



Senate Fiscal Agency  
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BILL ANALYSIS

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Senate Bill 532 (Substitute S-2 as reported)  
Senate Bill 533 (as reported without amendment)  
Senate Bill 853 (Substitute S-2 as reported)  
Senate Bill 854 (Substitute S-1 as reported)  
Senate Bill 855 (Substitute S-2 as reported)  
Senate Bill 856 (Substitute S-2 as reported)  
Senate Bill 857 (Substitute S-1 as reported)  
Senate Bill 858 (Substitute S-2 as reported)  
Senate Bill 860 (Substitute S-2 as reported)  
Senate Bill 861 (Substitute S-1 as reported)  
Sponsor: Senator Gerald Van Woerkom (S.B. 532 & 533)  
Senator Cameron S. Brown (S.B. 853)  
Senator Patricia L. Birkholz (S.B. 854)  
Senator Raymond E. Basham (S.B. 855)  
Senator Alan L. Cropsey (S.B. 856)  
Senator Michael D. Bishop (S.B. 857)  
Senator Jud Gilbert, II (S.B. 858)  
Senator Wayne Kuipers (S.B. 860)  
Senator Bruce Patterson (S.B. 861)

Committee: Natural Resources and Environmental Affairs

Date Completed: 1-14-04

### **RATIONALE**

The Michigan Beverage Container and Recycling Task Force was commissioned in January 2003 by Senate Majority Leader Ken Sikkema to review the State's current recycling programs and evaluate the effect of Michigan's beverage container law (or "bottle bill") on statewide recycling and the environment. The Task Force held nine public hearings around the State to determine, in part, whether the bottle bill should be expanded to include deposits on noncarbonated beverage containers, such as water, juice, and sports drink bottles. The hearings also addressed issues related to preventing litter and promoting recycling. In September 2003, the Task Force issued a report concerning these matters and making a number of recommendations.

Regarding the bottle bill, the Task Force found that there is popular support for expanding it to noncarbonated beverage containers. The Task Force concluded, however, "The system must be fixed to provide a more stable foundation before expansion can be advanced." In regard to recycling, the Task Force recommended that the State take

certain actions, such as assessing the extent of Michigan's littering problem; developing a public campaign to target those who litter; and creating a litter-alert program. Also, the Task Force found that only about 20% of the waste in Michigan is recycled; the Task Force recommended that the State set goals for increasing this rate.

### **CONTENT**

**All of the bills, except Senate Bill 533, would amend the Natural Resources and Environmental Protection Act (NREPA) to do the following:**

- Establish State-wide waste recycling goals.**
- Permit the Department of Environmental Quality (DEQ) to pay rewards to people who provided information materially contributing to a civil fine imposed for littering.**
- Create the "Illegal Dumping Reward Fund", funded by civil fines imposed for littering, to pay the proposed rewards and publicize their availability.**

- **Require the Michigan Department of Transportation (MDOT) to establish and maintain a statewide toll-free telephone number to receive information on violations of Part 89 (Littering) of the Act.**
- **Require MDOT to conduct a comprehensive study of litter problems and publish the results.**
- **Require Travel Michigan to develop and administer a marketing program designed to reduce littering.**
- **Require MDOT and the Department of Natural Resources (DNR) to provide volunteer groups conducting litter cleanup efforts with a method to record the types and amount of litter collected.**
- **Establish the Office of Statewide Recycling Coordinator in the DEQ.**

**Senate Bill 533 would amend the Revised Judicature Act to exempt civil fines imposed for littering from the requirement that State civil infraction fines be applied solely for the support of public libraries and county law libraries.** The bill is tie-barred to Senate Bill 532.

All of the bills, except Senate Bill 533, are tie-barred to Senate Bills 721 and 790. (Senate Bill 721 would impose a surcharge on solid waste disposed of in landfills and dedicate up to 10% of the money to the comprehensive study and the marketing program proposed by Senate Bill 856. Senate Bill 790 would establish a Recycling Advisory Council within the DEQ.) Senate Bills 853 (S-1), 855 (S-2), 857 (S-2), and 858 (S-2) also are tie-barred to Senate Bill 856.

The bills that would amend NREPA are described in more detail below.

**Senate Bill 532 (S-2)**

Part 89 (Littering) of NREPA prohibits a person from dumping, depositing, or otherwise leaving litter on public or private property or water, other than property designated for that purpose. Violators are responsible for a State civil infraction and are subject to maximum fines ranging from \$800 to \$5,000, depending on the amount of litter.

Under the bill, a person who provided information materially contributing to the imposition of a civil fine against another person for littering could be paid a reward that

was 50% of the amount of the civil fine collected.

A person would not be eligible for a reward for a violation previously known to the investigating agency unless the information materially contributed to the civil infraction judgment. If more than one person provided information for a single violation, the first person to notify the investigating agency would be eligible for the reward. If more than one notification were received on the same day, the reward would have to be divided equally among those who provided the information.

Public officers and employees of the United States, or any state or political subdivision within it, would not be eligible for the reward, unless reporting littering violations did not relate in any matter to their responsibilities as public officers or employees. An employee of a business who provided information that the business violated Part 89 would not be eligible for a reward if the employee intentionally caused the violation, or if the employee had an opportunity to take reasonable action to stop the violation, but failed to do so.

In addition to any other sanction provided for by law, a person who knowingly supplied false information to obtain a reward would be liable for the expenses incurred by the DEQ as a direct result of the false information, as well as for the expenses incurred by the person against whom false information was provided, including reasonable attorney fees incurred in proceedings as a direct result of the false information.

The DEQ would have to promulgate rules establishing procedures for the receipt and review of claims for payment of rewards, and a reward could not be paid until the Department did so. All decisions concerning the eligibility for an award and the materiality of the provided information would have to be made under these rules. In each case, the office that prosecuted the action would have to determine whether the information materially contributed to the imposition of a civil fine.

Periodically, the DEQ would have to publicize the availability of the rewards to the public. A claim for a reward could be submitted only for information provided on or after the bill's effective date.

Further, the bill would create the Illegal Dumping Reward Fund in the State Treasury. Fifty percent of all civil fines collected for littering would have to be deposited into the Fund. The State Treasurer also could receive money or other assets from any other source for deposit into the Fund. The Treasurer would have to direct the investment of the Fund, and credit to it interest and earnings from Fund investments. Money in the Fund at the close of the fiscal year would have to remain in the Fund and not lapse to the General Fund. The DEQ could spend money from the Fund, upon appropriation, only for the payment of rewards and for publicizing the availability of rewards, as required by the bill.

### **Senate Bill 854 (S-1)**

The bill would add Part 174 to NREPA to establish the Office of Statewide Recycling Coordinator in the DEQ. The DEQ Director would have to appoint the Statewide Recycling Coordinator, who would serve at the Director's pleasure. The Director would have to determine the Coordinator's compensation, and the Coordinator would have to be reimbursed for all traveling and other expenses incurred by him or her in the discharge of his or her official duties. As recommended by the Coordinator, the DEQ could employ assistants and make expenditures necessary to implement Part 174 and perform the powers and duties of Statewide Recycling Coordinator.

The Coordinator would have to do all of the following:

- Establish a method for regular review of local recycling programs in the State, in conjunction with the Recycling Advisory Council (proposed by Senate Bill 790).
- Gather information about recycling processes, markets, and rates.
- Conduct and submit a study of the State's capacity to handle material recovered for recycling, the feasibility of collecting and transporting material for recycling in the State, and the ability of the State to sustain markets for products containing recycled content (as required by the Legislature).
- Submit recommendations for improving and expanding recycling in the State (as required by the Legislature).
- Perform any other duties imposed by law or the Director.

### **Senate Bills 853 (S-2), 855 (S-2), 857 (S-1), and 858 (S-2)**

Senate Bills 853 (S-2), 855 (S-2), 857 (S-1), and 858 (S-2) would amend Part 359 (Adopt-A-River Program), Part 358 (Adopt-A-Shoreline Program) Part 721 (Michigan Trailways), and Part 741 (State Parks System), respectively, to require the DNR to provide volunteer groups conducting litter cleanup efforts with a method for the groups to record the types and amount of trash collected. (Currently, Parts 358 and 359 require the DNR to give volunteer groups data information sheets on which to record the types of trash collected.)

As currently required, the volunteer groups would have to forward the recorded information to the DNR, under Senate Bills 853 (S-2) and 855 (S-2). Those bills would require the DNR to provide this information to Travel Michigan. Under Senate Bills 857 (S-1) and 858 (S-2), the DNR would have to request the groups to forward the information to Travel Michigan. Travel Michigan would have to compile the information and use it in developing and administering the antilitter marketing program proposed by Senate Bill 856 (S-2).

### **Senate Bill 856 (S-2)**

The bill would amend Part 89 of the Act to require MDOT, assisted by the DEQ and the Recycling Coordinator (proposed by Senate Bill 854 (S-1)), to conduct a comprehensive study of the litter problems of the State, or have such a study conducted, and to publish the results of the study, within one year from the bill's effective date. The Department of Transportation also would have to give a copy of the study to the standing committees of both houses of the Legislature with jurisdiction over matters primarily related to natural resources and the environment.

The study would have to include at least all of the following:

- The incidence of littering in the various areas of the State.
- A descriptive categorization of areas where littering is the greatest, with, to the extent possible, the relative incidence of littering in each type of area.
- Demographic information about people who litter.

With the DNR's and DEQ's assistance, Travel Michigan would have to develop, from the study, and administer a marketing program designed to reduce the incidence of littering in the State. In administering the program, Travel Michigan would have to 1) use a single marketing slogan, developed in part from suggestions by school children in the State; and 2) coordinate the program with the State's recycling program. Travel Michigan could contract with one or more private people to develop and administer the marketing program.

As part of the marketing program, Travel Michigan could work with MDOT to expand the Adopt-A-Highway program operated by the Department to highways not served by volunteers under that program. Travel Michigan also could work with the DEQ to increase volunteer participation in programs similar to the Adopt-A-Highway program that seek to remove litter from areas of the State through volunteer participation.

In connection with its Adopt-A-Highway program, MDOT would have to provide a volunteer group conducting litter cleanup efforts with a method for the group to record the types and amount of trash collected during the group's cleanup effort. The Department also would have to request the group to forward the information to Travel Michigan upon completion.

Travel Michigan would have to compile the information collected from this or other similar programs, and use the information in developing and administering the proposed marketing program.

#### **Senate Bill 860 (S-2)**

The bill would amend Part 89 of NREPA to require the Michigan Department of Transportation to establish and maintain a statewide toll-free telephone number to receive information on violations of that part. The Department would have to take steps to inform the public of the existence and purpose of the toll-free number, including publicizing it on the MDOT website.

#### **Senate Bill 861 (S-2)**

The bill would amend Part 173 (Recycling Advisory Council) of NREPA to establish the following goals for waste recycling volumes in the State: 30% by July 1, 2009, and 50% by

July 1, 2014. (Part 173 is proposed by Senate Bill 790.)

By July 1 of each year, the DEQ would have to give to the Legislature a report containing the previous year's waste diversion volumes and recycling rates. In its report, the DEQ would have to use a methodology for measuring rates consistent with methodology developed by the United States Environmental Protection Agency as a guide for state and local governments.

MCL 324.8901 et al. (S.B. 532)

600.8831 (S.B. 533)

324.3503 (S.B. 853)

324.35803 (S.B. 855)

Proposed MCL 324.8911-8915 (S.B. 856)

MCL 324.72105a (S.B. 857)

324.74104 (S.B. 858)

Proposed MCL 324.8905f (S.B. 860)

MCL 324.17305 (S.B. 861)

### **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 bills would implement some of the Task Force's recommendations, which were the result of much consideration and public input. First, establishing State-wide targets for recycling could improve Michigan's recycling rate, which, at 20%, is below the Great Lakes states' average of 26%, and ranks 28<sup>th</sup> in the country. Setting a target recycling rate would provide an incentive to improve these rates. Without such a goal, and absent a statewide emphasis on recycling programs, it seems unlikely that recycling levels will improve, largely because landfill fees remain at affordable levels due to abundant capacity. No State-wide recycling goals currently exist in statute, although Part 165 of NREPA (Office Paper Recovery), created in 1988, established goals for recycling office paper generated in State office buildings. (By 2000, the goal was to recycle at least 85% of all office paper.) According to the Task Force report, even these goals have not been reviewed and revised in several years.

Although the position of Statewide Recycling Coordinator currently exists in the DEQ, it is not statutorily recognized. Establishing the office in statute, an explicit Task Force

recommendation, would assure that the position continues. According to the Task Force report, "Creating such an office will help to confirm the importance of having a continued, sustained effort to promote effective recycling." Recycling remains the most advantageous, and publicly popular, method of handling solid waste.

The bills addressing littering also would implement several of the Task Force's recommendations. It makes sense to take advantage of information that volunteer groups already record on litter, as well as to ask their assistance in measuring the amount of trash they collect. This information could be used by Travel Michigan, the State's travel bureau, to identify a profile of those who typically litter. The Task Force refers to a study, "What We Know About Controlling Litter," by Daniel Syrek of the Institute for Applied Research, which reported that advertising and marketing-based litter campaigns have a greater impact on overall litter control than do other methods. The Task Force recommended developing an aggressive marketing program that uses a statewide slogan to reduce litter, as Senate Bill 856 (S-2) would require Travel Michigan to do. Also, the Task Force suggested creating a new litter-alert program that would give people aware of large-scale littering activity an incentive to report the violation. Senate Bill 860 (S-2) proposes a toll-free littering hotline within MDOT, and Senate Bill 532 (S-2) proposes incentives in the form of monetary rewards: A person who provided information that materially contributed to the imposition of a civil fine for littering would receive half of the amount of the fine collected. The hotline and the monetary reward could create more effective enforcement of Michigan's current litter laws.

### **Opposing Argument**

The recycling goals proposed by Senate Bill 861 (S-1) are too low and do not reflect the public's interest in and ability to recycle. For example, the City of Ann Arbor has a current recycling rate of 53%, and it has a goal of increasing that number to 75%. Governor Granholm would like to see the State recycle 40% of its waste in the next five years, according to the Michigan Environmental Council. This seems to be an achievable goal, based on the experience of cities that have substantially increased their recycling rates by implementing weekly curbside pickup that includes items such as pots and pans,

hangers, aerosol cans, batteries, and used motor oil.

**Response:** Given that no stable source of funding for recycling currently exists, the recycling goals would be reasonable and provide a good starting point.

### **Opposing Argument**

The proposed penalty on informants who knowingly provided false information in order to obtain an award, under Senate Bill 532 (S-2), could have a "chilling effect" on the reporting program. A person could come forward with information that he or she believed to be true but later turned out to be false, and be penalized for it. People who otherwise might report littering could be strongly discouraged from doing so if they thought they might have to pay thousands of dollars as a result.

**Response:** The bill would require the person to have *knowingly* provided false information. Since knowledge can be difficult to prove, it is likely that few people would be held liable for providing false information.

Legislative Analyst: Claire Layman

## **FISCAL IMPACT**

### **Senate Bills 532 (S-2) and 533**

The bills would have an indeterminate fiscal impact. They would create a reward system for people who reported littering and illegal dumping activity. The proposed Illegal Dumping Reward Fund would be funded with 50% of the civil fines assessed for illegal dumping. People who provided information leading to the assessment of a civil fine could receive 50% of the fine revenue. Currently, all of the civil fine revenue for violations of this part benefits public libraries. The toll-free telephone number for reporting littering (proposed by Senate Bill 860) and the monetary reward could attract additional information, but half of the resulting fines would be paid to private individuals.

### **Senate Bill 853 (S-1)**

The bill would revise a system of reporting litter and waste collected by volunteer groups participating in the Adopt-a-River program. The reporting provisions for volunteer groups would not have a significant fiscal impact on State or local government, although there could be some administrative costs associated with compiling the data.

### **Senate Bill 854 (S-1)**

The bill would create the position of Statewide Recycling Coordinator in the Department of Environmental Quality. This position currently exists in the DEQ. It was created initially in an appropriation act for the DEQ a few years ago. The position is annually renewed in the DEQ's operating budget and is supported with an appropriation of \$60,000 from waste reduction fee revenue, generated from a hazardous waste disposal fee.

### **Senate Bills 855 (S-2) through 858 (S-2)**

The bills would add administrative costs to the Departments of Transportation and Environmental Quality associated with the requirements to conduct a comprehensive study on the litter problem in Michigan, and to Travel Michigan and the Departments of Environmental Quality and Natural Resources for the development and implementation of an antilitter marketing campaign. Currently, there are no estimates of the costs associated with these new responsibilities. Funding for this project could come from revenue generated from a recycling and waste diversion surcharge proposed by Senate Bill 721 (S-1). Under that bill, approximately \$4,600,000 would be available for the litter study and campaign.

The bills would revise a system of reporting litter and waste collected by volunteer groups participating in the Adopt-a-Highway, -Park, -Trail, and -Shoreline programs. Data collected from the volunteer groups would be used to develop the antilitter marketing campaign. The reporting provisions for volunteer groups would not have a significant fiscal impact on State or local government, although there could be some administrative costs associated with compiling the data.

Article IX, Section 9 of the Michigan Constitution restricts Michigan Transportation Fund (MTF) money credited to MDOT for "the transportation purposes of planning, administering, constructing, reconstructing, financing, and maintaining state, county, city, and village roads, streets, and bridges...". It is unclear whether MDOT's new responsibilities under the bills would be eligible for funding from MTF revenue, in light of the constitutional restriction. Revenue that is not constitutionally restricted also is available to MDOT. Presumably, a portion of that funding

could be used to support the new administrative responsibilities necessitated by Senate Bill 856 (S-2).

### **Senate Bill 860 (S-2)**

The requirement to establish and maintain a statewide toll-free telephone number would increase the administrative costs of the Michigan Department of Transportation. Currently, there are no estimates of the costs associated with this new responsibility. Some of the costs of this function could be covered by the revenue generated under the surcharge proposed by Senate Bill 721.

It is unclear whether MDOT's new responsibility under the bill would be eligible for funding from the Michigan Transportation Fund (described above). Presumably, MDOT could use a portion of the available funding that is not constitutionally restricted, to support the new administrative activities necessitated by the bill.

### **Senate Bill 861 (S-1)**

The bill would have an indeterminate fiscal impact. It would set goals for waste recycling volume. The reduction of waste disposed of at landfills in the State could result in savings, but the development and implementation of a recycling program and markets for goods made from recycled materials could create indeterminate expenses.

Fiscal Analyst: Jessica Runnels

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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.