

Pollution fight

Industry opposes punishment bills

By Tim Richard
staff writer

It's shaping up as a classic Environmentalist vs. Industry battle. State Sen. Lana Pollack, D-Ann Arbor, has introduced a six-bill package to give state government tougher tools to enforce the Solid Waste, Hazardous Waste, Air Pollution, Water Resources and Penal acts.

"Unnecessary and overly restrictive," said Morton Sterling, Detroit Edison Co.'s director of environmental affairs and a former Wayne County air pollution control official.

"Anti-business, adversarial and punitive," said Deborah Bonner, regional affairs director of the 3,500-member Michigan Manufacturers Association.

"They are intended to help state agencies enforce environmental laws," countered Elizabeth Harris, attorney for and executive director of the East Michigan Environmental Action Council.

There the battle lines are drawn.

THE DEBATE broke open last week at a pair of hearings by the Senate Natural Resources and Environmental Affairs Committee.

Pollack described her six bills (SB 540-545) as taking a "tiered" approach of providing for 1) summary lifting of permits; 2) administrative fines; 3) court fines and finally 4) criminal penalties ranging up to life in prison.

Her bills would empower directors of two state departments — Natural Resources and Public Health — to swiftly to suspend or restrict solid waste, air, water and other permits for reasons of public health.

The sponsor (Pollack) is concerned with fly-by-night artists. This bill raps in every body," complained Dennis Cawthorne, legislative counsel for the 40-member Michigan Chemical Council.

Replied Pollack: "A permit is different from a civil right. If granted by the state, a permit is removable by the state."

'Anti-business, adversarial and punitive'

— Deborah Bonner
Michigan Manufacturers Association

"What I will not concede is that there is no problem. I will not concede that the laws are adequate," she said.

ENVIRONMENTALISTS such as EMEAC's Harris, of Birmingham, generally gave brief, sweeping endorsements of the Pollack bills.

Also endorsing it were Michigan United Conservation Clubs, Michigan Environmental Health Officers Association, the Sierra Club, Huron-River Watershed Council, PIRGIM (Public Interest Research Group in Michigan) and the Ann Arbor Ecology Center.

Governmental endorsements came from the state natural resources commission and the Washtenaw County Board of Commissioners.

In last week's Pontiac hearing, industry spokesmen fired back with long, point-by-point criticisms.

"I was director of the Wayne County Air Pollution Control Division for 23 years," said Sterling. He said his remarks were "tempered" by governmental experience and not "biased" toward industry.

"The Michigan Environmental Protection Act of 1970 is little used," said Sterling, charging that DNR "has frozen itself into inaction." He said DNR has a poor working relationship with the state attorney general's office and should work with existing laws before asking for sweeping new ones.

Already, he said, 15-20 percent of the electrical bills paid by Detroit Edison customers go for environmental control equipment.

STERLING SAID Edison had specific legal concerns about the Pollack bills:

- Administrative fines of \$1,000 a day are "excessive."
- Administrative fines go to the department which levied them, putting them in a conflict-of-interest situation. He likened it to the old, rural justices of the peace, whose incomes were directly dependent on how many people they found guilty and how much they fined them.

- One bill provides for "joint and several liability" for penalties where more than one company is involved in a pollution incident. "Responsible companies will have to bear the cost for those who disobey or go out of business," he said. "The general public should pay a portion if a company is insolvent."

- A regulated utility such as Edison should be able to pass through to customers the costs involved in fines where the company is not at fault.

- Pollack's amendment to the penal code would allow a life sentence in prison for poisoning the ground surface where the poison "may" enter an underground water supply. "This focuses concern on severe punishment, even when there is no environmental harm," he said.

ARGUMENTS FROM Bonner, of the Manufacturers Association, and Cawthorne, a former state representative from Manistee now lobbying for the chemical industry, were much the same.

Bonner said the bills grant too much discretionary authority to the DNR staff and are open "to potential harassment and abuse." Like Sterling, she said counties such as Wayne "issue thousands of notices of violation and get compliance."

Cawthorne argued it would be unconstitutional to give the DNR director power to summarily suspend a license or permit in the event of an emergency because only the governor can declare an emergency. "This gives vast new powers to a bureaucrat," he said.

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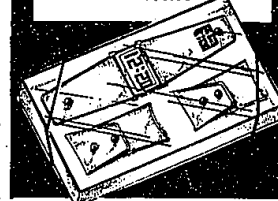


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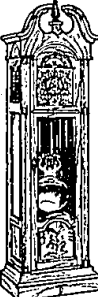
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