



Senate Fiscal Agency
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House Bill 4188 (Substitute H-1 as passed by the House)
Sponsor: Representative Abraham Aiyash
House Committee: Natural Resources, Environment, Tourism and Outdoor Recreation
Senate Committee: Energy and Environment

Date Completed: 1-31-24

CONTENT

The bill would amend Part 55 (Air Pollution Control) of the Natural Resources and Environmental Protection Act to do the following:

- **Require the Department of Environment, Great Lakes, and Energy (EGLE) to establish a program to carry out the requirements found in the National Emissions Standard for Asbestos,¹ including the inspection of asbestos renovations and demolitions.**
- **Prescribe notification and modification fees of \$100 and \$10, respectively, to be paid by an owner or operator notifying EGLE of asbestos removal or demolition.**
- **Establish the Asbestos Inspection Fund (Fund) in the State Treasury.**

The bill would take effect 90 days after its enactment.

The bill would require EGLE to establish a program to implement the National Emission Standard for Asbestos (see **BACKGROUND**). Each year, EGLE would have to complete inspections for compliance with these emissions standards of at least the following applicable percentage of asbestos renovations and demolitions for which original notice of intention was received:

- For 2023 and 2024, 15%.
- For 2025 and 2026, 20%.
- For 2027 and each following year, 25%.

An owner or operator that submitted a notice of intention of asbestos removal or demolition would be responsible for the payment of a notification fee of \$100. The owner or operator also would be responsible for payment of a \$10 modification fee each time the submitted notice was modified. These fees would have to be paid electronically in a manner provided for by EGLE. A public entity could pass through the cost for the notice fee and any modification fee to the asbestos abatement contractor,² unless the pass through violated the terms of a contract entered before the bill's effective date. The Department would have to assess and collect the fees and transmit fee revenue to the State Treasurer for deposit into the Fund.

The bill would create the Fund in the State Treasury. The State Treasurer could receive money or other assets from any source for deposit into the Fund. The State Treasurer would direct the investment of money in the Fund and credit to the Fund interest and earnings from the

¹ The National Standard for Asbestos can be found at 40 CFR Part 61 Subpart M.

² "Asbestos abatement contractor" means a business entity that is licensed under the Asbestos Abatement Contractors Licensing Act and that carries on the business of asbestos abatement on the premises of another business entity and not on the asbestos abatement contractor's premises.

investments. The Department of Environment, Great Lakes, and Energy would be the administrator of the Fund for auditing purposes. The bill would require EGLE to spend money from the Fund, upon appropriation, only to conduct inspections and related activities as described above.

Proposed MCL 324.5519 & 324.5519a

PREVIOUS LEGISLATION

(This section does not provide a comprehensive account of previous legislative efforts on this subject matter.)

The bill is a reintroduction of Senate Bill 341 of the 2021-2022 Legislative Session. It is similar to House Bill 4767 of that Session, which passed the House but received no further action.

BACKGROUND

In 1971, the U.S. Environmental Protection Agency (EPA) identified asbestos as a hazardous pollutant. The inhalation of asbestos fibers may cause cancer, including lung, larynx, and ovarian cancer, as well as mesothelioma, cancer of the linings of certain internal organs. It may also lead to asbestosis, an inflammatory condition of the lungs that can cause permanent lung damage.³ In 1973, the EPA promulgated the Asbestos National Emission Standards for Hazardous Air Pollutants (NESHAP), 49 CFR Part 61 Subchapter M.

The Asbestos NESHAP regulations require a thorough inspection of a facility where a demolition or renovation operation is planned to occur for asbestos-containing material. If such material is found, the owner or operator of the operation must notify a delegated entity, in Michigan, EGLE's Air Quality Division. Generally, to remove asbestos-related materials, the owner or operator of the operation must remove, adequately wet, and seal the materials in leak-tight containers, before disposing of them in a landfill qualified to receive asbestos waste. To ensure compliance with these regulations, the Asbestos NESHAP requires at least one onsite representative trained in these provisions to oversee the removal of asbestos-containing materials.

Legislative Analyst: Nathan Leaman

FISCAL IMPACT

The bill would have positive and negative fiscal impacts on EGLE and a minor negative impact on affected local governments. The costs associated with the bill would increase over the next few years as the percentage of inspections required of EGLE increase from 15% to 25% in 2027. Administrative costs for EGLE would be offset by notification fees of \$100 collected from owners and operators performing asbestos renovations or demolitions. An additional \$10 fee would be collected in the event of a change to the original notification. The Department has estimated that the fees in the bill could generate \$1.6 million in revenue. Local governments could see a minor increase in costs if they wish to renovate or demolish a facility affected by the asbestos regulations in the bill.

The bill would have no fiscal impact on the Department of Treasury. Based on the level of estimated revenue likely to be appropriated to the Fund, ongoing costs associated with the investment and management required would be less than \$100. Current appropriations would be sufficient to carry out these activities.

Fiscal Analyst: Jonah Houtz; Elizabeth Raczkowski; Cory Savino, PhD

³ "Asbestos Exposure and Cancer Risk", The National Cancer Institute. Retrieved on 01-30-2024.

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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.