

# Legislative Analysis

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## **BASELINE ENVIRONMENTAL ASSESSMENT FEE**

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**House Bill 4774 (Substitute H-1)**

**Sponsor: Rep. Chris Kolb**

**Committee: Natural Resources, Great Lakes, Land Use, and Environment**

**First Analysis (5-23-05)**

**BRIEF SUMMARY:** The bill would extend the sunset for the \$750 Baseline Environmental Assessment fee from June 5, 2005 to June 5, 2007.

**FISCAL IMPACT:** This bill would allow the Department to continue to collect the Baseline Environmental Assessment fee for another year (2006). If this bill is not enacted, the BEA program ceases to exist on June 5, 2005. There would be no fiscal impact on local governmental units.

### ***THE APPARENT PROBLEM:***

Under Part 201 (Environmental Remediation) of the Natural Resources and Environmental Protection Act, a person who becomes the owner or operator of a contaminated site is liable for cleanup costs, unless a baseline environmental assessment (BEA) is conducted on the property before or within 45 days after the property is purchased, foreclosed, or occupied. Within six months after the BEA is completed, a person may petition the Department of Environmental Quality (DEQ) for a determination whether certain criteria have been met for an exemption from liability for those cleanup costs. Through June 5, 2005, the petition is to be accompanied by a fee of \$750, which is deposited into the Cleanup and Redevelopment Fund and covers a portion of the DEQ's costs in implementing the baseline environmental assessment program. Legislation extending the sunset has been introduced.

### ***THE CONTENT OF THE BILL:***

The bill would amend Part 201 of the Natural Resources and Environmental Protection Act to extend the sunset from June 5, 2005 to June 5, 2007 for the \$750 Baseline Environmental Assessment fee.

Under Part 201, a "baseline environmental assessment" is defined to mean an evaluation of environmental conditions that exist at a facility (i.e., a contaminate site) at the time of purchase, occupancy, or foreclosure that reasonably defines the existing conditions and circumstance at the facility so that, in the event of a subsequent release, there is a means of distinguishing the new release from existing contamination.

MCL 324.20129a

## ***BACKGROUND INFORMATION:***

The current \$750 fee was established when the current program was established with the enactment of Public Act 71 of 1995 (House Bill 4596). The fee initially had a sunset date of June 5, 1997, which has been extended on three previous occasions: to 1999 (Public Act 61 of 1997), to 2003 (Public Act 30 of 1999), and to 2005 (Public Act 114 of 2004).

## ***ARGUMENTS:***

### ***For:***

The bill is necessary to ensure the continuation of the baseline environmental assessment program. Under the former Environmental Response Act (Public Act 307 of 1982), later recodified as Part 201 of NREPA in 1994, liability for the clean-up of a contaminated site was imposed irrespective of the fault of any person who owned or operated property during or at any time after the release of a hazardous substance. However, under current law, owners and potential buyers of contaminated property may now obtain protection against liability for clean-up by conducting a baseline environmental assessment on the contaminated site, provided they meet certain other criteria. These changes, largely made in 1995, have served as an important tool aimed at cleaning up contaminated lands and returning that land to a productive use.

## ***POSITIONS:***

The Department of Environmental Quality supports the bill. (5-19-05)

The Michigan Environmental Council supports the bill. (5-19-05)

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