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Senate Bill 560 (Substitute S-1)
Sponsor: Senator Burton Leland
Committee: Appropriations

Date Completed: 6-12-03

CONTENT

The bill would amend the Natural Resources and Environmental Protection Act to create an annual groundwater discharge permit fee for facilities that discharge waste water into the ground or groundwater.

Permit and Fee Requirement

The Department of Environmental Quality (DEQ) issues groundwater discharge permits to entities such as municipalities, housing developments, industrial facilities, and farming operations. There are about 950 permitted dischargers in the State. Administrative rules adopted in 1999 significantly increased the responsibilities of the Department regarding the permitting, monitoring, and enforcement of groundwater discharges. A backlog of approximately 200 permit applications has resulted. The recent rule changes and this bill would require an additional 350 groundwater dischargers to be permitted, for a total of 1,400 permitted dischargers.

Under the bill, the Department of Environmental Quality would be authorized to levy and collect an annual groundwater discharge permit fee from dischargers of wastewater to the ground or groundwater of this State. The bill would create a sunset of October 1, 2007, for this fee and require the annual submission of a workload analysis report on the groundwater discharge program by the DEQ to the Legislature. Fee points would be assigned to dischargers and the total collections would be set at \$1,388,200, to be divided among the dischargers based on the fee points. Individual fee points would be calculated as the product of the complexity factor and the flow factor.

Complexity Factor. The complexity of discharge means the number and type of pollutants in the wastewater that is discharged into the ground. Under the bill, complexity factors would be assigned based on which administrative rules a discharger was subject to according to the schedule below. A higher factor is applied to discharges that have a greater number of additives and require more time and effort by the DEQ to monitor.

Flow Factor. The flow refers to the volume of discharge. Similar to the complexity factor, the flow factor would be determined by which administrative rules apply to a groundwater discharger, in addition to the number of gallons discharged annually, according to the schedule below.

Proposed Groundwater Discharge Factors				
	# of Facilities	Administrative Rule	Complexity Factor	Flow Factor
Group 1	300	Rule 2218	10	4 to 12
Group 2	500	Rules 2210(y), 2215, and 2216	5	4 to 6
Group 3	150	Rules 2211 and 2212	3	2

Groundwater Discharge Permit Fund

The bill would create the "Groundwater Discharge Permit Fund" within the State Treasury. All fees and penalties collected pursuant to this section would be deposited into the Fund. Money in the Fund would remain in the Fund at the close of each fiscal year and would not lapse to the General Fund. It could be spent only for the purpose of conducting the groundwater discharge permit program.

The bill would set total fee collection at \$1,388,200 annually, which would be divided by the total number of fee points assigned to all dischargers to reach a fee per point. This amount would be multiplied by a discharger's fee points to reach individual annual assessments. Of the balance of the Fund, 75% would be used in the subsequent fiscal year to offset the annual total of the fees assessed and the remaining 25% would stay in the Fund. The bill would require that 75% of the balance of the Fund be applied to the next fiscal year. Since the fees would not be paid until March of each fiscal year, the remaining 25% of the balance of the Fund would support the program in the beginning of the subsequent fiscal year. Money in the Fund could be spent upon appropriation for implementation of the Act and the administrative rules promulgated under the Act.

Billing, Late Payments, and Penalties

By January 15 of each fiscal year, the Department of Environmental Quality would be required to send billing statements to all dischargers authorized as of December 15. Payment would have to be postmarked by March 1. Facilities would be assessed a penalty equal to 0.75% of the amount owed for each month or portion of a month that the annual payment was past due. Failure to make a timely payment could result in revocation of a discharge permit and additional penalties pursuant to Section 3115 of the Natural Resources and Environmental Protection Act. The Attorney General would be authorized to bring action for collection of the fees imposed under the proposal.

MCL 324.3120-324.3122

FISCAL IMPACT

Groundwater discharge permitting activities are currently supported with \$1,388,200 from the General Fund. The Governor's proposed budget for FY 2003-04 includes an appropriation of \$3,588,200 from groundwater discharge permit fees. The proposal would offset the all General Fund support and increase the funding for the program by \$2,200,000. The recommendation also includes 18.0 FTEs for the groundwater program. The additional funding and positions would be used to address the backlog of permit applications and provide additional monitoring and compliance enforcement.

The House-passed version of the FY 2003-04 budget for the DEQ does not include an appropriation for groundwater discharge permit fees. The House-passed bill funds the groundwater program at 85% of its current year level. The Senate Appropriations Committee

version of the FY 2003-04 budget for the DEQ would replace the current-year General Fund support for the groundwater program with new fee revenue of \$1,388,200 and does not include the program increase recommended by the Governor.

Unlike the NPDES wastewater and storm water programs, the groundwater program is not mandated by the Federal government. If General Fund support is appropriated at the current year level, then the Department will conduct the program with the current staff. If a fee is not adopted and if no other funding is provided, then the groundwater discharge permit program will cease.

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