

SENATE BILL NO. 1252

December 03, 2020, Introduced by Senator ANANICH and referred to the Committee of the Whole.

A bill to amend 2000 PA 489, entitled "Michigan trust fund act," by amending section 2 (MCL 12.252), as amended by 2016 PA 193, and by adding section 11.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 2. As used in this act:
- 2 (a) "Community district education trust fund" means the
- 3 community district education trust fund created in section 12.
- 4 (b) "Flint settlement trust fund" means the Flint settlement
- 5 trust fund created in section 11.

1 (c) ~~(b)~~—"Medicaid benefits trust fund" means the Michigan
2 Medicaid benefits trust fund established in section 5.

3 (d) ~~(e)~~—"Medicaid program" means a program for medical
4 assistance established under title XIX of the social security act,
5 42 USC 1396 to 1396w-5.

6 (e) ~~(d)~~—"Medicaid special financing payments" means the
7 Medicaid special adjustor payments each year authorized in the
8 department of ~~community health~~ **and human services** appropriations
9 act.

10 (f) ~~(e)~~—"Michigan merit award trust fund" means the Michigan
11 merit award trust fund established in section 9.

12 (g) ~~(f)~~—"Tobacco settlement revenue" means money received by
13 this state that is attributable to the master settlement agreement
14 incorporated into a consent decree and final judgment entered into
15 on December 7, 1998 in Kelly Ex Rel. Michigan v Philip Morris
16 Incorporated, et al., **Kelly Ex Rel. Michigan v Philip Morris**
17 **Incorporated, et al.**, Ingham County ~~circuit court,~~ **Circuit Court**,
18 docket no. 96-84281CZ, including any rights to receive money
19 attributable to the master settlement agreement that has been sold
20 by this state.

21 (h) ~~(g)~~—"21st century jobs trust fund" means the 21st century
22 jobs trust fund established in section 7.

23 **Sec. 11. (1) The Flint settlement trust fund is created within**
24 **the state treasury. The Flint settlement trust fund is established**
25 **to address the consolidated cases known as *In re Flint Water Cases*,**
26 **No. 5:16-cv-10444-JEL-MKM (ED Mich), in connection with the**
27 **preliminary approval orders, any amendments to those orders, or the**
28 **subsequent final approval orders, that will be entered by the court**
29 **pursuant to this state's settlement agreement for that case and its**

1 related Flint water cases.

2 (2) The state treasurer may receive money or other assets from
3 any source for deposit into the Flint settlement trust fund. The
4 state treasurer shall direct the investment of the Flint settlement
5 trust fund. The state treasurer shall credit to the Flint
6 settlement trust fund interest and earnings from Flint settlement
7 trust fund investments.

8 (3) Money in the Flint settlement trust fund at the close of
9 the fiscal year shall remain in the Flint settlement trust fund and
10 shall not lapse to the general fund.

11 (4) The department of treasury shall be the administrator of
12 the Flint settlement trust fund for auditing purposes.

13 (5) The department of treasury shall expend money from the
14 Flint settlement trust fund, upon appropriation, only as provided
15 in this section.

16 (6) It is the intent of the legislature to appropriate for
17 state purposes and allocate to the Flint settlement trust fund, for
18 the purposes of making an annual payment to the Special Purpose FWC
19 Settlement Entity, pursuant to the settlement agreement approved in
20 the court orders described in subsection (1), the sum of
21 approximately \$35,000,000.00 from the general fund for each state
22 fiscal year commencing with fiscal year 2021-2022 and through the
23 fiscal year ending September 30, 2051, after which time these
24 payments will cease. The governor shall annually include the amount
25 described in this subsection in his or her executive budget
26 consistent with the orders of the court.

27 (7) The Flint settlement trust fund shall pay the amounts
28 allocated under this section to the Special Purpose FWC Settlement
29 Entity as provided in the settlement agreement approved in the

1 court orders described in subsection (1). The Special Purpose FWC
2 Settlement Entity may pledge and assign amounts paid and payable
3 under this section in connection with 1 or more loans entered into
4 by it as provided in the Michigan strategic fund act, 1984 PA 270,
5 MCL 125.2001 to 125.2094, and to pay the expenses, costs, and fees
6 associated with the Special Purpose FWC Settlement Entity. The
7 Special Purpose FWC Settlement Entity may not otherwise pledge or
8 assign those payments for any other purpose. A pledge or assignment
9 made under this subsection shall be conclusively presumed to be
10 valid for all purposes unless challenged in an action brought in
11 the court of appeals within 30 days after the pledge or assignment.
12 All challenges shall be heard and determined as expeditiously as
13 possible with priority over other matters. Consideration by the
14 court of appeals shall be based solely on the record before the
15 settlement was approved by the court and briefs to the court shall
16 be limited to whether the pledge or assignment conforms to the
17 state constitution of 1963, the laws of this state, and the laws of
18 the United States and is within the authority of the Flint
19 settlement trust fund under this act and the Michigan strategic
20 fund act, 1984 PA 270, MCL 125.2001 to 125.2094.

21 (8) The amounts paid and payable under this section represent
22 offers of settlement and compromise of any claim or claims that
23 were or could have been asserted by the plaintiffs in *In re Flint*
24 *Water Cases*, No. 5:16-cv-10444-JEL-MKM (ED Mich) in full
25 satisfaction of those claims. This section shall not be construed
26 to constitute an admission of liability to the plaintiffs or a
27 waiver of any defense that is or would have been available to this
28 state or its agencies, employees, or agents in any litigation or
29 future litigation with a plaintiff.

1 (9) As used in this section, "Special Purpose FWC Settlement
2 Entity" means the Special Purpose FWC Settlement Entity described
3 in the settlement agreement approved by the court in *In re Flint*
4 *Water Cases*, No. 5:16-cv-10444-JEL-MKM (ED Mich).