

RECYCLING FUND DISTRIBUTIONS

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House Bill 4222 (Substitute H-3)

Sponsor: Rep. Terry Brown

Committee: Great Lakes and Environment

Complete to 10-24-07

A SUMMARY OF HOUSE BILL 4222 AS REPORTED FROM COMMITTEE

House Bill 4222 would amend Part 115 (Solid Waste Management) of the Natural Resources and Environmental Protection Act to establish a formula for distributing appropriated funds from the Recycling and Waste Diversion Fund (Recycling Fund) to be created by House Bill 4221. The Recycling Fund would be funded with the \$7.50 per ton surcharge, sometimes called "tipping fee," on solid waste disposed of landfills in House Bill 4221.

House Bill 4222 is tie-barred to House Bill 4221, meaning it cannot take effect unless both are enacted.

Major provisions of House Bill 4222 include:

- Creation of a Recycling Innovation and Market Development Fund through which the Department of Environmental Quality (DEQ) would award grants of up to \$250,000 to public and private entities to develop markets for recycled products and other specified purposes.
- Setting forth a detailed distribution formula and eligibility rules for distributions from the Recycling Fund created by House Bill 4221. Appropriated funds would go to counties, townships, cities, and villages; the DEQ; and to the Market Development Fund, in the order and amounts specified in the bill.
- Establishing minimum requirements for a "benchmark" recycling program, and deadlines by which a municipality would need a benchmark program in place to be eligible for some distributions from the Recycling Fund.
- Establish a Recycling Advisory Council with the responsibility for making recommendations about recycling programs in Michigan.

More details are provided later in the summary.

FISCAL IMPACT:

The state is expected to collect \$147,000,000 annually in the Recycling Fund. Of this amount, the Department of Environmental Quality would have \$650,000 available for appropriation in the first year, which would increase to \$2,450,000 in FY 2010-11. The remaining amounts would be provided to counties and municipalities to implement this program.

DETAILED SUMMARY:

Recycling Innovation Market Development Fund. The bill would create a "Recycling Innovation and Market Development Fund" within the state treasury. The fund would be invested by the state treasurer and its interest and earnings would be credited to it. Money in the fund at the close of the fiscal year would remain in it and not lapse to the General Fund "except as provided in Subsection (5)." [The reference to Subsection (5) may be a clerical error as no Subsection (5) is provided in the current version of the bill.] The DEQ could award grants of up to \$250,000 each to private or public entities in Michigan to:

- Expand markets for recycled materials in Michigan.
- Expand recycling to sites other than single-family dwellings (such as multi-family dwellings or businesses).
- Help municipalities that already have a benchmark recycling program adopt innovative programs to do even more.

The bill calls for the Market Development Fund to receive \$8,000,000 per year from the Recycling Fund in state fiscal years ending on or before 2010, increasing to \$17,000,000 per year, in fiscal years ending 2011 and thereafter, according to the distribution formula described below.

Distributions from Recycling Fund. The bill contains a detailed formula for distributing money appropriated from the Recycling Fund every three months (quarterly) beginning three months after the \$7.50 per ton surcharge is initially assessed. [As introduced, the bill listed distributions in annual amounts; in the H-3 Substitute, the distributions are usually listed in quarterly amounts. This summary lists the distribution amounts both ways.] To qualify for any distribution under this bill, a local unit of government would have to provide the DEQ with information the DEQ considers necessary to determine its eligibility. Any funding that may be provided to local units of government under the bill is intended to be in addition to, and not a substitute for, revenue sharing or other statutory or constitutional funding obligations to local units of government.

In general, the bill calls for distributions in the following order:

1. Municipalities and Counties. Municipalities (defined as cities, villages, and townships) would receive the first \$13.25 million per quarter [\$53 million per year] on a per capita basis to operate recycling programs, after subtraction of a distribution of \$6,250 per quarter [\$25,000 per year] to each county that has submitted a complete annual recycling report to the DEQ. A municipality could run its own recycling program, pay a contractor to run it, or pool its money with another local unit of government or other public authority for a multijurisdictional recycling program. [The bill does not specify how population would be calculated.]

To be eligible for funding in any state fiscal year, a municipality would be required to do the following:

- Have a "benchmark" recycling program in place by September 30, 2008 (by September 30, 2009, if the municipality's population is 124,000 or more). This would appear to mean that a municipality that currently does not operate a benchmark recycling program could receive distributions under this subsection before the deadlines so long as the municipality used the money for appropriate purposes. The requirements of a benchmark program, described below, vary based on population and population density.
- Submit a form to the DEQ agreeing to use the money only for operation of a recycling program, including planning costs.

If a municipality does not qualify for all or part of a distribution under this subsection, the money that the municipality would otherwise have received would be distributed to the county, if eligible. If the county is not qualified, the amount would go to the Market Development Fund.

2. DEQ. The DEQ would receive the next \$162,500 per quarter [\$650,000 per year] in the first two fiscal years of the program, increasing to \$612,500 per quarter [\$2,450,000 per year] by the state fiscal year ending 2010 for its administrative and enforcement duties under Part 115.

3. Counties. Counties would receive \$375,000 per quarter [\$1.5 million per year] for solid waste planning through an existing grant program provided for in MCL 324.11547.

4. Municipalities. Municipalities that have operated a free curbside recycling service (directly or through a contractor) to some households at least every other week since September 30, 2007 would receive the next \$2 million per quarter (\$8 million per year) on a per capita basis. This money could be spent in any way that promotes the public health, safety, or welfare.

5. Local units of government. Local units of government that provide a free drop-off recycling service (directly or through a contractor) would receive \$1,250 per quarter [\$5,000 per year] per drop-off point maintained since September 30, 2007 through the state fiscal year ending 2010. This money could be spent in any way that promotes the public, health, safety, or welfare.

6. Market Development Fund. The Market Development Fund would receive the \$8 million per year through state fiscal years ending on or before 2010; for state fiscal years ending on or after 2011, the Market Development Fund would receive \$17 million. [We have been advised that although most amounts listed in the bill are per quarter, the Market Development Fund amounts are intended to be per state fiscal year.]

7. Municipalities/Counties. After the distributions described above, any remaining money would be distributed 85 percent to municipalities on a per capita basis and 15 percent to counties on a per capita basis. However, a local unit of government that incinerates 50 percent or more of its solid waste would *not* be eligible for a distribution

under this subdivision, and its population would not be considered in calculating the per capita amounts going to other local units of government.

Benchmark Recycling Program. "Benchmark recycling program" is a recycling and waste diversion program that does all of the following:

- 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 and related equipment 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 five or more units). Materials collected would have to include 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 provide an easily accessible drop-off collection point available at least eight hours per week.
- 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.
- Conduct a comprehensive and sustained public information and education program concerning recycling program features and requirements. At a minimum, the municipality would have to notify all persons occupying residential, commercial, institutional, and municipal premises of their opportunities for recycling and the rules regarding separation and proper management of materials banned from landfills at least 30 days before the program began and at least once a year thereafter.
- Adequately document its recycling and waste diversion program.

Recycling Advisory Council. The bill would establish a Recycling Advisory Council to exist through January 1, 2012. The council would consist of the DEQ Director (or a designee) and a representative of various interests appointed by the Governor: townships; cities and villages; 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 or responsible employees; private companies providing curbside or drop-off recycling; and the general public. The council would operate in accordance with the Open Meetings Act and the Freedom of Information Act.

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

- Any changes in the distribution formula to take effect after September 30, 2012.
- The effectiveness of the grant program established in Section 11532c.
- Any changes in the standards for benchmark recycling programs to take effect after September 12, 2012, including (1) increasing the number of materials collected; (2) requiring the collection of hazardous household waste; (3) requiring a collection program for commercial generators of recyclable solid waste; and (4) requiring a benchmark curbside recycling program to serve multifamily dwellings of five or more units.

POSITIONS:

The Department of Environmental Quality supports the Substitute H-3 version of the bill. If the Substitute H-3 version is amended on the floor, or another version is taken up, the DEQ would have to examine the changes before determining its position. (10-23-07)

Clean Water Action supports the Substitute H-3 version of the bill. (10-23-07)

The Ecology Center supports the Substitute H-3 version of the bill. (10-23-07)

The Michigan Environmental Council supports the Substitute H-3 version of the bill. (10-23-07)

The Michigan Townships Association has indicated its support for the bill. (10-17-07)

The Michigan Association of Counties has indicated its opposition to the bill. (10-17-07)

The Michigan Manufacturers Association indicated its opposition to the bill. (10-17-07)

The Michigan Municipal League indicated its opposition to the bill. (10-17-07)

The Michigan Waste Industries Association indicated its opposition to the bill. (10-17-07)

Republic Waste Services indicated its opposition to the bill. (10-17-07)

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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.