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BILL ANALYSIS

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Senate Bill 561 (Substitute S-1)
Sponsor: Senator Burton Leland
Committee: Appropriations

Date Completed: 6-12-03

CONTENT

The bill would amend the Natural Resources and Environmental Protection Act to establish a new structure for a solid waste surcharge and set a higher amount for total fee collections.

Currently, owners and operators of landfills are subject to a solid waste program administration fee. The annual cumulative total of the amount paid by all landfill owners and operators in the State is set in the Act at \$1,040,000 beginning in 1997, adjusted annually for inflation using the Detroit Consumer Price Index (CPI). The Department of Environmental Quality (DEQ) then apportions the cumulative amount among the landfill operators based on each landfill's pro rata share of the cumulative amount maintained in perpetual care funds in the State. Under the Act, the owner or operator of a type II landfill must deposit into a perpetual care fund 75 cents for each ton or portion of a ton, or 25 cents for each cubic yard or portion of a cubic yard that is disposed of in the landfill until the maximum for the fund is reached. Different deposit requirements are set for selected types of waste received. The purpose of a perpetual care fund is to ensure that sufficient resources exist to complete any maintenance or environmental cleanup activities necessary after the landfill closes, and each fund must be maintained for 30 years after the landfill is closed. The maximum required perpetual care fund amount for FY 2002-03 is \$1,441,600 (\$1,156,000 in 1996, adjusted by the Detroit CPI).

Under the bill, the current fee structure for Type II and Type III landfills would be completely replaced. Type II landfills receive solid waste from municipal, commercial, and industrial sources. Type III landfills receive construction, demolition, and industrial solid waste and are limited in the type of waste they may receive. A subcategory of Type III landfills is commonly known as monofills and they receive one type of waste from only one source, generally foundry sand, coal or wood ash, wastewater treatment sludges, or sediments from wood or paper processing. Under the bill, Type II and most Type III landfill owners or operators that receive municipal solid waste and incinerator ash, would pay seven cents per cubic yard of solid waste received. The owner or operators of Type III landfills monofills, would pay a flat rate of \$2,000 annually.

The bill would increase the length of a permit from two years to five years. Current permits would not be extended, but the new permit length would apply upon renewal. The bill would also create a sunset of October 1, 2007 for this fee and require the annual submission of a work load analysis report on the solid waste program by the Department of Environmental Quality to the legislature.

The bill includes a provision that entitles landfill owners to increase fees for solid waste haulers in addition to existing contracts between haulers and landfill owners establishing fees. This provision is intended to enable landfill owners to recover the increased costs of this revised solid waste surcharge.

By January 1 of each year, the DEQ would submit a bill to each landfill owner, which would have to be paid by January 31, or 30 days after the date of notification from the Department, whichever was sooner. The bill would make no changes to the requirement for deposits, withdrawals, or the duration of perpetual care funds.

MCL 324.11507a et al

FISCAL IMPACT

According to a report published by the DEQ in February 2003, Type II landfills received 51,041,788 cubic yards of waste and Type III landfills that are not monofills received 4,895,784 cubic yards of waste in FY 2001-02. Under the bill, these landfills would pay seven cents per cubic yard for a total of \$3,915,600 in fee revenue. Type III monofills collected 1,603,350 cubic yards of solid waste in FY 2001-02. The annual fee for monofills would be a flat rate of \$2,000 and would not be based on volume of solid waste received. There are between three and seven Type III monofills in the State, so revenue from these landfills would range from \$6,000 to \$14,000 annually. Total fee collections under the bill would be approximately \$3,925,000 from Type II and all Type III landfills, based on the volume of solid waste received by landfills in FY 2001-02. Over the last five years, the average annual increase in solid waste received is 2,774,256 cubic yards. If this same increase is experienced in FY 2003-04, an additional \$200,000 in fee revenue could be collected, although expenditures of fee revenue would be limited by appropriations.

In FY 2002-03, total appropriations for solid waste permitting activities are \$3,918,300, consisting of \$1,319,900 from solid waste program fees (although only \$1,231,600 is expected in collections) and \$2,598,400 from the General Fund. All of this funding supports the permitting, administration, inspection, and enforcement activities of the Department related to this program. The Governor's proposed budget for FY 2003-04 would eliminate General Fund support for this program and replace it with additional solid waste program fees resulting from the revised fee structure proposed in this bill. The Governor proposed total solid waste fee revenue of \$3,914,500.

The House-passed version of the Department of Environmental Quality budget for FY 2003-04 does not include an appropriation for the additional fee revenue. It reduces General Fund appropriations for this program by 15%.

The Senate Committee version of the FY 2003-04 budget for the Department of Environmental Quality includes the Governor's recommendation for increased fee revenue to offset the elimination of General Fund support for the Solid Waste program. The Senate Committee appropriates \$3,914,500 for solid waste program fees.

If the bill is not adopted and the current fee structure remains, the Department will collect approximately \$1,265,154 in solid waste program fees in FY 2003-04 (\$1,040,000 as adjusted by the Detroit CPI since 1997). The program would require a General Fund appropriation of \$2,598,400 to remain at its current authorized spending level.

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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.