



April 18, 2018

By email to Sondra Gordon at [sgordon@house.mi.gov](mailto:sgordon@house.mi.gov)

Hon. Lee Chatfield, State Representative & Committee Chair  
Hon. Erika Geiss, State Representative & Minority Vice Chair  
Competitiveness Committee  
Michigan House of Representatives

Re: Written testimony in opposition to SB 652, SB 653, SB 654

Dear Chair Chatfield, Minority Vice Chair Geiss, and other members of the Competitiveness Committee:

The Great Lakes Environmental Law Center (“Center”) opposes Senate Bills 652, 653, and 654 (the “Bills”). Michigan has a long history of marrying economic development with protection of human health and natural resources. The Bills, however, represent a radical revision of our environmental rulemaking and permitting processes, completely ignore the vital need for protecting health and resources while pursuing development, and are being introduced despite there being no demonstration of need. Our environmental decision-making process in Michigan may have deficiencies, but it certainly cannot be faulted for being too stringent in requiring health and resource protections at the expense of development.

The Center is a Detroit-based nonprofit organization that provides community education, policy support, and legal services to address environmental, energy, and natural resource issues in and around Detroit, all over Michigan, and throughout the Great Lakes region. We do all that with the support of amazing law student interns whom we educate in the practice of law. As often as possible, we work with all levels of government to produce outcomes that will be sufficiently protective of human health and natural resources while respecting the desire for development and commerce.

The Center opposes these Bills for three principal reasons. First, they fail the cooperative federalism test and would subject Michigan to lengthy, costly federal oversight and possible litigation initiated by numerous parties. Many of Michigan's environmental laws are required for Michigan to enforce various federal environmental programs through a concept called cooperative federalism. Under cooperative federalism, the federal government enacts environmental laws that contain minimum standards. Those laws would apply by default, but the federal government provides states the opportunity to enact and apply their own versions. For states that wish to implement and enforce those laws, they must develop a state program that includes not just legislation and regulation, but also governance structures such as departments and budget processes. States can copy the federal program, or they can be more protective of health and resources, but they can never be less protective. A state that, for example, passes a law that on paper is as good or better than its federal equivalent, but then starves the implementing agency of sufficient funds to enforce it, would be violating the cooperative federalism standard. The federal Environmental Protection Agency could take away the program from the state or subject it to detailed oversight, and private parties could sue to cause similar results. In Michigan, the Department of Environmental Quality has been approved to implement and enforce various federal environmental laws. These Bills are a reckless, radical attempt to take away from DEQ the ability to fulfill its implementation and enforcement functions. They unnecessarily subject Michigan to oversight and make it more likely that Michigan could risk losing its ability to run its own environmental show.

Second, there is no demonstrated need for the Bills. The notion that the rulemaking and permitting processes are too friendly to environmentalists is absurd on its face. Neither the sponsors of the Bills nor anyone else has brought forth detailed information to suggest anything other than that most permits applied for are issued and that most rules promulgated are not nearly protective enough of health and resources.

Third, these Bills are especially cruel to environmental justice communities. Environmental justice communities consist of Michiganders who are disproportionately affected by environmental decisions and who do not have equal opportunity to

Competitive Committee, Michigan House of Representatives

Re Senate Bills 652, 653, and 654 of 2017

April 18, 2018

Page 3 of 3

participate in the decision-making process. Environmental justice communities deserve more, not less, in the way of public process about environmental decisions. These Bills fail that test in many ways, but in particular, the creation of an unnecessary Permit Appeal Panel that does not allow anyone other than the permit applicant to challenge a DEQ decision would literally steal from environmental justice communities a significant participation opportunity while erasing any participation they may have previously invested during the earlier DEQ process.

Senate Bills 652, 653, and 654 represent a huge and unnecessary step backward for Michigan. Should you have any questions, please contact me anytime.

Sincerely,



Oday Salim

Executive Director & Managing Attorney

[oday.salim@glelc.org](mailto:oday.salim@glelc.org)

313-782-3372

