



Senate Fiscal Agency
P.O. Box 30036
Lansing, Michigan 48909-7536



Telephone: (517) 373-5383
Fax: (517) 373-1986

House Bill 4186 (as passed by the House)
Sponsor: Representative Donovan McKinney
House Committee: Natural Resources, Environment, Tourism and Outdoor Recreation
Senate Committee: Energy and Environment

Date Completed: 1-31-24

CONTENT

The bill would enact a new law to require a local government or a land bank authority that entered a contract with a contractor for an asbestos abatement project to include in the contract a provision allowing the withholding of any payment to that contractor if the contractor, or any of its subcontractors, had entered, or was in negotiations to enter, an administrative consent order or judgment involving environmental regulation violations within the immediately preceding 12 months.

Specifically, beginning on the bill's effective date, if a local government or a land bank authority entered into a contract with an asbestos abatement contractor or a demolition contractor that involved an asbestos abatement project, the contract would have to include a provision that the local government or land bank authority could withhold any payment to that asbestos abatement contractor or demolition contractor if the contractor or any subcontractor had entered or was in negotiations to enter an administrative consent order or judgment with the Department of Environment, Great Lakes, and Energy (EGLE) or another environmental regulatory agency within the immediately preceding 12 months that involved violations of environmental regulations.

The bill would allow payment to be withheld until the local government or land bank authority received verification from the asbestos abatement contractor, the demolition contractor, EGLE, or another environmental regulatory agency that the violations of environmental regulations had been corrected.

Under the bill, "asbestos" would mean a group of naturally occurring minerals that separate into fibers, including chrysotile, amosite, crocidolite, anthophyllite, tremolite, and actinolite. "Asbestos abatement contractor" would mean a business entity that is licensed under the Asbestos Abatement Contractors Licensing Act and that carries on the business of asbestos abatement on the premises of another business entity and not on the asbestos abatement contractor's premises. "Asbestos abatement project" would mean any activity involving persons working directly with the demolition, renovation, or encapsulation of friable asbestos materials. "Local government" would mean a county, city, village, or township.

The bill would require an asbestos abatement contractor, demolition contractor, or any subcontractor of the asbestos abatement contractor or demolition contractor, if involved in an asbestos abatement project with a local government or land bank authority, to disclose to the local government or land bank authority if that asbestos abatement contractor, demolition contractor, or subcontractor were subject to an active administrative consent order or consent judgment, or had entered into, or was in negotiations to enter into, an administrative consent order or consent judgment, with EGLE or another environmental regulatory agency for any violations of environmental regulations.

PREVIOUS LEGISLATION

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

The bill is similar to Senate Bill 225. The bill is also a reintroduction of House Bill 4766 of the 2021-2022 Legislative Session, as well as House Bill 5046 of the 2019-2020 Legislative Session, which were passed by the House during their respective sessions but received no further action.

BACKGROUND

In 1971, the U.S. Environmental Protection Agency (EPA) identified asbestos as a hazardous pollutant. The inhalation of asbestos fibers may cause cancer, including lung, larynx, and ovarian cancer, as well as mesothelioma, cancer of the linings of certain internal organs. It may also lead to asbestosis, an inflammatory condition of the lungs that can cause permanent lung damage.¹ In 1973, the EPA promulgated the Asbestos National Emission Standards for Hazardous Air Pollutants (NESHAP), 49 CFR Part 61 Subchapter M.

The Asbestos NESHAP regulations require a thorough inspection of a facility where a demolition or renovation operation is planned to occur for asbestos-containing material. If such material is found, the owner or operator of the operation must notify a delegated entity, in Michigan, EGLE's Air Quality Division. Generally, to remove asbestos-related materials, the owner or operator of the operation must remove, adequately wet, and seal the materials in leak-tight containers, before disposing of them in a landfill qualified to receive asbestos waste. To ensure compliance with these regulations, the Asbestos NESHAP requires at least one onsite representative trained in these provisions to oversee the removal of asbestos-containing materials.

Legislative Analyst: Nathan Leaman

FISCAL IMPACT

The bill could potentially have a small positive fiscal impact on local units of government or land banks in the event they should withhold payment to an asbestos contractor who refused to correct its environmental violations. This amount is likely to be negligible.

Fiscal Analyst: Bobby Canell

¹ "Asbestos Exposure and Cancer Risk", The National Cancer Institute. Retrieved on 01-30-2024.

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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.