



**House
Legislative
Analysis
Section**

Olds Plaza Building, 10th Floor
Lansing, Michigan 48909
Phone: 517/373-6466

SEWAGE SLUDGE APPLIED FOR AGRICULTURAL PURPOSES

**House Bill 6071 (Substitute H-2)
Revised First Analysis (10-22-96)**

**Sponsor: Rep. Carl F. Gnodtke
Committee: Agriculture & Forestry**

THE APPARENT PROBLEM:

In most Michigan communities, the wastewater discharged from homes and businesses is drained to a central wastewater treatment plant, where sewage is separated from the water which carried it there, and the water is purified and discharged into a local river, stream, or other body of water. The remaining sewage is then treated to remove or reduce disease-causing bacteria and to improve its quality, after which it is usually either landfilled, incinerated, or applied to land for a beneficial purpose--such as for fertilizer on farms or as top soil for home and business landscaping. This last option is fast becoming the preferred method of disposing of what is known as "sewage sludge," which is the biosolids that remain after wastewater is treated. The land application of sewage sludge is currently regulated by the federal Environmental Protection Agency (EPA) in conjunction with the Michigan Department of Environmental Quality (DEQ) to ensure that safe levels of various metals and other naturally-occurring substances, such as phosphorous or arsenic, are present in such biosolids before they are applied to farmland or other places that could affect the environment and public health. At present, the wastewater treatment plants that generate this sewage sludge apparently find the regulation of their activities by the EPA an awkward situation as problems sometimes arise to which federal regulators are slow to respond, either because they lack adequate staff levels or, more often, because they are simply too far removed from the local communities where sewage sludge is generated. Some people believe regulating the land application of biosolids could be performed more effectively and efficiently if sewage sludge generators were charged a fee based on the amount of sewage sludge they produce in a year, and the revenue from this fee were used by the Departments of Environmental Quality and Agriculture to oversee the program.

THE CONTENT OF THE BILL:

The bill would amend the Natural Resources and Environmental Protection Act to provide for the application of sewage sludge to land for agricultural purposes, to establish a sewage sludge land application

fee that would be paid by sewage sludge generators, and to create a special fund into which revenue generated from the fees would go to pay for administering the bill's provisions. The bill specifies that, by October 1, 1997, the Department of Environmental Quality, in consultation with the Department of Agriculture, would have to promulgate rules governing the land application of sewage sludge and for protecting the public health or the environment from any adverse effects of pollutants in sewage sludge.

Imposition of fee. The bill specifies that, starting with the fiscal year beginning October 1, 1997, an annual sewage sludge land application fee would be imposed on "sewage sludge generators"--who would be defined as persons who generated sludge in the treatment of domestic sewage, if the sludge is applied to land--which would be in an amount determined by the DEQ using a method set forth in rule. Under the bill, this fee would be composed of an administrative fee and a generation fee, both of which would have to be set at levels that would annually generate, as nearly as possible, \$650,000 minus the amount remaining at the end of each fiscal year in the Sewage Sludge Land Application Fund. Starting with fees to be paid in the fiscal year commencing October 1, 1998, the \$650,000 amount would have to be adjusted annually for inflation using the Detroit Consumer Price Index.

Each sewage sludge generator would have to report annually to the DEQ the total amount of sewage sludge it generated that had been applied to land in the preceding one-year period, as defined by the department, and with this amount the department would determine the generation fee on a per ton basis by dividing the cumulative generation fee by the number of tons of sewage sludge applied to land in the one-year period. Within 30 days following the end of each state fiscal year, each sewage sludge generator would have to pay its sewage sludge land application fee. The generator then would have to determine the amount of its fee by multiplying the number of tons of sewage sludge applied to land that it reported in the preceding year by the

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generation fee and adding the administrative fee. The DEQ would have to assess interest on all fee payments submitted after they were due, where the permittee would pay an additional amount equal to .75 percent of the payment due for each month or portion of a month that the payment remained past due. Failure to pay a fee on time would be a violation.

Sewage sludge land application fund. The bill would create a sewage sludge land application fund in the state treasury, and would require the DEQ to forward all fees collected under the bill to the state treasurer for deposit into the fund. The state treasurer could receive money or other assets from any source for deposit into the fund and would direct the fund's investment. Interest and earnings from fund investments would have to be credited to the fund, and an unexpended balance in the fund at the close of a fiscal year would have to be carried forward to the following fiscal year.

Appropriations from the fund could be made only for administering the bill's provisions, including, but not limited to, educating farmers, sewage sludge generators, and the general public about applying sewage sludge to land and the requirements specified in the bill. In addition, the DEQ director could contract with a nonprofit educational organization to administer the educational components of the bill, while ten percent of the fund would have to be appropriated to the Department of Agriculture to provide education and technical assistance related to land application of sewage sludge to those involved in or affected by land application of sewage sludge.

Local regulations. The provisions of the bill generally would preempt a local ordinance, regulation, or resolution of a local unit of government that purported to duplicate, extend, or revise the bill's provisions, and a local unit generally would be barred from enacting, maintaining, or enforcing an ordinance, regulation, or resolution that conflicted with the bill.

However, the bill would permit a local unit to enact an ordinance prescribing additional or more stringent standards than those contained in the bill and that regulated a sewage sludge land application site under either or both of the following circumstances:

- * The operation of a sewage sludge land application site within the local unit would result in "unreasonable adverse effects" on the environment or public health within the local unit. A determination that such effects existed would have to consider specific populations whose health could be adversely affected within the local unit.
- * The operation of a sewage sludge land application site within the local unit had resulted in or would result in the

local unit being in violation of other existing state or federal laws.

Any such local ordinances enacted under these circumstances, however, could not conflict with existing state or federal laws and could not be enforced by a local unit until approved by the DEQ director. The local unit would have to comply with any conditions of approval. The bill also would permit the director to contract with a local unit to act as its agent for purposes of enforcing the bill's provisions, but would give sole authority to the department to assess fees. If a local unit was under contract with the DEQ to act as its agent or had received prior written authorization from the department, then it could pass an ordinance identical to provisions contained in the bill and rules promulgated under it.

Public meeting. If the legislative body of a local unit submitted to the DEQ a resolution identifying unreasonable adverse effects to the environment or public health due to operating a sewage sludge land application site, the department would have to hold a public meeting within 60 days after the resolution was submitted to determine the nature and extent of them. Within 45 days after the meeting, the DEQ would then have to issue a detailed opinion regarding the existence of the unreasonable adverse effects as identified by the local unit's resolution.

MCL 324.3101 et al.

FISCAL IMPLICATIONS:

The Department of Environmental Quality says the bill would generate \$650,000 in revenue annually, \$585,000 of which would be used to cover the department's costs to oversee the program. (9-23-96)

The Department of Agriculture reports that the remaining \$65,000 would be used to cover its costs in educating farmers and the general public about the program and providing technical assistance to ensure the safe application of sewage sludge to land. (9-23-96)

ARGUMENTS:

For:

Applying sewage sludge that has been treated at a wastewater treatment plant to farmland or for landscaping purposes has become the preferred method for disposing of this soil material, since it provides for the recycling of organically-rich "biosolids" back into the environment in a way that saves money both for its generator and for those who use it. Otherwise, it would have to be landfilled, incinerated, or disposed of in some other way that makes it more of a threat to public health and the

environment. Currently, federal rules established by the EPA govern how this sewage must be treated so that proper levels of various organic and inorganic matter, and acceptable levels of other less-desirable substances, are present before it can be applied to land. The state Department of Environmental Quality also works with sewage sludge generators, those who apply it to land, and landowners to ensure that the land where it is to be used could safely accept it and retain it, and that it is applied properly. Usually, it is used as fertilizer and injected a foot or so into soil where crops are or will be planted.

However, the department currently lacks the resources to adequately oversee this process, and the EPA's involvement is limited since it, too, lacks the time and resources necessary to properly oversee the process and cannot easily respond to problems that arise due to its lack of proximity to the state. The bill would correct this by granting the DEQ authority to develop rules specific to Michigan to govern the way sewage sludge is applied to land, and by allowing it to establish fees that would be imposed on sewage sludge generators based on the amount of biosolids they produce annually. This would enable the department to generate enough revenue to be able to establish a workable program to ensure the proper application of biosolids to land. The Department of Agriculture also would have to help the DEQ develop the rules and, using ten percent of generated revenues, would be charged with educating farmers and the general public regarding the safe application of biosolids to land. The bill includes provisions specifying a timetable that generators would have to follow in providing information regarding their generation patterns to the DEQ and paying their respective fees in a timely manner. Meanwhile, local governmental units could develop local ordinances governing the generation of sewage sludge for land application purposes as long as these were at least as stringent as rules developed by the DEQ, and the DEQ would have to approve any such local ordinances before they could take effect. The bill has the support of a cross-section of groups who would be involved in the process of safely applying sewage sludge to land.

Against:

Despite provisions in the bill that would permit local governments to enact ordinances governing the safe application of sewage sludge to land, the bill effectively eliminates local control of this issue as any such ordinances would have to be approved by the state.

Against:

The bill fails to address the related issue of the land application of septic sludge, which is waste generated primarily in rural areas that has not been treated. According to a spokeswoman for the Michigan Townships Association, federal regulations apparently are being developed and soon will be implemented covering the safe land application of this waste material, too.

Response:

The state would be wise to wait for federal rules to actually be in place before adopting rules governing this issue.

POSITIONS:

The Department of Environmental Quality supports the bill. (9-23-96)

The Department of Agriculture supports the bill. (9-23-96)

The City of Wyoming supports the bill. (9-18-96)

The Benton Harbor-St. Joseph Joint Wastewater Treatment Plant supports the bill. (9-12-96)

Environland, Inc., of Dewitt, which contracts with farmers to apply sewage sludge to their land, supports the bill. (9-18-96)

Representatives of the following testified before the House Agriculture and Forestry Committee on 9-18-96 in support of the bill:

- * The Michigan Municipal League
- * The Michigan Farm Bureau
- * The City of Grand Rapids
- * The Genesee County Drain Commissioner
- * The City of Port Huron

The Michigan Townships Association opposes the bill. (10-17-96)

Analyst: T. Iversen

■ 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.