

Legislative Analysis



TRANSFER CERTAIN DEQ RESPONSIBILITIES TO BUREAU OF FIRE SERVICES

Mitchell Bean, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 5365 as introduced
Sponsor: Rep. Jeff Mayes

House Bill 5366 as introduced
Sponsor: Rep. Andy Neumann

House Bill 5367 as introduced
Sponsor: Rep. Kenneth Horn

Committee: Regulatory Reform

Complete to 11-9-10

A SUMMARY OF HOUSE BILLS 5365-5367 AS REPORTED BY COMMITTEE 7-1-10

The bills would transfer various duties currently assigned in various statutes to the Department of Environmental Quality, or the director of that department, to the Bureau of Fire Services or to the State Fire Marshal. House Bills 5365 and 5366 would also specify that such transfers do not abate civil actions brought by or against the DEQ or a criminal action brought by the state.

Under Executive Order 2009-45, the Departments of Environmental Quality and Natural Resources were abolished and merged into the new *Department of Natural Resources and Environment*. Some of the responsibilities of the DEQ were transferred to other departments, agencies, or bureaus.

House Bill 5365 would amend the Natural Resources and Environmental Protection Act - NREPA (324.21101 et al.) and House Bill 5366 would amend the Fire Protection Code (MCL 29.3b et al.) to transfer some duties of the DEQ or director of the DEQ to the Bureau of Fire Services or the State Fire Marshal as well as change numerous statutory references. Specifically, the bills would do the following:

**** Transfer from the DEQ to the Bureau of Fire Service and from the director of the DEQ to the State Fire Marshal responsibilities related to underground storage tank systems (HB 5365) and aboveground storage containers for flammable liquids and hazardous wastes and dry cleaning operations using flammable liquids (HB 5366).**

**** Specify that the transfers of power and duties under the bills would not abate an action or proceeding begun by or against the department or the director in an official capacity under the NREPA (HB 5365) or the Fire Prevention Code (HB 5366). However, a court could allow the action or proceeding to be maintained by or against the Bureau or State Fire Marshal, respectively.**

** Specify that the bills would not abate a criminal action begun by the state.

** Require that an order, certificate, approval, or authorization issued by the DEQ or director under the NREPA or the Fire Prevention Code prior to the bills' effective dates would continue in effect until it expired or was amended, suspended, or revoked by the Bureau or Fire Marshal, respectively.

** As applicable under the bills, transfer all records, personnel, and unexpended balances of appropriations or other funds associated with a power or duty transferred under the bills to be transferred with that power or duty.

** Make numerous changes of an editorial or technical nature, such as changing numerous references to the DEQ or director to the Bureau of Fire Services or State Fire Marshal, respectively.

** Give authority to the Bureau to make and administer rules to regulate dry cleaning establishments that use flammable liquids (HB 5366).

** Delete obsolete reporting requirements (HB 5365).

House Bill 5367 would amend Public Act 241 of 1959 (MCL 429.112), which regulates stationary containers used for liquefied petroleum or carbonic gas, to delete a reference to the DEQ and thereby transfer rulemaking authority to the Bureau regarding the transfer of liquefied petroleum or carbonic gas out of or into a stationary container. The bill is tie-barred to House Bill 5366.

FISCAL IMPACT:

Overall, the bills would not appear to have a significant fiscal impact on the state, as certain regulatory functions would simply be transferred from one department to another. However, the exact nature of staffing and program resources that would be transferred from the Department of Environmental Quality to the Department of Energy, Labor, and Economic Growth is still being reviewed by the HFA and the departments. As such, the budgetary and programmatic impact on the individual departments is not yet known.

BACKGROUND INFORMATION:

The bills would transfer regulatory functions related to a program regarding fire safety for underground and above-ground storage tanks for flammable gas and liquids from the Department of Natural Resources and Energy (DNRE) to the Bureau of Fire Services within the Department of Energy, Labor, and Economic Growth (DELEG). Historically, the program was operated by the state Fire Marshal before being moved to the Department of Environmental Quality (DEQ) in the 1990s by then-Governor John Engler. Some believe that since the program's transfer from the Fire Marshal's oversight, the program has suffered. If it were transferred back to the Bureau of Fire Services, the program would enable the flammable gas and liquid industries operating in the state to do

so more effectively and efficiently. In short, supporters say the bills make sense because the program deals with fire safety and not environmental concerns.

According to testimony given by representatives of the DNRE, the program is operating effectively and efficiently. Further, storage tank regulations also include environmental protection requirements. Thus, they say, keeping the program within the DNRE means that a single engineering plan or inspection can address both fire safety and environmental safety issues. Moreover, federal grant money for the environmental protection program helps fund the fire safety program.

POSITIONS:

Representatives of the Department of Natural Resources and Energy testified in opposition to the bill. (6-30-10)

The Michigan Propane Association indicated support for the bills. (6-30-10)

The Associated Petroleum Industry of Michigan indicated support for the bills. (6-30-10)

Legislative Analyst: Susan Stutzky
Fiscal Analyst: Mark Wolf
Viola Bay Wild

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.