

**STATE OF MICHIGAN
95TH LEGISLATURE
REGULAR SESSION OF 2010**

Introduced by Rep. Griffin

ENROLLED HOUSE BILL No. 6416

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, assessments, and donations; to provide certain appropriations; to prescribe penalties and provide remedies; and to repeal acts and parts of acts," by amending sections 5204 and 19708 (MCL 324.5204 and 324.19708), section 5204 as amended by 2005 PA 253 and section 19708 as amended by 2005 PA 256, and by adding sections 5204b, 5204c, 5204d, and 19703a.

The People of the State of Michigan enact:

Sec. 5204. (1) The strategic water quality initiatives fund is created within the state treasury.

(2) The state treasurer may receive money or other assets from any source for deposit into the fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments. The authority shall act as fiscal agent for the fund in accordance with the shared credit rating act, 1985 PA 227, MCL 141.1051 to 141.1076.

(3) Money in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund.

(4) The authority in consultation with the department shall expend money from the fund, upon appropriation, only for the following:

- (a) Loans under section 5202.
- (b) Grants under section 5204a and 5204d.
- (c) Response activities to address nonpoint source water pollution under section 5204b.
- (d) Grants and loans for brownfield sites under section 5204c.
- (e) The costs of the authority and the department in administering the fund.

(5) The fund may be pledged as security for bonds to be issued by the authority for the purpose of funding loans if authorized by the state administrative board.

Sec. 5204b. (1) Subject to section 5204c, the department may expend, upon appropriation, not more than \$140,000,000.00 of the money from the fund for response activities to address nonpoint source water pollution at facilities as follows:

(a) For the state fiscal year ending September 30, 2011, not more than \$50,000,000.00 may be authorized for expenditure under this section.

(b) For the state fiscal year ending September 30, 2012, not more than \$50,000,000.00 may be authorized for expenditure under this section.

(c) Beginning October 1, 2012, any money not previously authorized for expenditure under this section may be expended under this section only if the department documents that it has achieved the following performance objectives:

(i) Increasing the level of investment in sewage collection and treatment systems.

(ii) Providing incentives for actions that not only improve water quality but result in pollution prevention.

(iii) Optimizing the cost benefit ratio of alternative designs of sewage collection and treatment systems.

(iv) Demonstrating progress toward maximizing risk reduction and economic development objectives identified for projects funded under this section.

(2) The department shall expend money under this section in compliance with all of the following:

(a) The expenditure is used to improve the quality of the waters of the state.

(b) The expenditure is used only for facilities in which the department does not know the identity of the person or persons who are liable under part 201 for the release resulting in the water pollution or the person or persons who are liable do not have sufficient resources to fund the required response activities.

(c) The facilities include property that is located within the identified planning area boundaries of a publicly owned sanitary sewer system eligible for funding under the state water pollution control revolving fund established in section 16a of the shared credit rating act, 1985 PA 227, MCL 141.1066a.

(d) The expenditure is used for response activities necessary to address existing or imminent unacceptable risks arising from conditions that contribute to nonpoint source water pollution, including expenses for project management activities within the department.

(3) In using funds to address nonpoint source water pollution projects under this section, the department shall select projects that, to the extent practicable, provide maximum benefit to the state in protecting public health and the environment and contributing to economic development.

(4) Money expended to support project management within the department to manage response activities at the facility shall be expended pursuant to generally accepted accounting principles.

(5) The department shall annually submit a report to the standing committees of the senate and house of representatives with jurisdiction over issues primarily pertaining to natural resources and the environment and to the senate and house of representatives appropriations subcommittees on natural resources and the environment that describes the projects funded under this section and includes an evaluation of how the expenditures, to the extent practicable, provide maximum benefit to the state in protecting public health and the environment and contributing to economic development. For each project funded under this section, the report shall include all of the following:

(a) How the project met the criteria described in this section.

(b) The extent to which the project improved water quality or prevented a risk to water quality as measured by the number of individuals who benefit from the project.

(c) The extent to which the project preserved infrastructure investments that protect public health or prevented risks to water quality as measured by the risk posed or the public health protected.

(d) The extent to which the project enhanced economic development as measured by such factors including, but not limited to, all of the following:

(i) A net increase to the value of the properties in the vicinity of the project.

(ii) The creation of jobs.

(iii) The extent to which the project contributed to leveraging private investment in the vicinity of the project.

(e) If the project included funding for project management within the department, a breakdown of the amount of money used to support the project management as justified using generally accepted accounting principles.

(6) The legislature finds that use of the fund for response activities to address nonpoint source water pollution at facilities is appropriate and necessary at this time. It is the intent of this legislature that money from the fund shall not be utilized for response activities to address nonpoint source water pollution at facilities when the \$150,000,000.00 has been expended under this section and section 5204c.

(7) As used in this section, "facility", "release", and "response activity" mean those terms as they are defined in part 201.

Sec. 5204c. (1) The department may expend \$10,000,000.00 of money from the fund to provide brownfield redevelopment grants and loans to municipalities and brownfield redevelopment authorities created under the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672, for response activities to address nonpoint source water pollution at facilities. Of the money expended under this section, \$5,000,000.00 shall be used for grants and \$5,000,000.00 shall be used for loans. However, on September 30, 2014, if any money described in this section has not been appropriated for the purposes of this section, that money may be used for the purposes of section 5204b.

(2) The department shall develop grant and loan application materials to implement this section and shall accept applications at any time throughout the year.

Sec. 5204d. The state may establish a grant program within the strategic water quality initiatives fund for the purpose of funding specific wastewater treatment facility infrastructure improvement projects designed to prevent chronic discharges and projected to have significant regional benefits to Great Lakes water quality and recreational opportunities. In establishing such a program, the state may consider the recommendations of the advisory committee created in section 5317.

Sec. 19703a. (1) Bonds issued under this part are subject to the following:

(a) For the state fiscal year ending on September 30, 2011, bonds shall not be issued or expended under this part for the purposes of section 5204b, unless the department of natural resources and environment has established a fundable range of at least \$210,000,000.00 for that state fiscal year to fund projects under the state water pollution control revolving fund created in section 16a of the shared credit rating act, 1985 PA 227, MCL 141.1066a.

(b) For the state fiscal year ending on September 30, 2012, bonds shall not be issued or expended under this part for the purposes of section 5204b, unless the department of natural resources and environment has established a fundable range of at least \$259,000,000.00 for that state fiscal year to fund projects under the state water pollution control revolving fund created in section 16a of the shared credit rating act, 1985 PA 227, MCL 141.1066a, to the extent administratively possible and as long as sufficient applications have been submitted to the department of natural resources and environment.

(c) For each state fiscal year beginning with the state fiscal year ending September 30, 2013, the department of natural resources and environment, in conjunction with the department of treasury, shall seek to fully fund all eligible projects applying for assistance under part 53, to the extent administratively possible, utilizing the bond proceeds under this part as necessary to achieve this goal, considering the recommendations of the state water pollution control revolving fund advisory committee created in section 5317.

(2) If the department of natural resources and environment is not able to establish a fundable range under subsection (1)(b) of at least \$259,000,000.00, the department of natural resources and environment shall submit to the standing committees of the senate and house of representatives with jurisdiction over issues primarily pertaining to natural resources and the environment a report detailing the reasons why the fundable range was not set at this level.

(3) As used in this section, "fundable range" means that term as it is defined in section 5301.

Sec. 19708. (1) Subject to subsections (2), (3), and (4), the state treasurer shall transfer money in the fund as follows:

(a) In aggregate, not more than \$710,000,000.00 of the money in the fund shall be deposited into the state water pollution control revolving fund created in section 16a of the shared credit rating act, 1985 PA 227, MCL 141.1066a.

(b) In aggregate, not more than \$290,000,000.00 of the money in the fund shall be deposited into the strategic water quality initiatives fund created in section 5204.

(2) Money in the fund may be used by the department of treasury to pay for the cost of issuing bonds and the costs incurred under section 19703(3).

(3) Bonds that are directly deposited into the state water pollution control revolving fund or strategic water quality initiatives fund as authorized by section 19703 shall be taken into account for the purpose of determining the allocation and transfer of money set forth in subsection (1).

(4) Not later than 2 years after the effective date of the amendatory act that added this subsection, the auditor general shall conduct an audit of the fund to assure that the money in the fund has been expended in compliance with law. Not later than 4 years after the effective date of the amendatory act that added this subsection, the auditor general shall update its initial audit to assure that money in the fund has been expended in compliance with law.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 95th Legislature are enacted into law:

(a) Senate Bill No. 1267.

(b) Senate Bill No. 1345.

- (c) Senate Bill No. 1346.
- (d) Senate Bill No. 1348.
- (e) Senate Bill No. 1443.
- (f) House Bill No. 6359.
- (g) House Bill No. 6360.
- (h) House Bill No. 6363.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor