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House Bill 4454 (as discharged)  
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House Bill 4456 (Substitute H-1 as discharged)  
House Bill 4457 (Substitute H-1 as discharged)  
House Bill 4458 (as discharged)  
House Bill 4459 (as discharged)  
House Bill 4460 (Substitute H-1 as discharged)  
House Bill 4461 (Substitute H-1 as discharged)  
Sponsor: Representative Gary Howell (H.B. 4454)  
Representative Sara Cambensy (H.B. 4455)  
Representative William J. Sowerby (H.B. 4456)  
Representative Yousef Rabhi (H.B. 4457)  
Representative Jack O'Malley (H.B. 4458)  
Representative David W. Martin (H.B. 4459)  
Representative Scott VanSingel (H.B. 4460)  
Representative Joe Tate (H.B. 4461)  
House Committee: Natural Resources and Outdoor Recreation  
Senate Committee: Regulatory Reform (discharged)

## **CONTENT**

House Bill 4454 would amend the Natural Resources and Environmental Protection Act (NREPA) to designate Sections 11501 through Sections 11508 as Subpart 1 (General and Definitions) of Part 115 (Solid Waste Management) and would add and modify various terms and definitions.

House Bill 4455 would amend NREPA to do the following:

- State that optimizing recycling opportunities, including electronics recycling opportunities and the reuse of materials would be the principal objective of the State's solid waste management plan.
- Specify that it would be the goal of the State to achieve a 45% municipal solid waste recycling rate, with an interim step of 30% by 2029 through benchmark recycling standards.
- Prohibit a person from disposing, storing, or transporting solid waste in the State unless he or she complied with Part 115 (Solid Waste Management).
- Modify provisions that allow a person to operate a material management facility.
- Add and modify various terms and definitions.

House Bill 4456 (H-1) would amend NREPA to designate Sections 11510 to 11512 as Subpart 2 (Disposal Areas) and Section 11521b as Subpart 3 (Waste Diversion Centers) of Part 115, and to do the following:

- Specify that current provisions applying to disposal areas would not apply to a solid waste processing and transfer facility or an incinerator that did not comply with the construction permit and operating license requirements of Subpart 2.

- Increase construction permit application fees and operating licenses application fees for various types of landfills.
- Prohibit the Department of Environment, Great Lakes, and Energy (EGLE) from licensing a landfill or coal ash impoundment unless it had an approved hydrogeological monitoring program and the owner or operator had provided EGLE with the monitoring results.
- Require the owner or operator of a landfill to submit an annual report to EGLE and the county and municipality in which the landfill was located specified information.
- Require a landfill that accepted waste with the potential to generate gas to be designed to prevent the migration of explosive gas generated by the waste.
- Allow EGLE to inspect and investigate conditions related to the generation, storage, processing, transportation, management, and disposal of solid waste under Part 115.
- Specify that the owner or operator of a landfill would have to conduct post-closure care in compliance with the bill's provisions.
- Prohibit the operator of a waste diversion center from receiving on an annual basis an amount of solid waste equal to or greater than 15%, by weight, of the diverted waste received by the facility.
- Require the operator of a waste diversion center to notify EGLE of the waste diversion center if the primary function of the entity was to serve as a waste diversion center.

House Bill 4457 (H-1) would amend Part 115 of NREPA to do the following:

- Increase, from \$1.0 million to \$2.0 million, the maximum bond amount required as financial assurance for a landfill.
- Subject specified landfills to the bond requirement, unless the owner or operator elected to provide other financial assurance as prescribed in the Code.
- Prohibit EGLE from issuing an approval under a general permit for a materials utilization facility unless the applicant had filed evidence of certain financial assurance.
- Specify that an owner or operator who used a certificate of deposit as a bond would have to receive any accrued interest on the certificate of deposit after EGLE released the bond.
- Delete a provision allowing an owner or operator of a disposal area that was not a landfill who had accomplished closure to request a 50% reduction in the bond during the two-year period after closure.
- Delete a provision allowing a person required under Part 115 to provide financial assurance in the form of a bond for a landfill to request a reduction in the bond based upon the amount of the Perpetual Care Fund.
- Allow the owner or operator of a landfill that used a financial test as financial assurance for the landfill to utilize a financial test for other types of materials management facilities that were located on the permitted landfill site.
- Allow EGLE to utilize a bond required for a facility subject to approval under a general permit for bringing the facility into compliance with Part 115.
- Allow owners or operators to demonstrate all or a portion of required financial assurance for two or more materials management facilities that were not landfills with a risk pooling financial mechanism approved by EGLE.
- Modify calculations for determining standard closure cost estimates and standard postclosure costs estimates.
- Modify requirements for a site-specific cost estimate.
- Prohibit EGLE from granting a request to reduce the postclosure cost estimate and the corresponding financial assurance to below the maximum required Perpetual Care Fund amount unless the owner or operator demonstrated that the landfill was on target to achieve functional stability within the time remaining in the postclosure period.
- Increase, from \$1,156,000 to \$2,257,000, the maximum required perpetual fund amount for a landfill or coal ash impoundment.
- Delete a provision prohibiting requests for disbursement from the Perpetual Care Fund from being submitted more frequently than semiannually.

- Prescribe the surcharge the owner or operator of a landfill or coal ash impoundment that was not a captive facility would have to pay.
- Modify the amount of waste weight calculation for the surcharge that a type III landfill or coal ash impoundment that was a captive facility would have to pay.
- Require the former owner or operator to continue to maintain, upon transfer of a materials utilization facility for which financial assurance was required or of a disposal area, financial assurance until it was replaced by the new owner or operator or until the materials utilization facility or disposal area was released from the financial assurance obligation at the end of the postclosure period.
- Require EGLE to perform, within 60 days for receiving a statement requesting the termination of financial assurance, a consistency review of the statement.
- Require the owner or operator of a landfill to establish and maintain a landfill care fund and prescribe requirements for a landfill care fund.
- Specify that if the owner or operator of a materials management facility was required to establish a bond under another State statute or a Federal statute, the owner or operator could request EGLE to approve that bond as meeting the requirements of Part 115.

House Bill 4458 would amend NREPA to designate Sections 11526 through Sections 11533 as Subpart 5 (Miscellaneous), Sections 11539 through Section 11541 as Subpart 6 (Incinerators and Open Burning), and Sections 11546 through Section 11549 as Subpart 7 (Enforcement) of Part 115 to do the following:

- Replace reference to "solid waste" with "managed materials" throughout Subpart 5.
- Require EGLE to inspect and report on a licensed disposal area four times annually and a materials utilization facility at least once annually.
- Require a solid waste hauler operating within a county with a materials management plan to provide recycling services for single-family residences for which it provided solid hauling services.
- Specify that a hauler that was responsible for a vehicle that contributed to a violation of Part 115 would be rebuttably presumed to have committed the violation.
- Modify the impact fee that a municipality could impose for solid waste and municipal solid waste incinerator ash.
- Allow EGLE to promulgate rules to implement Part 115.

House Bill 4459 would amend NREPA to designate Sections 11550, Section 11553, and Section 11554 as Subpart 8 (Funds and Grants) and Sections 11553 and Sections 11554 as Subpart 9 (Beneficial Use By-Products) to Part 115 to do the following:

- Specify purposes for which money could be spent from the solid waste staff account within the Solid Waste Management Fund.
- Specify the purposes for which money could be spent from the perpetual care account within the Solid Waste Management Fund.
- Require the EGLE to provide grants, subject to appropriations, for specified purposes.
- Require EGLE to establish a recycling markets program that would have to provide grants or loans for acquiring equipment or technology, for research or development, or for associated activities to provide for new or increased use of recycled materials or to support the development of recycling markets.
- Require EGLE to establish a local recycling innovation program that would have to provide grants or loans for developing local recycling infrastructure, for recycling education campaigns for residents and businesses, technology, or other activities that result in increasing recycling access, quality, or participation, for reducing waste, or for sustainable materials management.
- Require EGLE to establish a recycling access and voluntary participation program that would have to provide grants or loans to assist local unit of government in implementing

best materials utilization practices or identifying ways to innovate and to collaborate with other local units and the private sector.

- Require EGLE to publish and make available to grant and loan application criteria upon which the grants and loans would be made.
- Require EGLE to include the number of inspections conducted at materials utilization facilities in the annual report that details the activities of the previous fiscal year funded by the staff account of the Solid Waste Management Fund.
- Include nondetrimental material managed for agricultural or silvicultural use in the list of materials that a person could request EGLE to approve.
- Change the reference document for determining the methods of analysis and sampling of materials to be approved by EGLE.
- Amend the specified uses for a material that can be could be approved by EGLE.
- Specify that a person in possession of material that was designated or approved for beneficial use or as inert material or in possession of material from an industrial facility that was designated or approved as course separated material would not be subject to regulation as a materials management facility if the person managed and used the material as provided by the Act.

House Bill 4460 (H-1) would add Subpart 10 (Materials Utilization Facilities) to Part 115 of NREPA to do the following:

- Prescribe the management of compostable material.
- Allow a person to temporarily accumulate yard waste at a site not designed for composting if certain requirements were met.
- Allow a person to compost class 1 compostable material on a farm if certain requirement were met.
- Require the owner or operator of a composting facility that was subject to a requirement for notification, registration, or approval under a general permit to meet certain requirements.
- Require EGLE to maintain and post on its website a list of composting facilities for which notification had been given, which were registered, or which were approved under a general permit and prohibit a hauler from delivering yard waste to a site that was not on the list.
- Prescribe certain requirements for a person who composted class 1 compostable material.
- Specify that the composting of dead animals using bulking agents would be subject to Part 115 if the composting occurred at certain facilities.
- Prescribe requirements for certain medium or large composting facility and a class 1 or class 2 composting facility.
- Require the owner of operator of a class 1 composting facility to submit to various plans to EGLE, and require the owner or operator to ensure that certain requirements were met.
- Require the owner or operator of a composting facility that was required to notify or register under Part 115 or that was approved under a general permit to report to EGLE, within 45 days after the end of each fiscal year, certain information for that fiscal year.
- Prohibit a person from using compost produced from class 2 compostable material unless EGLE approved it as appropriate for use.
- Prohibit a person from composting solid waste unless the person had filed a petition that contained certain information and obtained approval from EGLE.
- Require EGLE to approve a material for use as compostable material if the person who proposed the use demonstrated that the material had or would be converted to compost under controlled conditions at a class 2 composting facility, that the material would not be a source of environmental contamination or cause a nuisance, and that the end user would be given written instructions on the proper use of the finished compost.
- Allow a person to petition EGLE to classify a solid waste, a class 2 compostable material, or a combination of class 1 compostable material and class 2 compostable material, as a class 1 compostable material and to classify compost produced from solid waste, class 2

- compostable material, or a combination of class 1 compostable material and class 2 compostable material, as general use compost.
- Prescribe requirements for granting a petition described above.
  - Require the owner or operator of a composting facility to comply with certain requirements if finished compost produced by the composting facility were restricted use compost.
  - Require general use compost offered for sale to be accompanied by a label, in the case of bagged compost, or an information sheet in the case of bulk sales and require the label or information sheet to contain certain information.
  - Prescribe the management of restricted use compost and allow EGLE to impose conditions for use of restricted use compost to ensure the protection of the environment, natural resources, or the public health, safety, or welfare.
  - Require certain sites to test their finished compost in compliance with the United States Composting Council's Seal of Testing Assurance unless EGLE had approved an alternate procedure.
  - Prescribe the general use parameters for compost.
  - Allow a person to blend low-hazard industrial waste or compost additives with general use compost or compost produced from yard waste to create soil-like product if certain conditions were met.
  - Require the operator of a materials utilization facility, the operator of a materials recovery facility, including an electronic waste processor not required to report under Part 173 (Electronics) of the Code, the operator of a composting facility, and the operator of an anaerobic digester to comply with certain requirements.
  - Prohibit a person from operating an innovative technology facility unless approved by EGLE under a general permit, beginning two years after the bill's effective date.
  - Require the owner or operator of a materials utilization facility to submit a site map and operations plan with a registration or an application for approval under a general permit.
  - Require the owner or operator of a material utilization facility to submit a notification, complete application for registration, or complete application for approval under a general permit within 90 days if an increase in the volume or change in the type of material managed by the facility triggered a requirement for notification, requirement, or approval under a general permit.

House Bill 5561 (H-1) would amend NREPA to add Subpart 11 (Materials Management Plans) to Part 115 to do the following:

- Require EGLE to ensure each county had an approved materials management plan (MMP).
- Specify that the planning area of a single MMP could include two or more counties if the county board of commissioners agreed to the joint exercise of powers and performance of the required duties for an MMP and specify the municipality area requirements for an MMP.
- Require EGLE to request the county board of commissioners of each county to submit a notice of intent to prepare an MMP within 180 days of the bill's enactment.
- Specify that EGLE could prepare an MMP for a county that did not submit notice of intent prior to the applicable deadline.
- Prescribe the duties of the County Approval Agency (CAA) following the submission of a notice of intent to EGLE.
- Require the CAA to appoint a planning committee as a permanent body and prescribe their membership and responsibilities.
- Prescribe the responsibilities of the Designated Planning Agency (DPA).
- Create the process for the rejection or acceptance of an MMP.
- Require an MMP to meet certain requirements including the goals for certain areas, implementation plans, inventories of materials and facilities, and enforceable mechanisms to meet the goals of the MMP.
- Specify that an MMP could include management plans for debris from environmental damage, disasters, or for other materials.

- Require the MMP prepared by EGLE to comply with certain requirements if the county board of commissioners, municipalities, and regional planning agency did not timely submit a notice of intent to prepare an MMP.
- Specify that a county would be ineligible for assistance from the recycling access and voluntary participation program until certain requirements were met if the county did not make progress toward meeting its benchmark recycling standards.
- Allow a county, municipality, authority, or regional planning agency that owned or operated a materials management facility to adopt requirements controlling the flow of solid waste or managed material to the material management facility, to the extent allowed by the interstate commerce clause of the US Constitution.
- Require EGLE to maintain a database for material management facilities to report information required under Part 115, provide the material management facilities with the necessary instructions to add information to the database, and provide CAAs access to the database.
- Specify that if a disposal area did not require a license or permit or materials utilization facility were proposed to be located in a local unit of government that had a zoning ordinance it would have to comply with certain requirements.
- Require EGLE to determine whether a materials management facility was consistent with the MMP.
- Specify that the State Solid Waste Management Plan would consist of the State Solid Waste and all approved MMPs and require EGLE to consult and assist in the implementation of the MMPs.
- Allow EGLE to undertake or contract for studies or reports necessary or useful in the preparation of the State Solid Waste Management Plan.
- Prescribe requirements governing a materials management planning grant program.

The bills are tie-barred. Each bill would take effect 90 days after its enactment.

MCL 324.11502 & 324.11503 (H.B. 4454)  
 324.11504 et al. (H.B. 4455)  
 324.11509 et al. (H.B. 4456)  
 324.11523 et al. (H.B. 4457)  
 324.11526 et al. (H.B. 4458)  
 324.11550 et al. (H.B. 4459)  
 Proposed MCL 324.11555 (H.B. 4460)  
 Proposed MCL 324.11571 (H.B. 4461)

Legislative Analyst: Eleni Lionas

### **FISCAL IMPACT**

House Bill 4454 and House Bill 4455 would likely have no fiscal impact on the EGLE and have an indeterminate impact on costs for local units of government. The bills would amend Sections 11502 and 11508 of Part 115 of NREPA by modifying definitions that could affect the operation of solid waste management and recycling facilities. Specifically, these definitions would promote the use of recyclable materials and amend the requirements currently in place for materials management plans overseeing the operation of solid waste management facilities. These changes likely would not have any fiscal impact on EGLE. There could be an increase in costs for local governments if they operate a solid waste management facility and are required to amend their current materials management plan to meet the requirements proposed by the bills; however, the extent of any increase is unknown.

House Bill 4456 (H-1) would result in an increase in revenue for EGLE and likely would increase costs for local units of government that operate a solid waste management facility subject to the necessary fee structure. The bill would amend the current fee structure for both landfill construction and operating permits that are required for solid waste management facilities by increasing the overall fee for the various types of these permits. Therefore, the resulting

increase in fees would increase overall revenues for EGLE, specifically, revenue that is allocated for the Solid Waste Management Fund. Local governments would experience an increase in overall costs if they operate a solid waste management facility subject to the proposed fee structure.

House Bill 4457 (H-1) would likely have no fiscal impact for EGLE; however, it likely would result in an increase in costs for local units of government. The bill would amend the financial assurance requirements currently in Part 115 by requiring all materials utilization facilities, such as recovery or composting facilities, to maintain a financial assurance of at least \$20,000 until the facility received closure certification from EGLE. Therefore, the financial assurance requirement likely would increase costs for local governments that operate facilities that would be subject to this provision; however, the extent of any increase is currently unknown.

House Bill 4458 would have an indeterminate fiscal impact on both EGLE and local units of government. This bill would amend provisions of Part 115 pertaining to the inspection and regulation of certain licensed disposal areas and materials utilization facilities. Specifically, the bill would require the Department to inspect licensed disposal areas at least four times per year and materials utilization facilities at least once per year and to file the necessary reports following each inspection. Additionally, the Department would be able to enforce fines and penalties if a violation occurred at any of the aforementioned facilities. The number of violations that would occur under these provisions of the bill is unknown; therefore, the extent of any increase in costs or revenue for EGLE or local governments due to inspections or fines collected is indeterminate.

House Bill 4459 likely would result in an overall increase in costs for both EGLE and local units of government. The bill would amend provisions of Part 115 that govern the allowable usage of funding available in the Solid Waste Management Fund and would promote the recycling of wastes and by-products produced by solid waste incinerators. Specifically, the bill would expand the number of allowable purposes for which money from the Solid Waste Management Fund could be used, including grants for a recycling markets program, a local recycling innovation program, and a recycling access and participation program. Additionally, the bill would require local units of government that operate a solid waste incinerator to submit a plan detailing the reduction of the amount of hazardous by-products that are incinerated. Therefore, the bill likely would increase costs for EGLE based on the inspection requirements detailed in the provision and an increase in costs for local units of government that are required to submit a solid waste incinerator plan.

House Bill 4460 (H-1) would result in an overall increase in both costs and revenue for EGLE and likely would increase costs for local units of government. The bill would create a provision of Part 115 to governs materials utilization facilities that perform composting activities including anaerobic digesters and other facilities. The bill would increase costs for EGLE by requiring the Department to maintain ongoing reports and recordkeeping of composting and materials recovery facilities. Additionally, the bill would increase revenue for the Department as a result of required permit fees that would be collected from larger scale facilities. These permit fees would be collected every five years from the necessary facilities and range from \$750 to \$1,000 depending on the size of the facility. Subsequently, the required permit fees could result in an increase in costs for local governments that operate these facilities; however, the extent of any increase is indeterminate.

House Bill 4461 (H-1) would have an indeterminate fiscal impact on EGLE and local units of government. The bill would create a provision of Part 115 to govern the creation, implementation, enforcement, and funding of Materials Management Plans for each county in the State. Additionally, the bill would require the Department to create a Material Management Planning Grant Program that provided grants for county boards of commissioners or agencies to assist in the county's preparation, implementation, and maintenance of their respective

Materials Management Plans. The funding provided for this program would be determined by an appropriation granted by the Legislature; therefore, any fiscal impact on both EGLE and local units of government currently is unknown.

Date Completed: 12-7-22

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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.