



April 18, 2018

House Michigan Competitiveness Committee
Lansing, Michigan

Re: SB 652 & 653 – Delegation of State Rulemaking and Permitting Authority to Private Interests

Dear Committee Members,

The Michigan Environmental Council is an umbrella organization of over 70 environmental, conservation and faith-based groups located across the state of Michigan. One of the primary purposes of government is to protect the public health of the residents of the state.

The Michigan Environmental Council opposes SB 652 and SB 653 because they delegate some of the most important functions in state government that impact public health, rulemaking and permitting, to individuals that represent regulated industries. We believe this delegation is not in the best interest of the citizens of Michigan for the following reasons:

The Buck Doesn't Stop Here

The bills undermine the accountability of the Governor, and those individuals that the Governor appoints to implement the laws of the State of Michigan. If executive branch employees do not have the final say on new administrative rules or permits, they could argue that final decision making was not in their hands. And, opposed to other positions appointed by Governor, who serve at the will of the Governor, these individuals could only be removed for cause. This means that those who would have the final say on permits and regulations would be completely disconnected from the voters.

Fox Guarding the Henhouse

Secondly, the bills represent a direct conflict of interest in both rulemaking and permitting decisions. In many cases, the members that are appointed to the boards created under SB 652 and SB 653, would represent interests that could or would directly financially profit from actions that would cause pollution to, and in some cases destruction of the natural resources of the state of Michigan. That direct financial interest would potentially cause those representatives to discount or ignore potential impacts on the health of residents, or to their property value.

Increased Legal Costs and Permit Delays

Finally, the bills present a myriad of legal issues that we will only know the full extent of after the taxpayers have covered the cost. These bills could subject the state to costly

litigation if decisions are challenged that fail to follow the laws of the State of Michigan or the United States. The representatives of these boards or panels are not accountable for those litigation costs that would fall to Michigan taxpayers. Additionally, these bills could put our delegated federal authority to implement the Clean Water Act and Clean Air Act at risk. This delegated authority allows Michigan to have direct control of these permits, and our residents do not have to go through lengthy EPA reviews to receive permits.

The boards established under SB 652 and SB 653 are not needed. First, an applicant, unsatisfied with a permit, may request a contested case hearing before an administrative law judge. If still unsatisfied they have the right to appeal to the Michigan courts. If administrative rules or permits are issued that the legislature does not agree with, it may currently amend the implementing statute to make any corrections that are needed.

We urge a no vote on SB 652 and SB 653.

Sincerely,

A handwritten signature in black ink, appearing to be 'J. Clift', with a stylized, cursive script.

James Clift, Policy Director