

April 19, 2016

Dear Governor Snyder and members of the Michigan Legislature,

The undersigned groups oppose SB 827 and instead call for the adoption of SB 829-831 and HB 5404-5406.

Michigan must rebuild an environmental regulatory and permitting system that is transparent and accountable to our citizens, is based upon objective scientific information (not political interests), is responsive to public interests and information from citizens, and is protective of the public's health, our natural resources and Michigan's diverse communities.

Senate Bills 829, 830 and 831, and House Bills 5404, 5405 and 5406 take a major step in that direction by reinstating the **Air Pollution Control Commission** and the **Water Resources Commission** as public bodies within the Michigan Department of Environmental Quality. We urge the adoption of these proposed laws.

By contrast, **Senate Bill 827** proposes to write into law unprecedented, and excessive, influence of regulated industries on Michigan's environmental regulations; creating a regulatory system accountable to polluters instead of to the people of Michigan. It would, in effect, turn control over rules protecting public health and the environment to special interests representing industry. The enactment of SB 827 would send a signal that Michigan not only continues to ignore its duty to protect public health and community well-being, but is taking extreme measures that would further erode public protections of our drinking water, air quality, and our lakes, rivers, and streams. We urge lawmakers to reject SB 827.

Background:

The Flint drinking water crisis has drawn national attention to Michigan's failed environmental protection program, and the critical need to restore accountability in all decisions affecting the public health and environment. Several recent independent investigations of the Michigan Department of Environmental Quality point to the agency's failure to properly protect public health. They document deference to polluting industries while undermining compliance with public health and environmental laws.

- [The Flint Water Task Force report](#) found that “MDEQ ... suffers from cultural shortcomings that prevent it from adequately serving and protecting the public health of Michigan residents.”
- An in-depth investigation of pollution in southwest Detroit and surrounding cities in [Newsweek](#) quotes the MDEQ Air Pollution division chief as deferring to the polluting companies’ resistance to complying with environmental permitting requirements as the source of more than a year’s delay in addressing the region’s failure to attain reductions to protect public health from dangerous emissions of the pollutant sulfur dioxide.
- A [Detroit Free Press investigation](#) last month reported that “records reviewed by the Free Press show that on a number of high-profile environmental matters in recent years — as in Flint — DEQ officials seemingly have downplayed public health concerns in the name of economic development....”
- One specific example is the MDEQ’s approval of a permit for the Severstal steel plant (now AK Steel) in Dearborn following overt pressure from Michigan Economic Development Corporation to weaken the permit provisions (Detroit Free Press article [here](#) and [here](#)).

SB 829-831 and HB 5404-5406 propose to restore accountability at least in part by reinstating two independent, transparent bodies made up of a balanced cross section of representatives of the general public, science, regulated industries and agencies. Most importantly, these bodies, the **Water Resources Commission** and **Air Pollution Control Commission**, oversee all aspects of the regulation, permitting and enforcement of their respective environmental laws, providing an on-going public forum for both victims of pollution and those concerned about agency overreach to have their complaints reviewed and responded to. Michigan’s excellence in environmental protection during the 1970’s and 1980’s had bipartisan support and is largely attributable to the existence of and public support for these commissions and others that injected “sunshine” into the oversight of our natural resources, water quality, air quality, and protection from toxic substances.

Michigan’s future depends on a healthy, engaged citizenry, open and accountable government decision-making, and an economy built on clean water, clean air and productive land, which these bills support.

By contrast, **SB 827** would block the restoration of open, accountable and objective environmental protection in Michigan. Specifically, SB 827 is irreparably flawed in the following ways:

- the **Environmental Rules Committee** proposed in SB 827 would be made up of a majority of representatives of industries directly regulated under state and federal environmental laws (section 65), creating a conflict with [Michigan State Ethics Act \(PA 196 of 1973\)](#);
- a minority of the proposed Environmental Rules Committee voting members (6 of 13) would be authorized to block MDEQ from proceeding with development of rules (section 66(3)), undercutting the ability of the state's environmental regulatory agency from proceeding before any proposed amendments are drafted or provided for stakeholder or public review;
- the bill would prevent the DEQ from implementing regulations based on new or evolving scientific evidence that are warranted for protection of public health and the environment, unless those proposed regulations are explicitly spelled out in statute;
- the bill would give the Environmental Rules Committee broad and subjective authority to determine if proposed rules “are necessary and suitable to achieve their purposes in proportion to the burdens they place on individuals and businesses” in conflict with Michigan's constitutional mandate to “prevent pollution, impairment and destruction” of the environment;
- the bill would pose a dangerous precedent for other sectors of government by codifying a regulated industries' authority to veto regulations that directly affect them;
- the bill appears to create a conflict with the requirements for the state of Michigan to run environmental programs delegated under federal law, putting at risk Michigan's primacy over these laws.

For these reasons, we urge you to reject SB 827 and instead adopt SB 829-831 and HB 5404-5406. Votes pertaining to these bills will be included on the Sierra Club's legislative scorecard.

Sincerely,

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