



**House  
Legislative  
Analysis  
Section**

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**PERPETUAL CARE FUND INTEREST**

House Bill 6001 as introduced  
First Analysis (9-25-96)

AS ENROLLED

**Sponsor: Rep. James Middaugh**  
**Committee: Conservation, Environment**  
**and Great Lakes**

***THE APPARENT PROBLEM:***

Public Acts 358 and 359 of 1996 amended the Natural Resources and Environmental Protection Act (NREPA) to alter the methods by which funds are set aside to meet the closing costs for each landfill in the state, and to ensure that these financial assurance provisions are consistent with subtitle D of the federal Solid Waste Disposal Act (42 U.S.C. 6945), the federal law regulating solid waste. Among other provisions, the acts require that landfill owners maintain a perpetual care fund as financial assurance against the costs of closing, monitoring, and maintaining a landfill; and impose a solid waste program administration fee on operating landfill owners, which is to be apportioned pro rata based on the total assets in each landfill's perpetual care fund. Under the act, each landfill owner or operator must contribute to a perpetual care fund until it reaches a maximum amount of \$1,156,000, adjusted annually for inflation. The interest and earnings from a perpetual care fund is credited back to the fund. However, it has now been suggested that the interest and earnings be used, instead, to pay a landfill's pro rata share of its solid waste management program administration fee. Legislation has been proposed that would allow landfill owners or operators to make this choice.

***THE CONTENT OF THE BILL:***

Public Acts 358 and 359 of 1996 amended the Natural Resources and Environmental Protection Act (NREPA) to, among other provisions, require that landfill owners maintain a perpetual care fund as financial assurance against the costs of closing, monitoring, and maintaining a landfill; and impose a solid waste program administration fee on operating landfill owners, which would be apportioned pro rata based on the total assets in each landfill's perpetual care fund. House Bill 6001 would amend the NREPA to specify that the custodian of a perpetual care fund could, if directed to do so by a landfill owner or operator, use the interest and earnings

of the perpetual care fund to pay the landfill's pro rata share of the solid waste management program administration fee.

MCL 324.22525

***FISCAL IMPLICATIONS:***

According to the House Fiscal Agency, the bill has no fiscal implications. (9-25-96)

***ARGUMENTS:***

***For:***

At the time the legislature considered Public Acts 358 and 359 of this year, it was suggested that the bill include a requirement that interest and earnings from a perpetual care fund be used to pay a landfill's pro rata share of its solid waste management program administration fee, rather than being credited back to the fund. It was reasoned that such a provision would act as an incentive for landfill owners and operators to manage their funds carefully. The bill would, instead, allow landfill owners and operators the flexibility to choose whether to use their fund's interest and earnings to pay for their solid waste fees.

***Against:***

The bill would provide some landfill owners with an unfair advantage over others. Since the requirements for maintaining perpetual care funds were altered under Public Acts 358 and 359 of 1996, some members of the industry have already reached the required maximum amount of \$1,156,000. Therefore, those members will not have the advantage of using the earnings and interest from their funds to pay the share of the solid waste management program administration fee. In effect, they will pay more in fees than others.

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***POSITIONS:***

A representative from the Detroit Edison Company testified before the committee in support of the bill. (9-24-96)

The Department of Environmental Quality has no position on the bill. (9-25-96)

Analyst: R. Young

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.