conspicuously displayed all of the following: (1) the person's name, address, telephone number, and website address (if any); (2) a statement (in at least 2-inch type) that read either "This recycling bins is owned and operated by a nonprofit organization", or "This bin is owned and operated by a for-profit business"; (3) if a nonprofit organization, a description of the charitable cause that would benefit from donations; and (4) if a for-profit business, a statement that reads "A donation to this bin is not tax deductible." Also, a professional fundraiser could not post notice of donations to a charitable organization except on the sides of the bin (within prescribed type size and total space requirements).

### ***Violations***

A textile recycling bin in violation of an ordinance would be a public nuisance, and the attorney for the local unit of government could bring an action to abate the nuisance. A person who violated an ordinance would be responsible for a municipal civil infraction, and could be ordered to pay a civil fine of not more than \$500 per textile bin. A person who perpetrated a fraud regarding the operation or use of a bin would be responsible for a

municipal civil infraction and would be ordered to pay a civil fine of not less than \$500 or more than \$1,000 per bin. In addition, the court would be required to do both of the following: a) authorize the local unit of government, at its discretion, to revoke all permits issued to the defendant; and b) authorize the local unit, at its discretion, to remove all bins placed by the defendant (storing them in a secure location until they were retrieved, upon payment of all reasonable costs incurred for removal and storage). Any fine collected would be deposited in the general fund of the local unit of government.

### ***Definitions***

The bill defines 11 terms used in the new act. One key term is "*textile recycling bin.*" This refers to an unattended, closed receptacle or container made of metal, wood, or plastic or a combination, and designed and intended for the collection from the public of donations of used clothing, shoes, textiles, household items, books, magazines, other salvageable personal property, or wastepaper, for the purpose of reuse or recycling. The term does not include a receptacle or container used to collect recyclable metal, plastic, or glass or a household curbside recycling container or other container used to receive recyclables from a specific person or person.

Another key term is "*professional fund-raiser,*" which is defined to mean a professional fund-raiser as that term is defined in Section 2 of the Charitable Organizations and Solicitations Act (MCL 400.272). There, the term is defined as: a person who plans, conducts, manages, or carries on a drive or campaign of soliciting contributions for or on behalf of a charitable organization, religious organization, or any other person in exchange for compensation or other consideration; or who engages in the business of or holds himself or herself out as independently engaged in the business of soliciting contributions for those purposes. The term does not include a *bona fide* officer or employee of a charitable organization unless the officer's or employee's salary or other compensation is computed on the basis of funds to be raised or actually raised.

Also under the Charitable Organizations and Solicitations Act, the term includes a person that is not a charitable organization and that owns or operates a clothing donation box if any of the following are met:

- (1) The person represents or implies to any person that personal property placed in the clothing donation box or the proceeds of that property will be donated to one or more charitable organizations.
- (2) The person represents or implies to any person that he or she is using the clothing donation box to solicit contributions on behalf of one or more charitable organizations.
- (3) The clothing donation box or any sign near the clothing donation box is marked with the name, logo, trademark, or service mark of one or more charitable organizations or is otherwise marked in any manner that represents or implies that personal property placed in the donation box or the proceeds of that property will be donated to one or more charitable organizations.

## **FISCAL IMPACT:**

House Bills 4862 and 4863 would impose increased administrative costs on local units of government. However, the provisions of the bill allow the local unit of government to recoup its administrative costs by levying an application fee of \$75, or the actual reasonable costs of processing the applications, whichever is less. Local units also would receive civil fines from violations of the new act.

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