

Act No. 601
Public Acts of 2006
Approved by the Governor
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**STATE OF MICHIGAN
93RD LEGISLATURE
REGULAR SESSION OF 2006**

Introduced by Reps. Pastor, Sheen, Palmer, Gosselin, Acciavatti, Marleau, LaJoy, Moore, Moolenaar, Brandenburg, Shaffer, Amos, Elsenheimer, Booher, Casperson, Gillard, Baxter, Huizenga, Stakoe, Hoogendyk, Pavlov, Hune, Taub, Stahl and Vander Veen

ENROLLED HOUSE BILL No. 6577

AN ACT to amend 1976 PA 399, entitled "An act to protect the public health; to provide for supervision and control over public water supplies; to prescribe the powers and duties of the department of environmental quality; to provide for the submission of plans and specifications for waterworks systems and the issuance of construction permits therefor; to provide for capacity assessments and source water assessments of public water supplies; to provide for the classification of public water supplies and the examination, certification and regulation of persons operating those systems; to provide for continuous, adequate operation of privately owned, public water supplies; to authorize the promulgation of rules to carry out the intent of the act; to create the water supply fund; to provide for the administration of the water supply fund; and to provide penalties," by amending sections 4 and 21 (MCL 325.1004 and 325.1021), section 4 as amended by 2006 PA 37, and by adding section 4a.

The People of the State of Michigan enact:

Sec. 4. (1) A supplier of water shall file with the department the plans and specifications of the entire waterworks system owned or operated by the supplier, unless the department determines that its existing records are adequate. A general plan of the waterworks system for each public water supply shall be provided to the department by a supplier of water and shall be updated as determined necessary by the department.

(2) Upon receipt of the plans and specifications for a proposed waterworks system, the department shall evaluate the adequacy of the proposed system to protect the public health by supplying water meeting the state drinking water standards and, if applicable, shall evaluate the impact of the proposed system as provided in subsections (3) and (4). The department shall also conduct a capacity assessment for a proposed community supply or nontransient noncommunity water supply and determine if the system has the technical, financial, and managerial capacity to meet all requirements of this act and the rules promulgated under this act, on the date of commencement of operations. If upon evaluation the department determines the plans and specifications to be inadequate or the capacity assessment shows the system to be inadequate, the department may return the plans and specifications to the applicant and require additions or modifications as may be appropriate. The department may reject plans and specifications for a waterworks system that will not satisfactorily provide for the protection of the public health or, if applicable, will not meet the standards provided in subsections (3) and (4). The department may deny a permit for construction of a proposed community supply or a nontransient noncommunity water supply if the capacity assessment shows that the proposed system does not have adequate technical, financial, or managerial capacity to meet the requirements of this act and the rules promulgated under this act.

(3) The department may evaluate the impact of a proposed waterworks system for a community supply owned by a political subdivision that will do any of the following:

(a) Provide new total designed withdrawal capacity of more than 2,000,000 gallons of water per day from a source of water other than the Great Lakes and their connecting waterways.

(b) Provide an increased total designed withdrawal capacity of more than 2,000,000 gallons of water per day from a source of water other than the Great Lakes and their connecting waterways beyond the system's total designed withdrawal capacity.

(c) Provide new total designed withdrawal capacity of more than 5,000,000 gallons of water per day from the Great Lakes and their connecting waterways.

(d) Provide an increased total designed withdrawal capacity of more than 5,000,000 gallons of water per day from the Great Lakes and their connecting waterways beyond the system's total designed withdrawal capacity.

(4) The department shall reject the plans and specifications for a proposed waterworks system evaluated under subsection (3) if it determines that the proposed system will not meet the applicable standard provided in section 32723(5) or (6) of the natural resources and environmental protection act, 1994 PA 451, MCL 324.32723, unless both of the following conditions are met:

(a) The department determines that there is no feasible and prudent alternative location for the withdrawal.

(b) The department includes in the approval conditions related to depth, pumping capacity, rate of flow, and ultimate use that ensure that the environmental impact of the withdrawal is balanced by the public benefit of the withdrawal related to public health, safety, and welfare.

(5) Before commencing the construction of a waterworks system or an alteration, addition, or improvement to a system, a supplier of water shall submit the plans and specifications for the improvements to the department and secure from the department a permit for construction as provided by rule. Plans and specifications submitted to the department shall be prepared by a professional engineer licensed under article 20 of the occupational code, 1980 PA 299, MCL 339.2001 to 339.2014. A contractor, builder, or supplier of water shall not engage in or begin the construction of a waterworks system or an alteration, addition, or improvement to a waterworks system until a valid permit for the construction has been secured from the department. A contractor, builder, or supplier of water who permits or allows construction to proceed without a valid permit, or in a manner not in accordance with the plans and specifications approved by the department, violates this act. A supplier of water shall not issue a voucher or check or in any other way expend money or provide consideration for construction of a waterworks system unless a valid permit issued by the department is in effect. The department may issue a permit with conditions to correct minor design deficiencies. If eligible, a supplier may request an expedited review of an application for a permit under section 4a.

(6) The department may deny a permit for construction of a waterworks system or an alteration, addition, or improvement to a waterworks system if the most recent capacity assessment shows that the waterworks system does not have adequate technical, financial, or managerial capacity to meet the requirements of this act and the rules promulgated under this act, and the deficiencies identified in that capacity assessment remain uncorrected, unless the proposed construction will remedy the deficiencies.

(7) The department may verbally approve minor modifications of a construction permit issued by the department as a result of unforeseen site conditions that become apparent during construction. Minor modifications include, but are not limited to, extending a hydrant lead or routing a water main around a manhole. A supplier making a request for a modification shall provide to the department all relevant information required under this section and the application form provided by the department related to the modification. A supplier shall obtain written approval from the department for all modifications to a waterworks system except when the department provides verbal approval for a minor modification as provided for in this subsection. A supplier receiving a written or verbal approval from the department shall submit revised plans and specifications to the department within 10 days from the date of approval.

(8) If a supplier seeks confirmation of the department's verbal approval of a minor modification under subsection (7), the supplier shall notify the department electronically, at an address specified by the department, with a detailed description of the request for the modification. The department shall make reasonable efforts to respond within 2 business days, confirming whether the request has been approved or not approved. If the department has not responded within 2 business days after the department receives the detailed description, the verbal approval shall be considered confirmed.

Sec. 4a. (1) Not later than October 1, 2007, the department shall establish an expedited permit application review process available for projects described in subsection (7). The expedited review process shall be available through September 30, 2010. To be eligible for expedited review, an applicant shall submit all of the items under subsection (2) not later than September 30, 2010.

(2) A supplier requesting an expedited review shall do all of the following:

(a) At least 10 business days prior to submitting an application under subdivision (b), notify the department electronically, in accordance with the instructions provided on the department's website, of his or her intent to request expedited review.

(b) Submit electronically a complete application for a permit, including a request for expedited review and including, via credit card, the appropriate fee under subsection (3).

(c) Provide a written copy of the construction plans and specifications for the project that has been prepared, signed, and sealed by a licensed professional engineer to the department postmarked not later than the date that the application is submitted electronically.

(3) Except as provided in subsection (5), the fee for an expedited review is as follows:

(a) Water main projects with total lengths less than 1,000 feet, \$1,000.00.

(b) Water main projects with total lengths greater than or equal to 1,000 feet and less than 3,000 feet, \$1,500.00.

(c) Water main projects of total length greater than 3,000 feet and less than or equal to 10,000 feet, \$2,000.00.

(4) Except as otherwise provided in subsection (6), if an applicant does not comply with subsection (3), the department shall not conduct an expedited review and any submitted fee shall not be refunded. Within 10 business days of receipt of the application, the department shall notify the supplier of the reasons why the department's review of the application will not be expedited. Upon receipt of this notification, the supplier may correct the deficiencies and resubmit an application and request for an expedited review with the appropriate fee specified under subsection (5). The department shall not reject a resubmitted application solely because of deficiencies that the department failed to identify in the original application.

(5) For a second submission of an application that originally failed to meet the requirements specified in subsection (4), the applicant shall instead include a fee equal to 10% of the fee specified in subsection (3). However, if the deficiency included failure to pay the appropriate fee, the second submission shall include the balance of the appropriate fee plus 10% of the appropriate fee. If the applicant makes additional changes other than those items identified by the department as being deficient, the applicant shall instead include an additional fee equal to the fee specified in subsection (3). For the third and each subsequent submittal of an application that fails to meet the requirements specified in subsection (4), the applicant shall include an additional fee equal to the fee specified in subsection (3).

(6) If the applicant fails to sign the application, submits construction plans and specifications that have not been prepared, signed, and sealed by a licensed professional engineer, or submits an insufficient fee, the department shall notify the applicant within 5 business days of the deficiency. The application shall not be processed until the deficient items are addressed. If the applicant does not provide the deficient items within 5 business days after notification by the department, the application shall be handled as provided in subsection (4).

(7) A request for an expedited permit application review is limited to projects that consist solely of installation of new water mains of less than or equal to 10,000 feet located in a county with a population of between 750,000 and 1,000,000 and any contiguous county with a population of greater than 160,000. Expedited permit application reviews are not allowed for other projects requiring a permit under this act including, but not limited to, projects involving water treatment processes, ground or elevated storage tanks, chemical feed systems, wells, booster stations, pumps, new proposed waterworks systems subject to a capacity assessment, or projects funded under the state drinking water revolving fund established under section 16b of the shared credit rating act, 1985 PA 227, MCL 141.1066b.

(8) The department shall review and make a decision on a complete application submitted with a request for expedited review pursuant to the following schedule:

(a) Until September 30, 2008, the department shall make a permit decision within 20 business days of receipt by the department of the complete application, including plans and specifications.

(b) From October 1, 2008 through September 30, 2009, the department shall make a permit decision within 15 business days of receipt by the department of the complete application, including plans and specifications.

(c) From October 1, 2009 through September 30, 2010, the department shall make a permit decision within 10 business days of receipt by the department of the complete application, including plans and specifications.

(9) If the department fails to meet the deadlines specified in subsection (8), the department shall continue to expedite the application review process for an application submitted under this section. However, the fee for an expedited review required under this section shall be refunded if the department fails to meet the deadlines established in subsection (8).

(10) The department shall transmit fees collected under this section to the state treasurer for deposit into the infrastructure construction fund created in section 4113 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.4113.

(11) As used in this section:

(a) "Complete application" means that the application form provided by the department is completed, all requested information is provided, and the application can be processed without additional information.

(b) "Expedited review" means an expedited review of a permit application under this section.

(c) "Licensed professional engineer" means a professional engineer licensed under article 20 of the occupational code, 1980 PA 299, MCL 339.2001 to 339.2014.

(d) "Project" means a plan or proposal to install new water mains within a waterworks system located in 1 general area where all the components are interconnected but does not include a waterworks system proposed for construction in separate parcels of land or development areas.

Sec. 21. (1) A person who violates this act or the rules promulgated under this act or an order issued pursuant to this act is guilty of a misdemeanor punishable by a fine of not more than \$5,000.00 for each day of violation, or by imprisonment for not more than 1 year, or both.

(2) A law enforcement officer may issue and serve an appearance ticket upon a person for a minor offense pursuant to sections 9c to 9g of chapter IV of the code of criminal procedure, 1927 PA 175, MCL 764.9c to 764.9g.

(3) As used in this section, "minor offense" means a violation of a permit issued under this act that does not functionally impair the operation or capacity of a waterworks system or the level of public health protection it provides.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 6668 of the 93rd Legislature is enacted into law.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor