

Legislative Analysis



ASBESTOS ABATEMENT

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

Senate Bill 225 (S-1) as passed by the Senate
Sponsor: Sen. Stephanie Chang

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

Senate Bill 226 (S-2) as passed by the Senate
Sponsor: Sen. Erika Geiss

House Committee: Natural Resources, Environment, Tourism, and Outdoor Recreation
Senate Committee: Natural Resources and Agriculture
Complete to 3-6-24

SUMMARY:

Senate Bill 225 would create the Public Entity Asbestos Removal Verification Act to prohibit a *public entity* from entering into an asbestos abatement project with an *asbestos abatement contractor*, or a general contractor that contracts with an asbestos abatement contractor, for the abatement of asbestos *unless* the public entity conducts a background investigation of the contractor seeking to bid on the project.

Public entity would mean the state, an agency or authority of the state, a school district, a community college district, an intermediate school district, a city, a village, a township, a county, a land bank, a public authority, or a public airport authority.

Asbestos abatement contractor would mean a business entity, or a person or individual with an ownership interest in 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 its own premises.

At a minimum, the public entity would have to consult both of the following in conducting a background investigation:

- The webpage of the Department of Environment, Great Lakes, and Energy (EGLE) to determine if the contractor has received notices of violation of environmental regulations or has been subject to an administrative consent order or judgment involving environmental regulations.
- The webpage of the Occupational Safety and Health Administration (OSHA) in the U.S. Department of Labor to determine if the contractor has received notices of violation of asbestos regulations.

If within the immediately preceding five years the contractor was issued five or more notices of violation of environmental regulations or was subject to an administrative consent order or consent judgment involving environmental regulations, the public entity could not enter into a contract with that contractor *unless* the entity does both of the following:

- Investigates each violation notice, or the administrative consent order or judgment, and determines that the contractor is able to adhere to the proposed contract based on observable improvements in performance, observable improvements in operations to ensure compliance with environmental regulations, or other demonstrated ability to

comply with environmental regulations. The determination would have to be in writing and be made publicly available.

- Conducts a public hearing for public input with at least 30 days' notice.

If a contractor enters into a contract with a public entity for a project, the contractor could not enter into a contract with another contractor unless that contractor conducts a background check investigation in the manner described above for public entities.

Senate Bill 225 is tie-barred to HB 4190, which means that SB 225 cannot take effect unless HB 4190 is also enacted.

[NOTE: Senate Bill 225 (S-1), as passed by the Senate, is largely identical to HB 4189 as passed by the House, except that the House bill does not have a tie-bar.]

Senate Bill 226 would amend the Natural Resources and Environmental Protection Act (NREPA) by adding a new section 5519b that would require EGLE to prepare and submit to the legislature, by March 1 of each year, a report that includes the following related to the asbestos program proposed by House Bill 4188:

- For the previous calendar year, all of the following:
 - The number of inspectors employed by EGLE.
 - The number of inspections conducted.
 - The percentage of original notices of intention received for which inspections were conducted.
 - The number of enforcement actions taken.
- An assessment and recommendation of whether EGLE has a sufficient number of inspectors to carry out the National Emissions Standard for Asbestos in 40 CFR 61, subpart M. The assessment would have to be based on metrics established by EGLE for the percentage of original notices of intention for renovations or demolitions received in a year for which inspections were conducted during that year. EGLE would have to set a minimum percentage for a determination of sufficiency of at least 15%.

The report would also have to be posted on EGLE's website and published in the Michigan Register. The bill would allow the report to be combined with the Emissions Control Fund report required under section 5522 of NREPA.

The bill would take effect January 31, 2025, making March 1, 2025, the first date that this report would be due to the legislature.

Senate Bill 226 is tie-barred to HB 4188, which means that SB 226 cannot take effect unless HB 4188 is also enacted.

[NOTE: Senate Bill 226 (S-2), as passed by the Senate, is largely identical to HB 4187 as passed by the House, with the exception of the January 31, 2025, effective date and the tie-bar to HB 4188.]

Proposed MCL 324.5519b

FISCAL IMPACT:

Senate Bill 225 could result in cost increases to public entities (as defined in the bill) that are undertaking asbestos abatement projects. Public entities may experience nominal costs for complying with the initial background investigation requirements established in the bill. However, if an asbestos abatement contractor had been issued five or more notices of violation of environmental regulations or was subject to an administrative consent order or consent judgement, public entities would likely incur higher costs for more detailed background investigations. Furthermore, in instances specified in the bill, public entities may also incur costs for necessary public hearings.

Senate Bill 226 would increase costs for EGLE. The bill requires EGLE to submit an annual report to the legislature about the department's asbestos program. The exact extent of these reporting costs is unclear, but these costs are likely to be relatively modest, as EGLE already has processes in place to produce legislative reports. The bill is unlikely to affect departmental revenues or local government costs or revenues.

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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.