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Senate Bills 394 and 395 (as reported without amendment)

Senate Bill 396 (Substitute S-2 as reported) Sponsor: Senator John Cherry (S.B. 394)

Senator Joseph Bellino, Jr. (S.B. 395) Senator Sean McCann (S.B. 396)

Committee: Energy and Environment

CONTENT

The bills would establish a State regulatory framework and permitting process for carbon sequestration, which is generally the process of capturing carbon dioxide in the air and storing it into rock formations underground. To operate a carbon sequestration project, a person would have to apply to the Department of Environment, Great Lakes, and Energy (EGLE) for a permit and provide notice of the proposed project to all surface owners of land overlying the portion of the proposed storage reservoir, among other things. The bills would prescribe duties of EGLE's Geologic Resource Management Division (Division) in the regulation of carbon sequestration projects, and as applicable, the creation of unit areas of pooled interests in pore space for carbon storage. Application fees, annual carbon sequestration fees, and fines for regulatory violations would have to be deposited into one of several funds created by the bills. The bills would require the State to assume responsibility for a project after its completion.

MCL 483.1 (S.B. 395) 324.502 et al. (S.B. 396)

BRIEF RATIONALE

According to testimony before the Senate Committee on Energy and Environment, there is currently a lot of demand for carbon capture, a service that removes carbon from the environment and injects it into deep geological repositories. Carbon capture services could help the State reach its 100% clean energy standard by 2040, such as by capturing and storing carbon from energy production and industrial processes before it enters the atmosphere; however, the services are a complicated, multi-step process, and the State lacks a regulatory framework for private sector development of carbon capture facilities. Some have argued that the State should have management power over carbon sequestration instead of ceding this power to the Environmental Protection Agency (EPA), ensuring rights and compensation for landowners. Accordingly, enacting a regulatory framework has been suggested.

PREVIOUS LEGISLATION

(This section does not provide a comprehensive account of previous legislative efforts on this subject matter.)

The bills are similar to Senate Bills 1131 through 1133 from the 2023-2024 Legislative Session. Senate Bills 1131 through 1133 were reported by the Senate Committee on Energy and Environment but received no further action.

Legislative Analyst: Nathan Leaman

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FISCAL IMPACT

Senate Bill 394

The bill would have no fiscal impact on State or local government.

Senate Bill 395

There is no anticipated fiscal impact to State or local governments.

Senate Bill 396 (S-2)

This bill would have an indeterminate but likely positive fiscal impact on EGLE. Permit application fees could not exceed actual reasonable costs of processing applications and would be used to offset those administrative costs. Additional annual fees would be assessed against carbon sequestration project operators; these fees would need to be based on the EGLE's anticipated expenses associated with long-term monitoring of the project, though not to exceed 32 cents per ton of CO2. These fees would be collected and deposited as follows: 20% into the Game and Fish Protection Trust Fund, 5% each for the new Community Benefits Fund, the Long-Term Remediation Fund, and the First Responders Fund, and the balance into the Carbon Sequestration Fund. Funds from the Community Benefits Fund could only be spent as grants to surface owners of land overlying an applicable carbon sequestration project. Funds from the Long-Term Remediation Fund could be spent only for remediation of carbon dioxide leakage from a carbon sequestration project. Funds from the First Responders Fund could be spent only for grants to local units of government for training and equipment for life support agencies, grants to the Michigan State Police (MSP) for emergency preparedness training, grants to disaster relief forces or operators, and other expenditures deemed necessary to protect public safety (e.g., carbon dioxide monitors, air supply respirators). The Carbon Sequestration Fund could be spent to pay expenses the Division incurred in long-term monitoring and management of projects after their completion, or to pay for expenses incurred to perform regulatory responsibilities laid out in the bill. There would be additional administrative costs associated with holding and issuing notices for public hearings that would be held within 90 days of a completed application or to address proposed alternative timelines for carbon sequestration project monitoring. Further time and labor costs would be associated with processing application fees for a certificate of project completion, and when such a certificate was issued, the State would assume responsibilities related to the carbon sequestration project and carbon dioxide injected into the storage reservoir. If popular, administering the program could require additional full -time equivalents (FTEs) within EGLE, and the estimated cost per State employee in Fiscal Year 2024-2025 is \$138,900. Generally, the fees outlined within the bill are not explicitly defined but rather dependent on the cost incurred by EGLE to process them.

The bill would have no fiscal impact on the Department of Treasury. The bill would create several funds within the Treasury. It is likely that existing appropriations would be sufficient to carry out the Department's responsibilities as described in the bill.

The bill would have a positive fiscal impact on the Department of Natural Resources (DNR) by permitting it to enter carbon sequestration contracts and sell carbon offset credits that it owned, thus resulting in a positive fiscal impact for the DNR. This practice, previously allowed for coal, oil, gas, and other mineral products from State lands, would be expanded under the bill to include carbon capture projects. Instructions for the allocation of funds received by the DNR from carbon sequestration-related projects on State-owned land are provided in the bill. This would include bonuses, rentals, delayed rentals, and royalties collected under its provisions. Funds sourced from contracts on land managed by the Forest Resources Division of the DNR would be deposited into the Forest Management Trust Fund; funds sourced from

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land managed by the Wildlife or Fisheries Divisions would be deposited into the Game and Fish Protection Account. For other State land, proceeds would go toward the fund with which the land was purchased. Revenue generated under the bill on tax-reverted land would be split equally between the Forest Management Trust Fund and the Game and Fish Protection Trust Fund.

The bill could have a positive fiscal impact on the State and local government. Revenue from new misdemeanor and civil fines under the bill would go to local libraries. Additionally, \$10 of each civil fine would be deposited into the State Justice System Fund, which supports justice-related activities across State government in the Departments of Corrections, Health and Human Services, State Police, and Treasury. The Fund also supports justice-related issues in the Legislative Retirement System and the Judiciary. The amount of revenue to the State or for local libraries is indeterminate and dependent on the actual number of violations.

Some increased litigation expenses for the Department of Attorney General would be possible under the bill, as it includes language that would allow the Attorney General to commence civil actions in Circuit Court for violations of Part 13 of the Natural Resources and Environmental Protection Act, the permit, issued orders, or State promulgated rule. It is probable the Department of Attorney General would be able to absorb these expenses. Additional FTEs and/or attorneys could be required with more litigation costs. Any impact on circuit courts would depend on the volume of violations prosecuted.

The bill would likely have little fiscal impact on the MSP. The MSP currently administers emergency preparedness training for various situations and entities, and as the bill would provide for the MSP to develop and administer such training and the funds to do so, there should be little fiscal impact.

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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.