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## CLEAN MICHIGAN INITIATIVE BOND

### Senate Bills 902 and 904 (Substitutes H-1) First Analysis (5-5-98)

**Sponsor: Senator Don Koivisto**  
**Senate Committee: Natural Resources  
and Environmental Affairs**  
**House Committee: Conservation,  
Environment and Recreation**

#### ***THE APPARENT PROBLEM:***

A decade ago, the governor's state of the state message stressed the need for a long-term funding commitment to meet environmental challenges facing the state. The voters responded by approving the "Quality of Life Bond Proposal." The bond proposal -- actually two proposals, the Environmental Protection Bond Proposal and the Recreation Bond Proposal, each of which had to be approved separately -- authorized the state to issue \$660 million in general obligation bonds to finance environmental protection programs, and \$140 million to finance public recreation projects. Proceeds from the Environmental Protection Bond Proposal were deposited in the Environmental Protection Bond Fund (established under Public Act 328 of 1988). A major portion of the \$660 million -- \$435 million -- was allocated to clean up sites of environmental contamination. The fund was also used for solid waste projects, including recycling; to capitalize a state water pollution control revolving fund; and to finance the state's participation in a regional Great Lakes Protection Fund. Proceeds from the Recreation Bond Proposal were deposited in the Recreation Bond Fund (established under Public Act 329 of 1988) and disbursed to build recreational facilities at state parks, and to provide grants and loans for local public recreation projects. Grants and loans were also provided to local governments from this fund to redevelop vacant or abandoned industrial sites for recreational facilities.

When the Quality of Life Bond Proposal was first contemplated, it was estimated that there were some 1,800 sites of environmental contamination where response activities would have to be conducted. By 1995, 1,000 of these sites had been cleaned up. However, additional sites had been detected, so that the total number of sites had actually increased to 2,812. Based on the argument that reduced cleanup standards -- from those that required restoration of contaminated land to a pristine condition, to ones that

used variable standards based on land use -- would allow the state to clean up three times as many sites, Public Act 71 of 1995 restructured the "polluter pay" provisions of the Natural Resources and Environmental Protection Act (NREPA) to reduce cleanup standards at commercial and industrial contaminated sites. (For additional information, see HLAS analysis of House Bill 4596 of 1995). At present, according to the Department of Environmental Quality, there are approximately 9,700 contaminated sites, 6,926 of which are leaking underground storage tanks. Cleanup activities of some type are being carried out at 562 of the sites. Of the \$425 million allocated to clean up these sites, approximately \$58 million remains, and more contaminated sites are being discovered each year.

The state of the state address in 1998, in the portion pertaining to environmental concerns, echoed the 1988 address and its Quality of Life Bond Proposal recommendation. Pointing to the fact that the state's credit rating has been upgraded on Wall Street to "AA+," and to low interest rates and Michigan's economic strength, the governor suggested that \$500 million be raised through "Clean Michigan Initiative" bonds. In his address, the governor pointed out specific projects that could be remedied under the initiative. For example, it could "accelerate the cleanup of sites like a PCB saturated landfill in Bay City, sludge pits in Van Buren County and a rusting tank yard in Eaton County." The governor suggested that the bonds would benefit the state in three ways: \$400 million would be used to restore polluted and abandoned sites; and \$50 million each would be used for state park improvements and to protect the quality of the state's drinking water.

It is proposed that the "Clean Michigan Initiative" bond proposal be submitted to the electorate, with some modifications: \$325 million would be used to

Senate Bill 902 and 904 (5-5-98)

clean up contaminated sites and “brownfields” (former urban industrial property), \$50 million would be used for nonpoint source pollution prevention and control; \$50 million would be used for state park infrastructure improvements; \$50 million would be used for waterfront improvements; and \$25 million would be used for the clean up of contaminated river sediments. Further, it is proposed that \$50 million be authorized to provide grants and loans for local public recreation projects, as was provided under the Quality of Life Bond Proposal in 1988. Consequently, legislation has been introduced in both the House and the Senate that would put the issue before the voters at the November, 1998, general election.

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

The bills are part of a package of bills that include House Bills 5619, 5620, and 5622 and that would place a “Clean Michigan Initiative” bond proposal on the ballot for the November, 1998 general election. The voters would be asked to approve \$550 million in general obligation bonds to finance environmental and natural resources protection programs, including components for the remediation of environmentally contaminated sites and contaminated river sediments, for waterfront improvements, for nonpoint source pollution prevention and control, for state park infrastructure improvements, and for local public recreation projects, as follows:

- Senate Bill 902 and House Bill 5620 would establish a nonpoint source pollution prevention and control grant program and a waterfront redevelopment grant program, respectively.
- Senate Bill 904 would provide for the distribution of the \$550 million in general obligation bonds issued under the proposed Clean Michigan Initiative Act.
- House Bill 5622 would establish the Clean Michigan Initiative Act, which would authorize the state, with voter approval, to borrow up to \$550 million and issue general obligation bonds to finance environmental and natural resources protection programs.
- House Bill 5719 would require that the Department of Natural Resources (DNR) establish a Local Recreation Grant Program to fund local projects financed under the bond proposal.

Senate Bills 902 and 904 are tie-barred to each other and to House Bills 5619, 5620, and 5622. Each bill would specify an effective date of December 1,

1998. However, each would specify that its provisions would not take effect unless the ballot question provided for in the Clean Michigan Initiative Act was approved by a majority of the voters.

Senate Bill 902 (MCL 324.8801 et al.) would add Part 88, “Nonpoint Source Pollution Prevention and Control Grants,” to the Natural Resources and Environmental Protection Act (NREPA), to allow the Department of Environmental Quality (DEQ) to establish a nonpoint source pollution prevention and control grants program.

Nonpoint Source Pollution Prevention and Control Grants Program. The bill would require the DEQ to establish a nonpoint source pollution prevention and control grants program to provide grants to local units of government or entities that were exempt from taxation under Section 501(c)(3) of the Internal Revenue Code, for nonpoint source pollution prevention and control projects that would do either or both of the following as approved by the DEQ: implement the physical improvement portion of watershed plans and/or reduce specific nonpoint source pollution. (“Nonpoint source” would mean water pollution from diffuse sources, including runoff from precipitation or snowmelt contamination through contact with pollutants in the soil or on other surfaces and either infiltrating into the groundwater or being discharged to surface waters, or runoff or wind causing erosion of soil into surface waters.)

For any grant issued under the bill, a local unit of government would have to contribute 25 percent of the total project’s cost from other public or private funding sources. The DEQ could approve in-kind services to meet all or a portion of the match requirement. The bill also would allow the DEQ to accept as the match requirement a contract between the DEQ and grant applicant providing for maintenance of the project or practices that were funded under terms acceptable to the DEQ. The contract would have to require maintenance of the project or practices throughout the period of time the state was paying off the CMI bonds issued to implement Part 88.

The DEQ would have to consider the following criteria in relation to the nonpoint source pollution prevention and control project in selecting projects for a grant award:

- The expectation for long-term water quality improvement.

-- The expectation for long-term protection of high quality waters.

-- The consistency of the project with remedial action plans and other regional water quality or watershed management plans approved by the DEQ.

-- The placement of the watershed on the list of impaired waters pursuant to the federal Water Pollution Control Act.

-- Commitments for financial and technical assistance from the partners in the project.

-- Financial and other resource contributions, including in-kind services, by project participants in excess of that required in the bill.

-- The length of time the applicant had committed to maintain the physical improvements.

-- The commitment to provide monitoring to document improvement in water quality or the reduction of pollutant loads.

Application Process. Under the bill, a local unit of government wishing to apply for a grant would have to submit a written grant application to the DEQ in the prescribed manner and containing the required information. The grant application would have to include a detailed description of the project the grant would fund; an explanation, if applicable, of how the project was consistent with an approved watershed plan; and a description of the total cost of the project and the source of the local government's contribution to the project. Upon receiving a grant application, the DEQ would have to consider the proposed projects for funding and the extent that money would be available for grants, and issue grants for projects that the director determined would assist in the prevention or control of pollution from nonpoint sources.

Grants made under the provisions of Part 88 would also be subject to the applicable requirements of Part 196 of the act, which would be established under the provisions of Senate Bill 904. The bill would also specify that the DEQ would have to administer the provisions of Part 88 in compliance with the applicable requirements of Part 196, including the requirement that the DEQ provide the legislature with a report of the grants. In addition, the bill would specify that the DEQ could promulgate rules to implement Part 88.

Senate Bill 904 (MCL 324.19601 et al.) would add Part 196, "Clean Michigan Initiative Implementation," to the Natural Resources and Environmental Protection Act (NREPA) to carry out the provisions of the Clean Michigan Initiative Act proposed under House Bill 5622 in order for the state to issue tax exempt bonds, as follows:

Legislative Finding. The bill states the following legislative finding and declaration: ". . . that the environmental and natural resources protection programs implemented under the clean Michigan initiative act are a public purpose and of paramount public concern in the interest of the health, safety, and general welfare of the citizens of this state."

Bond Issuance. The bill describes the manner and form in which bonds would have to be issued under the proposed CMI Act. Under the bill, the State Administrative Board would have to rotate legal counsel services when issuing bonds. The board could also:

- Authorize and approve insurance contracts, agreements for lines of credit, letters of credit, commitments to purchase bonds, and any other transaction to provide security to assure timely payment or purchase of any bond issued.
- Authorize the state treasurer, within limitations contained in the board's authorizing resolution, to do the following activities: sell, deliver, and receive payment for the bonds; deliver bonds to refund bonds; select which outstanding bonds would be refunded by new bonds; approve interest rates or methods necessary to complete transactions; and execute, deliver, and pay the cost of any transaction to provide timely payments or purchase of any bond.

Bonds issued under the proposed act would be fully negotiable under the Uniform Commercial Code and the interest on them would be exempt from all taxation by the state or any political subdivision of the state. The bonds issued would be securities in which banking businesses, insurance businesses, and fiduciaries could properly and legally invest funds, including capital, belonging to them or within their control. The bonds, or any series of the bonds, would have to be sold at such price and at a publicly advertised sale, as determined by the State Administrative Board, and in accordance with a schedule established by the board. They would have to be approved by the Department of Treasury before their issuance, but would not

otherwise be subject to the provisions of the Municipal Finance Act (MCL 131.1 to 139.3).

Clean Michigan Initiative Bond Fund. The total proceeds of all bonds issued under the proposed Act would have to be deposited into the proposed Clean Michigan Initiative Bond Fund and allocated as follows:

- Up to \$325 million for response activities at facilities.
- Up to \$50 million for waterfront improvement.
- Up to \$25 million for contaminated river sediments cleanup.
- Up to \$50 million for nonpoint source pollution prevention and control.
- Up to \$50 million for state park infrastructure improvements.
- Up to \$50 million for local recreation projects.

(Note: A "facility" would be defined as it is in Part 201 of the NREPA, which refers to a place where a hazardous substance in excess of particular concentrations or cleanup criteria has been released, deposited, or disposed of, or otherwise comes to be located.)

The money allocated for response activities at facilities would have to be used by the DEQ for corrective actions to address releases from leaking underground storage tanks; response and site assessment activities at facilities; grants and loans (up to \$20 million) for local units and brownfield redevelopment authorities for response activities at known or suspected facilities; and grants (up to \$12 million) for the municipal landfill grant program. Of the money allocated, up to \$60 million would be used for cleanup of facilities that posed an imminent and substantial endangerment to the public health, safety, or welfare, or to the environment, and up to \$50 million could be used to provide grants (but not loans) for local recreation projects. The state treasurer would have to direct the fund's investment and allocate interest and earnings in the same proportion as earned on the investment of the proceeds of the bond issue. Further, bond proceeds would have to be expended in an appropriate manner to maintain the bonds' tax exempt status. In addition, the DEQ would have to provide an annual accounting

of bond proceeds spending on a cash basis to the Department of Treasury so that the state could comply with tax exempt bond requirements. This accounting would have to be submitted to the governor, the standing committees of the House and Senate concerned with natural resources and environmental issues, and the House and Senate appropriations committees.

Use of Funds. Money in the fund could be used by the Department of Treasury for the cost of issuing bonds and by the DEQ for its costs. Of the total amount of fund allocations for response activities, waterfront improvements, contaminated lake and river sediment cleanup, and nonpoint source pollution prevention and control, up to three percent would have to be available for appropriation to pay DEQ costs directly associated with the completion of those projects. In addition, of the total amount of fund allocations for state park infrastructure improvements and local public recreation projects, up to three percent would have to be available for appropriation to the Department of Natural Resources (DNR) to pay its costs directly associated with the completion of those projects. The bill specifies a legislative intent that general fund appropriations to the DEQ and the DNR not be reduced as a result of costs funded under these provisions.

The bill further specifies that a grant could not be provided for a project located at any of the following:

- Land sited for use as a gaming facility (regulated under the Michigan Gaming Control and Revenue Act) or as a stadium or arena for use by a professional sports team.
- Land or other facilities owned or operated by a gaming facility or by a stadium or arena for use by a professional sports team.
- Land within a project area described in a project plan under the Economic Development Corporations Act.

The bill would require the DEQ and the DNR to submit annually, by February 15, a list of all projects recommended to be funded under the bill that would be undertaken by the DEQ. The list would have to be submitted to the governor, the House and Senate standing committees that primarily address natural resources and the environmental protection issues, and the House and Senate Appropriations Committees.

The list would have to be submitted before any request for supplemental appropriation of bond funds. It would have to include the nature of the project, the county, the estimated total cost, and other pertinent information. A project that was funded by a grant or loan with money from the fund would not need to be included on the list. Money in the fund that was appropriated for grants and loans, however, could not be encumbered or spent until the DEQ had reported projects that had been approved for a grant or loan to the House and Senate committees that primarily address natural resources and environmental protection issues and to the appropriations subcommittees that address these issues.

The legislature would have to appropriate prospective or actual bond proceeds for projects proposed to be funded. Appropriations would have to be carried over to succeeding fiscal years until completion of the project for which the funds were appropriated.

By December 31 each year, the DEQ and the DNR would have to submit a list of projects financed under the bill to the governor and the legislative committees and subcommittees described above. The list would have to include the name, address, and telephone number of the recipient or participant; the name, location, and nature of the project; the amount allocated; the county; a brief summary of what the project had accomplished; and other pertinent information.

Grant or Loan. The following conditions would apply to the funds allocated for grants and loans to local units of government and brownfield redevelopment authorities for response activities at known or suspected facilities. A recipient of a grant or loan could receive a maximum of one grant or loan per year of up to \$1,000,000 per grant or loan. A grant or loan would be rewarded only if the property were a "facility" (a contaminated site as defined above) and the proposed redevelopment of the property would result in measurable economic benefit that would exceed the requested grant amount or the property had economic development potential based on the planned use of it.

The administering department would have to consider the extent to which the grant or loan would contribute to the achievement of a balanced distribution of grants and loans throughout the state before making a grant or loan with money from the fund.

A grant or loan recipient would have to keep an accounting of the money (subject to a postaudit) spent on the project or facility in a generally accepted manner. A recipient also would have to obtain

authorization from the DEQ before implementing a significant change to the proposed project.

Application. A grant or loan application would have to be made on a form or in a format prescribed by the administering state department, which could require the applicant to provide any necessary information. The administering department could not make a grant or a loan unless the applicant met the following conditions: demonstrated that the proposed project complied with all applicable state laws and rules or would result in compliance; demonstrated the capability to carry out the proposed project; demonstrated that there was an identifiable source of funds for the future maintenance and operation of the proposed project; had successfully undergone an audit within the last 24 months; and, within the last 24 months, had not had any previous grant from the DEQ revoked or terminated or demonstrated an inability to manage a grant.

Revocation, Withholding, Cancellation, or Termination. The bill would allow the administering department to revoke a grant or a loan made from the fund, or withhold payment if the recipient failed to comply with the terms and conditions of the grant or loan agreement, the bill's requirements, or rules. The administering department could recover all funds awarded under a grant or loan that was revoked.

The administering department also could withhold a grant or a loan until it determined that the recipient was able to proceed with the proposed project. To assure timely completion of a project, the administering department could withhold 10 percent of the grant or loan until the project was complete.

The administering department could cancel a grant or loan offer if an approved applicant failed to sign a grant or loan agreement within 90 days of a written grant or loan offer by the DEQ. The applicant could not appeal or contest a cancellation pursuant to this provision.

The administering department could terminate a grant or loan agreement and require immediate repayment of the grant or loan if the recipient used grant or loan funds for any purpose other than for the approved activities specified in the grant or loan agreement. The department would have to give the recipient

written notice of the termination 30 days prior to the termination.

Loans. A loan that was made with money in the fund would have to have a loan interest rate of up to 50 percent of the prime rate as of the date of the loan's approval. Loan recipients would have to repay loans in equal annual installments of principal and interest beginning not later than five years after execution of a loan agreement and concluding not later than 15 years after execution of a loan agreement. A loan recipient would have to enter into a loan agreement with the administering state department. The loan agreement would have to contain a commitment that the loan was secured by the applicant's full faith and credit pledge, or, if the recipient were a brownfield redevelopment authority, a commitment from the municipality that created the authority. Loan payments and interest would have to be deposited in the fund. Upon default of a loan, or upon the request of the loan recipient as a method to repay the loan, the Department of Treasury would have to withhold state payments from the loan recipient in amounts consistent with the repayment schedule in the loan agreement until the loan was repaid. The DEQ would have to deposit the funds that were withheld into the fund until the loan was repaid.

Other Provisions. The DEQ and the attorney general could recover costs spent for facilities' corrective actions, response activities and site assessments, and all other recoverable costs from persons liable under Part 201 (Environmental Remediation) of the NREPA. Actions to recover costs would have to be done in the manner as prescribed under Part 201.

The bill further provides that the auditor general would have to conduct a performance audit of state programs funded with money from the fund, every two years. The auditor general would have to submit a copy of the performance audit to the audited department and the legislature when the performance audit was completed.

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

Fiscal information is not available.

### ***ARGUMENTS:***

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

The 1988 Quality of Life Bond Proposal initiated a commitment to confront environmental challenges.

The current ballot initiative is needed to make funds available to continue the commitment. In his 1998 state of the state address, the governor praised the state's accomplishments as steward of the Great Lakes. He noted the progress made in monitoring the quality of the state's drinking water -- Michigan was first in the nation to meet federal drinking water standards. Pointing to the progress the state has made in monitoring air quality, he observed that Grand Rapids and the metro Detroit area were the first major metropolitan areas in the nation to be designated as having attained federal clean air standards. Among other improvements, he noted that Michigan was the first state to craft a comprehensive environmental code, which took effect in 1995; and that Ballot Proposal P in 1994 set up a State Park Endowment Fund to provide a stable source of funding for these resources.

Notwithstanding these achievements, the state faces environmental problems that need to be addressed immediately. In 1988, when the Quality of Life Bond Proposal was first contemplated to address the state's environmental problems, it was estimated that there were some 1,800 sites of environmental contamination where response activities would have to be conducted. Public Act 71 of 1995 reduced cleanup standards. However, by then, the number of sites had increased to 2,812. According to the DEQ, there are now some 9,700 contaminated sites, and more are being discovered each year. Also, according to the DEQ, of the 562 sites at which cleanup activities of some type are being carried out, only 19 percent have been fully cleaned up.

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

According to the state constitution, the state may borrow money for specific purposes in amounts provided by acts of the legislature and adopted by a vote of two-thirds of the members serving in each house, and approved by a majority vote of the public at a general election. Within the past 50 years, several general obligation bond proposals have been approved. In 1968, for example, the Public Recreation Bond Proposal Act was approved for \$100 million, and the Clean Water Bond Proposal Act was approved for \$335 million. In 1974, the Vietnam Veterans Bonus Bond Proposal Act was approved for \$205 million. More recently, in 1988, the Quality of Life Bond Proposal authorized the sale of \$800 million in bonds to improve the environment, as well as state parks.

Recalling the 1988 Quality of Life Bond Proposal, the governor observed, in his 1998 state of the state address, that Michigan citizens have always supported environmental ballot initiatives, and that the selling of bonds is a way to invest in the environment for future

generations. Nonetheless, some have suggested that there are only two legitimate reasons to burden future taxpayers with bonded indebtedness: to use a significant sum of money now to save a larger sum in the future, and to fund an expensive project whose life and usefulness would outlive the repayment of the bond. Others note that issues such as environmental problems are of such magnitude and cost that they can be properly addressed only by long-term planning and payment. The sale of general obligation bonds would allow the state to make the necessary long-term plans for the environment and the state's recreational industry.

**Response:**

Some fear that the state is mortgaging its children's future by borrowing huge sums of money in good financial times. According to this viewpoint, if the economy slows over the next 30 years, the state will be saddled with close to a billion dollars in debt that it might find difficult to repay.

**For:**

By reducing cleanup standards at industrial and commercial contaminated sites, Public Act 71 of 1995 led the way for a new emphasis to be placed on the private redevelopment of contaminated urban areas, or so-called "brownfield" sites. However, the act also eliminated retroactive liability for cleanup at these sites by private companies. The combination of this provision, together with the insolvency of the Michigan Underground Storage Tank Financial Assurance (MUSTFA) Fund, left the state with the problem of financing the cleanup of new "orphan sites," or "orphan shares" -- i.e. contaminated industrial or commercial sites or sections of sites for which no culpable party can be found, or for which the culpable party no longer exists. Appropriations from the Quality of Life Bond program provided a source of funding for this work. In addition, Public Acts 380 through 384 of 1996 provided funds and encouraged the redevelopment of these sites by allowing brownfield areas to be treated in a manner similar to the treatment of tax increment financing and other economic development districts.

It is especially important that contaminated sites be cleaned up in urban areas. Developers tend to avoid them, and, instead, concentrate on pristine "greenfields" in suburban areas. As a result, local

communities suffer a loss of jobs, must contend with a smaller tax base, a waste of the public infrastructures that were built to support the exiting businesses, and the security, health, and aesthetic problems inherent in vacant properties. The flight of developers also results in a loss of habitat for the state's flora and fauna, costly construction of public infrastructure to support the new industries, and overdevelopment of the state's constantly shrinking open spaces.

**Response:**

Michigan businesses and industry already have been relieved of substantial cleanup responsibilities by the weakening of the polluter pay law under the provisions of Public Act 71 of 1995. In addition, under the provisions of Public Act 380 of 1996, businesses were not required to make any kind of significant contribution to the cleanup program. If the bond proposal is passed, Michigan taxpayers will have spent three-quarters of a billion dollars to restore contaminated sites, and will have added approximately \$52 to the state's per capita tax supported debt. Meanwhile only a fraction of the sites have been cleaned up. At the current rate of spending, taxpayers may end up pouring millions more dollars into cleanup efforts without rescuing even a fraction of the state's brownfields. Further, it is pointed out that no inventory has been made of the state's brownfields, so it is impossible to assess how much will be needed to clean them up.

**For:**

Agricultural runoff from nitrogen fertilizers and pesticides has polluted many of the state's rivers and streams. In some areas, such as those located adjacent to hog farms, runoff that includes animal wastes depletes the water's oxygen and kills off fish and aquatic plants. Under the bond proposal, environmental improvement projects would be designed to protect and enhance these areas. The bond proposal would also enable local governments to reclaim and revitalize local waterfronts that were currently abandoned or underdeveloped and clean up contaminated waterfront property. Waterfront property has not always been used effectively in terms of its economic value and the public enjoyment. Further, as the demands for waterfront property exceed the supply, pressure is put on environmentally sensitive areas that are not suitable for some types of development. The proposal also would help fund nonpoint source pollution prevention and control grants for local governments or tax-exempt organizations and implement the physical improvement portion of watershed plans to protect and improve

water quality. Nonpoint source pollution includes, among other things, soil and sediment, nutrients, paint and used motor oil, and fecal coliform, which contribute to the depreciation of Michigan's water quality. In addition, the bond proposal would provide funding for state and local park revitalization projects. The funds would target state parks that possess a significant natural feature, are larger than 500 acres, and/or offer multiple recreational activities; infrastructure revitalization; critical construction needs; and standardization of building designs. Revitalizing state and local parks and recreational facilities not only would preserve and enhance environmental quality, but also would increase the state's tourism industry, since over 20 million persons reportedly visit state and local parks yearly.

**Response:**

Recent polls suggest that 75 percent of the state's voters would support using the bond proposal for a farmland preservation trust, and to keep sewers from overflowing into rivers and streams, and some have suggested that the bond proposal should be increased to include money for these purposes. (Environmental groups have suggested \$100 million for each of these projects.) Otherwise, it is argued, the bond proposal would be an economic development bond, rather than an environmental bond, and would be inadequate because it would fail to address certain key environmental issues. Under a farmland preservation trust, land would be purchased from farmers who otherwise would sell their land for development. As a result, farmland and open spaces would be preserved and urban sprawl would be contained. Local communities have had bonds issued to construct, improve, and replace combined sewer overflow (CSO) abatement facilities, which separate sanitary sewers and storm sewers in order to reduce the contamination of lakes and rivers that results when combined sewers overflow in heavy rainstorms. However, the Revolving Loan Fund established for these projects has been inadequate in assisting local communities.

**Against:**

The bills are part of a package of bills that would place a "Clean Michigan Initiative" bond proposal on the ballot for the November, 1998, general election. The voters would be asked to approve \$550 million in general obligation bonds to finance environmental and natural resources protection programs. In Senate Bill 904, provisions have been included to assure that the DEQ provide the governor and the legislature with a list of projects that were to be funded by grants or loans with money from the Clean Michigan Initiative Bond Fund. In fact, Senate Bill 904 would require

that the list be submitted no later than February 15th each year, and before any request for supplemental appropriation of bond funds. In addition, the DEQ would have to submit a list of projects financed under the bill by December 31st each year. However, some have suggested that the state should first establish a list of potential projects, similar to that proposed under Senate Bill 904, and provide it as public information *before* the bond proposal is voted on, and that the DEQ specify what percentage of the state's brownfields would be restored by the bond money. With this information, the public would be able to decide whether the prospective environmental gains justified the additional debt burden.

**Against:**

While supportive of brownfield redevelopment, many environmentalists oppose the bond proposal, and maintain that it provides no assurance that funds would be used to clean up contaminated sites solely because they pose health and ecological risks, rather than because of their redevelopment potential. They suggest that some of the proceeds from the bond proposal be used at sites that require cleanup due to health and environmental risks, and that funds be provided to local health departments, cities, and qualified nonprofit organizations to clean up lead paint and to prevent lead poisoning in the children who live in these neighborhoods.

Environmentalists add that, while the bond proposal undertakes to restore brownfield sites for economic development, no funds are provided to prevent new sites of environmental contamination, and no funds would be provided to assist small business enterprises in upgrading the pollution-causing procedures they currently use. They contend that, since voters will be taxed to clean up contaminated sites they did not create, they should receive assurance that they will not be asked for more money later, and that, therefore, the amount designated for DEQ administrative costs (three percent of \$325 million) be used, instead, to establish a new pollution prevention program that would offer grants to small businesses, and thereby prevent new contaminated sites.

The environmental community also points out that only a fraction of the amount required to provide loans to communities to correct combined sewer overflows (CSOs) is currently provided to correct this problem. It suggests that the Clean Michigan Initiative Bond Proposal be increased to include funds for wastewater treatment to end the dumping of raw sewage into Michigan lakes and streams. Further,

environmentalists recognize that, while the redevelopment of brownfields is important to halt urban sprawl, it provides only part of the solution. Providing local communities with grants to purchase the development rights to farmland and open spaces would, on the other hand, result in the saving of irreplaceable land resources, and the redirection of development investment to cities. They suggest that the proposal be increased to provide grants to local communities to purchase development rights and to protect critical farmland and open spaces. Further, environmentalists point out that the Clean Michigan Initiative Bond Proposal should stress that grants awarded for waterfront improvements must require that public access be provided to the waterfronts.

Environmentalists also suggest that the bond proposal should allow for more public participation. They propose that a “planning process” be included during the implementation of the Clean Michigan Initiative Bond Proposal so that the public can participate in identifying and establishing priorities for cleanup projects. They also suggest that a portion of the amount proposed to clean up contaminated sites be spent on environmental assessments in urban areas, so that potential buyers will know what contamination remains on a property before purchasing it. In addition, they suggest that priority in environmental cleanup efforts be assigned first to those contaminated areas that pose a threat to public health (for example, sites with a high level of lead contamination).

### **HOUSE COMMITTEE ACTION:**

Senate Bill 902. The House Conservation, Environment and Recreation Committee reported a substitute bill that made technical changes to the Senate-passed version (S-3). The committee substitute added language to specify that a local unit of government submit a *written* grant application for a grant from the Non-point Source Pollution Grants Program, and that the application include an explanation, rather than a discussion, as provided in the Senate-passed bill, of how the project would comply with an approved watershed plan. The substitute also added a requirement that grants provided under this bill would be subject to the applicable provisions of Part 196 of the act, which was established under Senate Bill 904 to provide for the distribution of the bonds that would be issued under the proposed Clean Michigan Initiative Act.

Senate Bill 904. The House committee reported a substitute bill that made a number of changes to the Senate-passed version in the following ways:

- (1) It deletes language that would have been added by S-3 allowing the bonds authorized under the Clean Michigan Initiative Act to be sold at a negotiated sale.
- (2) It changes the provision in S-3 that would require the DEQ to give an annual accounting of bond proceeds spending. The House substitute would clarify that the report would have to be provided to the Department of Treasury in order for the state to comply with applicable requirements for issuing tax exempt bonds. In addition, the substitute bill would specify that the report would also have to be submitted to the legislature and the governor.
- (3) It changes, from five percent to three percent, the amount that would be appropriated for DEQ administrative costs associated with response activities at facilities, waterfront improvement projects, contaminated river sediments cleanup, and watershed projects.
- (4) It rewrites provisions in S-3 allocating funds for grants and loans for public local recreation projects. The House substitute would delete the words “loans” and “public.”

### **SUGGESTED AMENDMENTS:**

The Michigan Environmental Council (MEC) suggests that the bond proposal be amended to delete the \$60 million cap on the funds proposed for the cleanup of contaminated sites that require cleanup due to health and environmental risks, and the amount designated for DEQ administrative costs. The MEC also suggests that the bond proposal be increased by \$300 million, with \$100 million of this increase to be used for storm water runoff control and combined sewage overflow (CSO) projects, \$150 million for a program to help communities purchase development rights to save farmland and open spaces; \$25 million to clean up lead paint in brownfield neighborhoods, and \$25 million for pollution prevention programs to prevent new contaminated sites.

### **POSITIONS:**

The Department of Environmental Quality (DEQ) supports the bills. (4-27-98)

The Executive Office supports the bills. (4-27-98)

The Michigan Townships Association supports the bills. (5-4-98)

The Michigan Recreation and Park Association supports the bills. (5-4-98)

The Michigan Chemical Council supports the bills. (5-4-98)

The Michigan Association of Home Builders supports the Senate-passed versions of the bills. (5-4-98)

The City of Detroit supports the bills. (5-4-98)

The City of Grand Rapids supports the bills. (5-4-98)

The City of Lansing supports the bills. (5-4-98)

The Small Business Association of Michigan (SBAM) supports the bills. (5-4-98)

The Michigan Manufacturers Association supports the bills. (5-4-98)

The Southeast Michigan Council of Governments (SEMCOG) supports the concept of the Clean Michigan Initiative, and recommends that southeast Michigan should receive no less than its fair share of the funding based on the percentage of state population residing in southeast Michigan. (4-20-98)

The National Federation of Independent Business (NFIB) has no position on the bills. (5-4-98)

The Michigan Bankers Association has no position on the bills. (5-4-98)

The Michigan Environmental Council (MEC) has no position on Senate Bill 902 and opposes Senate Bill 904. In addition, the MEC has proposed amendments (see Suggested Amendments). (5-4-98)

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.