Senate Fiscal Agency
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BILL ANALYSIS

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House Bill 6071 (Substitute H-2 as passed by the House)
Sponsor: Representative Carl F. Gnodtke
House Committee: Agriculture and Forestry
Senate Committee: Agriculture and Forestry

Date Completed: 12-2-96

CONTENT

The bill would amend Part 31 (Water Resources Protection) of the Natural Resources and Environmental Protection Act to:

- **Require the Department of Environmental Quality (DEQ), by October 1, 1997, to promulgate rules on the land application of sewage sludge.**
- **Impose on sewage sludge generators and distributors an annual sewage sludge land application fee as of October 1, 1997.**
- **Require sewage sludge generators and distributors to report annually to the DEQ on the amount of sludge generated or distributed and applied to the land in the preceding year.**
- **Create the "Sewage Sludge Land Application Fund" to be used for administration of the bill, including education about the land application of sewage sludge.**
- **Specify that the bill would preempt a local ordinance, regulation, or resolution that duplicated or extended the bill's provisions, and permit under certain circumstances a local unit to enact an ordinance prescribing standards more stringent that those contained in the bill.**
- **Require the DEQ to hold a public hearing if a local government submitted a resolution identifying adverse effects on the environment or public health due to the operation of a sewage sludge land application site.**

Rules

By October 1, 1997, the DEQ in consultation with the Department of Agriculture would have to promulgate rules to manage the land application of sewage sludge. The rules would have to be consistent with minimum requirements of Federal rules on the standards for land application of sewage sludge, but could impose requirements in addition to or more stringent than the Federal rules to protect the public health or the environment from any adverse effect from a pollutant in sewage sludge. ("Sewage sludge" would mean sewage sludge generated in the treatment of domestic sewage, other than only septage or industrial waste.)

Application Fee

Starting with the fiscal year beginning October 1, 1997, an annual sewage sludge land application fee would be imposed on sewage sludge generators and distributors. ("Sewage sludge generator"

would mean a person who generated sewage sludge that was applied to land. "Sewage sludge distributor" would mean a person who applied, marketed, or distributed, except retailers, a product for land application derived from sewage sludge.) The application fee would have to be in an amount equal to the sum of an administrative fee and a generation fee. The DEQ would have to set the administrative and generation fees using a method set forth by rule. The Department would have to set those fees so that the annual cumulative total of the sewage sludge land application fee to be paid in a State fiscal year would be, as nearly as possible, $650,000 minus the amount in the Sewage Sludge Land Application Fund carried forward from the prior State fiscal year. Starting with fees to be paid in the State fiscal year beginning October 1, 1998, the $650,000 would have to be adjusted annually for inflation using the Detroit Consumer Price Index.

Each sewage sludge generator and sewage sludge distributor would have to report annually to the DEQ the total amount of sewage sludge it generated or distributed that had been applied to land in the preceding one-year period, as defined by the Department. The DEQ then would determine the generation fee on a per-ton basis by dividing the cumulative generation fee by the number of tons of sewage sludge applied to land in the one-year period. For the fiscal year beginning October 1, 1997, the generation fee could not exceed $4 per ton and the administrative fee could not exceed $500.

Each sewage sludge generator or distributor would have to pay its sewage sludge land application fee within 30 days following the end of each State fiscal year. The sewage sludge generator or distributor would have to determine the amount of its sewage sludge land application fee by multiplying the number of tons of sewage sludge applied to land that it reported under the bill by the generation fee and adding the administrative fee.

The DEQ would have to assess interest on all fee payments submitted after the due date. The permittee would have to pay an additional amount equal to 0.75% of the payment due for each month or portion of a month the payment remained past due. A person's failure to pay a fee on time would be a violation of Part 31.

Sewage Sludge Land Application Fund

The Sewage Sludge Land Application Fund would be created in the State Treasury. The DEQ would have to forward all fees collected under the bill to the State Treasurer for deposit into the Fund. The State Treasurer could receive money or other assets from any source for deposit into the Fund, would have to direct the Fund's investment, and would have to credit to the Fund interest and earning from Fund investments. An unspent balance within the Fund at the close of the fiscal year would have to be carried forward to the following fiscal year.

The Fund would have to be appropriated solely for administration of the bill, including, but not limited to, education of the farmers, sewage sludge generators and distributors, and the general public about land application of sewage sludge and the bill's requirements. The DEQ Director could contract with a nonprofit educational organization to administer the bill's educational components. The bill specifies that 10% of the Fund would have to be appropriated to the Department of Agriculture to provide education and technical assistance relating to land application of sewage sludge to persons involved in or affected by that application.

Enforcement

The bill specifies that its provisions concerning the land application of sewage sludge and the proposed fees would preempt a local ordinance, regulation, or resolution of a local unit that purported to duplicate, extend, or revise the bill's provisions. Except as otherwise provided, a local unit could not enact, maintain, or enforce an ordinance, regulation, or resolution that conflicted with

the bill. ("Local unit" would mean a county, city, village, or township or an agency or instrumentality of any of these entities.)

The DEQ Director could contract with a local unit to act as its agent for the enforcement of the bill. The Department would have the sole authority to assess fees. If a local unit were under contract with the DEQ to act as its agent or the local unit had received prior written authorization from the Department, the local unit could pass an ordinance that was identical to the bill and rules promulgated under it, except as prohibited in the bill.

A local unit could enact an ordinance prescribing standards that were in addition to or more stringent than those contained in the bill and that regulated a sewage sludge land application site under either or both of the following circumstances:

-- The operation of a sewage sludge land application site within that local unit would result in unreasonable adverse effects on the environment or public health within the local unit. The determination that unreasonable adverse effects on the environment or public health would exist would have to take into consideration specific populations whose health could be adversely affected within the local unit.
-- The operation of a sewage sludge land application site within that local unit had resulted or would result in the local unit's being in violation of other existing State or Federal laws.

An ordinance could not conflict with existing State or Federal laws. An ordinance that was more stringent than State law could not be enforced by a local unit until approved or conditionally approved by the DEQ Director. The local unit would have to comply with any conditions of approval.

Public Meeting

If the legislative body of a local unit submitted to the DEQ a resolution identifying unreasonable adverse effects on the environment or public health due to the operation of a sewage sludge land application site, the Department would have to hold a public meeting within 60 days after the submission of the resolution to determine the nature and extent of unreasonable adverse effects. Within 45 days after the local public meeting, the Department would have to issue a detailed opinion regarding the existence of unreasonable adverse effects on the environment or public health as identified by the resolution of the local unit.

MCL 324.3101 et al. Legislative Analyst: L. Arasim

FISCAL IMPACT

The bill would generate, once administrative rules were promulgated, approximately $650,000 in State revenue to be deposited into the "Sewage Sludge Application Fund".

The bill designates that 10% of the Fund would be appropriated to the Department of Agriculture. The remainder would be used by the Department of Environmental Quality to administer the bill or would be carried forward to the next fiscal year.

Fiscal Analyst: G. Cutler

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