



House
Legislative
Analysis
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BASELINE ENVIRONMENTAL ASSESSMENT FEE

House Bill 4636 with committee amendment First Analysis (6-5-97)

Sponsor: Rep. James M. Middaugh
**Committee: Conservation, Environment
and Recreation**

THE APPARENT PROBLEM:

Under Part 201 of the Natural Resources and Environmental Protection Act, which regulates environmental response activities, a person who becomes the owner or operator of a contaminated site is liable for response activity costs unless a Baseline Environmental Assessment (BEA) is conducted on the property prior to, or within 45 days after, the property is purchased, foreclosed, or occupied. A BEA is defined under the act to mean an evaluation of environmental conditions that existed at the time of purchase, occupancy, or foreclosure, that reasonably defines the existing conditions and circumstances at the facility so that, in the event of a subsequent release of contaminants, there is a means of distinguishing the new release from existing contamination. A person may petition the Department of Environmental Quality within six months after a BEA is completed for a determination that he or she meets or does not meet (and how the applicant could meet) the criteria for an exemption from liability for cleanup costs. The act also requires that a petition be accompanied by a fee of \$750. This fee provision will expire June 5, 1997. Legislation has been proposed to extend the fee provision for two more years.

THE CONTENT OF THE BILL:

House Bill 4636 would amend the Natural Resources and Environmental Protection Act to extend the expiration date of the fee provision for a Baseline Environmental Assessment (BEA) to June 5, 1999.

Further, the act requires the Department of Environmental Quality to submit a report to the legislature by December 5, 1996 detailing the following:

--The number of petitions for BEAs received under the provision.

--The average length of time which the department took to issue written determinations either affirming or

denying that the criteria for obtaining an exemption had been met.

--The number of times in which written determinations had not been issued within the time period required by the act.

--The approximate amount of department staff time that had been necessary to issue a written determination.

The bill would amend the act to require the department to continue to submit this report on an annual basis.

MCL 324.20129a

FISCAL IMPLICATIONS:

According to information supplied by the Department of Environmental Quality, the cost of completing a departmental review and issuing a written determination is slightly higher than the \$750 application fee that has been, and under the bill would continue to be, charged. Therefore, the bill would not have a significant fiscal impact on the state. The bill's requirement for the department to issue an annual report to the legislature would also not be burdensome, as it would be primarily compiling statistics that are recorded by the department. (6-4-97)

ARGUMENTS:

For:

When Public Act 71 of 1995, which created the provisions pertaining to departmental reviews of Baseline Environmental Assessments (BEAs), was enacted on June 5, 1995, no one knew how many people would avail themselves of the program or if the fees would cover or exceed the costs of doing the reviews. According to the Department of Environmental Quality (DEQ), the department has received 604 petitions for reviews out of a total of 1,032

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BEA disclosures submitted to the department since Public Act 71 went into effect. A total of 538 determinations have been issued to date. This means that over half of the people having BEAs done ask for a departmental review to see if they meet the criteria for liability exemption. The department also provides important information to people not meeting the criteria as to how the criteria might be met. The cost of the review is slightly more than the \$750 fee. Therefore, without the extension of the fee provision, the department would not have the resources to continue to fund the program. The high response shows that the program continues to be a major facilitator in the redevelopment of Michigan's "brownfield" sites, and should be continued.

POSITIONS:

The Michigan Department of Environmental Quality supports the bill. (6-4-97)

The American Electric Power Company supports the bill. (6-4-97)

The Michigan Manufacturers Association supports the bill. (6-4-97)

Analyst: S. Stutzky

■ 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.