

Senate Fiscal Agency
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SFA**BILL ANALYSIS**

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House Bill 4719 (Substitute H-4 as reported without amendment)
Sponsor: Representative Patricia Birkholz
House Committee: Land Use and Environment
Senate Committee: Natural Resources and Environmental Affairs

Date Completed: 6-4-02

RATIONALE

In recent years, high levels of the *E. coli* bacteria in the water have been responsible for beach closings and threats to the water quality throughout the State, especially on and near Lake St. Clair. Under the Public Health Code, a local health officer or an authorized representative of the local health department can test and otherwise evaluate the quality of water at bathing beaches to determine whether the water is safe for bathing purposes. If it is determined that the water is unsafe, the health officer or authorized representative can petition the appropriate circuit court for an injunction ordering the beach closed to use by bathers. The Code, however, does not authorize the State to monitor bathing beaches, or require mandatory testing of any bathing beaches. Apparently, routine testing and monitoring vary from beach to beach. Therefore, it has been suggested that a posting at each bathing beach of whether the beach had been tested would increase public awareness of water quality.

CONTENT

The bill would amend the Public Health Code to require a local health official to notify the local unit before testing water quality at a bathing beach, and give notice of the results to the Department of Environmental Quality (DEQ), local unit, and owner of the bathing beach; and require a bathing beach owner to post whether the beach had been tested and, if tested, the location of the results.

Under the Code, a local health officer or an authorized representative of the local health department having jurisdiction may test and

otherwise evaluate the quality of water at bathing beaches open to the public to determine whether the water is safe for bathing purposes. The bill would require the local health officer or authorized representative to notify the city, village, or township in which the bathing beach was located before conducting the test or evaluation. Also, within 36 hours after conducting the test or evaluation, the health officer or representative would have to notify the DEQ, the city, village, or township in which the beach was located, and the owner of the bathing beach of the results of the test or evaluation.

In addition, the bill would require the owner of a bathing beach to post at the main entrance to the beach or other visible location a sign stating whether or not the bathing beach had been tested or evaluated and, if the beach had been tested, the location of where the results could be reviewed.

(The term "bathing beach" would mean a beach or bathing area offered to the public for recreational bathing or swimming. It would not include an open stretch of beach or road end that was not advertised or promoted as a public bathing or swimming beach or a public swimming pool.)

MCL 333.12541

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

By requiring the owner of each bathing beach to post whether the beach had been tested and, if tested, the location of the results, the bill would increase public awareness of water quality issues. There seems to be a popular misconception that all bathing beaches are routinely tested for disease-causing and harmful bacteria contamination. In actuality, the Public Health Code does not authorize the State regularly to monitor or test the quality of water at public beaches. The State's primary role, instead, is to compile data to evaluate overall water quality, and to support local health departments that use the information to assess the need for beach closings.

Opposing Argument

Signs should be required only for a bathing beach that had been tested. Posting signs informing the public that a beach had *not* been tested would be unnecessary and unhelpful.

Response: If people mistakenly believe that a beach has been tested and therefore is safe, in the absence of a health warning, it is necessary to dispel that notion. A sign informing people that a beach had not been tested would give them the opportunity to decide whether to risk swimming in potentially harmful water. Furthermore, according to the DEQ, contamination in one part of a lake does not necessarily mean that the entire lake is contaminated. Two beaches on opposite ends of a lake that have different on-shore conditions will not have the same bacteria levels. Therefore, it is necessary that each beach be posted.

Legislative Analyst: Nobuko Nagata

FISCAL IMPACT

The bill would result in an indeterminate increase in local government administrative expenditures, as well as an increase in State and local government costs for posting the required signs. For fiscal years 1999-2000 and 2000-01, the Department of Environmental Quality awarded, in total, greater than \$250,000 in Clean Michigan Initiative-Clean Water Fund dollars to 11 local health departments, one city, and one local watershed initiative for beach monitoring. The awards covered monitoring activities at 266 beaches in 30 counties. The House-passed FY

2002-03 Department of Environmental Quality budget includes language requiring the Department to allocate \$20,000 from existing water quality monitoring appropriations for the cost of the signs at the public beaches.

Fiscal Analyst: Pam Graham

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.