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Senate Bill 783 (Substitute S-1)
House Bill 5176 (Substitute H-1 as passed by the House)
House Bills 5177 and 5178 (as passed by the House)
Sponsor: Senator Michael D. Bishop (S.B. 783)
Representative Daniel Acciavatti (H.B. 5176)
Representative Phil Pavlov (H.B. 5177)
Representative David Palsrok (H.B. 5178)
Senate Committee: Natural Resources and Environmental Affairs
House Committee: Natural Resources, Great Lakes, Land Use, and Environment (H.B. 5176-5178)

Date Completed: 10-10-05

CONTENT

Senate Bill 783 (S-1) and House Bills 5176 (H-1) and 5177 would amend Part 115 (Solid Waste Management) of the Natural Resources and Environmental Protection Act (NREPA) to do the following:

- Prohibit a person from delivering for disposal in a landfill or incinerator municipal solid waste (MSW) that was generated outside of the United States.
- Prohibit a landfill or incinerator owner or operator from accepting for disposal MSW that was generated outside of the United States.
- Provide that the prohibitions would not apply unless Congress enacted legislation authorizing them.
- Establish a felony penalty for a person who knowingly committed a violation.
- Require a court to order a violator to return, or pay to the State the cost of returning, the solid waste that was the subject of the violation.
- Provide that a violator would be liable for damage to the public infrastructure.

House Bill 5178 would amend the Code of Criminal Procedure to include the proposed felony in the sentencing guidelines.

Senate Bill 783 (S-1) and House Bill 5177 are tie-barred to House Bill 5176. House Bill 5178 is tie-barred to House Bill 5177.

House Bill 5176 (H-1)

The bill would add Section 11526e to NREPA to prohibit a person from delivering for disposal in a landfill or incinerator in this State, municipal solid waste, including MSW incinerator ash, that was generated outside of the United States. The bill also would prohibit the owner or operator of a landfill or incinerator in Michigan from accepting for disposal MSW, including MSW incinerator ash, that was generated outside of the United States. The prohibitions would apply notwithstanding any other provisions of Part 115.

The prohibitions would not apply, however, unless Congress enacted legislation under Article I, Section 8, Clause 3 of the United States Constitution authorizing the prohibitions.

The prohibitions would not apply until 90 days after the effective date of the Federal legislation or 90 days after the bill's effective date, whichever was later.

(Commonly called the Commerce Clause, Article I, Section 8, Clause 3 gives Congress the power "To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes.")

House Bills 5177 and 5178

Under House Bill 5177, a person who knowingly violated proposed Section 11526e would be guilty of a felony punishable by imprisonment for up to two years and/or a fine of up to \$5,000.

Under House Bill 5178, the felony would be a Class G offense against public safety with a statutory maximum sentence of two years.

Senate Bill 783 (S-1)

Under Section 11546 of NREPA, the Department of Environmental Quality or a health official may request the Attorney General to bring an action, or a municipality or county may bring an action, for any appropriate relief, including injunctive relief, for a violation of Part 115 or rules promulgated under it. In addition to any other relief provided by the section, the court may order a violator to pay a civil fine of up to \$10,000 per day of violation, or up to \$25,000 per day for repeat violations. The court also may order a violator to restore, or pay to the State the cost of restoring, the natural resources affected by the violation, and to pay the State's cost of surveillance and enforcement.

Under the bill, in addition to any other relief provided by this section, the court would have to order a person who violated Section 11546e to return, or pay to the State an amount equal to the cost of returning, the solid waste that was the subject of the violation, to the country where it was generated. The person also would be liable for any damage to roads, streets, or other public infrastructure caused by the violation.

MCL 324.11546 (S.B. 783)
Proposed MCL 324.11526e (H.B. 5176)
MCL 324.11549 (H.B. 5177)
MCL 777.13c (H.B. 5178)

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

House Bill 5176 (H-1)

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

House Bill 5177 and 5178

The bills would have an indeterminate fiscal impact on State and local government. There are no data to indicate how many offenders would be convicted of knowingly importing solid waste from a foreign country. Local governments would incur the cost of incarceration in local facilities, which varies by county. The State would incur the cost of felony probation at an annual average cost of \$2,000, as well as the cost of incarceration in a State facility at an average annual cost of \$30,000.

Senate Bill 783 (S-1)

The bill would result in indeterminate savings for the State. As part of the penalty for violating proposed Section 11526e, a person would have to pay for the trash to be delivered back to the country of origin. This expense is not a cost to the State currently, but the State would incur it if House Bill 5176 (H-1) were enacted.

Fiscal Analyst: Mike Hansen
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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.