



**House
Legislative
Analysis
Section**

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ENV'L. PROTECTION ACT

AS ENROLLED

**Senate Bill 257 (Substitute H-3)
First Analysis (5-11-94)**

**Sponsor: Senator Vern Ehlers
Senate Committee: Natural Resources
and Environmental Affairs
House Committee: Conservation,
Environment, and Great Lakes**

THE APPARENT PROBLEM:

The laws of the state relating to its natural resources and the environment are fragmented, disorganized, and, in many instances, archaic. In response to this problem, the Natural Resources Management and Environmental Code Commission was formed under Executive Order 1991-32, and charged with the task of creating a cohesive code that integrated existing natural resources management and environmental protection laws into a more understandable and workable system. The ultimate goal was the creation of a code that was simpler and more user friendly than existing statutes. Commission members were appointed in December, 1992, reviewed and analyzed current laws during the following year, and prepared and presented a draft code for public review. The structural outline, or "functional taxonomy", of the draft assembles various laws in a logical framework, so that laws of similar purpose are located together. Some of the concepts outlined in the code commission's recommendations have been incorporated into legislation, including a recodification of the statutes related to environmental protection. In addition, some other items have been included, such as acts that have been established since the code was introduced, and Executive Order 1994-7, relating to the administration of the state's underground storage tank programs. It is intended that the remainder of the code commission's recommendations, including the statutes relating to natural resources management and recreation, be included in future legislation.

THE CONTENT OF THE BILL:

The bill would recodify current laws relating to the environment and natural resources to create the Natural Resources and Environmental Protection Act (NREPA). According the Legislative Service

Bureau, the bill would repeal and reenact many existing laws, retaining the existing language; the bill makes no substantive changes in the provisions of these statutes. Under the bill, current laws relating to the environment and to natural resources would be repealed. However, the bill would specify that this would not mean that any penalty, forfeiture, or liability had been relinquished. The following is a brief outline of the contents of the bill -- which would become the state's new natural resources and environmental protection code -- including the public act numbers from which each subsection was derived.

ARTICLE I. The first article contains general provisions, definitions, and savings clauses to assure the continuation of enforcement actions and rules. The first article also sets forth the general powers and duties of the Department of Natural Resources and of conservation officers, and the provisions of the Environmental Protection Act, as follows:

Part 1: Short title, savings clauses

Part 3: Definitions

Part 5: Public Act 17 of 1921 - Department of Natural Resources general powers and duties

Part 7: Public Act 188 of 1988 - Forest and Mineral Resources Development

Part 9: Public Act 199 of 1991 - Joint Environmental Management Authorities

Part 11: Public Access to Government

Part 13: Permits

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Part 15: Public Act 109 of 1986 - Enforcement:
Conservation Officers

Part 17: Public Act 127 of 1970 - Michigan
Environmental Protection Act

Part 19: The Natural Resources Trust Fund

Part 21: General Real Estate Powers

ARTICLE II. Article II incorporates pollution
control.

**CHAPTER 1:
POINT SOURCE POLLUTION CONTROL**

Part 31: Public Act 245 of 1929 - Water Pollution
Control

Part 33: Public Act 350 of 1865 - Contamination of
Waters

Part 35: Public Act 143 of 1959 - Iron Ore
Beneficiation

Part 37: Public Act 222 of 1966 - Water Pollution
Control Facilities

Part 39: Public Act 226 of 1965 - Cleaning Agents

**SEWAGE DISPOSAL AND WATERWORKS
SYSTEMS**

Part 41: Public Act 98 of 1913 - Sewerage Systems

Part 43: Public Act 320 of 1927 - Waterworks
Systems, Sewers, and Disposal Plants

Part 45: Public Act 76 of 1968 - Bonds for
Prevention and Abatement of
Water Pollution

Part 47: Public Act 211 of 1956 - Sewage Disposal
& Water Supply Districts

Part 49: Public Act 159 of 1969 - Construction of
Collecting Sewers

Part 51: Public Act 271 of 1974 - Wastewater
Disposal

Part 53: Public Act 317 of 1988 - Clean Water
Assistance

AIR POLLUTION CONTROL

Part 55: Public Act 348 of 1965 - Air Pollution
Control

Part 57: Public Act 12 of 1993 - Small Business
Clean Air Assistance

Part 59: Public Act 250 of 1965 - Air Pollution
Control Facility Tax Exemption

Part 61: Public Act 159 of 1973 - Emissions from
Vessels

Part 63: Public Act 234 of 1993 - Motor Vehicles
Emissions Inspection and Maintenance

Part 65: Public Act 232 of 1993 - Motor Vehicle
Testing

Part 67: Public Act 44 of 1984 - Motor Fuels
Quality

**CHAPTER 2: NONPOINT SOURCE
POLLUTION CONTROL**

Part 81: General Nonpoint Source Pollution Control

Part 83: Public Act 171 of 1976 - Pesticide Control

Part 85: Public Act 198 of 1975 - Fertilizers

Part 87: Public Act 247 of 1993 - Groundwater and
Freshwater Protection

Part 89: Public Act 106 of 1963 - Littering

**SOIL CONSERVATION, EROSION, AND
SEDIMENTATION CONTROL**

Part 91: Public Act 347 of 1972 - Soil Erosion and
Sedimentation Control

Part 93: Public Act 297 of 1937 - Soil Conservation
Districts

WATERCRAFT POLLUTION

Part 95: Public Act 167 of 1970 - Watercraft
Pollution Control

CHAPTER 3: WASTE MANAGEMENT

Part 111: Public Act 64 of 1979 - Hazardous Waste Management

Part 113: Public Act 171 of 1986 - Landfill Maintenance Trust Fund

Part 115: Public Act 641 of 1978 - Solid Waste Management

Part 117: Public Act 181 of 1986 - Septage Waste Servicers

Part 119: Public Act 345 of 1978 - Waste Management and Resource Recovery Finance

Part 121: Public Act 136 of 1969 - Liquid Industrial Wastes

CHAPTER 4: POLLUTION PREVENTION

Part 141: Pollution Prevention Policy

Part 143: Public Act 147 of 1993 - Waste Minimization

Part 145: Public Act 148 of 1993 - Waste Reduction Assistance

Part 147: Public Act 60 of 1976 - PCB Compounds

CHAPTER 5: RECYCLING AND RELATED SUBJECTS

Part 161: Public Act 414 of 1988 - Plastic Products Labeling

Part 163: Public Act 145 of 1988 - Plastic Degradable Containers

Part 165: Public Act 411 of 1980 - Office Paper Recovery

Part 167: Public Act 411 of 1980 - Used Oil Recycling

Part 169: Public Act 133 of 1990 - Scrap Tires

Part 171: Public Act 20 of 1990 - Disposal of Batteries

CHAPTER 6: ENVIRONMENTAL FUNDING

Part 191: Public Act 249 of 1986 - Clean Michigan Fund

Part 193: Public Act 326 of 1988 - Environmental Protection Bond Authorization

Part 195: Public Act 328 of 1988 - Environmental Protection Bond Implementation

CHAPTER 7: REMEDIATION

Part 201: Public Act 307 of 1982 - Environmental Response

Part 203: Public Act 91 of 1990 - Volunteer Immunity

CHAPTER 8: UNDERGROUND STORAGE TANKS

Part 211: Public Act 423 of 1984 - Underground Storage Tanks

Part 213: Public Act 478 of 1988 - Leaking Underground Storage Tanks

Part 215: Public Act 519 of 1988 - Underground Storage Tank Financial Assurance

ARTICLE III. Article III is reserved for future recodification of natural resources management statutes, including statutes on habitat protection, hunting and fishing licensing, fisheries, forests, state parks, and additional environmental statutes that have been recommended by the code commission. The bill contains only the proposed section headings and not the text of the statutes.

FISCAL IMPLICATIONS:

According to the Department of Natural Resources, the bill would have no impact on state funds. (5-10-94)

ARGUMENTS:

For:

It has been argued for some time that an attempt should be made to systematically revise the statutes pertaining to conservation and the environment, and to draw these statutes together into a coherent, uniform code. By doing so, the responsibilities for

providing adequate protection of the environment can be clearly and rationally assigned. Senate Bill 257 makes no changes to existing laws. It does change the structure of the law by bringing together over 200 separate natural resources and environmental statutes into an orderly framework. It also makes provisions for the incorporation, at a later date, of the state's natural resources laws. The bill would incorporate some of the Natural Resources Management and Environmental Code Commission's recommendations for a proposed environmental code, commonly referred to as Part 1 of the recommendations. Part 11 of the recommendations will be introduced at a later date.

Against:

The provisions of the bill stem from two executive orders: Executive Reorganization Order 1991-22, which became Executive Order 1991-31, reorganized the Department of Natural Resources (DNR) and eliminated several boards and commissions; and Executive Order 1991-32, which established the code commission to review environmental and natural resources statutes and submit recommendations on an environmental code that would group these laws into an organized structure. Senate Bill 257 reflects both the code commission's recommendations and the provisions of Executive Order 1991-31. Many people are of the view, however, that the DNR reorganization was not in the public interest, since it virtually eliminated public review of environmental decisions. People with this viewpoint would support a version of the bill (Substitute H-2) that would not reflect Executive Order 1991-31's provisions, since recreating the boards and commissions that were eliminated would be a time-consuming process.

Response:

The bill reflects the provisions of Executive Order 1991-31, which have been upheld by the Michigan Supreme Court. It is important that both the recommendations of the code commission and those of the executive order be enacted now, so that Michigan has a new, streamlined, environmental code. It is also agreed that the provisions of the bill are only the first part of a process that would codify environmental and natural resources laws, and do not incorporate the various concerns expressed during committee hearings. Legislation acknowledging these concerns could be introduced at a later date.

POSITIONS:

The Department of Natural Resources supports Substitute H-3. (5-10-94)

Representatives of the following organizations testified in support of Substitute H-3 (5-10-94):

-- The Natural Resources Management and Environmental Code Commission within the executive office

-- The Michigan United Conservation Clubs (MUCC)

-- The Michigan Manufacturers Association

-- The Michigan Chemical Council

Representatives of the following organizations testified in opposition to Substitute H-3, but would support Substitute H-2 (5-10-94):

-- Clean Water Action

-- The Michigan Environmental Council

-- The Sierra Club - Mackinac Chapter