



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

BILL



ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

House Bill 5270 (Substitute H-1 as passed by the House)
Sponsor: Representative Mike Nofs
House Committee: Commerce
Senate Committee: Natural Resources and Environmental Affairs

Date Completed: 12-2-03

CONTENT

The bill would amend Part 196 (Clean Michigan Initiative Implementation) of the Natural Resources and Environmental Protection Act 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 response activities at known or suspected facilities with redevelopment potential.

The DEQ would have to develop written instructions for prospective applicants to the loan program. The instructions would have to include the criteria that would be used in application review and approval. The DEQ would have to accept, and consider for approval, applications for loans throughout the year. The Department would have to make final application decisions within 90 days of submittal of a complete loan application.

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

- A description of the proposed eligible activities.
- An itemized budget for the activities.
- A schedule for the completion of the 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.
- 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 DEQ in its instructions.

In addition, if the applicant did not own the property, the application would have to include 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.

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.
- An implementation schedule for the approved activities.

- Reporting requirements.
- If the loan recipient did not own the property, 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.

The reporting requirements would have to include 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, within three months of completion of the loan-funded activities, a final report that contained documentation of project costs and expenditures, including invoices and proofs of payment.

"Eligible activities" would mean baseline environmental assessment activities, due care activities, and additional response activity. Eligible activities would include only those activities necessary to facilitate redevelopment, and would have to be consistent with a work plan approved pursuant to the loan agreement, or a remedial action plan pursuant to Section 15 of the Brownfield Redevelopment Financing 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 (Environmental Response), i.e., an evaluation of environmental conditions that exist at a facility 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, 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 facility to take certain actions with respect to hazardous substances at the facility, e.g., undertaking response activity to mitigate unacceptable exposure.

(Under Parts 196 and 201, "facility" refers to an area, place, or property where a hazardous substance in excess of DEQ-established cleanup criteria for residential use has been released, deposited, disposed of, or otherwise comes to be located. "Response activity" means evaluation, interim response activity, remedial action, demolition, or other actions necessary to protect the public health, safety, or welfare, the environment, or the natural resources. The term also includes health assessments or health effect studies, and enforcement actions related to any response activity.)

MCL 324.19608a

Legislative Analyst: Claire Layman

FISCAL IMPACT

Indeterminate benefits, such as job creation, increased tax revenue, and other economic activity, could result from increased redevelopment of brownfields due to the long-term revolving loan program created in the bill. The impact would depend upon how quickly brownfields were cleaned up, what type and size of businesses located on the properties, 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.