

Legislative Analysis



DISTRIBUTE MONEY FROM RECYCLING FUND; CREATE RECYCLING MARKET DEVELOPMENT FUND; ESTABLISH RECYCLING ADVISORY COUNCIL

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House Bill 4222

Sponsor: Rep. Terry Brown

Committee: Great Lakes and Environment

Revised Summary

Complete to 5-9-07

A SUMMARY OF HOUSE BILL 4222 AS INTRODUCED 2-6-07

The bill would amend the Natural Resources and Environmental Protection Act to:

- Create a Recycling Market Development Fund.
- Specify the distribution of moneys appropriated from the Recycling and Waste Diversion Fund (Recycling Fund) that would be created by House Bill 4221. (The bill is tie-barred to House Bill 4221, passed by the House on April 17, 2007, which would impose a \$7.50 per ton fee on solid waste, except for municipal incinerator ash, disposed of in landfills beginning June 1, 2007.)
- Set forth the general requirements a local unit of government (county, city, township, or village) would have to meet to qualify for distributions of funds from the Recycling Fund.
- Define "benchmark" recycling programs and other terms. Beginning October 1, 2009, for municipalities with a population of less than 124,000, and October 1, 2010, for those of 124,000 or more, a municipality would need a "benchmark" recycling program to qualify for distributions from the Recycling Fund. Generally speaking, a "benchmark" recycling program would require residential curbside recycling of at least five recyclables every other week. For a municipality with a population of under 10,000 and a population density of less than 300 per square mile, an accessible drop-off collection program open at least 8 hours a week could qualify for "benchmark" status.
- Require that each county submit a recycling and waste diversion progress report to the DEQ by December 31 of each year. A county would not be eligible for distributions from the Recycling Fund until a complete waste diversion report is submitted.
- Establish a Recycling Advisory Council consisting of the DEQ Director and 14 representatives of various stakeholders appointed by the governor charged with submitting a report on recycling by April 1, 2011.
- The bill's provisions would expire on January 1, 2012.

FISCAL IMPACT:

There would be a fiscal impact on state and local revenue. The revenue stream established by the companion bill (HB 4221) would support the funding requirements of the Recycling

Fund. Approximately \$149.0 million would be deposited each year into the Recycling and Waste Diversion Fund, beginning in 2008. This fund would support grants to municipalities for recycling, and for administrative costs of the Recycling Advisory Council and the Department of Environmental Quality.

DETAILED SUMMARY:

More detail is provided below.

Recycling Market Development Fund. The bill would establish a "Recycling Market Development Fund" within the state treasury that--if funded to at least \$1 million before October 1, 2010--would distribute grants or other incentives to expand markets for recycled products in Michigan. If the Market Development Fund did *not* accumulate \$1 million before October 10, 2010, then any balance in the Fund at the end of each state fiscal year (beginning with the fiscal year starting October 1, 2010) would be transferred to the Recycling Fund to augment distributions to municipalities from the Recycling Fund.

Distribution of money from Recycling Fund. The bill would require distribution of money appropriated from the Recycling Fund each state fiscal year in the following order:

- (A) The **first \$53 million** appropriated from the Recycling Fund (with possible supplementation after 2010 with transfers from the Recycling Market Development Fund as described above) would be distributed as follows:
 - \$15,000 to each county to offset the cost of meeting its requirements to submit an annual county recycling report.
 - The remaining money (of the first \$53,000,000 and possible transfers) would go to municipalities on a per capita basis.
- (B) The next **\$2 million** appropriated from the Recycling Fund would go to the DEQ for administration of the Recycling Fund and for other recycling and solid waste planning and enforcement duties.
- (C) The next **\$1.5 million** appropriated would be distributed to counties for solid waste planning through an existing grant program established in MCL 324.11547.
- (D) The next **\$8 million** would go (on a per capita basis) to municipalities (cities, villages, and townships) that have provided a free curbside recycling service (directly or through a contractor) to households at least every other week since September 30, 2007.
- (E) Through the fiscal year ending September 30, 2012, after the distributions under (A) through (D), money would be distributed to local units of government that provide drop-off recycling service (directly or through a contractor). The local governmental unit would receive \$5,000 per drop-off point maintained since September 30, 2007.
- (F) After the above distributions, any remaining money appropriated would be distributed:
 - 85% to municipalities (cities, villages, and townships) on a per capita basis.
 - 15% to counties on a per capita basis (subject to the requirement that counties must submit their annual recycling report to be eligible for this and other distributions).

Funding distributed to municipalities under (D), (E), or (F) above would have to be used to promote the health, safety, or welfare of the citizens of the local unit of government.

Funding provided to municipalities under these provisions is intended to supplement, and not be a substitute for, revenue sharing or other statutory or constitutional funding obligations of the state of Michigan to local units of government.

Requirements for municipalities to receive funds for recycling programs. To qualify for a distribution, a municipality would have to:

- Institute a "benchmark" recycling program, as defined in the bill (and as described below) by the end of the preceding fiscal year. This provision would be effective October 1, 2009 for municipalities of less than 124,000 but not until October 1, 2010 for municipalities with a population of 124,000 or more. In other words, larger communities would have additional year to implement a "benchmark" recycling program as defined in the bill.
- Sign an agreement with the DEQ (on a form provided by the DEQ) to use the distribution to offset the costs of a recycling program, which could include planning costs.
- Submit to the county by November 15 the information the county needs to complete its Recycling and Diversion Report.
- Use the money to conduct a recycling program (directly or through a contractor) or to pool the money with, or transfer it to, other local units or a joint authority for a multijurisdictional recycling program.
- If a municipality does not qualify for a distribution, the money it would have received would be distributed to its county (if the county agrees to use the money for recycling), or if the county does not qualify, to the Market Development Fund.

Annual County Recycling and Diversion Report. By December 31 of each year, every county would be required to submit a Recycling and Waste Diversion Report in the manner required by the DEQ describing progress in recycling and waste diversion during the previous state fiscal year. In its report, the county would have to use a standard methodology for measuring recycling rates consistent with methodology used by the U.S. Environmental Protection Agency as specified by the DEQ. A county that fails to submit this report would not qualify for certain distributions until a complete report has been submitted.

Recycling Advisory Council. The Recycling Advisory Council would be created within the Department of Environmental Quality. The council would consist of the DEQ Director (or his or her designee) and 14 representatives of various interests appointed by the governor: cities; townships; counties; environmental organizations; business users of recycled glass; business users of recycled plastics; business users of recycled paper; recycling processing facilities; beverage bottlers, wholesalers, and retailers; public landfill operators; private landfill operators; local governmental recycling officers; private companies providing curbside or drop-off recycling; and the general public.

- Members would be appointed by the governor by April 10, 2010 and would serve for the life of the council (the bill sunsets on January 1, 2012). The governor could likewise make appointments to fill vacancies and remove a member of the council for good cause.
- The first meeting of the council would be called by the director, and the council would meet at least quarterly thereafter. At the first meeting, the council would elect a chairperson and other officers.

- A majority of the members of the council would constitute a quorum for the transaction of business. The affirmative vote of a majority of the members of the council would be required for official action.
- The operation of the council would be governed by the Open Meetings Act and the Freedom of Information Act.
- Members would serve without compensation (and the director or his or her designee would serve without additional compensation). Members could be reimbursed for their actual and necessary expenses.

Advisory Council Report. By April 1, 2011, the Council would submit a report to the Governor and the Legislature with recommendations for expanding and improving the efficiency of recycling in this state, including:

- Any recommended changes in the distribution formula to take effect after September 30, 2012.
- Whether and to what extent the Recycling Fund and the Market Development Fund should be used to expand markets for recycled materials.
- Any changes in the standards for benchmark recycling programs to take effect after September 12, 2012, including, but not limited to: (1) increasing the number of materials that would have to be collected; (2) requiring the collection of hazardous household waste; (3) requiring a collection program for commercial generators of recyclable solid waste; (4) requiring a benchmark curbside recycling program to serve multifamily dwellings of five or more units.

New or amended definitions. The following terms are among the many that would have new or amended definitions under the bill.

Benchmark Recycling Program. "Benchmark recycling program" would mean a recycling program "as described in Section 11532f." To qualify as for "benchmark status," under Section 11532f, a municipal program would have to do all of the following:

- Require (by municipal ordinance) that yard clippings and other items banned from landfills (medical waste, whole tires, etc.) are separated (by the person generating the waste) from other solid waste so that the banned items can be separately collected, composted, or otherwise properly managed.
- Inform and educate the public about recycling. At a minimum, the municipality would have to notify all residents, businesses, and institutions of the opportunities for recycling and the rules regarding separation of banned materials at least 30 days before the program began and once a year thereafter.
- Document the program and submit the information that the county needs for its annual recycling report to the DEQ.
- Larger **or** more densely-populated municipalities (population greater than 10,000 **or** a population density of greater than 300/square mile) would need a recycling program that uses trucks to collect recyclables from the curbside or similar locations from every household in the municipality at least every other week (except for multifamily dwellings of 5 or more units) and that accepts at least five of the following items: (1) clear glass, (2) colored glass, (3) aluminum, steel, and bimetallic cans, (4) mixed residential paper, (5)

- newsprint, (6) corrugated cardboard; (7) magazines, (8) boxboard, and (9) HDPE ("high-density polyethylene") and PETE("polyethylene terephthalate").
- Smaller **and** less densely-populated municipalities (population 10,000 or less **and** a population density of 300 or less per square mile), would have to either meet the standard for larger municipalities set forth above or at least include an easily accessible drop-off collection point available at least eight hours per week.

Financial test. "Financial test" would mean a corporate or local government financial test or guarantee approved for Type II landfills under 40 CFR Part 258 (instead of the current reference to "Subtitle D of the Solid Waste Disposal Act, Title II of Public Law 89 272, 42 U.S.C. 6941 and 6942 and 6949"). The remainder of the definition is unchanged. Federal landfill regulations under 40 CFR Part 258 include financial assurance for closure (40 CFR Part 258.71), financial assurance for post-closure care (40 CFR Part 258.72), and financial assurance for corrective action (40 CFR Part 258.73).

Recycling Fund. "Recycling Fund" would mean the Recycling and Waste Diversion Fund created in Section 11532b. This refers to the Fund created by House Bill 4221, to which the bill is tie-barred, and which passed the House on April 17, 2007.

Trust Fund. "Trust fund" would mean a trust fund held by a trustee (with authority to act as a trustee) and whose trust operations are regulated and examined by a federal or state agency. A "trust fund" would have to comply with Section 11523b (an existing section provision allowing landfill owners or operators to establish trust funds to satisfy financial assurance requirements under NREPA Sections 11523 and 11523a.

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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.