

HOUSE BILL No. 5673

May 24, 2012, Introduced by Reps. Pscholka, Opsommer, MacGregor and Kowall 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,"
by amending sections 5201, 5202, 5203, and 5204 (MCL 324.5201,
324.5202, 324.5203, and 324.5204), section 5201 as amended by 2005
PA 257, sections 5202 and 5203 as added by 2002 PA 397, and section
5204 as amended by 2010 PA 232, and by adding sections 5204e and
5204f.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 5201. As used in this part:

2 (A) "ASSET MANAGEMENT PROGRAM" MEANS THE SYSTEM THAT
3 IDENTIFIES THE DESIRED LEVEL OF SERVICE AT THE LOWEST LIFE CYCLE
4 COST FOR REHABILITATING, REPAIRING, OR REPLACING THE ASSETS
5 ASSOCIATED WITH A MUNICIPALITY'S WASTEWATER OR STORMWATER SYSTEM.

6 (B) ~~(a)~~—"Authority" means the Michigan municipal bond

1 authority created in section 4 of the shared credit rating act,
2 1985 PA 227, MCL 141.1054.

3 (C) ~~(b)~~—"Department" means the department of environmental
4 quality.

5 (D) ~~(c)~~—"Fund" means the strategic water quality initiatives
6 fund created in section 5204.

7 (E) ~~(d)~~—"Grant" means a grant from the grant program.

8 (F) ~~(e)~~—"Grant program" means the strategic water quality
9 initiatives grant program established under ~~section 5204a~~. **THIS**
10 **PART.**

11 (G) ~~(f)~~—"Loan" means a loan from the loan program.

12 (H) ~~(g)~~—"Loan program" means the strategic water quality
13 initiatives loan program established under section 5202.

14 (I) ~~(h)~~—"Municipality" means that term as it is defined in
15 section 5301.

16 (J) ~~(i)~~—"On-site septic system" means a natural system or
17 mechanical device used to store, treat, and dispose of sewage from
18 1 or more dwelling units that utilize a subsurface trench or bed
19 that allows the effluent to be absorbed and treated by the
20 surrounding soil, including a septic tank and tile field system.

21 (K) ~~(j)~~—"State water pollution control revolving fund" means
22 the state water pollution control revolving fund established under
23 section 16a of the shared credit rating act, 1985 PA 227, MCL
24 141.1066a.

25 (L) **"WETLAND MITIGATION BANK" MEANS A SITE WHERE WETLANDS ARE**
26 **RESTORED, CREATED, OR, IN EXCEPTIONAL CIRCUMSTANCES, PRESERVED**
27 **EXPRESSLY FOR THE PURPOSE OF PROVIDING COMPENSATORY MITIGATION IN**

1 ACCORDANCE WITH THE PROVISIONS OF PART 303, IN ADVANCE OF
2 AUTHORIZED, UNAVOIDABLE IMPACTS TO WETLANDS.

3 Sec. 5202. (1) The authority in consultation with the
4 department shall establish a strategic water quality initiatives
5 loan program. This loan program shall provide low interest loans to
6 municipalities to provide assistance for improvements to a sewage
7 system for 1 or more of the following:

8 (a) Improvements to reduce or eliminate the amount of
9 groundwater or storm water entering a sanitary sewer lead or a
10 combined sewer lead.

11 (b) Upgrades or replacements of failing on-site septic systems
12 that are adversely affecting public health or the environment, or
13 both.

14 (C) ASSISTANCE FOR CONSTRUCTION ACTIVITIES AS DEFINED IN
15 SECTION 5301(D) WHEN IDENTIFIED THROUGH AN ASSET MANAGEMENT PROGRAM
16 OR STORM WATER PROJECT PLAN DESIGNED TO PROTECT WATER QUALITY,
17 INCLUDING IMPROVEMENTS THAT ARE WATER AND ENERGY EFFICIENT, WHERE
18 FEASIBLE.

19 (2) In implementing the loan program, the department shall
20 annually establish the interest rate that will be charged for
21 loans.

22 Sec. 5203. (1) A municipality that wishes to apply for a loan
23 shall submit a loan application ~~to the department in accordance~~
24 ~~with the application requirements provided in part 53.~~ **IN COMPLIANCE**
25 **WITH THE FOLLOWING:**

26 (A) TO THE DEPARTMENT IN ACCORDANCE WITH THE APPLICATION
27 REQUIREMENTS PROVIDED IN PART 53 FOR SECTION 5202(1) (A) OR (B)

1 **ACTIVITIES.**

2 **(B) ON A FORM APPROVED BY THE DEPARTMENT FOR SECTION**
3 **5202 (1) (C) ACTIVITIES.**

4 (2) The department shall process the loan applications
5 submitted under this part. ~~and otherwise administer the fund in~~
6 ~~accordance with the procedures established pursuant to part 53.~~

7 (3) Prior to releasing a loan, the authority in consultation
8 with the department shall enter into a loan agreement with the loan
9 recipient. ~~in accordance with part 53.~~

10 (4) All money that is received for the repayment of a loan
11 shall be forwarded to the state treasurer for deposit into the
12 fund.

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

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

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

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

27 (a) Loans under section 5202.

(b) Grants under ~~section~~ **SECTIONS** 5204a, and 5204d, **AND 5204E.**

(c) Response activities to address nonpoint source water pollution under section 5204b.

(d) Grants and loans for brownfield sites under section 5204c.

(E) GRANTS AND LOANS FOR WETLAND MITIGATION BANKS UNDER SECTION 5204F.

(F) ~~(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. 5204E. (1) IN ADDITION TO OTHER REQUIREMENTS OF THIS PART, THE GRANT PROGRAM SHALL PROVIDE ASSISTANCE TO MUNICIPALITIES TO INCREASE THE LEVEL OF INVESTMENT IN SEWAGE COLLECTION AND TREATMENT SYSTEMS AND TO IMPROVE WATER QUALITY AND RESULT IN POLLUTION PREVENTION.

(2) THE GRANT PROGRAM IS SUBJECT TO ALL OF THE FOLLOWING:

(A) THE GRANT PROGRAM SHALL PROVIDE GRANTS OF UP TO \$1,000,000.00 TO COVER NOT MORE THAN 90% OF THE COSTS INCURRED BY A MUNICIPALITY. FOR GRANTS OF MORE THAN \$1,000,000.00 AND LESS THAN \$2,000,000.00, THE GRANT PROGRAM SHALL NOT COVER MORE THAN 75% OF THE COSTS INCURRED BY A MUNICIPALITY. A MUNICIPALITY THAT IS A DISADVANTAGED COMMUNITY AS DEFINED IN PART 53 OR A MUNICIPALITY UNDER EMERGENCY FINANCIAL MANAGEMENT UNDER THE LOCAL GOVERNMENT AND SCHOOL DISTRICT FISCAL ACCOUNTABILITY ACT, 2011 PA 4, MCL 141.1501 TO 141.1531, A CONSENT AGREEMENT ENTERED INTO UNDER THAT ACT, OR A SUCCESSOR STATUTE THAT THE DEPARTMENT DETERMINES IS SUBSTANTIALLY

1 SIMILAR TO THAT ACT, MAY RECEIVE A 100% GRANT. FUNDING CAN BE USED
2 FOR THE FOLLOWING PURPOSES:

3 (i) DEVELOPMENT OF AN ASSET MANAGEMENT PROGRAM FOR A SEWAGE
4 COLLECTION AND TREATMENT SYSTEM OR A STORM WATER SYSTEM. FOR SEWAGE
5 COLLECTION AND TREATMENT SYSTEMS, THE PROGRAM SHALL INCLUDE THE
6 DEVELOPMENT OF A FUNDING STRUCTURE AND IMPLEMENTATION SCHEDULE THAT
7 PROVIDES SUFFICIENT RESOURCES TO IMPLEMENT THE PROGRAM. THE
8 MUNICIPALITY SHALL COORDINATE, AS FEASIBLE, WITH OTHER
9 INFRASTRUCTURE ACTIVITIES IN THE SAME GEOGRAPHIC AREA.

10 (ii) DEVELOPMENT OF MANAGEMENT PLANS FOR THE TREATMENT OF STORM
11 WATER.

12 (iii) DEVELOPMENT OF STORM WATER UTILITIES IF THE MUNICIPALITY
13 HAS AN ASSET MANAGEMENT PROGRAM.

14 (iv) PLANNING AND DESIGN OF A SEWAGE TREATMENT WORKS PROJECT OR
15 STORMWATER TREATMENT PROJECT AS DEFINED IN SECTION 5301(N) OR (O)
16 OR CONSTRUCTION ACTIVITIES DESIGNED TO REDUCE NONPOINT SOURCE
17 POLLUTION.

18 (B) THE LOCAL MATCH IS NOT ELIGIBLE FOR LOAN ASSISTANCE FROM
19 THE STATE WATER POLLUTION CONTROL REVOLVING FUND OR THE FUND.

20 (C) GRANT FUNDS SHALL NOT BE USED FOR GENERAL LOCAL GOVERNMENT
21 ADMINISTRATIVE ACTIVITIES OR ACTIVITIES PERFORMED BY MUNICIPAL
22 EMPLOYEES THAT ARE UNRELATED TO THE PROJECT.

23 (D) A MUNICIPALITY SHALL NOT RECEIVE MORE THAN \$2,000,000.00
24 IN TOTAL GRANT ASSISTANCE UNDER THIS SECTION.

25 (3) THE DEPARTMENT SHALL ESTABLISH AN APPLICATION AND REVIEW
26 PROCESS FOR CONSIDERING GRANT APPLICATIONS UNDER THIS SECTION. THE
27 APPLICATION SHALL CONTAIN THE INFORMATION REQUIRED BY THE

1 DEPARTMENT AND THE AUTHORITY. WITHIN 60 DAYS AFTER RECEIPT OF AN
2 APPLICATION, THE DEPARTMENT SHALL PUBLISH NOTICE OF THE APPLICATION
3 ON THE DEPARTMENT'S CALENDAR. WITHIN 120 DAYS AFTER RECEIPT OF AN
4 ADMINISTRATIVELY COMPLETE GRANT APPLICATION, THE DEPARTMENT SHALL,
5 IN WRITING, NOTIFY THE APPLICANT WHETHER THE APPLICATION IS
6 APPROVED OR REJECTED. IF THE DEPARTMENT APPROVES A GRANT UNDER THIS
7 SECTION, THE DEPARTMENT AND THE AUTHORITY SHALL ENTER INTO A GRANT
8 AGREEMENT WITH THE RECIPIENT PRIOR TO TRANSFERRING FUNDS. THE GRANT
9 AGREEMENT SHALL CONTAIN TERMS ESTABLISHED BY THE DEPARTMENT AND THE
10 AUTHORITY AND A REQUIREMENT THAT THE GRANT RECIPIENT REPAY THE
11 GRANT, WITHIN 90 DAYS OF BEING INFORMED TO DO SO, WITH INTEREST AT
12 A RATE NOT TO EXCEED 8% PER YEAR, TO THE AUTHORITY FOR DEPOSIT INTO
13 THE FUND IF THE APPLICANT IS UNABLE TO, OR DECIDES NOT TO, PROCEED
14 WITH A CONSTRUCTION PROJECT INITIATED FROM A GRANT UNDER THIS
15 SECTION.

16 (4) FOR EACH YEAR IN WHICH THE DEPARTMENT RECEIVES GRANT
17 APPLICATIONS UNDER THIS SECTION, THE DEPARTMENT SHALL REPORT BY
18 OCTOBER 1 OF THAT YEAR TO THE STANDING COMMITTEES OF THE SENATE AND
19 THE HOUSE OF REPRESENTATIVES WITH PRIMARY JURISDICTION OVER ISSUES
20 PERTAINING TO NATURAL RESOURCES AND THE ENVIRONMENT AND TO THE
21 SENATE AND HOUSE OF REPRESENTATIVES APPROPRIATIONS COMMITTEES ON
22 THE UTILIZATION OF FUNDS UNDER THIS PART THAT WERE RECEIVED FROM
23 THE GREAT LAKES WATER QUALITY BOND FUND CREATED IN SECTION 19706.
24 THE REPORT SHALL INCLUDE, AT A MINIMUM, ALL OF THE FOLLOWING:

25 (A) THE NUMBER OF GRANT APPLICATIONS RECEIVED UNDER THIS
26 SECTION.

27 (B) THE NAME OF EACH MUNICIPALITY APPLYING FOR A GRANT.

1 (C) THE TYPE OF PROJECT BEING FUNDED FOR EACH GRANT AWARDED.

2 (D) THE NUMBER OF USERS POTENTIALLY AFFECTED BY EACH GRANT
3 AWARDED.

4 (E) THE AMOUNT OF THE LOCAL MATCH FOR EACH GRANT AWARDED.

5 (F) THE INDIVIDUAL AND ANNUAL CUMULATIVE AMOUNT OF GRANT FUNDS
6 AWARDED, INCLUDING AN IDENTIFICATION OF WHETHER EACH AWARD WAS FOR
7 THE PURPOSE OF APPLYING FOR ASSISTANCE FROM THE STATE WATER
8 POLLUTION CONTROL REVOLVING FUND OR THE FUND.

9 SEC. 5204F. (1) THE AUTHORITY, IN CONJUNCTION WITH THE
10 DEPARTMENT, SHALL ESTABLISH A WETLAND MITIGATION BANK FUNDING
11 PROGRAM THAT PROVIDES GRANTS AND LOANS TOTALING NOT MORE THAN
12 \$10,000,000.00 TO ELIGIBLE MUNICIPALITIES. OF THE MONEY EXPENDED
13 UNDER THIS SUBSECTION, UP TO \$500,000.00 MAY BE USED FOR GRANTS.
14 FUNDING MAY BE USED FOR THE PURPOSE OF THIS SUBSECTION AS LONG AS
15 FUNDS REMAIN AVAILABLE.

16 (2) GRANTS AWARDED UNDER THE WETLAND MITIGATION BANK FUNDING
17 PROGRAM SHALL PROVIDE ASSISTANCE TO MUNICIPALITIES TO COMPLETE LOAN
18 APPLICATION REQUIREMENTS FOR FUNDING FROM THE WETLAND MITIGATION
19 BANK FUNDING PROGRAM OR TO COMPLETE LOAN APPLICATION REQUIREMENTS
20 FOR OTHER SOURCES OF FINANCING. GRANTS FOR WETLAND MITIGATION BANKS
21 ARE SUBJECT TO THE FOLLOWING:

22 (A) GRANTS SHALL NOT COVER MORE THAN 90% OF THE COSTS INCURRED
23 BY A MUNICIPALITY TO COMPLETE AN APPLICATION FOR LOAN ASSISTANCE.

24 (B) GRANT FUNDING MAY BE USED FOR THE FOLLOWING PURPOSES:

25 (i) DEVELOPING AN APPROVABLE WETLAND MITIGATION BANKING
26 PROPOSAL.

27 (ii) NOTIFYING AFFECTED LOCAL UNITS OF GOVERNMENT AND ADJACENT

1 PROPERTY OWNERS OF THE PROPOSED WETLAND MITIGATION BANK, AND
2 WORKING TO RESOLVE OBJECTIONS TO THE PROJECT.

3 (iii) PLANNING AND DESIGNING THE WETLAND MITIGATION BANK.

4 (iv) COMPLETING THE WETLAND MITIGATION BANK FUNDING PROGRAM
5 LOAN APPLICATION OR LOAN APPLICATION REQUIREMENTS FOR OTHER SOURCES
6 OF FINANCING.

7 (C) THE 10% LOCAL MATCH IS NOT ELIGIBLE FOR LOAN ASSISTANCE
8 FROM THE WETLAND MITIGATION FUNDING BANK PROGRAM.

9 (D) GRANT FUNDS SHALL NOT BE USED FOR GENERAL LOCAL GOVERNMENT
10 ADMINISTRATIVE ACTIVITIES OR ACTIVITIES PERFORMED BY MUNICIPAL
11 EMPLOYEES THAT ARE UNRELATED TO DEVELOPMENT OF THE WETLAND
12 MITIGATION BANK LOAN APPLICATION.

13 (E) APPLICATIONS FOR GRANTS FROM THE WETLAND MITIGATION
14 FUNDING BANK PROGRAM SHALL BE MADE ON A FORM PROVIDED BY THE
15 DEPARTMENT AND SHALL CONTAIN THE INFORMATION REQUIRED BY THE
16 DEPARTMENT AND THE AUTHORITY. GRANT APPLICATIONS MAY BE MADE AT ANY
17 TIME.

18 (F) THE DEPARTMENT SHALL ESTABLISH A REVIEW PROCESS FOR
19 CONSIDERING GRANT APPLICATIONS UNDER THIS SUBSECTION. THE
20 DEPARTMENT SHALL NOTIFY THE APPLICANT IN WRITING WHETHER THE
21 APPLICATION IS APPROVED OR REJECTED. IF THE DEPARTMENT APPROVES A
22 GRANT UNDER THIS SECTION, THE DEPARTMENT AND THE AUTHORITY SHALL
23 ENTER INTO A GRANT AGREEMENT WITH THE RECIPIENT PRIOR TO
24 TRANSFERRING FUNDS.

25 (G) THE GRANT AGREEMENT SHALL CONTAIN TERMS ESTABLISHED BY THE
26 DEPARTMENT AND THE AUTHORITY AND A REQUIREMENT THAT THE GRANT
27 RECIPIENT REPAY THE GRANT, WITHIN 90 DAYS OF BEING INFORMED TO DO

1 SO, WITH INTEREST AT A RATE NOT TO EXCEED 8% PER YEAR, TO THE
2 AUTHORITY FOR DEPOSIT INTO THE FUND IF ANY OF THE FOLLOWING OCCUR:

3 (i) THE APPLICANT FAILS TO SUBMIT AN ADMINISTRATIVELY COMPLETE
4 LOAN APPLICATION FOR ASSISTANCE FROM THE WETLAND MITIGATION BANK
5 FUNDING PROGRAM OR OTHER SOURCE OF FINANCING FOR THE PROJECT WITHIN
6 1 YEAR OF THE DATE ON WHICH THE GRANT EXPIRES.

7 (ii) THE APPLICANT DECLINES THE LOAN ASSISTANCE FOR 2
8 CONSECUTIVE YEARS UNLESS THE APPLICANT PROCEEDS WITH FUNDING FROM
9 ANOTHER SOURCE.

10 (iii) THE APPLICANT IS UNABLE TO ENTER INTO A SIGNED WETLAND
11 MITIGATION BANKING AGREEMENT WITH THE DEPARTMENT WITHIN 2 YEARS OF
12 THE DATE ON WHICH THE GRANT EXPIRES.

13 (iv) THE APPLICANT IS UNABLE TO OR DECIDES NOT TO PROCEED WITH
14 CONSTRUCTING THE PROJECT.

15 (3) LOANS UNDER THE WETLAND MITIGATION BANK FUNDING PROGRAM
16 SHALL PROVIDE ASSISTANCE TO MUNICIPALITIES TO ESTABLISH A WETLAND
17 MITIGATION BANK. LOANS SHALL BE SUBJECT TO THE FOLLOWING:

18 (A) LOANS UNDER THE WETLAND MITIGATION BANK FUNDING PROGRAM
19 SHALL BE FOR 1 OR MORE OF THE FOLLOWING:

20 (i) COMPLETE AND EXECUTE THE WETLAND MITIGATION BANKING
21 AGREEMENT WITH THE DEPARTMENT.

22 (ii) COMPLETE ENGINEERING AND DESIGN FOR THE WETLAND MITIGATION
23 BANK.

24 (iii) PURCHASE LAND FOR THE WETLAND MITIGATION BANK.

25 (iv) CONSTRUCT THE WETLAND MITIGATION BANK.

26 (v) CONDUCT MONITORING AND MAINTENANCE NECESSARY TO ENSURE
27 THAT THE PERFORMANCE STANDARDS ARE OR WILL BE MET.

1 (vi) IN ADDITION, THE DEPARTMENT MAY APPROVE THE USE OF LOAN
2 FUNDS FOR OTHER ACTIVITIES NEEDED TO ESTABLISH A WETLAND MITIGATION
3 BANK UPON A DEMONSTRATED NEED BY THE MUNICIPALITY.

4 (B) APPLICATIONS FOR LOANS FROM THE WETLAND MITIGATION BANK
5 FUNDING PROGRAM SHALL BE MADE ON A FORM PROVIDED BY THE DEPARTMENT
6 AND SHALL CONTAIN THE INFORMATION REQUIRED BY THE DEPARTMENT AND
7 THE AUTHORITY. LOAN APPLICATIONS MAY BE MADE AT ANY TIME.

8 (4) THE DEPARTMENT SHALL ESTABLISH A REVIEW PROCESS FOR
9 CONSIDERING LOAN APPLICATIONS UNDER THIS SUBSECTION. THE DEPARTMENT
10 SHALL NOTIFY THE APPLICANT IN WRITING WHETHER THE LOAN IS APPROVED
11 OR REJECTED. PRIOR TO RELEASING A LOAN, THE AUTHORITY IN
12 CONSULTATION WITH THE DEPARTMENT SHALL ENTER INTO A LOAN AGREEMENT
13 WITH THE LOAN RECIPIENT.

14 (5) FOR EACH YEAR IN WHICH THE DEPARTMENT RECEIVES GRANT OR
15 LOAN APPLICATIONS UNDER THIS SECTION, THE DEPARTMENT SHALL REPORT
16 BY OCTOBER 1 TO THE STANDING COMMITTEES OF THE SENATE AND THE HOUSE
17 OF REPRESENTATIVES WITH PRIMARY JURISDICTION OVER ISSUES PERTAINING
18 TO NATURAL RESOURCES AND THE ENVIRONMENT AND TO THE SENATE AND
19 HOUSE APPROPRIATIONS COMMITTEES ON THE UTILIZATION OF FUNDS UNDER
20 THIS PART THAT WERE RECEIVED FROM THE GREAT LAKES WATER QUALITY
21 BOND FUND CREATED IN SECTION 19706. THE REPORT SHALL INCLUDE, AT A
22 MINIMUM, ALL OF THE FOLLOWING:

23 (A) THE NUMBER OF GRANT AND LOAN APPLICATIONS RECEIVED UNDER
24 THIS SECTION.

25 (B) THE NAME OF EACH MUNICIPALITY APPLYING FOR A GRANT OR
26 LOAN, OR BOTH.

27 (C) THE AMOUNT OF LOCAL MATCH FOR EACH GRANT AWARDED.

1 (D) THE INDIVIDUAL AND ANNUAL CUMULATIVE AMOUNT OF GRANT AND
2 LOAN FUNDS AWARDED, INCLUDING AN IDENTIFICATION OF THE PURPOSE OF
3 EACH GRANT AND LOAN AWARDED.

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

7 (a) Senate Bill No.____ or House Bill No. 5674(request no.
8 05374'12 *).

9 (b) Senate Bill No.____ or House Bill No. 5675(request no.
10 05375'12 *).

11 (c) Senate Bill No.____ or House Bill No. 5676(request no.
12 05376'12 *).