



**House
Legislative
Analysis
Section**

House Office Building, 9 South
Lansing, Michigan 48909
Phone: 517/373-6466

**SOIL EROSION & SEDIMENTATION
CONTROL BY UNIVERSITIES**

**Senate Bill 819 as passed by the Senate
First Analysis (12-5-01)**

**Sponsor: Sen. Ken Sikkema
House Committee: Land Use and
Environment
Senate Committee: Natural Resources
and Environmental Affairs**

THE APPARENT PROBLEM:

According to the testimony before the House Land Use and Environment Committee, both the University of Michigan and Michigan State University have since 1982 been responsible for administering soil erosion and sedimentation control procedures on their own behalf when there were "earth changes" on their own property. An "earth change" means a human-made change in the natural cover or topography of land, other than plowing and tilling for crop production. This relieves other county or local agencies from carrying out this responsibility. Under the Natural Resources and Environmental Protection Act (NREPA), a state or local agency can apply to the Department of Environmental Quality (DEQ) for designation as an authorized public agency, which means it is authorized to implement soil erosion and sedimentation control procedures with regard to earth changes it makes. Recently, according to testimony, it was discovered that a state public university was not technically included in the definition of "state agency" in sections of NREPA that address soil erosion and sedimentation control. The term "state agency" is defined in those sections to refer to "a principal state department". Legislation has been introduced to address this issue so that universities can continue to be authorized by the state to carry out these functions.

THE CONTENT OF THE BILL:

The bill would amend Part 91 of the Natural Resources and Environmental Protection Act (NREPA), which deals with soil erosion and sedimentation control, to include a state public university within the definition of "state agency" in the sections of the act that allows a state agency (and an agency of local units of government) to be designated an authorized public agency for the purpose of administering soil erosion and

sedimentation control procedures for earth changes it undertakes.

MCL 324.9101

FISCAL IMPLICATIONS:

The Senate Fiscal Agency reports that the bill would result in an indeterminate, but nominal, increase in Department of Environmental Quality administration and enforcement costs and an indeterminate, but nominal, reduction in local administrative costs and revenues. The SFA notes that at present only two state public universities plan to seek designation as authorized public agencies, but 13 others would be eligible. (SFA floor analysis dated 11-27-01)

ARGUMENTS:

For:

The bill would, according to committee testimony, essentially amend the current soil erosion and sedimentation control law to make it conform to longstanding practice. Both the University of Michigan and Michigan State University have for nearly 20 years dealt with the administration and enforcement of soil erosion and sedimentation control procedures when there was construction on their own property. A recent reinterpretation of state law has put in doubt the universities' authority to carry out this role. The bill would allow the current practice to continue by specifying that state public universities are considered state agencies for the sake of becoming authorized to carry out these environmental activities. This practice relieves other local agencies from the costs of performing these responsibilities.

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POSITIONS:

A representative of the University of Michigan testified in support of the bill. (12-4-01)

Michigan State University supports the bill. (12-4-01)

The Michigan Environmental Council has indicated support for the bill. (12-4-01)

The Department of Environmental Quality has indicated support for the bill. (12-4-01)

Analyst: C. Couch

■ 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.