

SENATE BILL No. 71

January 25, 2005, Introduced by Senators BIRKHOLZ and GOSCHKA and referred to the Committee on Natural Resources and Environmental Affairs.

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending section 5204 (MCL 324.5204), as added by 2002 PA 397, and by adding part 50.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

PART 50 ON-SITE DISPOSAL SYSTEMS

SEC. 5001. AS USED IN THIS PART:

(A) "DEPARTMENT" MEANS THE DEPARTMENT OF ENVIRONMENTAL QUALITY.

(B) "MODEL ORDINANCE" MEANS THE MODEL COUNTY ORDINANCE PREPARED UNDER SECTION 5002.

(C) "ON-SITE DISPOSAL SYSTEM" OR "SYSTEM" MEANS A NATURAL SYSTEM OR MECHANICAL DEVICE USED TO COLLECT, TREAT, AND DISCHARGE

1 OR RECLAIM WASTEWATER FROM 1 OR MORE DWELLING UNITS WITHOUT THE USE
2 OF COMMUNITY-WIDE SEWERS OR A CENTRALIZED TREATMENT FACILITY.

3 SEC. 5002. (1) THE DEPARTMENT SHALL PREPARE A MODEL COUNTY
4 ORDINANCE THAT ESTABLISHES STANDARDS FOR THE DESIGN, INSTALLATION,
5 AND MAINTENANCE OF ON-SITE DISPOSAL SYSTEMS. THE MODEL ORDINANCE
6 SHALL INCLUDE ALL OF THE FOLLOWING:

7 (A) A PRIORITIZATION PROCEDURE THAT IDENTIFIES AND ADDRESSES
8 FIRST THOSE SYSTEMS THAT ARE AT GREATEST RISK OF CONTAMINATING
9 GROUND OR SURFACE WATERS OF THE STATE INCLUDING, BUT NOT LIMITED
10 TO, BOTH OF THE FOLLOWING:

11 (i) WATERS THAT ARE IDENTIFIED AS IMPAIRED ON THE LIST PREPARED
12 UNDER SECTION 303(D) OF TITLE III OF THE FEDERAL WATER POLLUTION
13 CONTROL ACT, 33 USC 1313, FOR PATHOGENS OR UNTREATED SEWAGE.

14 (ii) AREAS IDENTIFIED AS HAVING SIGNIFICANT ECOLOGICAL
15 IMPORTANCE.

16 (B) STANDARDS FOR THE MINIMUM HEIGHT THE SYSTEM SHOULD BE
17 SITUATED ABOVE GROUNDWATER BEFORE FILL.

18 (C) STANDARDS FOR SITING AND MAINTENANCE THAT REQUIRE
19 CONSIDERATION OF SOIL PERMEABILITY.

20 (D) STANDARDS FOR SITING AND MAINTENANCE BASED ON DISTANCE
21 FROM A WATER BODY.

22 (E) STANDARDS THAT ADDRESS THE APPROPRIATENESS OF A SYSTEM
23 BASED ON CURRENT USE.

24 (2) THE MODEL ORDINANCE MAY REQUIRE DIFFERENT STANDARDS FOR
25 ON-SITE DISPOSAL SYSTEMS BASED UPON THE GEOLOGIC CONDITIONS IN
26 WHICH THE SYSTEM IS LOCATED OR PROPOSED TO BE LOCATED.

27 SEC. 5003. (1) PROPERTY CONTAINING AN ON-SITE DISPOSAL SYSTEM

1 SHALL NOT BE TRANSFERRED UNLESS THE SYSTEM HAS BEEN INSPECTED AND A
2 WRITTEN COPY OF THE INSPECTION REPORT IS PROVIDED TO THE
3 PROSPECTIVE TRANSFEREE AS PROVIDED IN SUBSECTION (3). THE
4 INSPECTION SHALL DETERMINE ALL OF THE FOLLOWING:

5 (A) WHETHER THE SYSTEM IS IN COMPLIANCE WITH ALL APPLICABLE
6 COUNTY ORDINANCES.

7 (B) WHETHER THE SYSTEM IS FUNCTIONING IN THE MANNER THAT IT
8 WAS DESIGNED TO FUNCTION.

9 (C) WHETHER THE HOLDING TANK OF THE SYSTEM NEEDS TO BE
10 EMPTIED.

11 (D) FOR SYSTEMS INSTALLED ON OR AFTER THE EFFECTIVE DATE OF AN
12 APPLICABLE COUNTY ORDINANCE, THE ACTIONS NEEDED TO BRING THE SYSTEM
13 INTO COMPLIANCE WITH THE ORDINANCE.

14 (E) FOR SYSTEMS INSTALLED PRIOR TO THE EFFECTIVE DATE OF AN
15 APPLICABLE COUNTY ORDINANCE, THE ACTIONS NEEDED TO ALLOW THE SYSTEM
16 TO FUNCTION IN THE MANNER THAT IT WAS DESIGNED TO FUNCTION.

17 (2) THE INSPECTION UNDER SUBSECTION (1) SHALL BE CONDUCTED BY
18 THE COUNTY IN WHICH THE SYSTEM IS LOCATED OR A PERSON AUTHORIZED BY
19 THAT COUNTY TO CONDUCT THE INSPECTION. THE COUNTY OR PERSON
20 AUTHORIZED BY THE COUNTY TO CONDUCT INSPECTIONS MAY CHARGE A
21 REASONABLE FEE NOT TO EXCEED THE COSTS OF CONDUCTING THE
22 INSPECTIONS.

23 (3) THE WRITTEN COPY OF THE INSPECTION REPORT SHALL BE
24 PROVIDED TO THE PROSPECTIVE TRANSFEREE NOT LATER THAN THE TIME
25 PRESCRIBED FOR PROVIDING THE WRITTEN DISCLOSURE STATEMENT UNDER THE
26 SELLER DISCLOSURE ACT, 1993 PA 92, MCL 565.951 TO 565.966, AS
27 PROVIDED IN SECTION 4 OF THE SELLER DISCLOSURE ACT, 1993 PA 92, MCL

1 565.954.

2 (4) THE ACTIONS REQUIRED UNDER SUBSECTION (1) (D) OR (E), AS
3 APPLICABLE, SHALL BE UNDERTAKEN WITHIN 1 YEAR AFTER THE DATE THE
4 INSPECTION REPORT WAS PROVIDED TO THE PROSPECTIVE TRANSFEREE UNDER
5 SUBSECTION (3).

6 (5) THIS SECTION DOES NOT APPLY TO TRANSFERS OF PROPERTY
7 DESCRIBED IN SECTION 3 OF THE SELLER DISCLOSURE ACT, 1993 PA 92,
8 MCL 565.953.

9 SEC. 5004. EACH COUNTY SHALL PROVIDE EDUCATIONAL MATERIALS TO
10 THE OWNERS OF ON-SITE DISPOSAL SYSTEMS LOCATED WITHIN ITS
11 JURISDICTION AT LEAST ONCE EACH YEAR. THE EDUCATIONAL MATERIALS
12 DISTRIBUTED UNDER THIS SECTION SHALL BE DEVELOPED BY THE DEPARTMENT
13 AND SHALL BE PROVIDED TO EACH COUNTY FOR DISTRIBUTION.

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

16 (2) The state treasurer may receive money or other assets from
17 any source for deposit into the fund. The state treasurer shall
18 direct the investment of the fund. The state treasurer shall credit
19 to the fund interest and earnings from fund investments. The
20 authority shall act as fiscal agent for the fund in accordance with
21 the shared credit rating act, 1985 PA 227, MCL 141.1051 to
22 141.1076.

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

25 (4) MONEY IN THE FUND SHALL BE USED, UPON APPROPRIATION, ONLY
26 FOR THE FOLLOWING PURPOSES:

27 (A) NOT MORE THAN \$5,000,000.00 BY THE DEPARTMENT FOR GRANTS

1 TO COUNTIES TO CONDUCT INSPECTIONS OF ON-SITE DISPOSAL SYSTEMS
2 UNDER PART 50. OF THE MONEY APPROPRIATED UNDER THIS SUBSECTION, NOT
3 MORE THAN 5% MAY BE USED BY THE DEPARTMENT FOR ADMINISTRATIVE
4 COSTS.

5 (B) ~~—(4)—The~~ BY THE authority in consultation with the
6 department ~~shall expend money from the fund, upon appropriation,~~
7 ~~only~~ for loans and for the costs of the authority and the
8 department in administering the fund.

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