

Senate Fiscal Agency
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SFA**BILL ANALYSIS**

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Senate Bill 108 (Substitute S-2 as passed by the Senate)
Sponsor: Senator Dave Jaye
Committee: Natural Resources and Environmental Affairs

Date Completed: 4-3-01

RATIONALE

According to many reports, sanitary sewer overflows (SSOs), combined sewer overflows (CSOs), and on-site disposal system discharges can pose a severe problem for the environment and public health. Sanitary sewer overflows are discharges of raw or inadequately treated sewage from a separate sanitary sewer collection system before the sewage reaches a wastewater treatment plant. Combined sewer overflows are overflows from sewer systems designed to carry both raw sewage and storm water. On-site disposal systems use septic tanks and drain fields to treat and dispose of sewage through decomposition. These discharges can back up into basements and buildings, flow out of manholes or weak spots in the collection system, and contaminate ground or surface waters. Coupled with factors such as groundwater infiltration, heavy rainstorms or snowmelts, and blockages, SSOs and CSOs have risen sharply with the aging of an inadequate wastewater infrastructure, according to the Department of Environmental Quality (DEQ). The discharges can contain disease-causing bacteria such as *E. coli*, human waste, toxic pollutants, pesticides, and other contaminants that can threaten public health and the environment, contaminate drinking water sources, and damage buildings.

Inadequate sewer and septic systems in recent years have been responsible for beach closings and threats to the water quality throughout the State, especially on and near Lake St. Clair. According to an article in the *Detroit News* (3-21-01), during January and February alone, State environmental experts estimate that more than 800 million gallons of untreated and partially treated wastewater were discharged from Oakland, Macomb, and Wayne County wastewater treatment facilities and retention basins into area rivers and Lake St. Clair.

According to a study by Public Sector Consultants, a Lansing "think tank", an estimated \$1.7 billion will be required to address remaining CSO problems over the next 12 years, and preliminary information indicates that several hundred million dollars will be

needed to address the known SSO problems over the next decade. The study also indicates that many of the 1.2 million homes served by on-site disposal systems are causing surface and groundwater contamination that threatens public health. Some people believe that a statewide monitoring program to determine specific sources and locations of sewer discharges could help reduce the pollution problems associated with sewer overflows.

CONTENT

The bill would amend Part 31 (Water Resources Protection) of the Natural Resources and Environmental Protection Act to require the Department of Environmental Quality (DEQ) to implement a statewide water quality monitoring program, which would include identifying sources and locations of sewer and on-site disposal system discharges, assessing their effect on water quality, posting the findings on the DEQ's website, and providing the findings to the Legislature. The bill also would amend Part 88 (Water Pollution Prevention and Monitoring) to require the expenditure of money from the Clean Water Fund to implement the statewide monitoring program.

Specifically, the DEQ would have to develop and implement a statewide monitoring program to identify specifically the sources and locations of discharges of untreated sewage or partially treated sewage from sewer systems onto land or into State waters, and discharges from on-site disposal systems.

In implementing the program, the DEQ would have to do the following:

- Assess the effect on water quality due to identified discharges.
- When a discharge was identified under the monitoring program, contact the city, village, or township and the county in which the discharge occurred and provide the source and location of the discharge and the DEQ's assessment of the effect on water quality due to the discharge.

- Post on the DEQ's website, the findings of the monitoring program, including the sources and location of the discharges and the DEQ's assessment of their effect on water quality.
- Annually provide the findings of the monitoring program to the Senate and House Appropriations Committees and the standing committees of the Legislature with jurisdiction over natural resources and the environment.

The DEQ would have to review and evaluate the monitoring program at least every three years. If the DEQ determined that changes should be made to the program to improve its effectiveness, the DEQ would have to implement those changes.

The bill provides that the DEQ would have to spend money from the Clean Water Fund, upon appropriation, to implement the statewide monitoring program.

Under the Act, the DEQ must spend money from the Fund, upon appropriation, to implement programs described in the DEQ's document entitled, "A Strategic Environmental Quality Monitoring Program for Michigan's Surface Waters". The bill provides that the DEQ would have to evaluate this document on the same schedule that it would evaluate the statewide monitoring program.

MCL 324.8807 et al.

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

Michigan is responsible for protecting the water quality of approximately 3,200 miles of Great Lakes shoreline, 36,000 miles of rivers and streams, and 11,000 inland lakes. Although the State has made substantial progress in controlling water pollution, inadequate sewer systems remain a source of the water pollution problem. The bill would help measure the effects of sewer discharges on water quality by requiring the DEQ to develop and implement a statewide water monitoring program to identify sources and locations of all sewer discharges and discharges from on-site disposal systems. According to an Auditor General Report on Sewage Issues (October 2000), the DEQ does not have effective methods for identifying and addressing unreported discharges of untreated or partially treated sewage into the surface waters of the State. According to the report, the Department's primary method for identifying unreported discharges is complaints from citizens or environmental groups. The report

concluded that the DEQ may perform water quality sampling in the follow-up of complaints but normally does not perform water sampling for the purpose of detecting unreported discharges.

In addition, the bill would help track the overall health of the State's waters by requiring the DEQ to provide the findings of the program to the Legislature and the public. Long-term maintenance and significant modification or rehabilitation of sewer systems can be achieved only through coordinated efforts of the State, local government, and the public. The annual findings also would provide a firm basis for future water quality assessment to determine improvement, degradation, or neutrality in the reduction and elimination of sewer discharges.

Response: It has been suggested that the bill also should authorize Clean Water Fund money to be used for a water monitoring program targeted to the Lake St. Clair area, which includes the St. Clair River, Lake St. Clair, the Clinton River, and connecting waters. This region represents the source of drinking water for a significant portion of the State's population. Lake St. Clair's water pollution problems were highly publicized during the campaign for the Clean Michigan Initiative (CMI) several years ago. Since then, however, the area apparently has seen very little action.

Opposing Argument

The bill is unnecessary since a comprehensive statewide water quality monitoring program is already being implemented by the DEQ under the Clean Michigan Initiative. Under the CMI, the Clean Water Fund allocates up to \$90 million in bond money for water quality monitoring and water resources protection and pollution control activities. Of the \$90 million, the DEQ estimates that \$45 million will be used to implement a comprehensive water quality monitoring program in the State to operate over a 15-year period. The DEQ identifies the following monitoring goals: assessment of current water quality status and determination of whether water quality standards are being met; measurement of spatial and temporal water quality trends; support of water quality protection programs and evaluation of their effectiveness; and detection of new and emerging water quality problems.

Response: The program implemented under the CMI is a comprehensive effort that monitors water quality by investigating bathing beaches, fish contaminants, water chemistry, sediment chemistry, biological integrity/habitat, wildlife contaminants, inland lake quality, and stream flow. The water quality monitoring program proposed by the bill would focus on identifying specifically the sources

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and locations of sewer discharges and their effect on water quality.

Opposing Argument

The bill would require the statewide water quality monitoring program to be implemented with money from the Clean Water Fund, which primarily comprises money allocated from the Clean Michigan Initiative Bond Fund. Bond money is an inappropriate source for funding ongoing responsibilities of State and local government, since the money eventually would need to be repaid with interest while the need for future funding of the monitoring program would continue.

In addition, a water quality monitoring program that would identify sources and locations of individual sewer discharges would be quite expensive. According to the Auditor General Report on Sewage Issues, one DEQ district office had drafted a proposal for water quality testing of one watershed costing \$30,000 per year. This was intended to give general information about water quality but not comprehensive-enough data to identify overflows or their sources, as the bill would require.

Legislative Analyst: N. Nagata

FISCAL IMPACT

The bill would result in an indeterminate increase in Department expenditures for monitoring activities. The magnitude of the increase would depend on annual appropriations, and on the extent to which the activities and responsibilities required by the bill are being carried out currently under existing discharge notification provisions of Part 31 of the Act and with the \$2.5 million appropriated from the Clean Water Fund in FY 2000-01 for water quality monitoring.

The Clean Water Fund, the proposed funding source for the monitoring program under the bill, is supported primarily with a \$90,000,000 allocation from the Clean Michigan Initiative Bond Fund. To date, \$43,700,000 has been appropriated from the Fund, leaving \$46,300,000 uncommitted.

Fiscal Analyst: P. Graham