



**House
Legislative
Analysis
Section**

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**ENVIRONMENTAL PROTECTION:
SOLID WASTE DISPOSAL**

**House Bill 4296 as introduced
House Bill 4297 with House
committee amendment
Sponsor: Rep. Chris Kolb**

**House Bill 4688 (Substitute H-1)
Sponsor: Rep. Ruth Johnson**

**House Bill 5234 (Substitute H-1)
Sponsor: Rep. Daniel Acciavatti**

**House Bill 5235 (Substitute H-1)
Sponsor: Rep. David Robertson**

**House Bill 5236 with House
committee amendment
Sponsor: Rep. David Farhat**

**House Bill 5237 with House
committee amendment
Sponsor: Rep. Philip LaJoy**

**Senate Bill 57 (Substitute H-1)
Sponsor: Sen. Michael D. Bishop**

**Senate Bill 497 with House
committee amendment
Sponsor: Sen. Buzz Thomas**

**Senate Bill 498 (Substitute H-2)
Sponsor: Sen. Patricia L. Birkholz**

**Senate Bill 499 as passed by the Senate
Sponsor: Sen. Alan Sanborn**

**Senate Bill 500 (Substitute H-3)
Sponsor: Sen. Dennis Olshove**

**Senate Bill 502 (Substitute H-2)
Sponsor: Sen. Nancy Cassis**

**Senate Bill 506 (Substitute H-2)
Sponsor: Sen. Bruce Patterson**

**Senate Bill 557 as passed by the Senate
Sponsor: Sen. Liz Brater**

**Senate Bill 715 as passed by the Senate
Sponsor: Sen. Jud Gilbert, II**

Committee: Land Use and Environment

Complete to 11-12-03

House Bills 4296, 4297, 4688, 5234-5237,
Senate Bills 57, 497-500, 502, 506, 557 and 715 (11-12-03)

**A SUMMARY OF THE BILLS LISTED ABOVE AS REPORTED FROM THE
COMMITTEE ON LAND USE AND ENVIRONMENT 11-6-03**

Of the 16 bills in this package, 13 would amend Part 115 of the Natural Resources and Environmental Protection Act (NREPA), which deals with solid waste management, one would amend a separate section of NREPA, and the remaining two bills would amend the Urban Cooperation Act. Among other things, the bills would do the following:

- prohibit the disposal of cathode ray tubes in landfills and incinerators;

- prohibit landfills from accepting out-of-state solid waste incinerator ash (with certain exceptions);
- exempt private disposal facilities from the provisions of the law that prohibit land-filling solid waste incinerator ash;
- require the Department of Environmental Quality (DEQ) to establish a web site to list materials that cannot be disposed of in landfills and describe alternatives, as well as require waste haulers to notify their customers of the web site;
- require that a county's waste reduction surcharge be approved by a county's voters at a regularly scheduled election before it is imposed, and allow that surcharge to be imposed on commercial businesses, as well as households;
- permit the director of the DEQ to issue an order restricting or prohibiting the transportation or disposal of solid waste originating within or outside this state, but require that the order be posted on a web site (and legislative committees given copies) at least 30 days in advance;
- define beverage container;
- prohibit the disposal of more than a *de minimis* amount of beverage containers, whole tires, or yard clippings, and also prohibit the disposal of *all* used oil, lead acid batteries, low-level radioactive waste, regulated hazardous waste, liquid waste, sewage, PCBs and asbestos waste in landfills;
- set up a task force on green glass beverage container recycling;
- require the DEQ to notify others states, Canada, and Canadian provinces that Michigan landfills will not accept certain solid waste for disposal, as well as to provide each landfill in the state with a copy of the countries, states, provinces and local jurisdictions that prohibit the disposal in their landfills of the items prohibited in Michigan.
- require the DEQ and the Department of State Police to inspect each solid waste disposal area at least four times per year, and allow random inspections of waste being transported;
- require each county's solid waste management plan to include a mechanism to assist the Department of Environmental Quality and the State Police in implementing and conducting the inspection program;
- set the fine for a repeat violation of the solid waste management provisions of the law at \$25,000 a day;
- require the owners of landfills to report annually on the remaining disposal capacity at the landfill; and,
- establish a two-year moratorium on landfill construction between January 1, 2004 and January 1, 2006.

A more detailed description of the bills follows.

House Bills 4296 would amend the Natural Resources and Environmental Protection Act (MCL 324.11514) to prohibit a person, beginning January 1, 2006, from knowingly disposing of (or permitting disposal of) a cathode ray tube (including a television or computer monitor containing a cathode ray tube) in a landfill. Further, the bill specifies that not later than January 1, 2004, the Department of Environmental Quality would have to convene a task force made up of representatives of manufacturers of electronic equipment, environmental organizations, retail businesses that handle electronic equipment, members of the general public, and other interested people. Not later than June 1, 2005, the members of the task force would have to provide the legislature with a report on the adequacy of regulatory programs related to the disposal of electronic waste, and in particular electronic waste containing cathode ray tubes.

House Bill 4297 would amend NREPA (MCL 324.5502a) to prohibit a person from knowingly disposing of (or permitting disposal of) a cathode ray tube (including a television or computer monitor containing a cathode ray tube), in a municipal solid waste incinerator. The provision would take effect one year after this legislation was enacted into law.

House Bill 4688 would amend NREPA (MCL 324.11538) to provide that the prohibition on accepting out-of-county solid waste or municipal solid waste incinerator ash (unless explicitly authorized in the county solid waste management plan) would not apply to a privately owned disposal area.

Currently NREPA specifies that in order for a disposal area to serve the disposal needs of another county, state, or country, the service, including the disposal of municipal solid waste incinerator ash, must be explicitly authorized in the approved solid waste management plan of the receiving county. With regard to inter-county service within Michigan, the service must also be explicitly authorized in the exporting county's solid waste management plan. House Bill 4688 would exempt privately owned disposal areas from this provision.

House Bill 5234 would amend NREPA (MCL 324.11526a) to prohibit the owner or operator of a landfill from accepting for disposal all municipal solid waste incinerator ash generated outside the state unless one or more of the following conditions were met: 1) the solid waste was composed of a uniform type of item, material, or substance, other than municipal solid waste incinerator ash, that met the landfill disposal requirements under Part 115 and associated promulgated rules; 2) the solid waste was received through a material recovery facility, a transfer station, or other facility that documented that it had removed items prohibited from disposal in a landfill under Section 11514; or 3) the country, state, province, or local jurisdiction in which the solid waste was generated had been approved for inclusion on a list (which would be newly required by Senate Bill 502) compiled by the Department of Environmental Quality of places that prohibit the disposal in a landfill of items prohibited under Section 11514 or that prevent the disposal of such items through solid waste enforcement.

The provision would be effective October 1, 2004. The bill states that aim of the provision is to protect the public health, safety and welfare and environment of the state from the improper disposal of waste that is prohibited from disposal in a landfill under Section 11514, and in

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recognition that the nature of solid waste collection and transport limits the ability of the state to conduct cost-effective inspections to ensure compliance with state law.

[Section 11514, as referred to by the bill, currently prohibits the disposal of medical waste that has not been decontaminated. The section would be amended by related proposed legislation (Senate Bill 498) to prohibit the disposal of beverage containers, whole tires, used oil, lead acid batteries, low-level radioactive waste, and certain other hazardous waste.]

House Bill 5235 would also amend NREPA (MCL 324.11527a) to require the DEQ to post on its web site a list of materials prohibited from disposal in a landfill under Section 11514, and explain appropriate disposal options for those materials. The bill would also require that a waste hauler that disposes of solid waste in a landfill annually notify each of its customers of each of the following: 1) the materials that were prohibited from disposal; 2) that appropriate disposal options were described on the department's website; and, 3) the department's web site address. House Bill 5235 is tie-barred to House Bill 5234 and also Senate Bills 497, 498, 500, and 502 so that it could not become law unless those bills also were enacted.

House Bill 5236 would amend the Urban Cooperation Act (MCL 124.508a) so that a waste reduction surcharge would have to be approved by a county's voters at a regularly scheduled election before it could be imposed. The bill would also provide that a surcharge on households and commercial businesses could be collected by any reasonable billing method, including a part of billings for property taxes, water and sewage usage, or other services provided by the county to households or commercial businesses within the county.

Currently under the law, a county or an agency responsible for preparing the solid waste management plan may impose a surcharge on households within the county of not more than \$2 per month or \$25 per year per household for waste reduction programs. The surcharge can also be used for the collection of consumer source-separated materials for recycling or composting, including but not limited to recyclable materials, household hazardous wastes, tires, batteries, and yard clippings. House Bill 5236 would retain these provisions, and add that a surcharge "or fee" could be imposed.

Currently, a county or agency cannot impose a surcharge until the county or agency officials have entered into an inter-local agreement with the officials of the local units of government. Petitions for a referendum election on the question of entering an inter-local agreement can be filed with the local clerks no later than six months following adoption of a resolution to impose the surcharge, or six months following any increase in the surcharge. Upon petition of 10 percent of the qualified electors voting in the last general election, the local unit of government must hold a referendum on whether to reject the entrance into, or terminate, an inter-local agreement. The bill would retain these provisions.

House Bill 5237 would amend the Urban Cooperation Act to define the term "household" for the purpose of the per-household surcharge referred to above. Under the bill, "household" would mean any residence within the county, but would not include vacant property. The bill also would allow the surcharge to be imposed on commercial businesses, as well as households.

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Senate Bill 57 would amend NREPA (MCL 324.11526c) to do the following:

- Permit the director of the Department of Environmental Quality (DEQ) to issue an order restricting or prohibiting the transportation or disposal of solid waste originating within or outside this state, under certain circumstances.
- Require the DEQ, at least 30 days before the director issued such an order, to post it on the Department web site and give a copy to legislative committees.
- Make an exception to the 30-day requirement for an emergency situation.
- Require an order to expire within 60 days, but allow the director to reissue an order without posting it in advance or giving copies to legislative committees.
- Require the DEQ to post a final order on its web site as soon as practicable.
- Require the director to rescind an order if the threat upon which it was based no longer existed.
- Allow a person to appeal an order to the circuit court.

Specifically, the DEQ director could issue an order restricting or prohibiting the transportation or disposal in this state of solid waste originating within or outside of Michigan if both of the following applied: 1) the director, after consultation with appropriate officials, had determined that the transportation or disposal of the solid waste posed a substantial threat to the public health, safety, or welfare or to the environment and 2) the director determined that the restriction or prohibition was necessary to minimize or eliminate that threat.

In an emergency situation posing an imminent and substantial threat to public health or safety or the environment, the director, before issuing an order, would have to give a copy of it to the legislative committees and publicize the proposed order in any manner appropriate to help ensure that interested parties were given notice of the order and its effective date.

Senate Bill 497 would amend NREPA (MCL 324.11502) to define “beverage container” as an airtight metal, glass, paper, or plastic container, or a container composed of a combination of those materials, that, at the time of sale, contained one gallon or less of any of the following: a soft drink, soda water, carbonated natural or mineral water, or other nonalcoholic carbonated drink; a beer, ale, or other malt drink of “whatever” alcoholic content; or a mixed wine drink or a mixed spirit drink. The bill is tie-barred to House Bills 5234 and 5235, as well as Senate Bills 498, 500, and 502.

Senate Bill 498 would amend NREPA (MCL 324.11514 and 324.11521) to prohibit a person from knowingly delivering to a landfill for disposal, and to prohibit a landfill owner or operator from knowingly permitting the disposal in a landfill of medical waste (as currently prohibited); more than a *de minimis* amount of beverage containers; more than a *de minimis* number of whole motor vehicle tires; or more than a *de minimis* amount of yard clippings, unless diseased or infested. However, the bill specifies that these items may be disposed of in a landfill

if the department determined that a safe, sanitary, and feasible alternative did not exist for their disposal.

The bill also would prohibit a person from delivering to a landfill for disposal, and prohibit a landfill owner or operator from permitting disposal in the landfill of, any of the following: used oil; a lead acid battery; low-level radioactive waste; regulated hazardous waste; liquid waste; sewage; PCBs; or asbestos waste, unless the landfill complied with federal regulations.

The bill specifies that the prohibition on land-filling beverage containers would not apply to green glass beverage containers. However, the bill would require the DEQ to convene a task force to make recommendations to the legislature on the special recycling problems posed by green glass beverage containers, with the task force to include four people representing the landfill industry, a company that manufactures or uses green glass beverage containers, a recycling company, and an environmental organization. The task force would be required to issue its recommendations by December 31, 2004, and the bill specifies that the subsection establishing the task force would not apply after June 1, 2007, unless the legislature had enacted the recommendations of the task force by that date.

The bill would delete a provision that prohibits the owner or operator of a landfill or municipal solid waste incinerator from accepting solid waste if the owner or operator knows or should know that the solid waste includes yard clippings that are generated and/or collected on land that is owned by a county, municipality, or state facility.

Finally, the bill contains an introduction that declares legislation intent. It states that optimizing recycling opportunities and reusing materials are a principal objective of the state's solid waste management plan, and further, that recycling and reuse of materials are in the best interest of promoting the public health and welfare. The bill would require the state to develop policies and practices that would promote recycling and reuse of materials and, to the extent practical, minimize the use of land-filling as a method for disposal of its waste.

The bill is tie-barred to House Bills 5234 and 5235, as well as to Senate Bills 497, 500, and 502.

Senate Bill 499. The bill would amend NREPA (MCL 324.11526) to require the Department of Environmental Quality (DEQ), in conjunction with the Department of State Police, in order to protect the public health, safety, and welfare and the environment of this state from the illegal disposal of items and substances in landfills in Michigan, to administer Part 115 so as to do all of the following: ensure that all disposal areas were in full compliance with Part 115 and the rules promulgated under it.; provide for the inspection, at least four times per year, of each solid waste disposal area for compliance with Part 115 and the rules; and ensure that all people disposing of solid waste were doing so in compliance with Part 115 and the rules.

The bill also would permit the DEQ and State Police to conduct regular, random inspections of waste being transported for disposal at disposal areas in Michigan. These inspections could be conducted at disposal areas.

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(Part 115 defines “disposal area” as one or more of the following at a location defined by the boundary identified in its construction permit or engineering plans approved by the DEQ: solid waste transfer facility; incinerator; sanitary landfill; processing plant; or other solid waste handling or disposal facility used in the disposal of solid waste.)

Senate Bill 500 would amend NREPA (MCL 324.11546) to set the fine for a repeat violation of Part 115. Under the act, a court may impose a civil fine on a person who violated Part 115 or the rules promulgated under it, or failed to comply with any permit, license, or final order issued under Part 115. Currently, the maximum amount of the fine is \$10,000 for each day of violation. The bill would increase that per-day amount to \$25,000 for a second or subsequent violation. The bill is tie-barred to House Bills 5234 and 5235, as well as Senate Bills 497, 498, and 502.

Senate Bill 502 would amend NREPA (MCL 324.11526b) to require the Department of Environmental Quality (DEQ), by October 1, 2004, to notify each state, the country of Canada, and each province in Canada that landfills in this state will not accept for disposal solid waste that does not comply with criteria for the acceptance of out-of-state solid waste under section 11526a (as amended by House Bill 5234); compile a list of countries, states, provinces, and local jurisdictions that prohibit from disposal in a landfill the items prohibited under Section 11514 or that prevent the disposal of those items through enforceable solid waste disposal requirements; prepare and give a copy of the list to each landfill in Michigan.

The DEQ would be required to include a country, state, province, or local jurisdiction on its list if the country, state, province, or local jurisdiction gave the department documentation that it prohibited the disposal in a landfill of the items banned under Section 11514, or prevented their disposal through enforceable solid waste disposal requirements. This documentation would include copies of all pertinent statutes, administrative regulations, and ordinances.

The bill is tie-barred to House Bills 5234 and 5235, as well as Senate Bills 497, 498, and 500.

Senate Bill 506 would amend NREPA (MCL 324.11511a) to prohibit the Department of Environmental Quality (DEQ) from issuing a permit to construct a landfill if the DEQ received an administratively complete application for a permit after January 1, 2004, and before January 1, 2006.

The DEQ could, however, issue a permit for a design modification to an existing landfill if the modification did not result in a net increase in remaining disposal capacity as calculated under Section 11507a (pursuant to Senate Bill 557).

The DEQ also could issue a permit to construct an expansion to an existing landfill if the applicant demonstrated that it had less than five years of remaining disposal capacity. [The bill would define “existing landfill” to mean a landfill that was licensed under this part of the act to receive waste as of October 1, 2003.] The permit could not provide more than a total of 10 years of remaining capacity when added to the capacity remaining before the permit was issued. The amount of time of remaining disposal capacity would have to be calculated based on the average

of the three prior years of waste receipt as reported under Section 11507a. In addition, the DEQ could issue a permit to construct a Type III landfill that was a captive facility. Further, the department could issue a permit to construct an expansion of an existing landfill if the expansion had been authorized under a host community agreement that was in existence on the effective date of the bill. [The bill would define “host community agreement to mean a written, legally binding agreement, between the owner or operator of a landfill and the county or municipality in which an expansion of that landfill will be located, governing the operation, location, or development of the landfill in that county or municipality.]

By January 1, 2005, the DEQ would have to report to the legislature, making recommendations to foster a regional system of solid waste planning and disposal facility siting, and recommend methods for securing reasonable and necessary regional and statewide disposal capacity.

The bill is tie-barred to Senate Bill 557 and would be repealed on January 1, 2006.

Senate Bill 557 would amend NREPA (MCL 324.11507a) to do the following: require the owner or operator of a landfill to report annually on the remaining disposal capacity at the landfill; provide for the calculation of remaining capacity; and require the Department of Environmental Quality (DEQ) to report disposal capacity information to the legislature.

Currently under Part 115, a landfill owner or operator must submit an annual report to the state and to the county and municipality in which the landfill is located containing information on the amount of solid waste received by the landfill during the year, itemized to the extent possible by county, state, or country of origin. Under the bill, the report also would have to contain information on the amount of remaining disposal capacity at the landfill.

Remaining disposal capacity would have to be calculated as the permitted capacity less waste in place for any area that had been constructed and was not yet closed, plus the permitted capacity for each area that had a permit for construction under Part 115 but had not yet been constructed.

The bill would require the DEQ, by January 31 of each year, to submit to the legislature a report summarizing the information obtained from landfill owners’ and operators’ reports.

The bill is tie-barred to Senate Bill 506, which would provide for a two-year moratorium on the construction of new landfills, but allow the expansion of existing landfills with less than five years of remaining capacity, as calculated under Senate Bill 557.

Senate Bill 715 would amend NREPA (MCL 324.11533 and 324.11538) to require a solid waste management plan to include a mechanism for the county and the municipalities responsible for enforcing the plan to assist the Department of Environmental Quality and the State Police in implementing and conducting the inspection program established under Senate Bill 499. Senate Bill 715 is tie-barred to Senate Bill 499.

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[Senate Bill 499 would require the DEQ, in conjunction with the State Police, to provide for the inspection of each solid waste disposal area at least four times a year, and it would permit the DEQ and the State Police to make random inspections of waste being transported for disposal.]

Senate Bill 715 also would require each solid waste management plan to include an enforceable program and process to assure that only items authorized for disposal in a disposal area under Part 115 and the rules promulgated under it, would be disposed of in the disposal area.

FISCAL IMPLICATIONS:

The House Fiscal Agency also notes that the following bills would have no fiscal impact on state or local government: House Bill 4297, House Bill 4688, House Bill 5234, House Bill 5235, Senate Bill 497, Senate Bill 498, Senate Bill 499, Senate Bill 500, Senate Bill 502, and Senate Bill 715. (11-10-03)

The House Fiscal Agency notes that with regard to House Bill 4296, there would be an indeterminate impact on the Department of Environmental Quality. The actual impact would depend on the support costs for the landfill electronic waste task force. There would be no fiscal impact on local governmental units.

The Senate Fiscal Agency says in its analyses of Senate Bills in the package that Senate Bill 497, Senate Bill 498 and Senate Bill 557 would have no direct fiscal impact on state or local government. (10-8-03)

The SFA has said the following about the other bills.

Senate Bill 57. The bill would result in an indeterminate cost to the state. After the director issued an order restricting or prohibiting the transportation and disposal of solid waste, the Department would need to dedicate staff and resources to enforcing the order and resolving the situation. The costs would depend on the frequency, severity, and scope of the threats posed. (10-8-03)

Senate Bill 499. The DEQ currently inspects landfills and disposal areas up to four times a year. Combined with the additional items prohibited from landfills (under Senate Bill 498), this bill would require more complex inspections conducted more frequently. The DEQ would require additional funding for inspection staff, support staff, and travel expenses. In FY 2003-04, the solid waste program received an appropriation of \$3,846,800 and 51.0 FTEs for all permit and license application reviews, development of solid waste management plans, reporting, conducting inspections, and compliance activities. Some investigative and law enforcement processes are carried out in the Criminal Investigation unit. The primary responsibility for the inspection program would be held by the Department of Environmental Quality. The Department of State Police would be involved at the request of the DEQ for certain enforcement activities under the bill. (10-8-03)

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As a result of Senate Bill 500, an indeterminate amount of fine revenue would be deposited into the DEQ's Settlement Funds account. It is unknown how many fines are imposed annually; however, less than \$400,000 is collected in civil fines for violations of Part 115 on an annual basis. In some cases, the individual or facility is ordered to restore the natural resources disturbed in lieu of paying a civil fine. (10-8-03)

Senate Bill 502 would cost the state an indeterminate amount. It would add administrative responsibilities for the Department of Environmental Quality. Qualified staff would need to process documentation from jurisdictions for inclusion on the list of qualified solid waste origins, as well as research and verify the solid waste disposal requirements of out-of-state jurisdictions in order to include them on the list of jurisdictions from which solid waste could be accepted. (10-8-03)

Senate Bill 506 would result in a two-year moratorium on the new construction or expansion of landfills, subject to certain exceptions. Landfill owners pay a construction permit fee ranging from \$250 to \$1,500 for new or expansion projects. The temporary moratorium would result in less revenue to the Solid Waste Management Fund since fewer permit applications would be approved for two years. The bill also could have a long-term impact on the disposal capacity in the state since no new landfills would be constructed in the state for two years. (10-8-03)

Senate Bill 715 would place solid waste enforcement responsibility on local units of government as part of the countywide solid waste management plan. Counties and municipalities could incur incremental expenses related to enforcement of solid waste regulations while assisting the Departments of Environmental Quality and State Police in implementing the inspection program proposed by Senate Bill 499 (S-2). The costs would vary by municipality depending on the current solid waste management plan in each county. (10-8-03)

House Bills 4296, 4297, 4688, 5234-5237,
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Analyst: J. Hunault

■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.