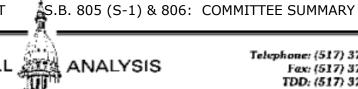
CMI: LOANS TO LOCAL UNITS OF GOV'T



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Senate Bill 805 (Substitute S-1)

Senate Bill 806 (as introduced 10-29-03)

Sponsor: Senator Patricia L. Birkholz (Senate Bill 805)

Senator Tom George (Senate Bill 806)

Committee: Natural Resources and Environmental Affairs

Date Completed: 11-4-03

## CONTENT

Senate Bill 805 (S-1) would amend Part 196 (Clean Michigan Initiative Implementation) of the Natural Resources and Environmental Protection Act to increase from \$20 million to \$80 million the amount in the Clean Michigan Initiative Bond Fund for grants and loans to local units of government and brownfield redevelopment authorities for facilities with redevelopment potential. Senate Bill 806 would amend Part 196 to require the Department of Environmental Quality (DEQ) to create a Clean Michigan Initiative Revolving Loan Program for the purpose of making loans to local units of government and brownfield redevelopment authorities to provide for eligible activities promoting economic development. The bills are tie-barred to each other.

## Senate Bill 805 (S-1)

Part 196 allocates a maximum of \$335 million within the Clean Michigan Initiative (CMI) Bond Fund for response activities at facilities. The DEQ must use the \$335 million for corrective actions taken to address leaking underground storage tanks; for response activities at facilities where hazardous substances have been released or deposited; for assessment activities to determine whether property is a facility; and to provide up to \$20 million in grants and loans to local units of government and brownfield redevelopment authorities created under the Brownfield Redevelopment Financing Act for response activities at known or suspected facilities with redevelopment potential.

The bill would increase from \$20 million to \$80 million the amount that may be used for the purpose of grants and loans. The bill provides that not more than \$40 million could be used for grants and not more than \$40 million could be used for loans under the Clean Michigan Initiative Revolving Loan Program proposed by Senate Bill 806.

(Part 196 incorporates definitions of "response activity" and "facility" from Part 201 (Environmental Response). "Response activity" means evaluation, interim response activity, remedial action, demolition, or the taking of other actions necessary to protect the health, safety, or welfare, or the environment or the natural resources. Response activity also includes health assessments or health effect studies carried out under the supervision, or with the approval of, the Department of Community Health and enforcement actions related to any response activity. "Facility" refers to an area, place, or property where a hazardous substance in excess of specific concentrations has been disposed of, released, or deposited.)

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## Senate Bill 806

The bill would require the DEQ to develop written instructions for prospective applicants to the CMI Revolving Loan Program, which the DEQ would have to establish. The instructions would have to include the criteria that would be used in application review and approval. The DEQ would have to provide for at least one application cycle per fiscal year and develop the instructions before each cycle. The Department would have to make final application decisions within four months of the application deadline.

A complete application would have to include all of the following:

- -- A description of the proposed eligible activities.
- -- An itemized budget for the proposed eligible activities.
- -- A schedule for the completion of the proposed eligible activities.
- -- The location of the property.
- -- The current ownership and ownership history of the property.
- -- The current use of the property.
- -- A detailed history of the use of the property.
- -- The existing and proposed future zoning of the property.
- -- If the property were not owned by the applicant, a draft of an enforceable agreement between the property owner and the applicant that committed the owner to cooperate with the applicant, including a commitment to allow access to the property to complete, at a minimum, the proposed eligible activities.
- -- A description of the property's economic redevelopment potential.
- -- A resolution from the applicant's governing body committing to repayment of the loan according to the bill's terms.
- -- Other information as specified by the Department in its instructions.

To receive loan funds, approved applicants would have to enter into a loan agreement with the DEQ. The loan agreement would have to contain at least all of the following:

- -- The approved eligible activities to be undertaken with loan funds.
- -- The loan interest rate, terms, and repayment schedule as determined by the DEQ.
- -- An implementation schedule for the approved eligible activities.
- -- Reporting requirements, including at least a requirement that the loan recipient submit a progress status report to the DEQ every six months during the implementation schedule; and a requirement that the recipient provide a final report within three months of completion of the loan-funded activities that included documentation of project costs and expenditures, including invoices and proofs of payment.
- -- If the property were not owned by the loan recipient, an executed agreement that had been approved by the DEQ and that included a draft of an enforceable agreement between the property owner and the applicant (as described above).
- -- Other provisions as considered appropriate by the Department.

"Eligible activities" would mean baseline environmental assessment activities, due care activities, and additional response activities as defined in the Brownfield Redevelopment Financing Act. Eligible activities would include only those activities necessary to facilitate redevelopment, and would have to be consistent with a work plan or remedial action plan pursuant to Section 15 of that Act (which requires an authority to submit to the Department zoning, ownership, and future use documentation for each eligible property). Unless otherwise approved by the DEQ Director, only activities carried out and costs incurred after execution of a loan agreement would be eligible.

"Baseline environmental assessment" would mean that term as defined in Part 201, i.e., an evaluation of environmental conditions that exist at a facility at the time of purchase,

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occupancy, or foreclosure that reasonably defines the existing conditions and circumstances at the facility so that, in the event of a subsequent release, there is a means of distinguishing the new release from existing contamination. "Due care activities" would mean activities conducted under Section 20107a, which requires an owner or operator of a CMI facility to take certain actions with respect to hazardous substances at the facility, e.g., under taking response activity to mitigate unacceptable exposure.

MCL 324.19608 (S.B. 805) Proposed MCL 324.19608a (S.B. 806) Legislative Analyst: Claire Layman

## **FISCAL IMPACT**

Senate Bill 805 (S-1) would not increase or decrease State expenditures, but it would redistribute the authorization for Clean Michigan Initiative funding. It would increase the allowed expenditures for brownfield grants and loans from \$20,000,000 for the entire program to up to \$40,000,000 for grants and up to \$40,000,000 for loans. This would be a \$60,000,000 increase for this program. It would result in less funding for other response activities, including cleanup of environmental sites and leaking underground storage tanks.

Statute currently provides that between \$40,000,000 and \$60,000,000 of the \$335,000,000 of CMI response activity funding must be used for facilities that pose an imminent or substantial endangerment to public health, safety, or the environment. The extent to which this requirement has been satisfied is unknown. If at least \$40,000,000 has been spent to meet this requirement, then up to \$128 million in CMI response activity funding remains unappropriated and uncommitted. The increase for brownfield grants and loans in Senate Bill 805 (S-1) could be funded and leave \$68,000,000 available for the other purposes. However, if none of the substantial endangerment funding requirement has been met, then \$28,000,000 of the response activity funding would be available for other purposes after the increased allotment for brownfields grants and loans was supported.

Additional indeterminate and indirect benefits, such as job creation, increased tax revenue, and other economic activity, could occur with increased redevelopment of brownfields due to the additional funding provided in Senate Bill 805 (S-1) and the long-term revolving loan program proposed by Senate Bill 806. The impact would depend upon how quickly brownfields were cleaned up, what type and size of businesses located on the sites, and the applicable taxes collected.

Fiscal Analyst: Jessica Runnels

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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.