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House Bill 4087 (Substitute S-4 as reported by the Committee of the Whole)

Sponsor: Representative John Moolenaar

House Committee: Land Use and Environment

Senate Committee: Natural Resources and Environmental Affairs

CONTENT

The bill would add Part 317 (Aquifer Protection and Dispute Resolution) to the Natural Resources and Environmental Protection Act to do the following:

- Allow the owner of a small capacity well to file a complaint with the Michigan Department of Environmental Quality (DEQ) or the Michigan Department of Agriculture (MDA), if the well failed to furnish its normal water supply or failed to furnish potable water, and the owner believed that the failure was caused by a high capacity well.
- Require the Department Director to investigate a complaint and make a diligent effort to resolve it.
- Require the DEQ Director, if a complaint could not be resolved, to declare a groundwater dispute if an investigation disclosed certain factors (including a lowering of the groundwater beyond seasonable water levels and substantial impairment of continued use of the area's groundwater resource, caused by a high capacity well).
- Require the DEQ Director, upon declaring a dispute, to order an immediate provision of potable water, and permit the Director to restrict the quantity of groundwater that could be extracted from a high capacity well.
- Require the owner of a high capacity well, after a dispute was declared, to provide reasonable and timely compensation to the small quantity well owner, as well as reimbursement to the DEQ.
- Require reimbursement to the DEQ to be deposited into the "Aquifer Protection Revolving Fund", which the bill would create, and provide that the Fund could be spent only to implement Part 317.
- Exempt wells owned by a local unit of government from Part 317, if the local unit connected an aggrieved party's property to the public water supply, or paid to have a new well drilled for the aggrieved party.
- Prescribe a civil fine for violations and direct civil fine revenue to the General Fund.

The bill also would require the DEQ, within 30 days after the bill's effective date, to identify two geographic areas in the State at the greatest risk for potential groundwater disputes, and begin administering Part 317 within those areas at that time. Part 317 would have to be administered on a Statewide basis beginning on July 1, 2004.

MCL 324.31701-324.31711

Legislative Analyst: Claire Layman

FISCAL IMPACT

State

This bill would increase the costs to the Department of Environmental Quality and the Department of Agriculture by indeterminate amounts. The proposed dispute resolution process would require staff and resources from the DEQ and the MDA for the establishment of toll-free telephone lines to receive complaints, the investigation of complaints, and complaint resolution.

The MDA would be responsible for all complaints dealing with agricultural wells. The DEQ would be responsible for complaints involving all other wells. It is not known how many complaints would be made and the cost of each investigation could vary greatly. Following an on-site investigation, if the MDA were unable to resolve a complaint, it would be referred to the DEQ for further action.

If the investigation of a complaint resulted in the declaration of a groundwater dispute by the DEQ, the owner of a high capacity well would be required to reimburse the DEQ for actual and reasonable costs incurred up to \$75,000, in addition to making restitution to the affected property owner. The reimbursement would be deposited into the Aquifer Protection Revolving Fund proposed by this bill and would reduce the costs of the dispute resolution program of the DEQ. Expenses incurred by the DEQ in the investigation of complaints that did not result in a groundwater dispute declaration would not be reimbursed. The MDA would not be eligible to receive reimbursement from the Water Use Protection Fund for any of its additional costs associated with complaint investigation and resolution.

The bill would set a Statewide implementation date of July 1, 2004. The DEQ Director would have to identify the two geographic areas in the State at greatest risk for potential groundwater disputes and implement the dispute resolution process in those two areas within 30 days of the bill's effective date. This would cost the Departments of Environmental Quality and Agriculture an indeterminate amount dependent upon the number of conflicts reported and investigation costs.

The bill also would provide for civil fines for violation of an order issued under the bill. A fine of up to \$1,000 per day of violation, but not more than \$50,000 total, could be assessed. All civil fines collected would be deposited into the General Fund.

The bill is tie-barred to Senate Bill 289, which would increase the water use reporting fee from \$50 to \$100 annually, generating an additional \$50,000. Senate Bill 289 also would require the DEQ to establish a Statewide groundwater inventory and map, for which the additional revenue could be used. Currently, the Water Use Protection Fund receives and spends approximately \$50,000 annually for administration of the groundwater withdrawal reporting program created in Part 327. House Bill 4097 would expand the allowable uses of the Water Use Protection Fund to include activities proposed under this bill. This bill is not tie-barred to House Bill 4097.

The House-passed version of the Department of Environmental Quality budget for FY 2003-04 included \$500,000 for activities under House Bill 4087. Of this funding, \$300,000 is from the Great Lakes Protection Fund and \$200,000 is from the General Fund. In addition, the House-passed budget bill specified that \$100,000 of the appropriation was for the Department of Agriculture. The DEQ budget is currently before the Senate Appropriations Committee.

Local

A local unit of government that operates high capacity wells would not be subject to the groundwater dispute resolution process if it paid for an affected property owner to be connected to the public water supply system or if it drilled a new well for the property owner.

Date Completed: 6-9-03

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.