

# Legislative Analysis



## CREATE AIR QUALITY IMPACT GRANT PROGRAM

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<http://www.house.mi.gov/hfa>

**Senate Bill 26 (S-5) as passed by the Senate**  
**Sponsor: Sen. Stephanie Chang**  
**House Committee: Natural Resources, Environment,  
Tourism and Outdoor Recreation**  
**Senate Committee: Energy and Environment**  
**Complete to 9-20-23**

Analysis available at  
<http://www.legislature.mi.gov>

### SUMMARY:

Senate Bill 26 would add section 5534 to the Natural Resources and Environmental Protection Act (NREPA) to create a new fund, the Air Quality Enforcement and Mitigation (AQEM) Fund, to receive fines from certain air quality violations. Money from the fund could be used for several purposes related to improving air quality in areas designated as an *environmental justice community*.

An *environmental justice community* would be defined as a geographic area that the Department of Environment, Great Lakes, and Energy (EGLE) has identified as a community facing a disproportionate environmental burden, using the department's MiEJScreen<sup>1</sup> or the U.S. Environmental Protection Agency's EJSCREEN<sup>2</sup> and indicators such as sensitive populations, socioeconomic factors, exposures, and environmental effects.

The bill would establish the AQEM Fund in the state treasury and require all administrative and civil fines collected under Part 55 (Air Pollution Control) of NREPA to be deposited in the fund. If a person responsible for an alleged violation agrees to a settlement of an enforcement action under section 5528 or 5530 of NREPA, money that person spends on an air quality facility supplemental environmental project would not be considered a fine for purposes of this requirement. The state treasurer would direct the investment of the AQEM Fund and credit to the fund interest and earnings from fund investments. Money in the AQEM Fund at the close of the fiscal year would remain in the fund and not lapse to the general fund. For auditing purposes, EGLE would be the administrator of the AQEM Fund.

Upon appropriation, money from the AQEM Fund could be spent only in the following percentages for the specified activities:

- 30% for functions of EGLE that benefit environmental justice communities and are related to one or more of the following:
  - Increased air monitoring.
  - Additional compliance assistance and training at the location of a source to support source owner and operator compliance efforts and prevent future violations.
  - Increased inspections under Part 55.

<sup>1</sup> MiEJScreen Factsheet <https://www.michigan.gov/egle/-/media/Project/Websites/egle/Documents/Maps-Data/MiEJScreen/MiEJScreen-Factsheet.pdf?rev=626af950b12349e499657e243b93af31>

<sup>2</sup> EPA EJScreen <https://www.epa.gov/ejscreen>

- Administration of the air quality community impact grant program.
- 70% for air quality community impact grants for one or more of the following activities in the communities where the violations occurred or nearby communities, giving priority to environmental justice communities:
  - Mitigation of air pollution such as by buffers of vegetation, air filtration systems in homes or schools, and diesel engine retrofit or diesel equipment replacement programs.
  - Assessments of the health impacts of air pollution.
  - Education and training programs for community residents and local environmental regulators to increase effectiveness of enforcement programs in deterring violations of Part 55 and rules promulgated or orders issued under it.

The bill would require EGLE to establish an air quality community impact grant program, which would provide grants to nonprofit entities, school districts, institutions of higher education, and local units of government, including local health or environmental departments, for the purposes described above. The department would have to develop guidelines to implement the grant program that address at least the following:

- How grants are to be allocated.
- The procedures for applying for grants.
- The criteria for awarding grants.
- Administrative and fiscal requirements governing the receipt and expenditure of grants.

Development of the guidelines would have to be done in consultation with an advisory committee that would include at least one of each of the following:

- A public health expert.
- A representative of an environmental justice organization.
- A representative of the Department of Health and Human Services.
- A representative of a local health department or local environmental department.
- Two residents of environmental justice communities.

Additionally, EGLE would have to work with environmental justice and environmental interest groups to develop a process to identify environmental justice communities, including researching best practices in the United States. The identification process would have to include community engagement to obtain information and feedback.

EGLE would have to post on its website and otherwise make publicly available an annual report on the purposes for which air quality community impact grants were awarded, including the communities affected.

The bill would take effect 90 days after it is enacted.

Proposed MCL 324.5534

#### **FISCAL IMPACT:**

Senate Bill 26 is likely to increase revenue for EGLE by redirecting revenue from financial penalties collected on violation of the air pollution control statute (Part 55 of NREPA) from Michigan's general fund to the Air Quality Enforcement and Mitigation Fund created under

the bill. The extent of this revenue increase is unclear at present and likely to vary with changes in violation rates. The bill provides for additional administrative costs incurred under the bill to be covered by the aforementioned revenue. Revenue for certain local governments may increase under the bill if awarded an Air Quality Community Impact Grant. The bill is unlikely to increase costs for local governments. The department's Air Quality Division is funded by \$35.5 million Gross (\$12.8 million GF/GP) in FY 2022-23.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.