

HOUSE BILL No. 4828

June 28, 2011, Introduced by Reps. Price, Pettalia, Foster, Hughes, Nesbitt, Haveman, Irwin, Lund, Walsh, Liss, Potvin, Pscholka, Rutledge, O'Brien, Lyons, Franz and Tyler and referred to the Committee on Natural Resources, Tourism, and Outdoor Recreation.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
(MCL 324.101 to 324.90106) by adding part 414.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 PART 414 AQUATIC INVASIVE SPECIES ADVISORY COUNCIL

2 SEC. 41403. THE LEGISLATURE FINDS ALL OF THE FOLLOWING:

3 (A) THE WATERS OF THE GREAT LAKES BASIN ARE PRECIOUS PUBLIC
4 NATURAL RESOURCES SHARED AND HELD IN TRUST BY THE GREAT LAKES
5 STATES AND PROVINCES.

6 (B) THE WATERS OF THE GREAT LAKES BASIN ARE INTERCONNECTED AND
7 PART OF A SINGLE HYDROLOGIC SYSTEM.

8 (C) THE GREAT LAKES BASIN CAN CONCURRENTLY SERVE MULTIPLE
9 USES, SUCH AS MUNICIPAL, PUBLIC, INDUSTRIAL, COMMERCIAL,

1 AGRICULTURE, MINING, NAVIGATION, ENERGY DEVELOPMENT AND PRODUCTION,
2 RECREATION, FISHING, TOURISM, THE SUBSISTENCE, ECONOMIC AND
3 CULTURAL ACTIVITIES OF NATIVE PEOPLES, WATER QUALITY MAINTENANCE,
4 AND THE MAINTENANCE OF FISH AND WILDLIFE HABITAT AND A BALANCED
5 ECOSYSTEM.

6 (D) THE GREAT LAKES STATES AND CANADIAN PROVINCES HAVE A
7 SHARED DUTY TO PROTECT, CONSERVE, RESTORE, IMPROVE, AND MANAGE THE
8 GREAT LAKES FOR THE USE, BENEFIT, AND ENJOYMENT OF ALL THEIR
9 CITIZENS, INCLUDING GENERATIONS YET TO COME. THE MOST EFFECTIVE
10 MEANS OF PROTECTING, CONSERVING, RESTORING, IMPROVING, AND MANAGING
11 THE GREAT LAKES IS THROUGH THE JOINT PURSUIT OF UNIFIED AND
12 COOPERATIVE PRINCIPLES, POLICIES, AND PROGRAMS MUTUALLY AGREED
13 UPON, ENACTED, AND ADHERED TO BY THE GREAT LAKES STATES AND BY THE
14 GREAT LAKES CANADIAN PROVINCES.

15 (E) AIS ARE A THREAT TO PUBLIC HEALTH AND SAFETY, THE
16 ENVIRONMENT AND NATURAL RESOURCES, AND THE ECONOMY. AIS ARE A
17 SERIOUS THREAT TO THE ECOLOGICAL INTEGRITY AND USES OF THE GREAT
18 LAKES.

19 (F) OVER 180 AIS HAVE BECOME ESTABLISHED IN THE GREAT LAKES,
20 NOT INCLUDING MICROBES. BALLAST WATER DISCHARGE IS A MAJOR SOURCE
21 OF INTRODUCTION OF AIS.

22 (G) TRADE, INCLUDING THE AQUARIUM, BAIT, PET, WATER GARDEN,
23 HORTICULTURE, AQUACULTURE, SHIPPING, AND TOURISM TRADES, HAS BEEN
24 IDENTIFIED AS A MAJOR POTENTIAL VECTOR OF AIS INTRODUCTION AND
25 SPREAD, THROUGH PURPOSEFUL OR INCIDENTAL BUYING, SELLING, AND
26 TRANSPORT. THE OVERALL GOAL OF THIS STATE'S AIS PREVENTION EFFORTS
27 IS TO CLOSE THE OPEN PATHWAYS FOR AIS.

1 (H) THIS STATE'S AQUATIC INVASIVE SPECIES MANAGEMENT PLAN
2 PROVIDES A STRATEGY TO PREVENT AND CONTROL AIS IN WATERS OF THIS
3 STATE, INCLUDING THE GREAT LAKES. THE PLAN, LAST UPDATED IN 2002,
4 IS BEING UPDATED BY THE DEPARTMENTS OF ENVIRONMENTAL QUALITY,
5 NATURAL RESOURCES, AND AGRICULTURE AND RURAL DEVELOPMENT TO ENSURE
6 THAT IT PROVIDES A COMPREHENSIVE APPROACH TO AIS INCLUDING BALLAST
7 WATER TREATMENT STANDARDS AND OTHER AIS PREVENTION, AIS MONITORING,
8 AND AIS CONTROL AND ERADICATION, INCLUDING RAPID RESPONSE TO NEW
9 AIS INFESTATIONS.

10 (I) THIS STATE CAN EFFECTIVELY ADDRESS THE THREAT POSED BY AIS
11 BY UPDATING AND IMPLEMENTING A COMPREHENSIVE AIS MANAGEMENT PLAN,
12 DEVELOPING AND ADOPTING MODEL PROGRAMS TO ADDRESS AIS, AND WORKING
13 COOPERATIVELY WITH OTHER GREAT LAKES STATES AND PROVINCES TO ENSURE
14 A COORDINATED AND CONSISTENT RESPONSE TO AIS.

15 SEC. 41405. (1) THE AQUATIC INVASIVE SPECIES ADVISORY COUNCIL
16 IS CREATED WITHIN THE DEPARTMENT OF ENVIRONMENTAL QUALITY.

17 (2) THE COUNCIL SHALL CONSIST OF THE FOLLOWING:

18 (A) THE DIRECTOR OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY OR
19 HIS OR HER DESIGNEE.

20 (B) THE DIRECTOR OF THE DEPARTMENT OF NATURAL RESOURCES OR HIS
21 OR HER DESIGNEE.

22 (C) THE DIRECTOR OF THE DEPARTMENT OF AGRICULTURE AND RURAL
23 DEVELOPMENT OR HIS OR HER DESIGNEE.

24 (D) THE DIRECTOR OF THE STATE TRANSPORTATION DEPARTMENT OR HIS
25 OR HER DESIGNEE.

26 (E) THE ATTORNEY GENERAL OR HIS OR HER DESIGNEE.

27 (F) THE FOLLOWING MEMBERS APPOINTED BY THE GOVERNOR:

1 (i) A REPRESENTATIVE OF THE UNITED STATES DEPARTMENT OF THE
2 INTERIOR, NATIONAL PARK SERVICE.

3 (ii) A REPRESENTATIVE OF AN ASSOCIATION OF GREAT LAKES SHIPPING
4 COMPANIES.

5 (iii) A REPRESENTATIVE OF THE HORTICULTURE INDUSTRY.

6 (G) THE FOLLOWING MEMBERS APPOINTED BY THE SENATE MAJORITY
7 LEADER:

8 (i) A REPRESENTATIVE OF A STATEWIDE PRIVATE CONSERVATION
9 ORGANIZATION.

10 (ii) A REPRESENTATIVE OF THE GREAT LAKES COMMISSION.

11 (iii) A REPRESENTATIVE OF A STATEWIDE ASSOCIATION OF BUSINESSES.

12 (iv) A REPRESENTATIVE OF AN ASSOCIATION OF INDIAN TRIBES.

13 (H) THE FOLLOWING MEMBERS APPOINTED BY THE SPEAKER OF THE
14 HOUSE OF REPRESENTATIVES:

15 (i) A REPRESENTATIVE OF A REGIONAL OR NATIONAL PRIVATE
16 CONSERVATION ORGANIZATION.

17 (ii) A REPRESENTATIVE OF AN ASSOCIATION OF INDUSTRIES IN THE
18 GREAT LAKES REGION.

19 (iii) A REPRESENTATIVE OF A PUBLIC UTILITY.

20 (iv) A REPRESENTATIVE OF A STATEWIDE ASSOCIATION OF LOCAL UNITS
21 OF GOVERNMENT.

22 (3) THE MEMBERS FIRST APPOINTED TO THE COUNCIL SHALL BE
23 APPOINTED WITHIN 30 DAYS AFTER THE EFFECTIVE DATE OF THIS SECTION.
24 MEMBERS OF THE COUNCIL SHALL SERVE FOR THE LIFE OF THE COUNCIL.

25 (4) IF A VACANCY OCCURS ON THE COUNCIL, THE VACANCY SHALL BE
26 FILLED IN THE SAME MANNER AS THE ORIGINAL APPOINTMENT WAS MADE. THE
27 APPOINTING OFFICER MAY REMOVE A MEMBER OF THE COUNCIL FOR

1 INCOMPETENCE, DERELICTION OF DUTY, MALFEASANCE, MISFEASANCE, OR
2 NONFEASANCE IN OFFICE, OR ANY OTHER GOOD CAUSE.

3 (5) THE FIRST MEETING OF THE COUNCIL SHALL BE CALLED BY THE
4 DIRECTOR OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY OR HIS OR HER
5 DESIGNEE. AT THE FIRST MEETING, THE COUNCIL SHALL ELECT FROM AMONG
6 ITS MEMBERS A CHAIRPERSON AND OTHER OFFICERS AS IT CONSIDERS
7 NECESSARY OR APPROPRIATE. AFTER THE FIRST MEETING, THE COUNCIL
8 SHALL MEET AT LEAST QUARTERLY, OR MORE FREQUENTLY AT THE CALL OF
9 THE CHAIRPERSON OR IF REQUESTED BY 3 OR MORE MEMBERS.

10 (6) A MAJORITY OF THE MEMBERS OF THE COUNCIL CONSTITUTE A
11 QUORUM FOR THE TRANSACTION OF BUSINESS AT A MEETING OF THE COUNCIL.
12 THE COUNCIL MAY ADOPT BYLAWS GOVERNING ITS ORGANIZATION AND
13 PROCEDURE. UNLESS OTHERWISE PROVIDED IN ITS BYLAWS, A MAJORITY OF
14 THE MEMBERS PRESENT AND SERVING ARE REQUIRED FOR OFFICIAL ACTION OF
15 THE COUNCIL.

16 (7) THE BUSINESS THAT THE COUNCIL MAY PERFORM SHALL BE
17 CONDUCTED AT A PUBLIC MEETING OF THE COUNCIL HELD IN COMPLIANCE
18 WITH THE OPEN MEETINGS ACT, 1976 PA 267, MCL 15.261 TO 15.275.

19 (8) A WRITING PREPARED, OWNED, USED, IN THE POSSESSION OF, OR
20 RETAINED BY THE COUNCIL IN THE PERFORMANCE OF AN OFFICIAL FUNCTION
21 IS SUBJECT TO THE FREEDOM OF INFORMATION ACT, 1976 PA 442, MCL
22 15.231 TO 15.246.

23 (9) MEMBERS OF THE COUNCIL SHALL SERVE WITHOUT ADDITIONAL
24 COMPENSATION. HOWEVER, MEMBERS OF THE COUNCIL MAY BE REIMBURSED FOR
25 THEIR ACTUAL AND NECESSARY EXPENSES INCURRED IN THE PERFORMANCE OF
26 THEIR OFFICIAL DUTIES AS MEMBERS OF THE COUNCIL.

27 (10) THE COUNCIL MAY APPOINT TECHNICAL ADVISORY COMMITTEES OF

1 INDIVIDUALS WITH RELEVANT SPECIFIC TECHNICAL, SCIENTIFIC, OR LEGAL
2 EXPERTISE, OR RELEVANT EXPERTISE IN A TRADE LISTED IN SECTION
3 41409, OR MAY APPOINT SUCH INDIVIDUALS AS ADJUNCT MEMBERS OF THE
4 COUNCIL WITHOUT VOTING RIGHTS.

5 SEC. 41407. (1) WITHIN 180 DAYS AFTER THE EFFECTIVE DATE OF
6 THE AMENDATORY ACT THAT ADDED THIS SECTION OR WITHIN 60 DAYS OF THE
7 ISSUANCE OF A DRAFT UPDATE TO THE MICHIGAN AQUATIC INVASIVE SPECIES
8 MANAGEMENT PLAN BY THE DEPARTMENT OF ENVIRONMENTAL QUALITY,
9 WHICHEVER IS LATER, THE COUNCIL SHALL PROVIDE RECOMMENDATIONS TO
10 THE DEPARTMENT OF ENVIRONMENTAL QUALITY ON A FINAL UPDATE TO THE
11 PLAN. THE FINAL UPDATE SHALL ADDRESS AIS PREVENTION, AIS
12 MONITORING, AND AIS CONTROL AND ERADICATION, INCLUDING RAPID
13 RESPONSE TO NEW AIS INFESTATIONS. IN PREPARING THE FINAL UPDATE TO
14 THE PLAN, THE DEPARTMENT OF ENVIRONMENTAL QUALITY SHALL CONSULT
15 WITH THE ADVISORY COUNCIL.

16 (2) THE COUNCIL SHALL PROVIDE ITS RECOMMENDATIONS UNDER
17 SUBSECTION (1) TO THE GOVERNOR UPON REQUEST. THE RECOMMENDATIONS
18 ARE NONBINDING AND ADVISORY IN NATURE AND MAY BE USED AT THE
19 DISCRETION OF AND IN THE MANNER DETERMINED BY THE GOVERNOR. THE
20 RECOMMENDATIONS SHALL BE SUITABLE FOR USE BY THE EXECUTIVE BRANCH
21 IN COLLABORATING WITH OTHER GREAT LAKES STATES AND CANADIAN
22 PROVINCES TO CREATE OR STRENGTHEN REGIONAL PROGRAMS OR COORDINATE
23 STATE AND PROVINCIAL PROGRAMS TO ACHIEVE THE PURPOSES OF THIS
24 SECTION.

25 (3) WITHIN 60 DAYS OF THE ISSUANCE OF A FINAL UPDATE TO THE
26 AQUATIC INVASIVE SPECIES MANAGEMENT PLAN, THE COUNCIL SHALL SUBMIT
27 A REPORT WITH RECOMMENDATIONS ON THE FUNDING NECESSARY TO IMPLEMENT

1 THE PLAN AND THE METHOD OF PROVIDING THAT FUNDING. THE COUNCIL
2 SHALL SUBMIT THE REPORT TO THE GOVERNOR, THE SENATE MAJORITY
3 LEADER, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES, AND THE
4 STANDING COMMITTEES OF THE SENATE AND HOUSE WITH PRIMARY
5 RESPONSIBILITY FOR NATURAL RESOURCES, CONSERVATION, AGRICULTURE,
6 AND COMMERCE.

7 Enacting section 1. This amendatory act does not take effect
8 unless all of the following bills of the 96th Legislature are
9 enacted into law:

10 (a) Senate Bill No.____ or House Bill No. 4826(request no.
11 03115'11).

12 (b) Senate Bill No.____ or House Bill No. 4827(request no.
13 03151'11).