House
Legislative
Analysis
Section

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REGULATION OF HAZARDOUS WASTE FACILITIES

House Bill 4115
Sponsor: Rep. Raymond Basham
Committee: Land Use and Environment

House Bill 4116
Sponsor: Rep. Raymond Basham
Committee: Commerce

Complete to 7-25-01

A SUMMARY OF HOUSE BILLS 4115 AND 4116 AS INTRODUCED 1-31-01

Part 111 of the Natural Resources and Environmental Protection Act (NREPA) regulates the management of hazardous waste. House Bill 4115 would amend provisions of Part 111 (MCL 324.11103) to modify the application process for construction permits and operating licenses for hazardous waste treatment, storage, and disposal facilities.

Currently the law requires that a person obtain a construction permit before establishing a facility for the treatment, storage, or disposal of hazardous waste. (This requirement does not apply to a person who obtains an operating license for a limited storage facility.) The construction permit application must include a disclosure statement that includes four pieces of information. First, the statement must include a list of the names and addresses of certain people and businesses involved in the operation of the facility, or who hold equity in or debt liability of the proposed facility. Second, if any of those people or businesses has been convicted for criminal violations of environmental statutes enacted by a federal, state, Canadian, or Canadian provincial agency, the disclosure statement must contain this information. Third, the statement must list all environmental permits or licenses that were issued, and permanently revoked, by a federal, state, Canadian, or Canadian provincial agency held by any person required to be listed on the statement. Fourth, the statement must list all activities at property owned or operated by each person that resulted in a threat or potential threat to the environment and for which public funds were used to finance an activity to mitigate the threat or potential threat; if the public funds were voluntarily and expeditiously recovered from the applicant or other listed person without litigation, this information is not required. Currently the law states that if debt liability of the proposed facility is held by a chartered lending institution, the institution is not required to provide the second and third pieces of information above. House Bill 4115 would require an applicant for a proposed facility whose debt liability was held by a chartered lending institution to provide only the first piece of information—i.e., the list of names and addresses of the various persons involved in the operation, equity, and debt liability of the facility.

The law provides for the establishment of site review boards, which are directed to review and recommend to the Department of Environmental Quality whether the department should grant or deny final approval for site construction permit applications. The law also establishes within the state treasury a revolving fund for the expenses of the site review board members, the chairperson, a mediator, and any other expenses necessary to the board's deliberations.

Currently the law states that when a site construction permit application is referred to a site review board by the Department of Environmental Quality, the applicant must pay a $25,000 fee to be placed in the revolving fund. The bill would raise the fee to $50,000. Moreover, the bill would allow up to $10,000 of the fund to be used to reimburse the municipality in which the facility was located for expenses to conduct an expert review, critique, and study of the technical information relevant to the application. However, money from the fund could not be used to pay for legal fees to oppose the facility.

Specific duties of site review boards would be expanded as follows. Currently the law states that the board must deliberate on the impact of the proposed facility on the municipality in which it is to be located. The bill would additionally specify that the board must deliberate on how and why the location of the facility was selected and whether the additional treatment, storage, or disposal facility is needed for the type of facility that was proposed. The bill would also require the board to consider the following: the treatment, storage, and disposal capacity for the type of a facility proposed; the site selection process used by the applicant and the basis for the selection of the proposed site; and, for a commercial facility, the need for the facility based on existing and future hazardous waste management capacity and needs within the state.

In general, a person may not conduct, manage, maintain, or operate a treatment, storage, or disposal facility within the state without an operating license from the department. The bill would require a facility that included a multisource commercial hazardous waste disposal well to specify on its license application whether the applicant had received all necessary permits under state and federal law to operate that well. (A "multisource commercial hazardous waste disposal well" is a disposal well that receives hazardous waste generated by more than one person.) The department would not issue an operating license unless the applicant had received those permits.

Part 625 of the act regulates "mineral wells, " a term that embraces a broad category of wells, ranging from wells that are used to dispose of hazardous waste to test wells that are drilled for exploratory purposes or to obtain geological, geophysical, or other subsurface data. House Bill 4116 would amend provisions of Part 625 (MCL 324.62501 et al.) to modify regulations concerning permits for drilling brine, storage, or waste disposal wells or converting a well for such uses.

Currently, the law prohibits persons from drilling or beginning drilling of any brine, storage, or waste disposal well, or converting any well for these uses, until the owner does all of the following: files a written application for a permit to drill or convert a well; pays the application fee; files a survey of the well site; files an approved surety or security bond; and receives a permit pursuant to the rules of the supervisor of mineral wells. House Bill 4116 would specify that the written application for a permit must be administratively complete. Within ten days after receiving an *administratively complete* application and the application fee, and following investigation, inspection, and approval, the supervisor of mineral wells would have to issue the permit. For multisource commercial hazardous waste disposal wells, the required bond could be in an amount not less than $25,000 per well, as provided by rules of the supervisor of mineral wells.

The bill would also specify that if, within one year after the supervisor issued a permit to drill or convert a well for storage or waste disposal, the well had not been drilled or converted, or if the supervisor granted an extension to a permit to drill or convert such a well, the permitee would have to provide public notice of the pending drilling, conversion, or extension. The public notice would have to be provided in a manner prescribed by the supervisor and published in a newspaper of general circulation covering the geographic area in which the well was proposed to be located.

House Bill 4116 would also direct the supervisor not to approve of a permit to drill or convert a multisource commercial hazardous waste disposal well unless two conditions were met. First, the well would have to be located at least 1,000 feet from the boundary of a residentially zoned area that was zoned for residential use on or before the act's effective date. Second, the applicant would have to own the property on which the well was located or proposed to be located.

House Bills 4115 and 4116 are tie-barred so that neither bill would be enacted unless the other bill was enacted as well.

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