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BILL ANALYSIS



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Senate Bill 560 (CR-1)
Sponsor: Senator Burton Leland
Senate Committee: Appropriations
House Committee: Government Operations

Date Completed: 3-31-04

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.

Facilities would be divided into three groups according to the applicable administrative rules. Municipalities of 1,000 or fewer residents would pay \$1,500 for a permit. Table 1 outlines the fees for each group. Beginning with permit applications received after October 1, 2005, the Department would have 180 days after receipt of a complete application to grant or deny a permit. If the DEQ failed to make a decision on a permit in this time period, the applicant would receive a 15% discount on the annual discharge fee. The time period could be extended if the applicant and the Department both agree. The bill would allow a municipality subject to the fee to pass the fee onto each user of the municipal facility.

Table 1: Proposed Groundwater Discharge Factors			
	# of Facilities	Administrative Rule	Fee
Group 1	271	Rule 2218	\$3,650
Group 2	489	Rules 2210(y), 2215, or 2216	1,500
Group 3	148	Rules 2211 or 2212	200
Municipalities under 1,000	23	N/A	1,500

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 upon appropriation for the purpose of implementing the groundwater discharge program. The DEQ would be prohibited from spending more than \$2,000,000 from the fund in any State fiscal year.

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 or 45 days after receipt of notification, whichever is later. Failure to send or receive an invoice would not relieve a permittee from the obligation to pay the annual discharge fee. 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 were supported in FY 2002-03 with \$1,388,200 from the General Fund. The fees proposed in this bill would generate approximately \$1,786,750, an increase of \$398,550. The budget also includes an additional 5.0 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 year-to-date budget for FY 2003-04 includes an appropriation of \$1,750,000 from groundwater discharge permit fees and \$100,000 in General Fund. The Governor's proposed budget for FY 2004-05 includes \$1,846,700 in fee revenue and \$97,400 from the General Fund. The increase in fee appropriations is related to economic adjustments.

Unlike the NPDES wastewater and storm water programs, the groundwater program is not mandated by the Federal government. 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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