



Senate Fiscal Agency  
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House Bill 5400 (Substitute S-2 as reported)  
House Bill 5401 (as reported without amendment)  
House Bill 5402 (Substitute H-1 as reported without amendment)  
Sponsor: Representative Wayne Schmidt (H.B. 5400)  
Representative Edward McBroom (H.B. 5401)  
Representative Phil Potvin (H.B. 5402)  
House Committee: Natural Resources  
Senate Committee: Natural Resources, Environment and Great Lakes

### **CONTENT**

House Bill 5400 (S-2) would amend Parts 31 (Water Resources Protection), 85 (Fertilizers), 115 (Solid Waste Management), and 201 (Environmental Remediation) of the Natural Resources and Environmental Protection Act (NREPA) to do the following:

- Provide for the classification of a number of industrial by-products as "beneficial use by-products" and exclude them, as well as inert materials, from the definition of "solid waste".
- Define several categories of "beneficial uses" for which the by-products could be used, and prescribe conditions for their use and storage.
- Redefine "inert material".
- Allow a person to request that the Department of Environmental Quality (DEQ) approve certain materials and/or uses as beneficial use by-products.
- Require the DEQ to approve a material as inert or for a specific use as a beneficial use by-product under certain circumstances.
- Allow the DEQ to approve a material that did not meet all of the requirements for inert materials or beneficial use, if the material and/or use would protect the public health and environment.
- Require the DEQ to approve a material as a low-hazard industrial waste or source-separated material, if certain conditions were met.
- Require the use of a material to be for a legitimate beneficial purpose other than a means to discard it, in order to qualify or be approved by the DEQ as a beneficial use by-product.
- Provide that approval of materials as beneficial use by-products or inert materials would not require the use of those materials by any governmental entity or other person.
- Require a by-product sold or used beneficially as a fertilizer, soil conditioner, or liming material to be registered or licensed annually.
- Require a property owner who knew that a material had been put to beneficial use as construction fill to notify a prospective transferee.
- Require a beneficial use by-product generator or broker to notify the DEQ if the amount of a by-product used as construction fill at a particular site would exceed 5,000 cubic yards.
- Require a generator or broker of more than 1,000 cubic yards of by-products for specified beneficial uses to report to the DEQ annually.
- Prescribe procedures for processing a request for generator or broker information under the Freedom of Information Act, and provide for the designation of such information as confidential, under certain circumstances.

- Provide that municipal solid waste incinerator ash that was used as a daily cover at a licensed disposal facility would not have to be disposed of in a landfill.
- Exempt from regulation under Part 201 property contaminated by hazardous substances resulting from the placement, storage, or use of beneficial use by-products or inert materials.
- Exempt specific uses and storage of beneficial use by-products from a permit requirement under Part 31.
- Require an application for a license to manufacture or distribute fertilizer to include specific information, if the fertilizer were a beneficial use by-product.
- Exempt the storage of a beneficial use by-product used as fertilizer from DEQ commercial fertilizer bulk storage regulations if proposed storage requirements were met.

House Bill 5401 would amend Part 201 of NREPA to provide that a person who stored or used a beneficial use by-product or inert material in compliance with Part 115 would not be liable for the release of a hazardous substance.

House Bill 5402 (H-1) would amend Public Act 162 of 1955, which governs the licensing, inspection, and sale of agricultural liming material, to require a filing with the Michigan Department of Agriculture and Rural Development related to the sale of liming material to include specific information, if the material were a beneficial use by-product.

House Bills 5400 (S-2) and 5402 (H-1) would take effect 90 days after they were enacted. House Bill 5400 (S-2) is tie-barred to House Bill 5401. House Bills 5401 and 5402 (H-1) are tie-barred to House Bill 5400.

MCL 324.8504 et al. (H.B. 5400)  
 324.20126 (H.B. 5401)  
 290.532 (H.B. 5402)

Legislative Analyst: Julie Cassidy

### **FISCAL IMPACT**

The bills would have an indeterminate, but negative fiscal impact on the Department of Environmental Quality, and no fiscal impact on local units of government. House Bill 5400 (S-2) would create a number of new responsibilities for the DEQ, which would generally result in new administrative costs related to approving uses of materials, classifying materials, and other functions. These costs would be borne by existing DEQ resources.

The bill also would potentially decrease collections of solid waste fees of 12 cents per cubic yard collected by the DEQ for solid waste deposited at landfills. The DEQ collects approximately \$5.0 million from these fees annually. While the bill would not alter the structure of the fee in any way, increasing recycling would presumably decrease the amount of solid waste deposited at landfills. It is unknown at this time what this impact might be.

The bills would have a minimal fiscal impact on the Department of Agriculture and Rural Development. Although the bills would provide no additional revenue for the Department, it should be able to carry out its proposed responsibilities under existing resources.

Date Completed: 5-29-14

Fiscal Analyst: Bruce Baker  
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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.