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BILL ANALYSIS



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House Bill 6123 (Substitute H-3 as passed by the House)
Sponsor: Representative Scott VanSingel
House Committee: Natural Resources
Senate Committee: Natural Resources

Date Completed: 12-12-18

CONTENT

The bill would amend Part 328 (Aquifer Protection) of the Natural Resources and Environmental Protection Act (NREPA) to do the following:

- **Rename the Water Resources Conservation Advisory Council as the "Water Use Advisory Council".**
- **Revise the membership of the Council.**
- **Allow the Council to appoint technical advisors with specific scientific, technical, legal, and similar expertise relevant to the Council's responsibilities.**
- **Delete certain provisions specifying the Council's responsibilities.**
- **Require the Council to make certain recommendations to the Department of Environmental Quality (DEQ), the Department of Agriculture and Rural Development (MDARD), the Department of Natural Resources (DNR), and the Legislature regarding the implementation of Part 327 (Great Lakes Preservation) of NREPA.**
- **Require the Council include in its report to the Legislature recommendations on the staffing, budgetary, software, and other resources required by the departments to successfully implement Part 327, and require the report to be provided to the Legislature every two years.**

Water Use Advisory Council

Section 32803 of NREPA creates the Water Resources Conservation Advisory Council within the DNR. The bill would rename the Council as the "Water Use Advisory Council".

Membership

The Council must consist of the following members:

- Four individuals appointed by the Senate Majority Leader.
- Four individuals appointed by the Speaker of the House of Representatives.
- Five individuals appointed by the Governor.
- Four individuals appointed by the Director of the DEQ.
- Four individuals representing the DEQ, MDARD, DNR, and the Attorney General.

The four individuals appointed by the Speaker must be as follows:

- One individual representing registered well drilling contractors with hydrology experience.

- One individual representing local units of government.
- One individual representing agricultural interests.
- One individual with knowledge and expertise in limnology.

Under the bill, the four individuals appointed by the Speaker would have to be as follows:

- One individual representing registered well drilling contractors with hydrology and drilling field experience.
- One individual representing local units of government.
- One individual representing agricultural irrigators.
- One individual representing wetlands conservation organizations.

Of the five individuals appointed by the Governor, one must represent a statewide tourism organization. Under the bill, instead, one individual would have to represent professional hydrologists and hydrogeologists with hydrogeology field experience.

Of the four individuals appointed by the Director, one must represent the general public.

Under the bill, instead, the individual would have to represent local watershed councils.

The bill also would require the Council to consist of one individual representing the Office of the Great Lakes, and one representing the Michigan Geological Survey. These members, as well as the individuals representing the DEQ, MDARD, the DNR, and the Attorney General would serve as ex officio, nonvoting members.

Appointments & Term

Appointments to the Council would have to be made within 60 days after the bill's effective date. Individuals making appointments to the Council would have to give deference to individuals currently serving on the Council. An individual appointed to the Council would serve for a four-year term, and could be reappointed. A vacancy on the Council would have to be filled in the same manner as the original appointment.

Individuals appointed to the Council would serve without compensation.

The bill would require a Council meeting to be held in compliance with the Open Meetings Act.

Other Provisions

The Council could elect co-chairs, form committees, set meeting schedules and work plans to address the Council's responsibilities as provided by law, address charges from the DEQ, and establish priorities. Councilmembers could participate in any committees created by the Council. Councilmembers would have to strive to make recommendations by consensus vote, and could submit opposition statements that would have to be included in the Council's report to the Legislature.

Technical Advisors

The Act requires the Council to appoint a technical advisory committee of individuals with specific technical and legal expertise relevant to the Council's responsibilities. Under the bill, the Council *could* appoint technical advisors with specific scientific, technical, legal, and similar expertise relevant to the Council's responsibilities. Technical advisors could participate in any Council meetings, committees, or subgroups created by the Council, but could not vote on recommendations made by the Council to the DEQ or to the Legislature.

Duties & Responsibilities

The Act requires the Council to study and make recommendations to the Legislature related to the updating, testing, and evaluating the operation of the water withdrawal assessment tool. The bill would delete these requirements.

Instead, the bill would require the Council to make recommendations to the DEQ, MDARD, the DNR, and the Legislature on the implementation of Part 327 (Great Lakes Preservation) of NREPA, including all of the following:

- Strategies for collection, verification, and use of data, including geology, aquifer characteristics, and groundwater and surface water hydrology.
- Improvement, verification, regionalization, and integration of models used in the water withdrawal assessment tool and site-specific review, including models developed by private and public entities, organizations, or individuals.
- Identification of research, public-private partnerships, training, and changes to the water withdrawal assessment tool needed to improve the DEQ's ability to implement Part 327, and to improve the water withdrawal assessment process under Part 327.

The Act also requires the Council to make recommendations on reconciling conflicts in State laws related to the use of the State's waters. Under the bill, the Council also would have to study and make recommendations, as needed or as requested by the relevant standing committees of the Legislature or the DEQ, regarding the development and refinement of the water withdrawal assessment process.

(Part 327 of NREPA requires the DEQ to make available for testing and evaluation an internet-based water withdrawal assessment tool. The assessment tool must contain a flow-based safety factor, and must determine certain criteria pertaining to proposed withdrawals (the removal of water from surface water or groundwater).)

Report

The Act requires the Council to report to the Senate Majority Leader, the Speaker of the House, and the standing committees of the Legislature with jurisdiction primarily related to natural resources and the environment that makes recommendations on how the water withdrawal assessment process could be improved. The report must contain specific recommendations on the use of the assessment tool, the site-specific review process, the permitting process, and any other measure that the Council determines would improve the assessment process.

Under the bill, the report also would have to contain specific recommendations on the staffing, budgetary, software, and other resources required by the departments to successfully implement Part 327. Also, the report would have to be provided to the Legislature every two years after the bill's effective date.

MCL 324.32801 & 324.32803

Legislative Analyst: Stephen Jackson

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Josh Sefton

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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.