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BILL ANALYSIS

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Senate Bill 246 (Substitute S-2 as passed by the Senate)
Sponsor: Senator Darrin Camilleri
Committee: Energy and Environment

Date Completed: 8-28-25

INTRODUCTION

The bill would require the Department of Environment, Great Lakes, and Energy (EGLE) to prepare, adopt, and update every five years a comprehensive State Hazardous and Limited-Activity Radioactive Material (LARM) Waste Management Plan. Among other requirements, the Plan would have to include an analysis of all hazardous or radioactive waste streams generated within the State and a determination of necessary in-State capacity to manage the amount of waste generated in the State. Until the plan was adopted, the bill would issue a moratorium on new licenses for the operation or expansion of hazardous waste treatment, storage, and disposal facilities, and the moratorium would continue if a new or expanded facility would cause the total licensed capacity to exceed the current Plan's limits. The bill also would prohibit further disposal in the State of specific concentrations of technologically enhanced naturally occurring radioactive material (TENORM), which are natural radioactive materials whose concentrations have been increased by human activity. The bill would require certain classes of injection wells to secure surety bonds for reclamation purposes. Finally, it would increase fees and surcharges for the disposal of specific hazardous waste and establish several funds for deposit of these fees for use in affected communities.

The bill's provisions creating new funds for deposit of fees and surcharges from waste disposed in landfills would take effect March 1, 2026.

PREVIOUS LEGISLATION

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

The bill is similar to Senate Bill 1052 from the 2023-2024 Legislative Session. Senate Bill 1052 passed the Senate and was referred to the House Committee on Natural Resources, Environment, Tourism and Outdoor Recreation but received no further action.

BRIEF FISCAL IMPACT

The bill would have a significant positive fiscal impact on EGLE as well as locals by generating increased fee revenues under the bill. There would be a minor negative fiscal impact on the Department of Treasury for administering the funds created in the bill.

MCL 324.11102 et al.

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CONTENT

The bill would amend the Natural Resources and Environmental Protection Act (NREPA) to do the following:

- **-- Require EGLE to prepare and adopt a comprehensive State Hazardous and LARM Waste Management Plan and update the Plan every five years.**
- **-- Specify the requirements of the Plan and require EGLE to conduct studies as considered necessary for the updated Plan.**
- **-- Issue a moratorium on licenses for the operation of hazardous waste treatment, storage, or disposal facilities until EGLE produced the Plan and extend the moratorium if issuing an operating license for a new facility or the expansion of an existing facility would cause the total licensed capacity of hazardous waste to exceed the limit established in the current State Hazardous and LARM Waste Management Plan.**
- **-- Prohibit the disposal of TENORM with specific concentrations of radium in the State and prohibit a person from mixing TENORM with any material for the purpose of reducing the concentration of radium.**
- **-- Prohibit the construction, expansion, or installation of a new or converted multisource commercial hazardous waste disposal well or class IV well if the proposed location met specified criteria for population density and proximity to another well.**
- **-- Require an operator of a multisource commercial hazardous waste disposal well, a Class III well, or a test well to file proof of financial responsibility that covered specific well reclamation activities and for which the State would be the sole beneficiary.**
- **-- Create the Municipal Grant Fund and the Host Communities Grant Fund and provide for their funding from disposal well surcharges and fees and for their uses.**

The bill also would repeal Sections 11111 and 11112 of NREPA, which governed the adoption timeline for a previously required State hazardous waste management plan.

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Classes of Wells Defined

Under the bill, "class I well" would mean any of the following:

-- A well used by a generator of hazardous waste or the owner or operator of a hazardous waste management facility to inject hazardous waste beneath the lowermost formation that contains all or part of an underground source of drinking water within 1/4 mile of the well bore.
-- An industrial and municipal disposal well that injects fluids beneath the lowermost formation that contains all or part of an underground source of drinking water within 1/4 mile of the well bore.
-- A radioactive waste disposal well that injects fluids below the lowermost formation that contains all or part of an underground source of drinking water within 1/4 mile of the well bore.

"Class III well" would mean a well used for the extraction of minerals including, but not limited to, the following:

-- Mining of sulfur by the Frasch process.
-- In situ production of uranium or other metals, not including solution mining of conventional mines.
-- Solution mining of salts or potash.

"Class IV well" would mean any of the following:

-- A well used by a generator of hazardous waste or radioactive waste, by the owner or operator of a hazardous waste management facility, or by the owner or operator of a radioactive waste disposal site to dispose of hazardous waste or radioactive waste into a formation that contains all or part of an underground source of drinking water within 1/4 mile of the well bore.
-- A well used by a generator of hazardous waste or radioactive waste, by the owner or operator of a hazardous waste management facility, or by the owner or operator of a radioactive waste disposal site to dispose of hazardous waste or radioactive waste above a formation that contains all or part of an underground source of drinking water within 1/4 mile of the well bore.
-- A well that is used by a generator of hazardous waste or the owner or operators of a hazardous waste management facility to dispose of hazardous waste and that is not a Class I or Class III well as defined by Federal regulations.

"Underground waste" would mean damage or injury to potable water, mineralized water, or other subsurface resources incidental to or resulting from drilling, equipping, or operating a well subject to Part 625 (Mineral Wells).

"Captive hazardous waste disposal well" would mean a Class I well that is used by the owner or operator to inject hazardous waste generated exclusively by the owner or operator or its subsidiaries.

"Captive hazardous waste treatment, storage, or disposal facility" would mean a facility that is used by the owner or operator to treat, store, or dispose of hazardous waste generated exclusively by the owner or operator or its subsidiaries.

"Captive nonhazardous waste disposal well" would mean a Class I well that is used by the owner or operator to inject only nonhazardous waste generated exclusively by the owner or operator or its subsidiaries.

"Limited Activity Radioactive Material" would mean material that contains radionuclides at concentrations that exceed natural background levels but that does not meet the definition of

radioactive material under the Public Health Code. The term would include TENORM and other materials with similar radiological characteristics but would not include the following:

-- Source material, special nuclear material, or byproduct material as defined in the Atomic Energy Act, 42 USC 2011 to 2297h-13.
-- Low-level radioactive waste as defined in the Low-Level Radioactive Waste Authority Act.
-- Any other material regulated as radioactive waste under State or Federal law.

"Multisource commercial hazardous waste disposal well" would mean a class I well that receives hazardous waste generated by more than one person; however, the term would not include a disposal well that received hazardous waste generated exclusively by the owner, its subsidiaries, the operator, its subsidiaries, or any combination thereof.

"Multisource commercial hazardous waste treatment, storage, or disposal facility" would mean a facility that receives hazardous waste generated by more than one person; however, the term would not include a facility that received hazardous waste generated exclusively by the owner, its subsidiaries, the operator, or its subsidiaries.

"Multisource commercial nonhazardous waste disposal well" would mean a class I well that receives nonhazardous waste that is generated by more than one person. The term would not include a disposal well that receives only nonhazardous waste generated exclusively by the owner, its subsidiaries, the operator, its subsidiaries, or any combination thereof.

"Newly regulated waste" would mean hazardous waste identified, listed, or characterized after the bill's effective date, including, but not limited to, the following:

-- Waste that becomes regulated as hazardous due to changes in state or federal law or regulations.
-- Emerging contaminants that are classified as hazardous waste.
-- New categories of pharmaceutical or other wastes that become subject to hazardous waste regulations.

Under NREPA, "TENORM" means naturally occurring radioactive material whose radionuclide concentrations have been increased as a result of human practices. The Act excludes from the definition the following:

-- Source material, as defined in the Atomic Energy Act and its progeny in equilibrium.
-- Material with concentrations of radium-226, radium-228, and lead-210 each less than five picocuries per gram.

The bill would delete the first exclusion.

State Hazardous and LARM Waste Management Plan

Under NREPA, the appropriate department had to create hazardous waste management plans for 1982 and 1990 based on the needs of the State in those years. Under the bill, five years after the bill's effective date and every five years after, EGLE would have to prepare and adopt a comprehensive, updated State Hazardous and LARM Waste Management Plan. The newly required plan would modify requirements of the previous plan and add new requirements.

The updated plan would have to meet all the following requirements:

-- Be based on the location of generators, health and safety, transportation economics, types of waste, and existing treatment, storage, or disposal facilities.

-- Based on information included in the plan, specify a maximum licensed capacity for hazardous or radioactive waste treatment, storage, or disposal facilities, which would have to be equal to the amount of hazardous or radioactive waste expected to be generated in the State during the succeeding five-year period and could not be changed until the next five-year update of the plan was adopted.
-- Identify areas of the State that would be eligible for siting hazardous waste treatment, storage, or disposal facilities in compliance with NREPA.
-- Provide for a reasonable geographic distribution of treatment, storage, and disposal facilities to meet existing and future needs and to comply with requirements regarding waste management facilities and the prevention of concentration of facilities in communities overburdened by pollution.
-- Provide for a shift from landfilling hazardous waste to the in-plant reduction of hazardous waste and the recycling and treatment of hazardous waste.

The plan also would have to include all the following:

-- An analysis of all hazardous and LARM waste streams generated in the State, including waste volumes, classifications, and locations of origin.
-- An inventory and assessment of current in-State hazardous and LARM waste management capacity using information generated by EGLE and the Department of Labor and Economic Opportunity.
-- Projections of future in-State LARM waste generation.
-- Recommendations for State policies and programs to minimize hazardous or LARM waste generation.
-- An evaluation of hazardous and LARM waste reduction, recycling, and treatment technologies and best practices.
-- A study and recommendation on whether Michigan should seek membership of an interstate low-level radioactive waste compact.
-- Necessary legislative, administrative, and economic provisions, and a timetable to carry out the updated plan.

The plan would have to map eligible areas in relation to the following:

-- Current and projected locations of hazardous waste generation.
-- Existing transportation infrastructure.
-- Emergency response capabilities.
-- Relevant environmental and geological conditions.

Finally, the plan would have to propose specific siting criteria that established minimum separation distances between treatment, storage, and disposal facilities and the following:

-- Schools, child care centers, and other educational institutions.
-- Hospitals, nursing homes, and other medical facilities.
-- Residential areas and places of public assembly.
-- Surface water bodies, wetlands, and groundwater recharge areas.
-- Parks, recreation areas, and protected natural areas.
-- Agricultural lands and food processing facilities.
-- Critical infrastructure, including public water supplies.

The bill would require EGLE to conduct studies as considered necessary for the updated plan. The studies could include the following:

-- An inventory and evaluation of the sources of hazardous and LARM waste generation within the State or from other states, including the types, quantities, and chemical and physical characteristics of the waste.
-- An inventory and evaluation of current hazardous and LARM waste management, minimization, or reduction practices and costs, including treatment, disposal, on-site recycling, reclamation, and other forms of source reduction within the state.
-- A projection or determination of future hazardous and LARM waste management needs based on an evaluation of existing capacities; treatment or disposal capabilities; manufacturing activity, limitations, and constraints; types, sizes, and general locations of treatment, storage, or disposal facilities within the State; and management control systems.
-- An investigation and analysis of methods, incentives, or technologies for source reduction, reuse, recycling, or recovery of potentially hazardous and LARM waste and a strategy for encouraging the utilization or reduction of hazardous and LARM waste.
-- An investigation and analysis of methods and incentives to encourage interstate and international cooperation in the management of hazardous and LARM waste.
-- An estimate of the public and private cost of treating, storing, or disposing of hazardous and LARM waste.
-- An investigation and analysis of alternate methods for treatment and disposal of hazardous and LARM waste.

Public Notice of the Plan

Upon completion of the plan, EGLE would have to post the plan on its website, publish a notice in two or more major newspapers, and issue a statewide news release announcing the availability of the updated plan for inspection or purchase at cost by interested persons. The announcement and news release would have to indicate where and how the updated plan could be obtained or reviewed and would have to indicate that at least six public hearings would have to be conducted at varying locations in the State before formal adoption. The first public hearing could not be held until at least 60 days had passed from the date of the notice and news release announcing the availability of the updated plan. The remaining public hearings would have to be held within 120 days of the first public hearing at approximately equal time intervals.

After the public hearings, EGLE would have to prepare a written summary of the comments received, provide responses to the major concerns raised, make amendments to the updated plan that it considered advisable, and adopt the updated plan.

Moratorium on and Requirements of Operating Licenses

Until five years after the bill's effective date, or until the first updated State Hazardous and LARM Waste Management Plan was adopted and implemented, whichever was later, EGLE could not do any of the following:

-- Issue an operating license for a new multisource commercial hazardous waste treatment, storage, or disposal facility.
-- Amend an operating license for an existing multisource commercial hazardous waste treatment, storage, or disposal facility to authorize the expansion of operations, overall capacity, or the facility.

The bill specifies that EGLE could make the following amendments to existing operating licenses:

-- Amendments necessary to maintain compliance with NREPA or rules promulgated thereunder.
-- Amendments made to incorporate new requirements imposed by NREPA or rules promulgated thereunder.
-- Amendments limited to the capacity needed to manage the amount of newly regulated wastes to be generated in the State during the succeeding 5-year period, as determined by EGLE based on waste generation data and projections; any capacity authorized would have to be included in calculating the total licensed capacity after the moratorium ended.

After the moratorium on licensing ended, EGLE could not issue an operating license for a new multisource commercial hazardous waste treatment, storage, or disposal facility or the expansion of an existing facility (but not including the establishment or expansion of a captive nonhazardous waste disposal well) if doing so would cause the total permitted capacity to exceed 1/5 of the limit established in the current State Hazardous and LARM Waste Management Plan. "Total licensed capacity" would mean the maximum amount of waste that all permitted facilities in the State were authorized to manage annually under their current licenses.

The Department could not issue a license or approval to establish or expand a multisource commercial hazardous waste treatment, storage, or disposal facility, including a Class I Well, if the new facility or expansion were proposed to be in a city, village, township, or county where another multisource hazardous waste treatment, storage, or disposal facility, class I well, or class IV well was currently operating or had operated in the past 25 years, unless the following requirements were met:

-- The owner or operator completed closure and postclosure care in accordance with all applicable State and Federal requirements.
-- The Department certified completion of all corrective action requirements.
-- The Department determined after conducting a cumulative impact analysis that siting a new facility or expanding an existing facility in the area would not disproportionately affect overburdened communities or populations.

A license could not be issued if the facility were proposed to be located within 50 miles of a currently operating treatment, storage, or disposal facility, class I well, or class IV well that managed hazardous waste generated by another person other than the owner or operator or its subsidiaries.

A license also could not be issued if any of the following applied to a census tract within a three-mile radius of the facility's proposed location:

-- The population density exceeded the State average population density by 50% or more, based on the most recent census data.
-- The percentage of population in households where the household income was less than or equal to twice the Federal poverty level equaled or exceeded the eightieth percentile for census tracts in the State.
-- The overall score, as measured by the Michigan Environmental Justice Screening Tool or its equivalent, for any census tract within a three-mile radius met or exceeded the eightieth percentile of census tracts in the State.

Currently, NREPA requires certain information to be submitted by the operating licensee to EGLE following the construction of a new, expanded, or altered treatment, storage, or disposal facility. This information includes proof of financial responsibility. Instead, under the bill, this information would have to include proof of financial responsibility for which the State was the sole beneficiary and that was any of the following:

-- A surety bond issued by an authorized insurer whose certificate of authority was in good standing.
-- A cash account.
-- An automatically annually renewing certificate of deposit.

TENORM Prohibitions

Currently, a person is prohibited from delivering to a landfill in the State or permitting the disposal of in a landfill in the State TENORM with any of the following concentrations:

-- A concentration of radium-226 more than 50 picocuries per gram.
-- A concentration of radium-228 more than 50 picocuries per gram.
-- A concentration of lead-210 more than 260 picocuries per gram.

Under the bill, the prohibition above also would apply to waste with concentrations greater than 260 picocuries per gram for potassium-40 or greater than 25 picocuries per gram for any other single radionuclide.

If EGLE previously authorized in an operating license the disposal of TENORM with concentrations described above, but not more than 500 picocuries per gram for each radionuclide, the operating license would constitute a license from the Radiation Control Authority to possess the TENORM but not to acquire additional TENORM after the bill's effective date; however, the disposal of TENORM in concentrations described above would be prohibited after the bill's effective date.

The bill also would prohibit a person from mixing TENORM with any material for the purposes of reducing the concentration of radium-226, radium-228, or lead-210, if the regulation of the resulting material under NREPA were affected. A person could not store or dispose of the resulting material except in compliance with the provisions of NREPA applicable to TENORM before the mixing occurred. This provision would not apply to safe and secure storage of radioactive waste as provided for under NREPA.[1]

Additionally, the bill would prohibit a person from delivering to a type II landfill or accepting for delivery in a type II landfill waste with concentrations greater than 260 picocuries per gram for potassium-40 or greater than 50 picocuries per gram for any other single radionuclide. This provision also would not apply to safe and secure storage of radioactive waste as provided for under NREPA.

New or Expanded Class I and Class IV Well Prohibition

Under the bill, the construction, expansion, or installation of a new or converted multisource commercial hazardous waste disposal well or class IV well would be prohibited. This prohibition would not apply to a class IV well that was authorized by the Code of Federal Regulations or that the Code of Federal Regulations provided was *not* prohibited.

The following also would not be prohibited:

-- Maintenance, repair, or like-for-like replacement of equipment necessary for the safe operation of an existing well, including necessary workover and repairs of the well bore and injection equipment such as pumps, pressure monitoring equipment, and piping.
-- An equipment change at an existing well that demonstrably reduced the amount of hazardous or radioactive materials stored or emitted due to improved treatment methods

[1] MCL 325.491

or technologies, if the change did not increase the well's overall capacity or extend its operational lifespan.

-- An expansion of an existing well site.

A proposed equipment change or well expansion would have to be approved by EGLE. The well operator would have to submit to EGLE documentation demonstrating how the proposed change would meet the bill's requirements, and EGLE would have to make the documentation publicly available and provide for a public comment period of at least 60 days before deciding to approve or reject the proposed change. While reviewing proposals, EGLE would have to prioritize changes that provided the greatest reduction in risk to public health and the environment and could not approve any changes that could result in increased exposure or risk to overburdened communities.

Mineral Wells

Currently, NREPA requires a person to obtain a permit before the drilling of any brine, storage, or waste disposal well, or conversion of any well for these uses. This permit must be obtained from the Supervisor of Mineral Wells along with an approved surety or security bond.

The Act prohibits a person from drilling a test well 50 feet or greater in depth into the bedrock or below the deepest freshwater strata unless the drilling is authorized by a permit. A test well that does not penetrate below the deepest freshwater stratum and is 250 feet or less in depth is subject to a blanket test well permit. The bill would allow the Supervisor of Mineral Wells to allow a blanket test well permit for wells deeper than 250 feet if the applicant requested and provided the Supervisor of Mineral Wells with geological data demonstrating that the test well would remain within the freshwater stratum.

Under NREPA, a permit is not required to drill a test well in areas of the State where rocks of Precambrian age directly underlie unconsolidated surface deposits;[2] however, two years after completion of the drilling of the well, the owner must advise the Supervisor of Mineral Wells of the location of the well and file with the Supervisor of Mineral Wells the drilling log. The bill also would require the owner, at least 30 days before drilling the well, to provide notice to the Supervisor of Mineral Wells on a form provided by the Supervisor of Mineral Wells. The form would have to be accompanied by a $500 fee and an approved surety or security bond. The form would have to include the proposed test well's location, measures to be taken to prevent soil erosion, a description of casing, and sealing and plugging procedures.

The Act also requires that all information and records pertaining to the application for and issuance of permits for wells be held confidential in the same manner as provided for logs and reports on these wells. The bill would allow the Supervisor of Mineral Wells to share basic information such as the well type, location, and applicant name.

Financial Responsibility for Disposal

Within two years after the bill's effective date and annually thereafter, an operator of a class I well or a class III well would have to file proof of financial responsibility for each well, for which the State would be the sole beneficiary.

This financial responsibility would have to include a surety bond issued by an authorized insurer whose certificate of authority was in good standing, a cash account, or an automatically annually renewing certificate of deposit. The surety bond would have to be at least the following:

[2] Generally, Precambrian age rocks are rocks from 540 million years ago and earlier.

-- For a class I multisource commercial hazardous well, $500,000 or the amount sufficient to cover the costs of well plugging and reclamation based on third-party engineering estimate, whichever was greater.
-- For a class I multisource commercial nonhazardous well, $250,000 or the amount sufficient to cover the costs of well plugging and reclamation based on third-party engineering estimate, whichever was greater.
-- For a class I captive hazardous waste well, $300,000 or the amount sufficient to cover the costs of well plugging and reclamation based on third-party engineering estimate, whichever was greater.
-- For a blanket bond, covering multiple class I nonhazardous wells, not to exceed four wells, $500,000.
-- For a class I captive nonhazardous waste well, $150,000 or the amount sufficient to cover the costs of well plugging and reclamation based on third-party engineering estimate, whichever was greater.
-- For a class III well, $100,000.
-- For multiple class III wells, not to exceed 20 wells, $1.0 million for a blanket bond.

Additionally, the surety would have to be sufficient to cover the costs of well plugging and reclamation, as determined by EGLE based on engineering, geotechnical, environmental, or location conditions. The terms of the instrument could not be altered without EGLE's approval. The surety would have to be a cash account or deposit held in trust by a Federally insured financial institution that met all the following requirements:

-- Was regulated by banking authorities of the State or the Federal government.
-- Held the deposit in a segregated trust account solely for the benefit of the State.
-- Released funds only upon written authorization from the State.
-- The deposit could not be offset against or encumbered by any other obligation.

Cancellation of a bond would require at least 120 days' advance notice. The instrument would have to remain in effect until EGLE determined that all the following applied:

-- The operator's class I well or class III well had been permanently plugged and abandoned in compliance with law and in a manner that protected underground sources of drinking water.
-- All contamination had been remediated.
-- The soil at the site had been stabilized and the site has been regraded to conditions approved by EGLE, with vegetation sufficiently established to prevent erosion or offsite runoff.
-- All required well records and supporting documentation were submitted to EGLE, no adverse environmental conditions caused by the drilling of the well remained at the surface or within an underground source of drinking water, and EGLE considered the site to meet plugging-approved status.

Payment under the required instrument would not relieve the operator from any other legal requirements. Assets under the instrument would revert to the operator's control, at the operator's request, only after the operator had adequately plugged the wells, reclaimed the well site, and complied with all orders of the supervisor or EGLE under NREPA.

The financial responsibility also would include environmental pollution insurance coverage that was at least $5.0 million per occurrence for a multisource commercial hazardous waste disposal well or $2.5 million per occurrence for a captive hazardous waste disposal well and considered by EGLE to be sufficient to cover the remediation of private property that could reasonably be affected by future environmental incidents caused by the drilling of the well and the replacement of drinking water supplies for properties with affected water wells.

The environmental pollution insurance coverage would have to comply with the following:

-- After the well was plugged, the insurance would have to remain in effect until EGLE determined the well met plugging-approved status requirements and extended for an additional 10 years for a class I hazardous waste well or five years for a class I nonhazardous well.
-- The insurance was provided by an insurance carrier authorized, licensed, or permitted to conduct such insurance business in the State and that held at least an A- rating by AM Best or any comparable rating service.
-- The insurance was not issued by a captive insurer, surplus line insurer, or risk retention group.

Within two years after the bill's effective date and annually thereafter, an operator of a test well would have to, for each well, file proof of financial responsibility for which the State was the sole beneficiary.[3] The financial responsibility would have to be a surety bond issued by an authorized insurer whose certificate of authority was in good standing, a cash account, or an automatically annually renewing certificate of deposit.

The financial responsibility would have to comply, and would have to be interpreted to comply, with the following, as applicable:

-- The amount would have to be at least $10,000 and sufficient to cover the costs of well plugging and reclamation, as determined by EGLE based on engineering, geotechnical, environmental, or location conditions.
-- The terms of the instrument could not be altered without the approval of EGLE.
-- Cancellation of a bond would require at least 120 days' advance notice.

Additionally, the financial responsibility would have to be a cash account or deposit held in trust by a federally insured financial institution that met all the following requirements:

-- Was regulated by banking authorities of the State or the Federal government.
-- Held the deposit in a segregated trust account solely for the benefit of the State.
-- Released funds only upon written authorization from the State.
-- The deposit could not be offset against or encumbered by any other obligation

The instrument would have to remain in effect until EGLE determined that the following apply:

-- The test well had been permanently plugged and abandoned in compliance with law and in a manner that protected underground sources of drinking water.
-- All contamination had been remediated.
-- The soil at the site had been stabilized and rehabilitated.
-- The ecosystem had been restored.

Payment under this instrument would not relieve the operator from any other legal requirements. Assets under the instrument would revert to the operator's control, at the operator's request, only after the operator had adequately plugged the wells, reclaimed the well site, and complied with all orders of the Supervisor or EGLE under the bill.

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[3] "Test well" means a well, core hole, core test, observation well, or other well drilled from the surface to determine the presence of a mineral, mineral resource, ore, or rock unit, or to obtain geological or geophysical information or other subsurface data related to mineral exploration and extraction. The term does not include holes drilled in the operation of a quarry, open pit, or underground mine, or any wells not related to mineral exploration or extraction.

Municipal Grant Fund

The bill would create the Municipal Grant Fund in the State Treasury. The State Treasurer would have to deposit money and other assets received from landfill surcharges, the State TENORM Account, and landfill disposal fees, or from any other lawful source in the Fund. The State Treasurer also would have to direct the investment of money in the Fund and credit interest and earnings from the investments to the Fund. The Department of Environment, Great Lakes, and Energy would be the administrator of the Fund for audits of the Fund. Money in the Fund at the close of the fiscal year would remain in the Fund and not lapse to the General Fund. At the end of each State fiscal year, on appropriation, EGLE would have to promptly distribute the balance of the Municipal Grant Fund as grants to all the cities, villages, and townships in the State. The amount of each grant would have to be proportional to the population of the city, village, or township. For this purpose, the population of a township would be the population outside the corporate limits of villages in the township. The purpose of the grants would be to reimburse or partially reimburse municipalities for surcharges and fees paid, whether directly or through a contract with a private hauler, and deposited in the Fund.

The Host Communities Grant Fund

The bill would create the Host Communities Grant Fund in the State Treasury. The Fund would have two accounts, designated as the Part 111 (Hazardous Wate Management) Account and the Part 115 (Solid Waste Management) Account. The State Treasurer would have to deposit money and other assets received from landfill surcharges, the State TENORM Account, or from any other lawful sources, into the Part 111 Account. The State Treasurer would have to deposit money and other assets received from landfill disposal fees, or from any other lawful source into the Part 115 Account. The State Treasurer would have to direct the investment of money in the Fund and credit interest and earnings from the investments to each account in proportion to the amount of money invested in the account. The Department of Environment, Great Lakes, and Energy would be the administrator of the Fund for audits of the Fund. Money in an account at the close of the fiscal year would remain in the accounts and not lapse to the General Fund. The Department of Environment, Great Lakes, and Energy would have to spend money from the Part 115 Account on appropriation, only as follows:

-- 75% for annual grants to cities and townships that were the sites of landfills and coal ash impoundments that paid surcharges under NREPA.
-- 25% for annual grants to all other cities and townships, any portion of which was located within two miles of a landfill or coal ash impoundment that paid surcharges.

To obtain a grant, a city or township would have to file an application with EGLE during the period of November 1 through December 1. The application would have to be filed on a form and in a medium provided or approved by EGLE, and EGLE would have to award grants by December 31 to cities and townships that submitted a complete application timely. Each grant would have to be proportionate to the amount of surcharges deposited in the Host Communities Grant Fund during the prior State fiscal year from landfills and coal ash impoundments the location of which qualified the grant recipient for the grant and a proportionate share of money in the Fund other than revenue deposited as described in Landfill Surcharges and Fees.

Landfill Surcharges and Fees

Currently, NREPA requires the owner or operator of a landfill or a licensed solidification facility to pay EGLE a fee assessed on hazardous waste disposed of in the landfill. The fee is $10 per ton, $10 per cubic yard, or 0.5 cents per pound, depending on the unit of measure used by

the owner or operator to calculate the fee. The bill would increase the fee, beginning January 1, 2026, to $25 per ton, $25 per cubic yard, or 1.25 cents per pound.

The Act prescribes that a generator is eligible for a refund from the State of these fees if the generator documents to EGLE a reduction in the amount of hazardous waste generated because of a process change or a reduction in the amount of hazardous waste disposed of in a landfill or certain other actions. Currently, "generator" means any person, by site, whose act or process produces hazardous waste or whose act first causes a hazardous waste to become subject to regulation under NREPA. The bill would delete these provisions.

Beginning January 1, 2031, and every fifth year thereafter, the State Treasurer would have to adjust each of these fees by an amount determined by the State Treasurer to reflect the cumulative percentage change in the Consumer Price Index (CPI) during the most recent five-year period for which CPI statistics were available. As used in the bill, "consumer price index" would mean the most comprehensive index of consumer prices available for the State from the Bureau of Labor Statistics of the United States Department of Labor, or a successor agency.

Currently, the State Treasurer must deposit these fees in the Environmental Pollution Prevention Fund to be spent on appropriation for specified purposes. The bill would delete these purposes, and instead, the State Treasurer would have to deposit the fees as follows:

-- 45% in the Cleanup and Redevelopment Fund.
-- 40% in the Municipal Grant Fund.
-- 15% in the Host Communities Grant Fund.

The Act requires the owner or operator of a landfill to pay EGLE a fee assessed on TENORM disposed of in a landfill. The current fee is $5 per ton of TENORM. Under the bill, beginning January 1, 2026, the fee would be $12.50 per ton. Beginning January 1, 2031, and every fifth year thereafter, the State Treasurer would have to adjust the fee by an amount determined to reflect the cumulative percentage change in the CPI during the most recent five-year period for which CPI statistics were available. The fee would be based on the quantity of TENORM specified on the monthly operating report. The fee for fractional tons of TENORM would be proportional. The fee would have to be paid within 30 days after the end of each calendar year quarter.

Currently, the State Treasurer must deposit TENORM fees into the TENORM account to be spent on appropriation for specified purposes. The bill would delete these purposes, and instead, the State Treasurer would have to deposit the fees collected for TENORM as follows:

-- 45% in the Cleanup and Redevelopment Fund.
-- 40% in the Municipal Grant Fund.
-- 15% in the Host Communities Grant Fund.

The Act requires the owner or operator of a landfill or coal ash impoundment that is not a captive facility to pay a surcharge for each ton or portion of a ton of solid waste or municipal solid waste incinerator ash disposed of in the landfill or coal ash impoundment. This surcharge is forwarded to the State Treasurer for deposit in the solid waste staff account of the Solid Waste Management Fund. The bill would increase this surcharge from 36 cents to $1.20. Beginning October 1, 2030, and every fifth year after, EGLE could increase this surcharge and the funding for the solid waste staff account by amounts determined by multiplying those amounts by the inflation adjustment factor. The Department would have to round the surcharges to the nearest whole cent and the funding to the nearest $100. The inflation adjustment factor would equal the three-year average July-June CPI for the period ending

during the immediately preceding State fiscal year divided by the three-year average July-June CPI for the period ending on June 30, 2030, as determined by the Department of Treasury using the Detroit-Warren-Dearborn CPI; however, the inflation adjustment factor could not be less than 1.00. The owner or operator would have to specify the surcharges in the annual report submitted to the Department as already required by the Act

Currently, if the owner or operator of a landfill or coal ash impoundment is required to pay the surcharge, the owner or operator must pass through and collect the surcharge from any person that generated the solid waste or arranged for its delivery to the hauler or solid waste processing and transfer facility. The bill would require a hauler that contracted with a municipality to haul municipal solid waste to include as a separate item on each invoice to the municipality the amount of surcharges paid on the solid waste

Under the bill, the first $9.0 million of surcharges in each fiscal year and, if total surcharges collected in a State fiscal year exceeded $12.0 million, the amount collected in excess of $12.0 million, but not more than an additional $3.0 million, would have to be deposited into the solid waste staff account of the Solid Waste Management Fund. After, the balance each fiscal year would have to be deposited as follows:

-- 45% in the Cleanup and Redevelopment Fund.
-- 40% in the Municipal Grant Fund.
-- 15% in the Host Communities Grant Fund.

Report to Local Governments

Currently, an owner or operator of a landfill must annually submit an itemized report by county, State, or county of origin and the amount of remaining disposal capacity at the landfill that specifies the tonnage and type of solid waste received by the landfill during the year to EGLE and the county and municipality in which the landfill is located. The bill would require the owner or operator also to include the surcharges described under Landfill Surcharges and Fees in the report.

FISCAL IMPACT

The bill would have a significant positive fiscal impact on EGLE and local units of government. Increased administrative costs would be incurred to handle the monitoring and analysis of hazardous or radioactive waste streams, as well as preparing and updating the comprehensive State Hazardous and LARM Waste Management Plan. These costs would be offset by new revenue generated under the bill. The bill would increase disposal fees that have been imposed on facilities handling hazardous waste, disposal wells, and facilities managing TENORM. These updated fee structures would go into effect on January 1, 2026, and be adjusted every five years to reflect the cumulative percentage change in the CPI during the most recent five-year period. The bill also would remove refunds for waste generators. Fees collected under this portion of the bill would be deposited into the TENORM account and subsequently deposited as follows: 45% in the Cleanup and Redevelopment Fund, 40% in the Municipal Grant Fund, and 15% in the Host Communities Grant Fund.

Fees assessed under the bill would be deposited into three separate restricted funds as follows: 45% in the Cleanup and Redevelopment Fund, 40% in the Municipal Grant Fund, and 15% in the Host Communities Grant Fund. Currently, these fees are directed to the TENORM account, which received approximately $550,000 in Fiscal Year (FY) 2024, and the Environmental Pollution Prevention Fund, which received roughly $3.5 million in FY 2024. Landfill and coal ash impoundment surcharges for facilities that are not captive facilities also would be increased, and the first $9.0 million, and up to an additional $3.0 million if total

revenues exceeded $12.0 million, in revenues collected under Section 11525a would be deposited into the staff account of the Solid Waste Management Fund while the balance would be allocated in the same method as the fees above. This Fund received approximately $6.3 million in FY 2024. The new funds would be allocated for reimbursing municipalities for surcharges and fees paid, annual grants to cities and townships that were the sites of landfills, cities and townships located within two miles of a landfill or coal ash impoundment that paid surcharges under the bill, and grants for materials management planning to counties, regional planning agencies, municipalities, and other entities responsible for preparing, implementing, and maintaining materials management plans. Upon appropriation, the Municipal Grant Fund would be distributed as grants to all the municipalities in the State in amounts proportional to the population of the municipality. The Host Communities Grant Fund would be split into two subaccount; the Part 115 account, of which 75% would be allocated as annual grants to municipalities that sited landfills or coal ash impoundments and 25% would be allocated as grants to any other municipalities within two miles of a landfill or coal ash impoundment; and the part 111 account, which would be allocated as annual grants to municipalities that were the sites of landfills and coal ash impoundments.

The bill also would modify a number of fees relating to type II and III landfills, incorporating variable operating fees for type II landfills as determined by the average daily waste projected. **Table 1** below outlines the updated five-year operating license fees for type II landfills.

Type II Landfill Operating License Fees

Anticipated or Actual Daily Waste Received (Tons)	5-Year Operating License Fee
Less than 100	$500
100-250	1,500
250-500	4,000
500-1,000	6,500
1,000-1,500	12,500
1,500-3,000	22,500
Greater than 3000	33,000

Furthermore, the bill would establish a $5,000 fee for type III landfills, a $1,000 fee for solid waste processing and transfer facilities managing more than 200 cubic yards at a time, and a $13,000 fee for either a coal ash landfill or a coal ash impoundment. Fees for coal ash landfills or impoundments would be deposited into the Coal Ash Care Fund. Upon receiving an application for a coal ash facility, EGLE would have to issue notices regarding the expected location and accept comments for 45 days after notices were published. Fees collected for type II and III landfills and for solid waste processing and transfer facilities would be deposited into the perpetual care account of the Solid Waste Management Fund. The bill would require haulers that contracted with municipalities to itemize invoices based on the surcharges outlined above.

Additionally, new requirements for surety bonds would cover costs of well plugging and reclamation for hazardous and nonhazardous waste wells. This also would require environmental pollution insurance coverage to offset the cost of remediation of private property that could be affected by environmental incidents. This insurance would remain in effect for 10 years after a hazardous waste well was plugged or five years after a nonhazardous waste well was plugged.

The bill would have a minor negative fiscal impact on the Department of Treasury. The cost of depositing surcharges under the bill would not require any significant new resources or

staff time. The creation, investment, and administration of the Municipal Grant Fund and the Host Communities Grant Fund could result in relatively minor administrative costs for the Department.

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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.