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House Bill 4190 (as passed by the House)
Sponsor: Representative Curtis VanderWall
House Committee: Natural Resources, Environment, Tourism and Outdoor Recreation
Senate Committee: Energy and Environment

Date Completed: 1-31-24

CONTENT

The bill would enact the "Public Entity Asbestos Removal Disclosure Act" to prohibit a public entity from entering a contract with a contractor for asbestos abatement unless the contractor filed an affidavit describing any criminal convictions and violation notices of environmental regulations. If a contractor had such a criminal conviction, a public entity could not enter a contract with the contractor.

The Act would require an asbestos abatement contractor seeking to bid on an asbestos abatement contract, before entering a contract with a public entity, to file an affidavit describing any criminal convictions relating to compliance with environmental laws or regulations and any violation notices of environmental laws or regulations, or whether it had been subject to an administrative order or consent judgment within the immediately preceding five years. If the asbestos abatement contractor has had a criminal conviction related to compliance with environmental regulations as disclosed by the asbestos abatement contractor, the public entity could not enter a contract for an asbestos abatement project with that asbestos abatement contractor.

("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. An asbestos abatement contractor would include an individual or person with an ownership interest in an asbestos abatement contracting entity. "Asbestos abatement project" would mean any activity involving persons working directly with the demolition, renovation, or encapsulation of friable asbestos materials. "Public entity" would mean the State or an agency or authority of the State, school district, community college district, intermediate school district, city, village, township, county, land bank, public authority, or public airport authority.)

If an asbestos abatement contractor entered a contract with a public entity for an asbestos abatement project, the asbestos abatement contractor could not enter a contract with another asbestos abatement contractor unless that asbestos abatement contractor also filed an affidavit described above.

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 of the current Legislative Session. The bill is also similar to Senate Bill 340 and House Bill 4769 of the 2021-2022 Legislative Session. House Bill 4769 passed the House 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, the Department of Environment, Great Lakes, and Energy'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 increase costs for local governments; however, the amount of increased costs is not possible to determine and would depend heavily on the characteristics of each situation. If a potential contractor had a criminal conviction related to compliance with environmental regulations within the immediately preceding five years, the public entity could not enter a contract. In this case, the public entity could incur additional costs if the cost of an alternative qualified contractor were greater. The amount of additional cost would depend on the course of action chosen by the public entity.

Fiscal Analyst: Ryan Bergan
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.