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BILL ANALYSIS

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House Bill 5586 (Substitute H-6 as passed by the House)
Sponsor: Representative Daniel Acciavatti
House Committee: Great Lakes and Tourism
Senate Committee: Natural Resources and Environmental Affairs

Date Completed: 5-18-04

CONTENT

The bill would amend Part 31 (Water Resources Protection) of the Natural Resources and Environmental Protection Act to require a person who polluted Michigan waters to report the release to the Department of Environmental Quality (DEQ), to the primary public safety answering point (PSAP) where the release occurred, and to local health departments.

Also, the bill would repeal a section of the Act that adjusts, in 2004 and every 10 years, the Department of Natural Resources' rate of reimbursement to counties containing commercial forest land.

The bill is tie-barred to Senate Bill 977. (As passed by the House, that bill would prescribe mandatory civil fines for failure to report a release to a PSAP or local health department.)

Reporting Requirements

Under the House bill, a person required to report a release to the DEQ under Part 5 of the Water Resources Protection Rules of the Administrative Code would be required, at the same time, to report the release via a 9-1-1 call to the PSAP serving the jurisdiction where the release occurred. If Part 5 of the Rules required the person subsequently to submit to the DEQ a written report on the release, the person would have to submit simultaneously a copy of the report to the local health department serving the jurisdiction where the release occurred.

If the Department of State Police or another State agency received, under an agreement with, or the laws of, another state, Canada, or the Province of Ontario, notification of the release in that jurisdiction of a polluting material in excess of the threshold reporting quantity, and if the polluting material had entered or could enter surface waters or groundwaters of this State, the State Police or other State agency would have to contact the PSAP serving each county that could be affected by the release.

("Threshold reporting quantity" would be defined as it is the Michigan Administrative Code (324.2002), which establishes minimum amounts of oil, salt, and other polluting materials that, when released, must be reported. "Primary public safety answering point" would be defined as it is in the Emergency Telephone Service Enabling Act", i.e., a communication facility operated or answered on a 24-hour basis assigned responsibility by a public agency or county to receive 9-1-1 calls and to dispatch public safety response services.)

The emergency management coordinator of each county would have to develop and oversee the implementation of a plan to provide timely notification of a release required to be reported under the bill to appropriate local, State, and Federal agencies. In developing and overseeing the implementation of the plan, the emergency management coordinator would have to consult with the directors of the PSAPs with jurisdiction within the county, and with any emergency management coordinator appointed for a city, village, or township located in that county.

If rules promulgated under Part 31 require a person to maintain a pollution incident prevention plan, the person would have to update the plan to include these reporting requirements when conducting any evaluation of the plan required by rule.

DEQ Requirements

When a person reported a release to the DEQ, the Department would have to notify the person of the bill's reporting requirements and request that the person, even if not responsible for the release, report the release via a 9-1-1 call to the PSAP serving either the jurisdiction where the release occurred, if known; or if not known, the jurisdiction where the release was discovered.

The DEQ would have to notify the public and interested parties by posting on its website, within 30 days of the bill's effective date, the proposed 9-1-1 and written reporting requirements; the relevant voice and, if applicable, facsimile telephone numbers of the DEQ and the National Response Center; and the applicable criminal and civil sanctions under Section 3115 (proposed by Senate Bill 977).

The Department's failure to notify a person of the bill's requirements would not relieve the person of any obligation to report a release or other obligation.

Biennially, the DEQ would have to evaluate the State and local reporting system that the bill would establish, and submit to the Legislature a written report on any changes recommended to the reporting system.

Repealer

The bill would repeal Section 51107 of the Act, which requires an adjustment in 2004 and every 10th year after 2004, in the amount the Department of Natural Resources (DNR) pays to counties as reimbursement for revenue lost when owners of commercial forest land pay reduced property taxes to the counties.

MCL 324.3101 et al.

BACKGROUND

The Michigan Administrative Code (R 324.2007) requires an owner, operator, or manager of an oil storage facility or an on-land facility that releases, or permits to be released, any polluting material in excess of a threshold reporting quantity during any 24-hour period to notify the DEQ by using a toll-free telephone number. Within 10 days after the release, the owner or operator must file a written report with the chief of the DEQ's Waste Management Division, outlining the cause of the release, discovery of the release, and the response measures taken, or a schedule for completion of measures to be taken, or both, to prevent recurrence of similar releases.

Legislative Analyst: Claire Layman

FISCAL IMPACT

The pollution reporting requirements of the bill would have no fiscal impact on State or local government.

The repeal of Section 51107 would result in savings for the State since the pay rate on commercial forest land would not increase as is currently scheduled in statute. In 2003, there were 2,237,000 acres of land in the State certified by the DNR as commercial forest land, for which the DNR paid \$1.20 per acre for a total of \$2,684,400 in payments in lieu of taxes. An appropriation of \$2,691,700 was enacted for FY 2003-04. Since counties are not required to report the number of timber cutover acres, sufficient information is not available to calculate the per-acre amount of the State equalized valuation (SEV) of timber cutover for the decennial adjustment ratio. The State pay rate of \$1.20 will increase by an unknown amount under the current statute. Using the true cash value of timber cutover land statewide as an approximation, the current statutory increase will raise the pay rate by 357.6% to \$4.30 per acre, for a total payment of \$9,619,100. The payments are supported entirely with General Fund revenue.

Using the true cash value of timber cutover land to estimate the increase, the rate paid by owners of commercial forests will increase under current statute from \$1.10 to \$3.93 per acre, for a total payment of \$8,791,410. Since it would maintain the amounts paid by commercial foresters and the State at current levels, the bill would result in a collective loss to counties of \$13,265,410 in additional revenue anticipated in FY 2004-05, and savings for commercial foresters of \$6,330,710 and savings for the State of \$6,934,700.

Fiscal Analyst: Jessica Runnels

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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.