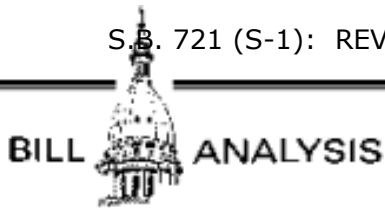




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Senate Bill 721 (Substitute S-1)
Sponsor: Senator Liz Brater
Committee: Natural Resources and Environmental Affairs

Date Completed: 12-5-03

CONTENT

The bill would amend Part 115 (Solid Waste Management) of the Natural Resources and Environmental Protection Act to:

- Impose a \$3-per-ton surcharge on solid waste disposed of in a landfill, beginning in 2005.**
- Require the surcharge to be deposited into the "Recycling and Waste Diversion Fund", which the bill would create.**
- Allocate money in the Fund to counties with a waste diversion plan; the "Recycling Tax Incentives Fund", which the bill would create; a comprehensive study of litter problems and a littering-reduction marketing program; and a Recycling Advisory Council.**
- Provide for Department of Environmental Quality (DEQ) to approve counties' waste diversion plans.**
- Require the DEQ to develop a model waste diversion plan.**
- Dedicate money in the Recycling Tax Incentives Fund to recycling tax incentives under the Single Business Tax Act.**

The bill is tie-barred to Senate Bill 790 (which would create the Recycling Advisory Council); Senate Bill 856 (which would require Travel Michigan to conduct a comprehensive study of litter problems and develop a marketing program designed to reduce litter); and Senate Bill 861 (which would establish waste recycling goals).

Surcharge

Beginning on January 1, 2005, a recycling and waste diversion surcharge of \$3 would be assessed on each ton of municipal and commercially generated solid waste that was disposed of in a landfill. A landfill owner or operator would have to pay the surcharge to the DEQ within 30 days after the end of each quarter of the State fiscal year. The DEQ would have to forward all surcharges to the State Treasurer for deposit in the Recycling and Waste Diversion Fund.

"Municipally and commercially generated waste" would mean solid waste generated by residents and businesses, but would not include separated loads containing any of the following: construction and demolition waste or debris; industrial waste; sludge; ash; manufacturing process waste; cement kiln dust; or remediation waste.

Recycling and Waste Diversion Fund

The bill would create the Fund in the State Treasury and require that money in the Fund be used as follows:

- At least 80% would have to be used by the DEQ for distribution to counties, as provided in the bill.

- Not more than 10% would have to be used to conduct a comprehensive study of the litter problems of the State and to develop and administer an antilittering marketing program based on the study (which Senate Bill 856 would require Travel Michigan to do).
- Not more than 1% would have to be used by the DEQ to administer the distribution to counties and for the expenses of the Recycling Advisory Council (proposed by Senate Bill 790).
- 10% would have to be transferred annually to the proposed Recycling Tax Incentives Fund.

Money in the Recycling and Waste Diversion Fund at the close of the fiscal year would remain in the Fund and not lapse to the General Fund.

County Distribution

Of the money dedicated to counties, the DEQ would have to distribute 10% in equal amounts to each county with a waste diversion plan approved by the Department, and 90% on a per capita basis to each county with an approved plan.

A county would have to use 80% of the money distributed to it for existing recycling and waste diversion programs operated by the county and the municipalities and authorities within the county on a per capita basis. A county, municipality, or authority, however, could not receive more money under this provision than it spent during the previous year. If money allocated to a county could not be used due to that limitation, the money would have to be used as described below.

A county would have to use 20% of the money distributed to it for recycling and waste diversion programs operated by any person that increased recycling and waste diversion in the county consistent with its waste diversion plan.

The DEQ would have to enter into a written agreement with each county eligible for a distribution. The agreement would have to specify that distributed money could be used only for the purposes described in the county's waste diversion plan. The DEQ could include in the agreement other terms and conditions as the Department required.

Waste Diversion Plan

To be eligible for a distribution, a county would have to submit to the DEQ a waste diversion plan for the county, prepared by the solid waste planning agency appointed under Section 11533 (which requires regional solid waste planning agencies to prepare county solid waste management plans). A county without a solid waste planning agency could designate one for this purpose. In preparing a plan, the agency would have to consult with the solid waste planning committee appointed under Section 11534 (which requires counties to appoint such a committee to assist in the preparation of the solid waste management plan). If a county did not have a committee, one would have to be appointed for this purpose.

Before final adoption, the solid waste planning agency would have to submit the county's waste diversion plan to the public for review and comment for at least 60 days. The opportunity for public review and comment would have to include a public hearing.

A county's waste diversion plan would have to be consistent with the county's solid waste management plan, and include all of the following:

- A statement from the solid waste planning committee on the content of the plan, including any dissenting opinions from committee members, and a summary of public comment, and response to it, on the plan.
- A description of the current waste stream generated in the county.

- A description of current recycling and other waste diversion programs in the county, including waste minimization, reuse, and composting.
- A description of the county's recycling and waste diversion goals, which would have to be consistent with the State recycling goals (as described in Senate Bill 861).
- A detailed proposal for spending the distributions.
- A method for the collection of data on results under the plan, including a calculation of diversion rates.

The plan also would have to include a program for increasing the amount of waste recycled or otherwise diverted from disposal. This program would have to support the State's recycling goals, as well as support and enhance existing recycling and other public and private waste diversion programs in the county; create new recycling and other waste diversion opportunities; encourage cooperation and coordination between recycling and other diversion programs within the county and in adjacent counties; address the need to recycle or properly dispose of hazardous waste generated by households; and provide information and educational opportunities that encouraged recycling and waste diversion.

The DEQ would have to approve a waste diversion plan if it met the criteria described above and the Department determined that the implementation of the plan could reasonably be considered to further the State's recycling goals.

An initial waste diversion plan would have to describe the county's diversion program for five years. A county could amend its plan when it submitted its annual waste diversion report (required by the bill). Any amendments would be effective at the beginning of the following fiscal year. Amendments would have to contain a statement from the solid waste planning committee and a response to public comment.

The DEQ would have to develop a model waste diversion plan for use by counties in preparing their plans.

Waste Diversion Report

A county receiving a distribution from the Recycling and Waste Diversion Fund would have to give the DEQ a report each year in a manner and containing information required by the Department. The report would have to be submitted by April 1, covering the previous State fiscal year.

The report would have to describe progress in implementing the county's waste diversion plan and include, at least, a narrative description of the activities conducted under the plan and the results of each, and a numerical report on the amount of waste diverted. In reporting recycling progress, the county would have to use a standard methodology for measuring recycling as specified by the DEQ, consistent with the methodology used by the U.S. Environmental Protection Agency.

A county that failed to submit a complete report would not be eligible for a distribution in subsequent years.

Recycling Tax Incentives Fund

The Fund would be created in the State Treasury. Money in the Fund at the close of the fiscal year would remain in the Fund and not lapse to the General Fund. Money in the Fund would have to be used to reimburse the General Fund for recycling tax incentives provided in the Single Business Tax Act.

FISCAL IMPACT

In FY 2001-02, 51 million cubic yards of solid waste accepted at Type II landfills were disposed of in Michigan landfills. Most of this type of waste is municipal and commercially generated and would be subject to the surcharge. The exemptions included in the bill and other Type II waste not subject to the surcharge could reduce the revenue estimates by up to \$10 million. Therefore, assuming that three cubic yards are equivalent to one ton for compacted municipal solid waste, the recycling and waste diversion surcharge proposed by this bill would generate between \$41 and \$51 million annually. The bill would create the Recycling and Waste Diversion Fund to receive the revenue from the surcharge and distribute the money as follows:

- Not less than \$36,800,000 would be distributed to counties that submitted a Waste Diversion Plan (80%).
- \$4,600,000 would be deposited into the proposed Recycling Tax Initiatives Fund (10%), which would be used to reimburse the General Fund for recycling tax incentives under the Single Business Tax Act.
- Not more than \$4,600,000 would support a comprehensive litter study and antilitter marketing campaign proposed by Senate Bill 856 (10%).
- Not more than \$460,000 would be available for administrative costs for the Department Environmental Quality to review county waste diversion plans and support the Recycling Advisory Council proposed by Senate Bill 790 (1%). This amount would reduce the funds available for the litter study and marketing campaign.

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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.