

SEPTAGE WASTE SERVICING

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House Bill 4874 as enacted

Public Act 546 of 2014

Sponsor: Rep. Ken Goike

House Committee: Natural Resources

Senate Committee: Natural Resources, Environment and Great Lakes

Complete to 2-9-15

A SUMMARY OF HOUSE BILL 4874 AS ENACTED

Part 117 of the Natural Resources and Environmental Protection Act deals with septage waste servicers. "Service" or "servicing" means cleaning, removing, transporting, or disposing, by application to land or otherwise, of septage waste (for example, from septic tanks). The bill amended septage waste servicing provisions in two ways.

(1) Exception for Servicers with Storage Facilities—Eliminate Sunset

A person who is engaged in servicing in a *receiving facility service area* must dispose of the septage waste at that receiving facility or another receiving facility within the service area that the person is engaged in servicing.

The law contained an exception to this requirement for a person engaged in servicing that owns a storage facility with a capacity of 50,000 gallons or more, if that facility was constructed, or authorized by the Department of Environmental Quality to be constructed, before the location where the person is engaged in servicing was included in a receiving facility service area under an approved operating plan. This exception applied only until the 2025 state fiscal year. House Bill 4874 removed the 2025 date. This means servicers with storage tanks are exempt indefinitely from the requirement they must take septage waste to a receiving facility within the service area.

A "receiving facility service area" or "service area" means, generally, the territory for which a receiving facility has the capacity and is available to receive and treat septage waste. The geographic service area of a receiving facility cannot extend more than 25 radial miles from the receiving facility.

A "receiving facility" in the act is a structure that is designed to receive septage waste for treatment at a wastewater treatment plant or at a certain research, development, and demonstration projects to which the structure is directly connected, and that is available for that purpose as provided for in an ordinance of the local unit of government where the structure is located or in an operating plan.

(2) Local Ordinances that Impose Stricter Requirements

Part 117 also previously stated it did not preempt an ordinance of a governmental unit that prohibits the application of septage waste to land within that governmental unit "*or otherwise imposes stricter requirements than this part.*"

House Bill 4874 modified the highlighted language so that a local governmental unit could only apply stricter requirements than Part 117 allows if all of the following are met:

- The receiving facility was operating before the date two years after the bill took effect. (The bill goes into effect on April 16, 2015, meaning the receiving facility must be operational before April 16, 2017).
- The receiving facility's effluent is discharged, either directly or through a sewer system, to a wastewater treatment plant that was operating before the bill's effective date.
- The receiving facility was constructed, or the receiving facility and a wastewater treatment plant of which the receiving facility is part were improved, at a cost of \$6 million or more.
- There is outstanding indebtedness for that construction or improvement consisting only of bonds outstanding before the date two years after the effective date of the bill or of loans or bonds that were used to redeem or refund those bonds and that have a maturity or due date not later than nine years after the maturity date of those bonds.

[This, for example, prevents a local unit of government from requiring that septage waste be taken to a specific receiving facility, unless all the aforementioned requirements are met.]

FISCAL IMPACT:

House Bill 4874 would have minimal significant fiscal impact on the Department of Environmental Quality. The fiscal impact to local units of government is indeterminate.

BACKGROUND AND DISCUSSION:

The bill sponsor stated during testimony that the intent of the bill is to allow residents with septic tanks to seek more competitive pricing by repealing the service-areas requirement in current law for treating septage waste. Several officials from local governments in and around Grand Traverse County testified in opposition to the bill, saying it would negatively affect their ability to pay off a recently opened sewage treatment facility that was built with more capacity than needed due to incorrect estimates during the planning process. To pay for the excess capacity, the rate for taking septage to the facility is almost three times the state average, according to some estimates presented at committee hearings. The governmental officials worry that by eliminating the service areas, thus allowing servicers to use other treatment facilities, they may have to pay for any shortfalls in revenue out of their respective municipality's local general funds to sustain the facility.

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