



HOUSE BILL No. 6071

September 12, 1996, Introduced by Reps. Gnodtke, Middaugh, Alley, Brackenridge, Bodem, Baade, Munsell, Wetters, Anthony, Prusi, Agee, Gernaat, DeLange and Randall and referred to the Committee on Agriculture and Forestry.

A bill to amend section 3101 of Act No. 451 of the Public Acts of 1994, entitled "Natural resources and environmental protection act," being section 324.3101 of the Michigan Compiled Laws; and to add sections 3131, 3132, and 3133.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 3101 of Act No. 451 of the Public Acts
2 of 1994, being section 324.3101 of the Michigan Compiled Laws, is
3 amended and sections 3131, 3132, and 3133 are added to read as
4 follows:

5 Sec. 3101. As used in this part:

6 (A) "LOCAL UNIT" MEANS A COUNTY, CITY, VILLAGE, OR TOWNSHIP
7 OR AN AGENCY OR INSTRUMENTALITY OF ANY OF THESE ENTITIES.

1 (B) "LOCAL UNIT" MEANS A COUNTY, CITY, VILLAGE, OR TOWNSHIP
2 OR AN AGENCY OR INSTRUMENTALITY OF ANY OF THESE ENTITIES.

3 (C) ~~(a)~~ "Municipality" means ~~the~~ THIS state, a county,
4 city, village, or township, or an agency or instrumentality of
5 any of these entities.

6 (D) "SEWAGE SLUDGE GENERATOR" MEANS A PERSON WHO GENERATES
7 SEWAGE SLUDGE IN THE TREATMENT OF DOMESTIC SEWAGE, IF THAT SEWAGE
8 SLUDGE IS APPLIED TO LAND.

9 (E) ~~(b)~~ "Waters of the state" means groundwaters, lakes,
10 rivers, and streams and all other watercourses and waters within
11 the jurisdiction of ~~the~~ THIS state and also the Great Lakes
12 bordering ~~the~~ THIS state.

13 SEC. 3131. BY OCTOBER 1, 1997, THE DEPARTMENT OF ENVIRON-
14 MENTAL QUALITY IN CONSULTATION WITH THE DEPARTMENT OF AGRICULTURE
15 SHALL PROMULGATE RULES TO MANAGE THE LAND APPLICATION OF SEWAGE
16 SLUDGE. THE RULES SHALL BE CONSISTENT WITH THE MINIMUM REQUIRE-
17 MENTS OF 40 C.F.R. PART 503 BUT MAY IMPOSE REQUIREMENTS IN ADDI-
18 TION TO OR MORE STRINGENT THAN 40 C.F.R. PART 503 TO PROTECT
19 PUBLIC HEALTH OR THE ENVIRONMENT FROM ANY ADVERSE EFFECT FROM A
20 POLLUTANT IN SEWAGE SLUDGE.

21 SEC. 3132. (1) A SEWAGE SLUDGE LAND APPLICATION FEE IS
22 IMPOSED UPON SEWAGE SLUDGE GENERATORS. THE SEWAGE SLUDGE LAND
23 APPLICATION FEE SHALL BE IN AN AMOUNT EQUAL TO THE SUM OF AN
24 ADMINISTRATIVE FEE AND A GENERATION FEE. THE DEPARTMENT SHALL
25 PROVIDE FOR THE DETERMINATION OF THE AMOUNT OF THE ADMINISTRATIVE
26 FEE AND THE GENERATION FEE IN SUCH A WAY THAT THE ANNUAL
27 CUMULATIVE TOTAL OF THE SEWAGE SLUDGE LAND APPLICATION FEE TO BE

1 PAID IN A STATE FISCAL YEAR IS, AS NEARLY AS POSSIBLE,
2 \$650,000.00, STARTING WITH FEES TO BE PAID IN THE STATE FISCAL
3 YEAR COMMENCING OCTOBER 1, 1998, THIS AMOUNT SHALL BE ANNUALLY
4 ADJUSTED FOR INFLATION USING THE DETROIT CONSUMER PRICE INDEX,
5 MINUS THE AMOUNT IN THE FUND CREATED UNDER SUBSECTION (5) CARRIED
6 FORWARD FROM THE PRIOR STATE FISCAL YEAR.

7 (2) WITHIN 30 DAYS FOLLOWING THE END OF EACH STATE FISCAL
8 YEAR, EACH SEWAGE SLUDGE GENERATOR SHALL REPORT TO THE DEPARTMENT
9 THE TOTAL AMOUNT OF SEWAGE SLUDGE IT GENERATED THAT WAS APPLIED
10 TO LAND IN THE PRECEDING STATE FISCAL YEAR. USING THIS AMOUNT,
11 THE DEPARTMENT OF ENVIRONMENTAL QUALITY SHALL APPORTION THE CUMU-
12 LATIVE GENERATION FEE AMONG THE SEWAGE SLUDGE GENERATORS IN THIS
13 STATE. THE APPORTIONMENT SHALL BE MADE ON THE BASIS OF EACH
14 SEWAGE SLUDGE GENERATOR'S PRO RATA SHARE OF THE CUMULATIVE TOTAL
15 AMOUNT OF SEWAGE SLUDGE APPLIED TO LAND IN THIS STATE IN THE PRE-
16 CEDING STATE FISCAL YEAR.

17 (3) WITHIN 60 DAYS FOLLOWING THE END OF EACH STATE FISCAL
18 YEAR, THE DEPARTMENT SHALL NOTIFY EACH SEWAGE SLUDGE GENERATOR OF
19 ITS SEWAGE SLUDGE LAND APPLICATION FEE. WITHIN 90 DAYS FOLLOWING
20 THE END OF EACH STATE FISCAL YEAR, THE SEWAGE SLUDGE GENERATOR
21 SHALL PAY ITS SEWAGE SLUDGE LAND APPLICATION FEE.

22 (4) THE DEPARTMENT OF ENVIRONMENTAL QUALITY SHALL ASSESS
23 INTEREST ON ALL FEE PAYMENTS SUBMITTED UNDER THIS SECTION AFTER
24 THE DUE DATE. THE PERMITTEE SHALL PAY AN ADDITIONAL AMOUNT EQUAL
25 TO 0.75% OF THE PAYMENT DUE FOR EACH MONTH OR PORTION OF A MONTH
26 THE PAYMENT REMAINS PAST DUE. THE FAILURE BY A PERSON TO TIMELY
27 PAY A FEE IMPOSED BY THIS SECTION IS A VIOLATION OF THIS PART.

1 (5) THE SEWAGE SLUDGE LAND APPLICATION FUND IS CREATED IN
2 THE STATE TREASURY. THE DEPARTMENT OF ENVIRONMENTAL QUALITY
3 SHALL FORWARD ALL FEES COLLECTED UNDER THIS SECTION TO THE STATE
4 TREASURER FOR DEPOSIT INTO THE FUND. THE STATE TREASURER MAY
5 RECEIVE MONEY OR OTHER ASSETS FROM ANY SOURCE FOR DEPOSIT INTO
6 THE FUND. THE STATE TREASURER SHALL DIRECT THE INVESTMENT OF THE
7 FUND. THE STATE TREASURER SHALL CREDIT TO THE FUND INTEREST AND
8 EARNINGS FROM FUND INVESTMENTS. AN UNEXPENDED BALANCE WITHIN THE
9 FUND AT THE CLOSE OF THE FISCAL YEAR SHALL BE CARRIED FORWARD TO
10 THE FOLLOWING FISCAL YEAR. THE FUND SHALL BE APPROPRIATED SOLELY
11 FOR THE ADMINISTRATION OF THIS ACT, INCLUDING, BUT NOT LIMITED
12 TO, EDUCATION OF THE FARMERS, SEWAGE SLUDGE GENERATORS, AND THE
13 GENERAL PUBLIC ABOUT LAND APPLICATION OF SEWAGE SLUDGE AND THE
14 REQUIREMENTS OF THIS SECTION AND SECTIONS 3131 AND 3133. TEN
15 PERCENT OF THE FUND SHALL BE APPROPRIATED TO THE DEPARTMENT OF
16 AGRICULTURE FOR THE ADMINISTRATION OF THIS ACT.

17 SEC. 3133. (1) EXCEPT AS OTHERWISE PROVIDED IN THIS SEC-
18 TION, SECTIONS 3131 AND 3132 PREEMPT A LOCAL ORDINANCE, REGULA-
19 TION, OR RESOLUTION OF A LOCAL UNIT THAT PURPORTS TO DUPLICATE,
20 EXTEND, OR REVISE THE PROVISIONS OF SECTIONS 3131 AND 3132.

21 EXCEPT AS OTHERWISE PROVIDED FOR IN THIS SECTION, A LOCAL UNIT
22 SHALL NOT ENACT, MAINTAIN, OR ENFORCE AN ORDINANCE, REGULATION,
23 OR RESOLUTION THAT CONFLICTS WITH SECTIONS 3131 AND 3132.

24 (2) THE DIRECTOR OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY
25 MAY CONTRACT WITH A LOCAL UNIT TO ACT AS ITS AGENT FOR THE PUR-
26 POSE OF ENFORCING THIS SECTION AND SECTIONS 3131 AND 3132. THE
27 DEPARTMENT SHALL HAVE SOLE AUTHORITY TO ASSESS FEES. IF A LOCAL

1 UNIT IS UNDER CONTRACT WITH THE DEPARTMENT OF ENVIRONMENTAL
2 QUALITY TO ACT AS ITS AGENT OR THE LOCAL UNIT HAS RECEIVED PRIOR
3 WRITTEN AUTHORIZATION FROM THE DEPARTMENT, THEN THE LOCAL UNIT
4 MAY PASS AN ORDINANCE THAT IS IDENTICAL TO SECTIONS 3131 AND 3132
5 AND RULES PROMULGATED UNDER SECTIONS 3131 AND 3132, EXCEPT AS
6 PROHIBITED IN SUBSECTION (4).

7 (3) A LOCAL UNIT MAY ENACT AN ORDINANCE PRESCRIBING STAN-
8 DARDS IN ADDITION TO OR MORE STRINGENT THAN THOSE CONTAINED IN
9 SECTIONS 3131 AND 3132 AND WHICH REGULATE A SEWAGE SLUDGE LAND
10 APPLICATION SITE UNDER EITHER OR BOTH OF THE FOLLOWING
11 CIRCUMSTANCES:

12 (A) THE OPERATION OF A SEWAGE SLUDGE LAND APPLICATION SITE
13 WITHIN THAT LOCAL UNIT WILL RESULT IN UNREASONABLE ADVERSE
14 EFFECTS ON THE ENVIRONMENT OR PUBLIC HEALTH WITHIN THE LOCAL
15 UNIT. THE DETERMINATION THAT UNREASONABLE ADVERSE EFFECTS ON THE
16 ENVIRONMENT OR PUBLIC HEALTH WILL EXIST SHALL TAKE INTO CONSIDER-
17 ATION SPECIFIC POPULATIONS WHOSE HEALTH MAY BE ADVERSELY AFFECTED
18 WITHIN THE LOCAL UNIT.

19 (B) THE OPERATION OF A SEWAGE SLUDGE LAND APPLICATION SITE
20 WITHIN THAT LOCAL UNIT HAS RESULTED OR WILL RESULT IN THE LOCAL
21 UNIT BEING IN VIOLATION OF OTHER EXISTING STATE LAWS OR FEDERAL
22 LAWS.

23 (4) AN ORDINANCE ENACTED PURSUANT TO SUBSECTION (2) OR (3)
24 SHALL NOT CONFLICT WITH EXISTING STATE LAWS OR FEDERAL LAWS. AN
25 ORDINANCE ENACTED PURSUANT TO SUBSECTION (3) SHALL NOT BE
26 ENFORCED BY A LOCAL UNIT UNTIL APPROVED BY THE DIRECTOR OF THE
27 DEPARTMENT OF ENVIRONMENTAL QUALITY. IF THE DIRECTOR DISAPPROVES

1 AN ORDINANCE ENACTED PURSUANT TO SUBSECTION (3), THE DIRECTOR
2 SHALL PROVIDE A DETAILED EXPLANATION OF THE BASIS OF THE DISAP-
3 PROVAL WITHIN 60 DAYS.

4 (5) IF THE LEGISLATIVE BODY OF A LOCAL UNIT SUBMITS TO THE
5 DEPARTMENT OF ENVIRONMENTAL QUALITY A RESOLUTION IDENTIFYING
6 UNREASONABLE ADVERSE EFFECTS ON THE ENVIRONMENT OR PUBLIC HEALTH
7 DUE TO THE OPERATION OF A SEWAGE SLUDGE LAND APPLICATION SITE,
8 THE DEPARTMENT SHALL HOLD A PUBLIC MEETING WITHIN 60 DAYS AFTER
9 THE SUBMISSION OF THE RESOLUTION TO DETERMINE THE NATURE AND
10 EXTENT OF UNREASONABLE ADVERSE EFFECTS ON THE ENVIRONMENT OR
11 PUBLIC HEALTH. WITHIN 45 DAYS AFTER THE LOCAL PUBLIC MEETING,
12 THE DEPARTMENT SHALL ISSUE A DETAILED OPINION REGARDING THE EXIS-
13 TENCE OF UNREASONABLE ADVERSE EFFECTS ON THE ENVIRONMENT OR
14 PUBLIC HEALTH AS IDENTIFIED BY THE RESOLUTION OF THE LOCAL UNIT.

15 (6) FOR ANY ORDINANCE ENACTED UNDER THIS SECTION, THE LOCAL
16 UNIT SHALL PROVIDE THAT PERSONS ENFORCING THE ORDINANCE COMPLY
17 WITH THE TRAINING AND ENFORCEMENT REQUIREMENTS AS DETERMINED BY
18 THE DIRECTOR OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY. A LOCAL
19 UNIT SHALL REIMBURSE THE DEPARTMENT FOR ACTUAL COSTS INCURRED IN
20 TRAINING PERSONNEL OF THE LOCAL UNIT.