

SENATE BILL No. 256

February 24, 2005, Introduced by Senators BRATER, JACOBS, SCOTT, PRUSI, SCHAUER and EMERSON 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,"
(MCL 324.101 to 324.90106) by adding sections 11532a, 11532b,
11532c, and 11532d.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 11532A. (1) BEGINNING JANUARY 1, 2006, A RECYCLING AND
2 WASTE DIVERSION SURCHARGE OF \$6.00 IS ASSESSED ON EACH TON OF
3 MUNICIPAL AND COMMERCIALY GENERATED SOLID WASTE THAT IS DISPOSED
4 OF IN A LANDFILL OR A MUNICIPAL SOLID WASTE INCINERATOR.

5 (2) THE OWNER OR OPERATOR OF A LANDFILL OR MUNICIPAL SOLID
6 WASTE INCINERATOR SHALL PAY THE RECYCLING AND WASTE DIVERSION
7 SURCHARGES UNDER THIS SECTION TO THE DEPARTMENT WITHIN 30 DAYS
8 AFTER THE END OF EACH QUARTER OF THE STATE FISCAL YEAR. THE

1 DEPARTMENT SHALL FORWARD ALL RECYCLING AND WASTE DIVERSION
2 SURCHARGES IT RECEIVES TO THE STATE TREASURER FOR DEPOSIT INTO THE
3 MICHIGAN GREEN COMMUNITIES FUND CREATED IN SECTION 11532B.

4 (3) THE OWNER OR OPERATOR OF A LANDFILL OR MUNICIPAL SOLID
5 WASTE INCINERATOR WHO IS REQUIRED TO PAY THE RECYCLING AND WASTE
6 DIVERSION SURCHARGE UNDER SUBSECTION (2) SHALL PASS THROUGH AND
7 COLLECT THE SURCHARGE FROM THE GENERATORS OF THE MUNICIPAL AND
8 COMMERCIALY GENERATED SOLID WASTE OR FROM THE PERSONS WHO ARRANGED
9 FOR ITS DELIVERY TO THE SOLID WASTE HAULER OR TRANSFER FACILITY,
10 NOTWITHSTANDING THE PROVISIONS OF ANY CONTRACT OR AGREEMENT TO THE
11 CONTRARY OR THE ABSENCE OF ANY CONTRACT OR AGREEMENT.

12 (4) AS USED IN THIS SECTION, "MUNICIPAL AND COMMERCIALY
13 GENERATED SOLID WASTE" MEANS SOLID WASTE GENERATED BY RESIDENTS AND
14 BY BUSINESSES BUT DOES NOT INCLUDE A LOAD CONSISTING OF ONLY 1 OF
15 THE FOLLOWING:

16 (A) CONSTRUCTION AND DEMOLITION WASTE OR DEBRIS.

17 (B) INDUSTRIAL WASTE.

18 (C) SLUDGE.

19 (D) ASH, UNLESS THE ASH WAS GENERATED BY A MUNICIPAL SOLID
20 WASTE INCINERATOR THAT DID NOT PAY A RECYCLING AND WASTE DIVERSION
21 SURCHARGE ON THE SOLID WASTE FROM WHICH THE ASH WAS PRODUCED.

22 (E) MANUFACTURING PROCESS WASTE.

23 (F) CEMENT KILN DUST.

24 (G) REMEDIATION WASTE.

25 (H) FOUNDRY SAND.

26 SEC. 11532B. (1) THE MICHIGAN GREEN COMMUNITIES FUND IS
27 CREATED WITHIN THE STATE TREASURY.

1 (2) THE STATE TREASURER MAY RECEIVE MONEY OR OTHER ASSETS FROM
2 ANY SOURCE FOR DEPOSIT INTO THE MICHIGAN GREEN COMMUNITIES FUND.
3 THE STATE TREASURER SHALL DIRECT THE INVESTMENT OF THE MICHIGAN
4 GREEN COMMUNITIES FUND. THE STATE TREASURER SHALL CREDIT TO THE
5 MICHIGAN GREEN COMMUNITIES FUND INTEREST AND EARNINGS FROM MICHIGAN
6 GREEN COMMUNITIES FUND INVESTMENTS.

7 (3) MONEY IN THE MICHIGAN GREEN COMMUNITIES FUND AT THE CLOSE
8 OF THE FISCAL YEAR SHALL REMAIN IN THE MICHIGAN GREEN COMMUNITIES
9 FUND AND SHALL NOT LAPSE TO THE GENERAL FUND.

10 (4) MONEY IN THE MICHIGAN GREEN COMMUNITIES FUND SHALL BE
11 DISTRIBUTED AS FOLLOWS:

12 (A) NOT MORE THAN 5% OF THE MONEY SHALL BE USED BY THE
13 DEPARTMENT FOR THE ADMINISTRATION OF, AND THE CONDUCT OF
14 INSPECTIONS UNDER, THIS PART.

15 (B) NOT LESS THAN 5% OF THE MONEY SHALL BE DISTRIBUTED TO
16 COUNTIES FOR USE IN THE PREPARATION OF UPDATES AND AMENDMENTS TO
17 COUNTY SOLID WASTE MANAGEMENT PLANS.

18 (C) NOT LESS THAN 40% OF THE MONEY SHALL BE DISTRIBUTED ON A
19 PER CAPITA BASIS TO CITIES, VILLAGES, AND TOWNSHIPS FOR RECYCLING
20 AND OTHER ENVIRONMENTAL PROTECTION OR NATURAL RESOURCE CONSERVATION
21 PROGRAMS.

22 (D) NOT LESS THAN 40% OF THE MONEY SHALL BE DISTRIBUTED TO
23 CITIES, VILLAGES, AND TOWNSHIPS ON A PER CAPITA BASIS FOR ANY OTHER
24 PURPOSE DETERMINED BY THE RESPECTIVE CITY, VILLAGE, OR TOWNSHIP TO
25 PROMOTE THE PUBLIC HEALTH, SAFETY, OR WELFARE OF ITS CITIZENS.

26 (E) NOT LESS THAN 10% OF THE MONEY SHALL BE DISTRIBUTED ON A
27 PER CAPITA BASIS TO CITIES, VILLAGES, AND TOWNSHIPS THAT CONDUCT

1 RECYCLING PROGRAMS THAT QUALIFY UNDER SECTION 11532C, FOR USE IN
2 EXPANDING OR ENHANCING THOSE PROGRAMS.

3 (5) THE DEPARTMENT SHALL PROMULGATE RULES TO IMPLEMENT THIS
4 SECTION AND SECTIONS 11532C AND 11532D PURSUANT TO THE
5 ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306, MCL 24.201 TO
6 24.328.

7 SEC. 11532C. (1) TO QUALIFY A CITY, VILLAGE, OR TOWNSHIP FOR
8 DISTRIBUTIONS UNDER SECTION 11532B(4)(E), RECYCLING PROGRAMS
9 CONDUCTED BY THAT CITY, VILLAGE, OR TOWNSHIP SHALL MEET THE
10 FOLLOWING CRITERIA:

11 (A) THE PROGRAMS, AS A GROUP, COST-EFFECTIVELY INCREASE ALL OF
12 THE FOLLOWING:

13 (i) THE AMOUNT AND TYPES OF RESIDENTIAL AND COMMERCIAL WASTE
14 RECYCLED AND OTHERWISE DIVERTED FROM DISPOSAL IN THE CITY, VILLAGE,
15 OR TOWNSHIP.

16 (ii) THE NUMBER OF INDIVIDUALS PARTICIPATING IN RECYCLING
17 EFFORTS IN THE CITY, VILLAGE, OR TOWNSHIP.

18 (B) THE PROGRAMS, TO THE EXTENT POSSIBLE, DO ALL OF THE
19 FOLLOWING:

20 (i) TAKE ADVANTAGE OF INVESTMENTS IN RECYCLING AND WASTE
21 DIVERSION PROGRAMS PREVIOUSLY MADE BY THE CITY, VILLAGE, OR
22 TOWNSHIP.

23 (ii) PROVIDE NEW OR EXPANDED RECYCLING AND WASTE DIVERSION
24 OPPORTUNITIES TO RESIDENTIAL AND COMMERCIAL CUSTOMERS.

25 (C) THE PROGRAMS DO 1 OR MORE OF THE FOLLOWING:

26 (i) FOSTER OVERALL COORDINATION OF RECYCLING AND WASTE
27 DIVERSION PROGRAMS.

1 (ii) GAIN EFFICIENCIES BY SERVING RESIDENTIAL AND COMMERCIAL
2 CUSTOMERS IN MULTIPLE JURISDICTIONS, ESPECIALLY TO THE EXTENT THAT
3 THE SERVICE WOULD OTHERWISE BE UNAVAILABLE TO 1 OR MORE OF THE
4 JURISDICTIONS.

5 (iii) FOSTER CURBSIDE PICKUP WHERE IT CAN BE EFFECTIVELY AND
6 EFFICIENTLY CONDUCTED.

7 (iv) PROVIDE INDIVIDUALS THE MAXIMUM OPPORTUNITY TO RECYCLE BY
8 COLLECTING A WIDE RANGE OF MATERIALS.

9 (v) PROMOTE COOPERATION BETWEEN PUBLIC AND PRIVATE ENTITIES
10 ENGAGED IN RECYCLING.

11 (2) A CITY, VILLAGE, OR TOWNSHIP SHALL NOT ALLOCATE MONEY
12 RECEIVED FOR RECYCLING PROGRAMS UNDER SECTION 11532B(4)(E) TO
13 PROGRAMS IN WHICH THE MONEY WILL BE USED TO REPLACE A PERSON'S BASE
14 LEVEL OF RECYCLING AND WASTE DIVERSION EFFORT. AS USED IN THIS
15 SUBSECTION, "BASE LEVEL OF RECYCLING AND WASTE DIVERSION EFFORT"
16 MEANS THE TOTAL AMOUNT OF EXPENDITURES BY A PERSON FOR RECYCLING
17 AND OTHER WASTE DIVERSION ACTIVITIES DURING THE CALENDAR YEAR 2004.

18 SEC. 11532D. (1) THE DEPARTMENT SHALL ENTER INTO A WRITTEN
19 AGREEMENT WITH EACH COUNTY, CITY, VILLAGE, OR TOWNSHIP THAT
20 RECEIVES A DISTRIBUTION UNDER SECTION 11532B. THE WRITTEN AGREEMENT
21 SHALL SPECIFY THAT MONEY THAT IS DISTRIBUTED SHALL ONLY BE USED FOR
22 PURPOSES FOR WHICH IT IS DISTRIBUTED. THE DEPARTMENT MAY INCLUDE
23 OTHER TERMS AND CONDITIONS IN THE WRITTEN AGREEMENT.

24 (2) A CITY, VILLAGE, OR TOWNSHIP THAT RECEIVES A DISTRIBUTION
25 FOR RECYCLING PROGRAMS UNDER SECTION 11532B SHALL ANNUALLY PROVIDE
26 TO THE DEPARTMENT A WASTE DIVERSION REPORT IN A MANNER AND
27 CONTAINING INFORMATION REQUIRED BY THE DEPARTMENT. THE WASTE

1 DIVERSION REPORT SHALL BE SUBMITTED NOT LATER THAN APRIL 1 OF EACH
2 YEAR, COVERING THE PERIOD OF THE PREVIOUS STATE FISCAL YEAR. THE
3 WASTE DIVERSION REPORT SHALL INCLUDE, AT A MINIMUM, A FINANCIAL
4 ACCOUNTING OF THE EXPENDITURE OF THE MONEY DISTRIBUTED TO THE CITY,
5 VILLAGE, OR TOWNSHIP, A NARRATIVE DESCRIPTION OF PROGRAMS CONDUCTED
6 WITH THE MONEY, AND A NUMERICAL REPORT ON THE AMOUNT OF WASTE,
7 CLASSIFIED BY MATERIAL, DIVERTED DURING THE YEAR. IN REPORTING
8 RECYCLING PROGRESS, THE CITY, VILLAGE, OR TOWNSHIP SHALL USE A
9 STANDARD METHODOLOGY FOR MEASURING RECYCLING AS SPECIFIED BY THE
10 DEPARTMENT. THE DEPARTMENT SHALL SPECIFY A METHODOLOGY THAT IS
11 CONSISTENT WITH THE METHODOLOGY USED BY THE UNITED STATES
12 ENVIRONMENTAL PROTECTION AGENCY. A CITY, VILLAGE, OR TOWNSHIP THAT
13 FAILS TO SUBMIT A COMPLETE WASTE DIVERSION REPORT TO THE DEPARTMENT
14 AS PROVIDED IN THIS SUBSECTION IS NOT ELIGIBLE FOR A DISTRIBUTION
15 UNDER SECTION 11532B IN SUBSEQUENT YEARS.