

Senate Fiscal Agency
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SFA**BILL ANALYSIS**

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Senate Bill 819 (as enrolled)
Sponsor: Senator Ken Sikkema
Committee: Natural Resources and Environmental Affairs

Date Completed: 12-10-01

RATIONALE

Under Part 91 (Soil Erosion and Sedimentation Control) of the Natural Resources and Environmental Protection Act, a permit is required for any earth change that disturbs one or more acres, or is within 500 feet of a lake or stream. An applicant for a permit must submit a soil erosion and sedimentation control plan. The Act provides that a county is responsible for administering and enforcing Part 91, and the rules promulgated under it, throughout the county, except 1) within a municipality that has assumed the responsibility for soil erosion and sedimentation control, and 2) with regard to earth changes of authorized public agencies. An authorized public agency may be either a State agency or an agency of a local unit of government. Although two public universities, Michigan State University and the University of Michigan, currently implement soil erosion and sedimentation control procedures on their campuses, neither is considered an authorized public agency under the law. To ensure that public universities are permitted to enforce Part 91 and the rules, it has been suggested that these institutions be allowed to seek designation as an authorized public agency under Part 91.

CONTENT

The bill would amend Part 91 of the Natural Resources and Environmental Protection Act to include State public universities under the term "state agency", which currently means a principal State department.

Part 91 allows a State agency or an agency of a local unit to apply to the Department of Environmental Quality (DEQ) for designation

as an authorized public agency, by submitting to the Department the soil erosion and sedimentation control procedures governing all earth changes normally undertaken by the agency. If the DEQ finds that the procedures meet the requirements of Part 91 and the rules promulgated under it, the DEQ must designate the agency as an authorized public agency, which allows it to implement soil erosion and sedimentation control procedures with regard to earth changes undertaken by it. (Part 91 defines "earth change" as a human-made change in the natural cover or topography of land, including cut and fill activities, that may result in or contribute to soil erosion or sedimentation of the waters of the State. The term does not include plowing and tilling soil for the purpose of crop production.)

After a date determined by the DEQ, but not later than January 11, 2004, a State agency or an agency of a local unit may not administer and enforce Part 91 and the rules as an authorized public agency unless the DEQ has approved the agency.

MCL 324.9101

BACKGROUND

Public Act 504 of 2000, which took effect on January 11, 2001, made a number of amendments to Part 91. In particular, the Act increased penalties for violations and added provisions requiring the Department of Environmental Quality to review a county's, municipality's, or public agency's soil erosion and sedimentation control program and approve or disapprove of it.

Within three years after the Act's effective date, the DEQ must review each county's program. If approved, the program is valid for a five-year period, and the DEQ must review the program every five years. If the DEQ does not approve the program, it must place the county on probation, and may hire a consultant to administer the county's program under certain circumstances. A municipality that has assumed responsibility for soil erosion and sedimentation control is subject to similar provisions, except that a county program will become operative within a municipality that does not meet the requirements of Part 91.

The law also allows a State agency or an agency of a local unit to submit to the DEQ the soil erosion and sedimentation control procedures governing all earth changes normally undertaken by the agency. If the DEQ finds that the procedures meet the requirements of Part 91 and the rules, it must designate the agency as an authorized public agency. After a date determined by the DEQ, but not later than three years after the effective date of Public Act 504, a State or local agency may not administer and enforce Part 91 and the rules unless the DEQ has approved the agency. If the agency is not approved, the DEQ must revoke its designation as an authorized public agency.

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

By including State public universities under the term "state agency", the bill would allow their designation as an authorized public agency in order for universities to continue to implement soil erosion and sedimentation control procedures on their campuses. This would allow each university to balance the responsibility of water quality improvement and the development of erosion control programs specifically tailored to address its conditions and needs. Like other authorized public agencies, a university would have to receive the DEQ's approval to continue administering Part 91, after a date set by the Department.

Legislative Analyst: N. Nagata

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.

FISCAL IMPACT

The bill would result in an indeterminate, but nominal, increase in Department of Environmental Quality administration and enforcement costs. The bill also would result in an indeterminate, but nominal, reduction in local administrative costs and revenues. At present, it appears that only two State public universities plan to seek designation as an authorized public agency. The bill would allow an additional 13 universities also to seek this designation.

Fiscal Analyst: P. Graham