



Senate Fiscal Agency
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BILL



ANALYSIS

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Senate Bill 646 (Substitute S-2 as reported)
Sponsor: Senator Hoon-Yung Hopgood
Committee: Natural Resources, Environment and Great Lakes

Date Completed: 3-13-12

RATIONALE

In Michigan, a person must obtain a license from the Department of Environmental Quality (DEQ) and a permit from the U.S. Environmental Protection Agency in order to operate a hazardous waste facility. State law requires an applicant for such a license to disclose previous convictions for environmental crimes, and authorizes the DEQ to deny a license on that basis. The DEQ has no statutory authority, however, to deny a license to an applicant who commits a crime in order to obtain the license. In light of a situation involving a facility in Romulus (described in **BACKGROUND**, below), it has been suggested that an applicant should be required to disclose crimes committed in furtherance of obtaining a hazardous waste operating license, and the DEQ should have the ability to deny a license if such crimes are revealed.

CONTENT

The bill would amend Part 111 (Hazardous Waste Management) of the Natural Resources and Environmental Protection Act to require an applicant for a hazardous waste facility operating license to disclose criminal convictions for violations committed in furtherance of obtaining a license, and authorize the DEQ to deny a license because of such a conviction.

Under Part 111, a person may not establish, construct, conduct, manage, maintain, or operate a hazardous waste treatment, storage, or disposal facility without an operating license from the DEQ. An

application for an operating license must contain a disclosure statement that includes the full name and business address of all of the following:

- The applicant.
- The five people holding the largest shares of the equity in or debt liability of the proposed facility.
- The operator.
- If known, the three employees of the operator who would have the most responsibility for the day-to-day operation of the facility, including their previous experience with other hazardous waste treatment, storage, or disposal facilities.
- Any other partnership, corporation, association, or other legal entity if any person required to be listed has at any time had at least 25% of the equity in or debt liability of that entity.

In addition, for each person required to be listed, the disclosure statement must include a list of all convictions for criminal violations of any environmental statute enacted by a Federal, state, Canadian, or Canadian provincial agency.

The bill also would require the disclosure statement to include a conviction for a violation committed in furtherance of obtaining a Part 111 operating license. This requirement would apply to a misdemeanor committed within five years before the application was filed and a felony committed within 10 years before the application was filed.

The DEQ may deny an application for an operating license if any convictions are listed. Under the bill, this would include any convictions for a violation committed in furtherance of obtaining a license.

MCL 324.11123

BACKGROUND

In 2006, the Department of Environmental Quality shut down a Romulus hazardous waste facility owned by Environmental Disposal Systems (EDS) after discovering a leak in an injection well. Approximately one year later, after numerous permit violations came to light, the Environmental Protection Agency (EPA) terminated EDS's permit to operate the facility. The company went bankrupt and ownership of the facility passed to Romulus Deep Disposal Operations, a subsidiary of the Detroit Police and Fire Retirement System. Eventually, Helicon Holdings, owned by Dimitrios "Jim" Papas, purchased the facility. In 2011, the DEQ and the EPA approved a license and permit for Helicon subsidiary Environmental Geo-Technologies to operate the facility.

There has been a considerable amount of public objection to the license and permit approval, due to both the facility's past environmental problems and the involvement of Mr. Papas, who is under investigation by the Federal Bureau of Investigation for his role in a bribery and extortion case. Allegedly, he paid consultant Sam Riddle \$20,000, half of which was given to former Detroit City Councilwoman Monica Conyers, in exchange for favorable treatment in purchasing the facility. (Both Mr. Riddle and Ms. Conyers have been convicted in connection with several extortion and bribery schemes.)

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

A hazardous waste facility that is managed improperly can have serious ramifications for the environment and public safety. Therefore, it is critical that a person who operates such a facility is qualified and trustworthy. If someone has engaged in illegal activities to obtain an operating

license, the public cannot rely on that person to abide by the conditions of the license and run the facility in a responsible manner. This type of offense should be included among the convictions that an applicant must disclose, and for which the DEQ may deny a license.

To date, Mr. Papas has not been convicted of any wrongdoing with regard to the Romulus facility; the bill, however, would give the DEQ the authority to respond appropriately if the ongoing investigation does lead to a conviction, and to take necessary action to protect the public in similar situations statewide.

Legislative Analyst: Julie Cassidy

FISCAL IMPACT

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

Fiscal Analyst: Josh Sefton

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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.