

CLEAN WATER AND SAFE DRINKING WATER ASSISTANCE

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House Bill 4123 as enacted

Public Act 45 of 2021

Sponsor: Rep. Beth Griffin

House Committee: Natural Resources and Outdoor Recreation

Senate Committee: Environmental Quality

Complete to 7-12-21

Analysis available at
<http://www.legislature.mi.gov>

BRIEF SUMMARY: House Bill 4123 amends Part 53 (Clean Water Assistance) and Part 54 (Safe Drinking Water Assistance) of the Natural Resources and Environmental Protection Act (NREPA) to allow certain projects eligible for assistance under those parts to include energy and resource efficiencies as described in sections of law that address governmental energy conservation improvements.

FISCAL IMPACT: House Bill 4123 is unlikely to affect costs or revenue for the Department of Environment, Great Lakes, and Energy (EGLE) or local governments.

THE APPARENT PROBLEM:

According to committee testimony, the funds available from the State Water Pollution Control Revolving Fund for clean water assistance and safe drinking water assistance loans are underutilized, with millions of dollars going unused for proposed projects across the state of Michigan. Legislation has been offered to expand use of the funds by expanding the kinds of activities that qualify for a loan.

THE CONTENT OF THE BILL:

Clean water assistance

Part 53 of NREPA provides a process under which EGLE provides loans and other assistance to municipalities to construct sewage treatment works projects, stormwater projects, and nonpoint source projects.¹

For purposes of Part 53, “project” means a sewage treatment works project, a stormwater treatment project, a nonpoint source project, or a combination of these. The bill amends this definition to provide that a project may include utilization of more efficient energy and resources as described in any of the following statutes (see **Background**, below) that address energy conservation improvements for government facilities or infrastructure, including their acquisition and financing:

- The Cost-Effective Governmental Energy Use Act (MCL 18.1711 to 18.1725).
- Section 11c of 1851 PA 156 concerning counties (MCL 46.11c).

¹ Nonpoint source projects are construction activities designed to reduce nonpoint source pollution—pollution that does not come from a clear and confined source of discharge, such as a pipe, ditch, container, well, vessel, etc. Nonpoint source pollution is more widespread and diffuse; in the words of the EPA, it “generally results from land runoff, precipitation, atmospheric deposition, drainage, seepage or hydrologic modification.”

<https://www.epa.gov/nps/basic-information-about-nonpoint-source-nps-pollution>

- Section 75b of 1846 RS 16 concerning townships (MCL 41.75b).
- Section 5f of the Home Rule City Act (MCL 117.5f).
- Section 24b of the Home Rule Village Act (MCL 78.24b).
- Section 36 of the General Law Village Act (MCL 68.36).

Safe drinking water assistance

Part 54 provides a process under which EGLE provides loans and other assistance to public waterworks systems that provide water for drinking and household purposes.

For purposes of Part 54, “project” means a project related to the planning, design, and construction or alteration of a waterworks system. The bill amends this definition to provide that a project may include utilization of more efficient energy and resources as described in the sections of law cited in “Clean water assistance,” above (and described in **Background**, below).

The bill also amends a provision previously required a project plan analysis to compare alternative systems by considering their opportunities to make more efficient use of energy and resources to instead require consideration of opportunities to utilize more efficient energy and resources, as described in the sections of law cited in “Clean water assistance,” above (and described in **Background**, below).

MCL 324.5301, 324.5403, and 324.5405

BACKGROUND:

The Cost-Effective Governmental Energy Use Act

The Cost-Effective Governmental Energy Use Act defines “cost-savings measure” as including a facility improvement, repair, or alteration, or any equipment, fixture, or furnishing to be added or used in a facility, that is cost-effective and that is designed to reduce energy consumption; reduce utility, capital avoidance, capital improvement, maintenance, and operating costs; or increase revenue or the operating efficiency of the facility, such as:

- Replacement or modification of lighting components, fixtures, or systems.
- Renewable energy and alternate energy systems.
- Cogeneration systems that produce steam or forms of energy, such as heat or electricity, for use primarily within a building or complex of buildings.
- Devices that reduce water consumption or sewer charges, including all of the following:
 - Water-conserving fixtures, appliances, and equipment, including water-conserving landscape irrigation equipment, or the substitution of non-water-using fixtures, appliances, and equipment.
 - Landscaping measures that reduce watering demands and capture and hold applied water and rainfall, including landscape contouring, such as the use of berms, swales, and terraces, the use of soil amendments, such as compost, that increase the water-holding capacity of the soil, rainwater harvesting equipment, and equipment to make use of water collected as part of a storm water system installed for water quality control.
 - Equipment for recycling or reuse of water originating on the premises or from other sources, including treated municipal effluent.
 - Equipment to capture water from nonconventional, alternate sources, including air conditioning condensate or graywater, for nonpotable uses.

- Metering equipment to segregate water use in order to identify water conservation opportunities or verify water savings.
- Changes in operation and maintenance practices.
- Indoor air quality improvements that conform to applicable building code requirements.
- Daylighting systems.
- Insulating the building structure or systems in the building.
- Storm windows or doors, caulking or weather stripping, multiglazed windows or door systems, heat-absorbing or heat reflective glazed and coated window and door systems, additional glazing, reductions in glass area, or other window and door system modifications that reduce energy consumption.
- Automated or computerized energy control systems.
- Heating, ventilation, or air conditioning system modifications or replacements.
- Energy recovery systems.
- Steam trap improvement programs that reduce operating costs.
- Building operation programs that reduce utility and operating costs, such as computerized energy management and consumption tracking programs, advanced metering, metering and sub-metering, staff and occupant training, and other similar activities.
- Any life safety measures that provide long-term operating cost reductions and are in compliance with state and local codes.
- Any life safety measures related to compliance with the Americans with Disabilities Act that provide long-term operating cost reductions and comply with state and local codes.
- A program to reduce energy costs through rate adjustments and load shifting to reduce peak demand, including one or more of the following:
 - Changes to more favorable rate schedules.
 - Auditing of energy service billing and meters.
- Services to reduce utility costs by identifying utility errors and optimizing existing rate schedules under which service is provided.
- Any other installation, modification of installation, or remodeling of building infrastructure improvements that produce utility or operational cost savings for their appointed functions in compliance with applicable state and local building codes.
- Recommissioning and retro-commissioning.
- Continuous commission.
- Behavior modification and energy policies.
- Measurement and verification.
- Reporting tools.
- Geothermal.
- Carbon footprint monitoring.

Local government energy conservation improvements

Section 11c of 1851 PA 156 (concerning counties), section 75b of 1846 RS 16 (concerning townships), section 5f of the Home Rule City Act, section 24b of the Home Rule Village Act, and section 36 of the General Law Village Act authorize local governments to provide for the acquisition or financing of *energy conservation improvements* to be made to government facilities or infrastructure and to pay for the improvements or the financing or refunding of the improvements from operating funds of the township or from the savings that result from the energy conservation improvements. The acquisition, financing, or refunding of energy

conservation improvements may also be made by installment contract, which may include a lease-purchase agreement.²

Under these sections of law, the term *energy conservation improvements* includes such things as heating, ventilating, or air-conditioning system improvements; the installation or repair of heating, ventilating, or air-conditioning controls; window improvements; roof improvements; the installation of insulation; entrance or exit way closures; information technology improvements associated with an energy conservation improvement; and municipal utility improvements associated with an energy conservation improvement.

ARGUMENTS:

For:

Projects for clean water and safe drinking water are often expensive, leaving municipalities facing the difficult decision of either charging taxpayers more to help fund a project or going without the upgraded infrastructure. Supporters of the bill argue that loan opportunities are at the ready and that expanding access to those opportunities helps ensure that Michiganders can continue to safely rely on Michigan's infrastructure without having to increase resident's taxes or charge fees for the infrastructure use.

Against:

While these loan programs are excellent for contracting work for much-needed infrastructure projects, some argued that the bill would allow municipalities that refuse to make the hard decision to realistically charge their tax base to fund known infrastructure upgrade needs to continue to pass the buck, taking money away from the program and leaving less available for municipalities that have made the hard decisions but need more to supplement needed projects.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.

² See <https://www.legislature.mi.gov/documents/2015-2016/billanalysis/House/pdf/2015-HLA-4990-299FCBFD.pdf>