



**House  
Legislative  
Analysis  
Section**

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**SOLID WASTE OVERSIGHT OFFICE**

House Bill 4027 (Substitute H-1)  
House Bill 4028 (Substitute H-1)  
First Analysis (4-1-93)

Sponsor: Rep. Tom Alley  
Committee: Conservation, Environment  
and Great Lakes Affairs

***THE APPARENT PROBLEM:***

During the 1970s, as evidence began to accumulate indicating that landfills could pollute groundwater, it became evident that controls were needed over these previously unregulated facilities. The Solid Waste Management Act (Public Act 641 of 1978) was enacted to provide a specific set of procedures for those involved in the disposal of solid waste, both in the public and in the private sectors, and to improve supervision of landfills by establishing construction permit and operating license requirements. In the past few years, however, it has become apparent that the state's solid waste disposal regulations need updating. In an attempt to gain insight into current problems, a House Democratic Task Force was organized in 1989 to investigate the solid waste industry. The task force's findings highlighted problems of rising costs in the industry. More important, it found that the state's landfills present longterm risks to the state's environment, since current law provides no clear design criteria to enable landfill owners to develop structures that would contain pollution. In spite of these evident problems, the state has no centralized source of information for assessing either the status or the capacity of present landfills. The Department of Natural Resources (DNR) has been the regulating agency for solid waste disposal, but its central office has very little compiled information on, for example, solid waste landfills. The information that is available is filed, on paper, in DNR district offices, and there is no simple way to obtain these files from the central office. Similarly, groundwater quality monitoring reports are received from landfill owners in paper form, making it difficult to assess long-term trends in groundwater quality. Consequently, it has been suggested that legislation be introduced to create an office within the Office of Waste Reduction Services, which is operated under a cooperative agreement between the Department of Commerce and the DNR, to oversee the state's solid waste regulations so that

the state can obtain the information necessary to assess its capacity to address problems in landfill disposal practices.

***THE CONTENT OF THE BILLS:***

House Bills 4027 and 4028, which are tie-barred to each other, would amend the Solid Waste Management Act to establish a Solid Waste Disposal Oversight office and fund, and to establish certain reporting requirements for solid waste haulers and for landfill and municipal solid waste incinerator owners. The provisions of the bills would expire after seven years.

Office of Solid Waste Disposal Oversight (OSWDO). Under House Bill 4027, the office would be established in the Department of Commerce to accomplish the following:

- Register solid waste haulers, as specified under the provisions of House Bill 4028, and maintain records on registration fees.
- Receive disclosure statements and maintain records on landfill and municipal solid waste incinerators' disposal charges and registration fees.
- Maintain records on remaining landfill capacity and the amount of solid waste disposed of in landfills and municipal solid waste incinerators.
- Report annually to the legislature, the Department of Natural Resources, and the Legislative Service Bureau on the above information; and make the information available to any person, upon request.
- Perform additional duties as required under the provisions of the act.

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Solid Waste Disposal Oversight Fund. Fees collected from landfill and municipal solid waste incinerator owners and from solid waste haulers would be deposited in the fund and appropriated to administer the OSWDO. Money in the fund at the close of the fiscal year would remain in the fund and would not lapse to the general fund. Money remaining in the fund after the bills expired at the end of seven years would lapse to the general fund.

Reporting Requirements - Owners. Effective April 1, 1995, House Bill 4028 would require landfill and municipal solid waste incinerator owners (except owners of landfills that were operated solely for the disposal of waste that was generated by the owner or operator of a landfill) to:

- File lists of disposal fees with the OSWDO.
- Post fee changes in a prominent and visible place at the landfill or incinerator for at least 90 days before the change took effect.
- File proposed fee changes with the office at least 90 days before the changes were due to take effect, together with a \$20 processing fee if the notice was submitted at any time other than with the submittal of a disclosure statement. (If the proposed fee change were the result of an agreement entered into with a municipality, then the \$20 processing fee would be waived.)
- Submit an annual disclosure statement to the OSWDO, together with a \$50 administration fee, by April 1 of each year.
- Submit annual reports on the volume of solid waste disposed of during the previous year and on a landfill's remaining capacity.

Money received by the office under the above provisions would be deposited in the Solid Waste Disposal Oversight Fund.

A violation of the provisions of the bill would be a civil infraction, subject to a fine of \$100 for each day the violation continued.

Reporting Requirements - Haulers. Under House Bill 4028, solid waste haulers, including haulers who transported medical waste, or -- in the case of rail transportation -- solid waste shippers, would be required to register annually with the OSWDO, enclosing a registration fee of \$20 for each truck or

rail car, and a disclosure statement. If the application and disclosure statement were administratively complete and submitted with the appropriate registration fee, then the OSWDO would be required to register the applicant. Those who failed to register would be subject to a civil fine of \$100 for each day the violation continued. (Note: While the bill specifies an April 1, 1995 effective date for the reporting of solid waste disposal fees, the provisions requiring haulers to register do not contain an effective date.)

Disclosure Statements. House Bill 4028 would require the owners of landfills and of municipal solid waste incinerators to file disclosure statements. Among other items, disclosure statements would have to include the name, address, and record of criminal violations of environmental statutes during the previous seven-year period for each person involved in the financial and physical operation of a facility. The statement would also include a list of all federal, state, Canadian, or Canadian provincial environmental permits or licenses held by each person listed that had been revoked due to noncompliance during the previous seven-year period. Landfill and municipal solid waste incinerator owners would also have to list each incident that had resulted in public funds being used to finance an activity to mitigate a threat or potential threat to the environment, unless the public funds had been voluntarily repaid.

Additional Reporting Requirements. By April 1, 1995, and by April 1 of each year thereafter, solid waste haulers and shippers would be required to submit the following annually to the OSWDO:

**\*\*A description of the geographic area in which the solid waste that they transported was generated during the previous year.**

**\*\*If the hauler or shipper was required to provide curbside collection of recyclable materials, a report that included all of the following information for the previous year:**

--Written certification that the curbside collection was provided.

--Written certification that the hauler or shipper provided volume or weight based pricing.



--The names of the counties in which the hauler or shipper provided solid waste and recycling collection services.

--The total annual tons of recyclable materials collected and marketed during the year, and the methods used for measuring.

--The total annual tons or cubic yards of solid waste collected during the year and the methods used to measure.

--The names of the disposal facilities used by the hauler or shipper during the year.

MCL 299. 401 et al.

### ***FISCAL IMPLICATIONS:***

Fiscal information is not available.

### ***ARGUMENTS:***

#### ***For:***

By requiring landfill owners and operators to give notice of fee increases, House Bills 4027 and 4028 would aid the small, independent solid waste haulers, and might avoid the creation of a monopoly in the solid waste industry. According to local officials, landfill owners often raise fees with little warning. Since most areas have a limited number of these facilities, haulers have few options when faced with these increases, and must pay the going rate. The independent haulers complain that they face financial hardship when subjected to sudden and frequent price increases, since they would lose customers if they attempted to pass on each and every increase. The problem is compounded because most landfill owners are also haulers. Some of these larger companies impose quotas on other haulers, which results in haulers being left with trash and no place to dispose of it. Others require prepayment of their fees. These practices, in addition to landfill-hauler companies' practices of raising prices rapidly, have caused some to suggest that a monopoly is being created in the state's solid waste industry.

#### ***For:***

House Bills 4027 and 4028 would enable the state to compile statistics on landfill capacity. Since 1978, the number of landfills in the state has declined dramatically. Since the findings of the Democratic Task Force on Solid Waste indicate that at the same

time the amount of solid waste generated by the state increases each year, it is important that the state have these statistics. However, there is no reliable data available on the total capacity of solid waste landfills. The DNR has no accurate figures, since landfill owners are not required to submit records of wastes received. According to the DNR, 67 landfills are currently open and capable of accepting solid waste. Almost all of these landfills were constructed on the same location as landfills and dumps that operated prior to 1978, and therefore present significant risks of environmental damage. However, although millions of dollars in public funds has been spent in efforts to clean up contaminated sites, none have been cleaned up successfully, and, due to the complexities of groundwater pollution, many will require control and monitoring for decades. As the primary regulatory agency under the act, the DNR is expected to review the maintenance and operation of landfills and act as the central clearing point for statewide information on these problems. The DNR has attempted to upgrade and improve its methods of recordkeeping, but program and staffing limitations hinder its ability to assure compliance with the act and to collect and disburse information.

#### ***For:***

Although owners and operators charge for solid waste deposits in their landfills, those charges reflect only the current operating costs of waste disposal. Neither landfill owners nor anyone else pays the inevitable longterm costs inherent in the eventual closure and maintenance of the landfill. As a result, the state -- i.e., the taxpayers -- ends up paying for closure and postclosure activities, as well as any additional contamination cleanup. By increasing the cost of using landfills, the bill could serve as a spur to develop landfill alternatives and, as a result, reduce society's dependence on landfills.

#### ***Against:***

House Bill 4028 requires solid waste haulers and shippers to submit to the proposed Office of Solid Waste Disposal Oversight a description of the geographic area in which the solid waste that they transport was generated. The gathering of this information would place an unduly expensive burden on the solid waste disposal industry. The bill also requires haulers or shippers who provide curbside collection of recyclable materials to submit a detailed report to the office. However, at present, there are no laws mandating curbside recycling.

The bill should be amended to delete these requirements.

***POSITIONS:***

Michigan Environmental Defense supports the bills.  
(3-31-93)

Clean Water Action, a citizen's environmental group, has no position on the bills. (3-31-93)

The Michigan Environmental Council has no position on the bills. (3-31-93)

The Sierra Club - Mackinac Chapter has no position on the bills. (3-31-93)

A representative of Waste Management Inc. testified before the House Conservation, Environment and Great Lakes Affairs Committee in opposition to House Bill 4028's "additional reporting requirements." (3-31-93)