



**House
Legislative
Analysis
Section**

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LONG-TERM MAINTENANCE TRUST FUND

House Bill 4246 with committee amendments MAY 23 1989
First Analysis (5-3-89)

Mich. State Law J.

Sponsor: Rep. Jerry C. Bartnik
Committee: Conservation, Recreation, & Environment

THE APPARENT PROBLEM:

One of the provisions of the Environmental Response Act is the ranking of priorities and risk assessment of environmental contamination at certain sites through the creation of two lists. The first list details in order of risk the total number of contaminated sites in the state that need response, and the second list details in order of risk sites where response activities are being undertaken by the state. There are approximately 2,017 sites on the first list and approximately 24 to 25 sites on the second list.

One of the dangers of environmental contamination is that contaminants can leak into the groundwater. Therefore, long-term monitoring of sites is necessary to ensure the safety of the public and the environment. It is estimated that approximately 30 to 60 percent of the sites on the list of sites being cleaned up need long-term monitoring. However, there is no provision in statute for the establishment of a fund to ensure the long-term monitoring of sites. Although the Department of Natural Resources does expend money from its budget on site operation and maintenance for sites on the list of all contaminated sites, operation and maintenance can cost several hundreds of thousands of dollars. The department cannot afford to pay operation and maintenance costs for sites on the second list. With the passage of the environmental bond proposal, it is expected that many contaminated sites will be cleaned up. However, response action at sites is only as good as the monitoring to ensure that the site is safe. There will be an increased need for long-term monitoring as sites are addressed within the next few years. Legislation has been proposed to establish a specific source of funding for the long-term monitoring of contaminated sites.

THE CONTENT OF THE BILL:

The bill would amend the Environmental Response Act to create a Long-Term Maintenance Trust Fund within the Department of Treasury to assure proper monitoring and maintenance of certain sites of environmental contamination for as long as considered necessary by the governor or the governor's designee to assure the protection of the environment and of the public health, safety and welfare. Money in the fund could be expended at contaminated sites on the environmental response list that were targeted for cleanup. However, only activities that were necessary for the long-term monitoring and maintenance of a site would be funded. The fund would receive revenue as appropriated by the legislature. Interest and earnings of the long-term fund would not revert to the general fund. Beginning in 1990 and for each fifth year thereafter, the governor would include a recommended level of funding to provide for the long-term monitoring and maintenance of sites where response activity has, or will be, undertaken during the five year period.

MCL 299.607, 299.610, and 299.609a

FISCAL IMPLICATIONS:

According to the Department of Natural Resources, the costs of administering the fund would be negligible. An estimate of the amount which would be proposed to be appropriated into the fund for the five-year period beginning in 1990 is not available. (5-3-89)

ARGUMENTS:

For:

Currently, there are no provisions in statute for the establishment of a funding source for the long-term monitoring of contaminated sites. Many sites continue to need monitoring even after they have been cleaned up. The Department of Natural Resources currently expends money from its budget for immediate response action and monitoring of sites that are identified on the first list of the Environmental Response Act in order to stabilize the sites, but it cannot be expected to provide for the long-term monitoring of all sites. The bill will establish in statute a source of funding to address the long-term monitoring of sites and will help ensure the safety and health of the public and the environment.

Against:

Although the intent of the bill is laudable, it is not appropriate that money from the general fund or bond money be expended for this purpose. There has been a concerted effort to ensure that the users of specific programs and funds pay for the programs and funds. It would be more appropriate for the companies and individuals that were responsible for the contamination of sites to contribute to the fund.

Response: Nothing in the bill would exclude the possibility that fines and fees collected from the owners of contaminated sites could be designated to the fund. The legislature could eventually make that designation if desired.

Against:

Senate Bill 375 would, among other things, establish a revolving fund to address the long-term monitoring of contaminated sites. If both House Bill 4246 and Senate Bill 375 are enacted, it is possible that there would be a duplication of funding for long-term monitoring of certain sites or that funding sources may become diluted.

Response: Since House Bill 4246 requires the legislature to make an appropriation for the fund, it is unlikely that there will be duplicate expenditures from the two funds. In addition, Senate Bill 375 addresses several issues concerning the Environmental Response Act, and it is likely that the bill will take some time to become enacted. Since House Bill 4246 addresses only long-term funding, it is hoped that the bill will become enacted soon so that some source of funding for long-term monitoring will be established quickly.

POSITIONS:

The Department of Natural Resources supports the bill.
(5-2-89)

The Michigan United Conservation Clubs supports the bill.
(5-2-89)

The Public Interest Research Group in Michigan supports
the bill. (5-2-89)