

# Legislative Analysis



## AIR QUALITY FEES

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### House Bill 5094

**Sponsor: Rep. Chris Kolb**

**Committee: Natural Resources, Great Lakes, Land Use, and Environment (Discharged)**

**Complete to 9-22-05**

## A SUMMARY OF HOUSE BILL 5094 AS INTRODUCED 8-17-05

The fees that support the state's clean air program expire on September 30, 2005. The fees need to be reauthorized for the Department of Environmental Quality (DEQ) to continue to operate the program. The federal Clean Air Act requires states to adopt a system of user fees adequate to fund a renewable operating permit program for facilities that are major sources of air pollution emissions. The fee system was first put in place in 1993, and reauthorized in 1998 and 2001.

House Bill 5094 would amend Part 55 (Air Pollution Control) the Natural Resources and Environmental Protection Act (NREPA) to reauthorize the charging of annual air quality fees that would otherwise sunset on September 30, 2005, and adjust the amount of the fees. The bill would apply to the state fiscal year beginning October 1, 2005, and continue to apply until September 30, 2009.

The bill would provide new fees as follows.

- The current fee for Category I facilities is composed of a facility charge of \$4,485 plus an emissions charge of \$45.25 per ton of fee-subject air pollutants. The bill would increase the facility charge to \$5,605 and set the emissions charge at \$41 in FY 2006, \$51.75 in FY 2007, and \$63.55 in FY 2008 and 2009. The emissions charge is capped at 4,000 tons. The actual tons of fee-subject air pollutants is calculated based on emissions for the calendar year two years preceding the year of billing.
- The current Category II fee is composed of a facility charge of \$1,795, plus an emissions charge of \$45.25 per ton of fee-subject air pollutants. The bill would increase the facility charge to \$2,245 and set the emissions charge at \$41 in FY 2006, \$51.75 in FY 2007, and \$63.55 in FY 2008 and 2009. The emissions charge is capped at 4,000 tons. The actual tons of fee-subject air pollutants is calculated based on emissions for the calendar year two years preceding the year of billing.
- The fees for municipal electric generating facilities that are also Category I facilities are generally based on the number of tons of fee-subject air pollutants emitted. The fee for a municipal generating facility that emit less than between 4,000 and 5,300 tons is \$24,816 plus \$45.25 for each ton in excess of 4,000 tons.

The bill would set the excess tonnage fee at \$41 in FY 2006, \$51.75 in FY 2007, and \$63.55 in FY 2008 and 2009.

- The fee for Category III facilities would be increased from \$250 to \$310.

In addition to the fee provisions, the bill would permit the Department of Environmental Quality to adjust the billing and due dates for Category III dry cleaning facilities that are also subject to licensing or certification under the Public Health Code and the Fire Prevention Code, in order to combine assessments under the three acts.

MCL 324.5522

## **FISCAL IMPACT:**

### Changes to the Fee Formula

The following information has been provided by the Department of Environmental Quality.

The air quality fee between FY 96 to FY 05 generated from \$7,993,257 to \$11,896,979. The amount collected depends on the funding formula in place for that year, the billable emissions reported and invoiced, and the actual collection of the invoices. The amount billed for FY 05 is approximately \$11.3 million.

The formula has been adjusted in the past upon reauthorization by the Legislature. These adjustments have been necessary to allow the collection of funds necessary to carry out the program. Generally, the adjustments have provided for inflationary increases, which are not built into the formula. On the next page is the table of changes made in the past and those proposed for this upcoming cycle.

### Fee Formula History for FY-95 through FY-05

Facility Charges by Category										
	Category 1		Category 2		Category 3		Per-ton Charge		Billing Caps (tons)	
Billing Years	Fee (\$)	Incr. (\$)	Fee (\$)	Incr. (\$)	Fee (\$)	Incr. (\$)	(\$)	Change (%)	Indiv.	Total
1995-1998	2,500	Base	1,000	Base	200	Base	25.00	Base	1,000	4,000
1999-2001	3,375	875	1,350	350	200	0	34.00	+36.0	1,000	4,000
2002-2005	4,485	1,110	1,795	445	250	50	45.25	+33.1	1,000	4,000

The proposed changes to the fee formula for FY-06 through FY-09 would retain the current caps on billable emissions, increase the facility fees by 25 percent, and adjust the per-ton charges by year to meet the billing targets for each fiscal year, as shown below:

Facility Charges by Category										
	Category 1		Category 2		Category 3		Per-ton Charge		Billing Caps (tons)	
Billing Years	Fee (\$)	Incr. (\$)	Fee (\$)	Incr. (\$)	Fee (\$)	Incr. (\$)	(\$)	Change (%)	Indiv.	Total
2006	5,605	1,120	2,245	450	310	60	41.00	-9.4	1,000	4,000
2007	"		"		"		51.75	+14.4	"	"
2008-9	"		"		"		63.55	+40.4	"	"

#### Summary of Projected Revenue, Expenditures, and Fund Balance

The formula with its variable emission change is designed to collect and expend the following amounts by fiscal year, based on the most recent expected emission inventory. The DEQ would need to use \$2,931,000 of the air quality fee fund balance in FY-06, and the remaining balance of about \$1,494,000 in FY-07. The last two years, the program would be based on the total collected.

#### Projected Revenue, expenditures and Fund Balance

	FY 2006	FY 2007	FY 2008	FY 2009
Beginning Fund Balance	4,425,130	1,494,400	300	91,375
Revenue	11,300,000	13,172,000	15,258,175	15,258,175
Expenses	14,230,730	14,666,100	15,167,100	15,349,550
Ending Fund Balance	1,494,400	300	91,375	0

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.