



Senate Fiscal Agency
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BILL ANALYSIS



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Senate Bill 299 (Substitute S-2 as reported)
Senate Bill 300 (Substitute S-1 as reported)
Sponsor: Senator Sam Singh
Committee: Natural Resources and Agriculture

CONTENT

Senate Bill 299 (S-2) would amend the Public Health Code to do the following:

- Add Part 128 (Onsite Wastewater Treatment Systems) to the Code and grant the Department of Environment, Great Lakes, and Energy (EGLE) and local health departments the authority to regulate and investigate such systems.
- Establish criteria that a local health department would have to meet to assume regulatory authority, including the adoption of regulations that complied with the Code and provided protection for the public health and environment.
- Create the Public Education and Training Fund as a revolving fund within the Department of Treasury for the education and outreach regarding onsite wastewater systems, training to health departments, and Part 128 implementation, among other things.
- Within 180 days of the bill's effective date require local health departments to create a plan to administer Part 127 (Water Supply and Sewer Systems) and Part 128 for the management of conventional systems and submit the plan to EGLE.
- Specify that the owner of a system would be responsible for responding and remedying nuisance or conditions of system failure.
- Specify that the Statewide Sewage Code created under Senate Bill 300 (S-1) rule's would supersede EGLE's rules governing the construction and maintenance of outhouses.
- Within 180 days after the creation of the Statewide Sewage Code under Senate Bill 300 (S-1), require a local health department to create a plan to administer Part 127 and 128 and submit the plan to EGLE for approval.
- Within 120 days of receipt of a health department's plan, require EGLE to review it and ensure it meets the requirements of the Statewide Sewage Code.
- Require a local health department to implement an approved plan within one year after EGLE promulgated rules for the Statewide Sewage Code.
- Prescribe how and when an evaluation of an onsite wastewater treatment system would have to be conducted.
- Require certain onsite wastewater treatment systems to be evaluated every 10 years, unless a local health department determined otherwise.
- Require an evaluation to be conducted within 90 days after the owner arranged it.
- Prohibit an owner of an onsite septic tank from having the tank pumped within 45 days before an evaluation was arranged.
- Require a local health department to prepare an evaluation report within 14 days of the evaluation.
- Prescribe civil penalties to an owner of an onsite wastewater treatment system who failed to have the system evaluated or failed to complete corrective actions.
- Prescribe a civil fine of up to \$1,000 for each 30-day period that an owner did not remedy a failure within six-months after an that notice within an evaluation report.
- Allow EGLE to waive any fines for failure to arrange an evaluation to remedy a failure if the owner's income were within 400% of the Federal poverty line or would cause significant financial stress.

- Allow EGLE to charge a fee for conducting an evaluation and if authorized, allow a local health department to charge an additional \$50 State administrative fee.
- Require evaluators to meet the Statewide Sewage Code's standards and allow EGLE to charge an \$180 application fee.
- Specify that an evaluation registration would be valid for three years.
- Specify the conditions for which an evaluator registration could be denied or revoked in a contested case, such as for fraud, negligence, failure to meet training standards, or conviction in a civil or criminal proceeding, among other things.
- Require EGLE to maintain a list of registered evaluators and make the list available on EGLE's website.
- Require EGLE to develop and make available minimum standards and criteria for conducting evaluations.
- Ten years after the bill's effective date, require EGLE to report to the Legislature on improving evaluations.
- Require EGLE to make available and maintain an onsite water treatment system electronic database for recording and tracking locations and findings of systems.
- Prescribe misdemeanor penalties and fines for a person that failed to comply with Part 127 and Part 128.
- Allow a prosecutor of a county or the Attorney General to bring an action to collect a fine for noncompliance.
- Require fines to be deposited into the Onsite Wastewater Fund created under Senate Bill 300 (S-1).
- Require a local unit of government's point of sale ordinance or regulation to be consistent with or as stringent as Part 128's requirements.

Senate Bill 300 (S-1) would amend the Public Health Code to do the following:

- Create the Technical Advisory Committee to advise EGLE on standards for onsite wastewater systems, proprietary and nonproprietary products, alternative systems, and inspections, among other things.
- Prescribe the Committee's considerations in its advice to EGLE.
- Prescribe the membership and duties of the Committee.
- Within three years of the bill's effective date, require EGLE in consultation with the Committee to create rules that established a Statewide Code for onsite wastewater systems that included certain baseline protections for public health and the environment.
- Require the Statewide Code to include rules allowing the continued use of an approved onsite wastewater system in which a construction permit was issued before the bill took effect.
- Create the Onsite Wastewater Treatment System Administration Fund within the Department of Treasury.
- Specify the purposes for which EGLE could spend money from the Fund upon appropriation, including for grants to local health departments and individuals under the Federal poverty line to comply with Part 128.

The bills are tie-barred, and each bill would take effect 90 days after its enactment.

MCL 333.1275e et al. (S.B. 299)
Proposed MCL 333.12815 et al (S.B. 300)

BRIEF RATIONALE

Reportedly, Michigan is the only state without uniform standards for onsite wastewater treatment systems. According to testimony before the Senate Committee on Natural Resources and Agriculture, the State has over 1.3 million septic tank systems of which 20 to

30% are estimated to be in some level of failure. Some cases of failure can cause hazardous materials such as human fecal matter to spread into State waters. Most owners are unaware of a failure until a house is put up for sale. It has been suggested to regulate septic systems and require that certain older septic tanks undergo evaluation to protect public safety.

Legislative Analyst: Eleni Lionas

FISCAL IMPACT

Senate Bill 299 (S-2)

These bills would have a significant negative fiscal impact on EGLE and an indeterminate negative impact on local units of government. An indeterminate negative fiscal impact would be incurred to administer and implement the bills. The fees and fines introduced in the bills would have a positive fiscal impact on EGLE but are not expected to fully offset the costs to implement and administer the new requirements.

The bill would increase administrative costs for EGLE and local units of government responsible for issuing permits for the installation, construction, alteration and repair of onsite wastewater treatment systems. It also would require EGLE to maintain a database for tracking inspections, adding further administrative efforts and costs. The Department estimates a one-time expenditure of \$12.8 million for developing a statewide database and cloud-based application IT system, plus an additional \$1.0 million would be dedicated to a statewide educational and marketing campaign.

Beyond initial costs, EGLE projects ongoing funding of \$11.4 million would be needed to implement and maintain the program. Of this, \$3.8 million would support 24.0 full-time equivalents, \$1.4 million to maintain and support the new IT system, and \$6.2 million for local health departments for essential local public health services.

Additionally, there would be administrative costs for reviewing applications for product registration. The Department's administrative costs would be offset by charging an application fee of \$3,000 valid for 5 years. Further administrative costs would arise from developing standards for permitting systems which depend on the total number of systems used and developed. The Department also would collect revenue from fines of \$10,000 assessed from the submission of knowingly false, incorrect, misleading, or fabricated information. There also would be an indeterminate cost to local health departments that would be responsible for conducting inspections as necessitated by the bill. Failed inspections unresolved within six months would result in fines of up to \$1,000 for each additional month.

The bill would require a \$25 State administrative fee for onsite treatment system inspections to be forwarded to EGLE. Inspectors would have to register with EGLE and submit a \$180 application fee. Registrations would be reviewed and renewed by EGLE every three years for individuals continuing to meet requirements. These fees would have an indeterminate positive fiscal impact for EGLE depending on the number of inspections and inspectors required throughout the State. The Department estimates revenue generated by the fees and fines in the bill at approximately \$3.4 million.

As the anticipated revenue is significantly less than the projected costs associated with implementation, these bills would likely require further appropriations, resulting in a negative fiscal impact on the State.

The bill could have an indeterminate negative fiscal impact and an indeterminate positive fiscal impact on State and local government. New misdemeanor arrests and convictions under the proposed bill could increase resource demands on law enforcement, court systems,

community supervision, and jails; however, it is unknown how many people would be prosecuted under provisions of the bill. Local jail costs vary by jurisdiction and thus costs for local governments would vary.

Additionally, the bill would impose a civil fine of up to \$1,000 for owners of onsite wastewater treatment systems who do not comply. Local revenue to local and county law libraries could increase under the bill as any additional revenue from imposed misdemeanor fines would go to local libraries. Revenue from civil fines also would go to local libraries with \$10 of the civil fine would be deposited into the state Justice System Fund. This Fund supports justice-related activities across State government in the Departments of Corrections, Health and Human Services, State Police, and Treasury. The Fund also supports justice-related issues in the Legislative Retirement System and the Judiciary. The amount of revenue to the State or for local libraries is indeterminate and dependent on the actual number of violations.

The bill would have an indeterminate fiscal impact on local government units. This indeterminate fiscal impact is due to the increased cost of inspections and administrative costs along with the ability to charge a fee for these services. If the fee covered all the increased costs, then there would be a net-zero fiscal impact on local government units.

Senate Bill 300 (S-1)

This bill would have a minor negative fiscal impact on EGLE for administrative costs to support the newly created technical advisory committee and reimbursing committee members for duties as members.

The bill also would create the Onsite Wastewater Treatment System Administration Fund within the State Treasury. The bill would have no fiscal impact on the Department of Treasury. The ongoing costs associated with administering and investing in the Fund are estimated to be less than \$100 and are within current appropriations.

Date Completed: 12-23-24

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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.