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House Bill 4123 (as passed by the House)  
Sponsor: Representative Beth Griffin  
House Committee: Natural Resources and Outdoor Recreation  
Senate Committee: Environmental Quality

Date Completed: 6-7-21

### **CONTENT**

**The bill would amend Part 53 (Clean Water Assistance) and Part 54 (Safe Drinking Water Assistance) the Natural Resources and Environmental Protection Act (NREPA) to modify the definition of "project" under those Parts.**

#### Part 53; Clean Water Assistance

Under Part 53, "project" means a sewage treatment works project, a stormwater treatment project, or a nonpoint source project, or a combination of these. Under the bill, "project" would mean a sewage treatment works project, a stormwater treatment project, or a nonpoint source project, or a combination of these that may include utilization of more efficient energy and resources as described in any of the following:

- The Cost-Effective Governmental Energy Use Act.
- Section 11c of Public Act 156 of 1851.
- Section 75b of Chapter 16 of the Revised Statutes of 1846.
- Section 5f of the Home Rule City Act.
- Section 24b of the Home Rule Village Act.
- Section 36 of the General Law Village Act.

(The Cost-Effective Government Energy Use Act generally requires governmental units to implement cost-effective energy conservation improvements to minimize energy consumption and reduce operating costs. Section 11c of Public Act 156 of 1851 (applicable to counties), Section 75b of Revised Statutes 16 of 1846 (applicable to townships), Section 5f of the Home Rule Act, Section 24b of the Home Rule Village Act, and Section 36 of the General Law Village Act generally allow local governments to make or finance energy conservation improvements. These improvements may include heating, ventilating, or air-conditioning system improvements, fenestration improvements, roof improvements, the installation of any insulation, the installation or repair of heating, ventilating, or air-conditioning controls, entrance or exit way closures, information technology improvements associated with an energy conservation improvement, and municipal utility improvements associated an energy conservation improvement.)

Part 53 of NREPA generally authorizes the Department of Environment, Great Lakes, and Energy (EGLE) to provide loans or financing to local units of government for the construction of sewage treatment works projects, stormwater treatment projects, or nonpoint source projects. After notice and an opportunity for public comment, ELGLE must develop separate priority lists each year for sewage treatment works projects and stormwater treatment

projects, for nonpoint source projects, and for projects funded under the Strategic Water Quality Initiatives Fund. The lists must be based, in part, on criteria specified in NREPA. If the project is a sewage treatment works project or stormwater treatment project, one of the criteria is an award of points if the project is within a disadvantaged community.

Currently, Part 53 (Clean Water Assistance) defines "disadvantaged community" as a municipality in which all the following are met:

- Users within the area served by a proposed sewage treatment works project or stormwater treatment project are directly assessed for the costs of construction.
- The median household income of the area served by a proposed sewage treatment works project or stormwater treatment project does not exceed 120% of the statewide median annual household income.

To qualify as a disadvantaged community, the municipality also must demonstrate at least one of the following:

- More than 50% of the area served by a proposed sewage treatment works project or stormwater treatment project is identified as a poverty area by the United States Census Bureau.
- The median annual household income of the area served by the proposed project is less than the most recently published Statewide median annual household income for Michigan, and annual user costs for sewer treatment or stormwater treatment exceed 1.0% of the median household income of the area served by the project.
- The median annual household income of the area served by the proposed project is not greater than 120% of the statewide median annual household income, and annual user costs for sewage treatment or stormwater treatment exceed 3.0% of the median annual household income for the area served by the proposed project.

The municipality also may demonstrate that the median annual household income of the area served by a proposed project is less than the most recently published Federal poverty guidelines for a family of four in the 48 contiguous United States. The bill would remove the phrase "most recently published". Instead, as used in this provision, "Federal poverty guidelines" would mean the poverty guidelines published annually in the Federal Register by the US Department of Health and Human Services under its authority to revise the poverty line.

#### Part 54; Safe Drinking Water Assistance

Part 54 of NREPA generally authorizes EGLE to provide assistance for public water supplies that provide water for drinking and household purposes.

Under Part 54, "project" means a project related to the planning, design, and construction or alteration of a waterworks system. Under the bill, the term would mean a project related to the planning, design, and construction or alteration of a waterworks system that may include utilization of more efficient energy and resources as described in the same statutes described in the proposed definition for "project" under Part 53.

A project must include an analysis of alternatives, which must consist of a systematic identification, screening, study, evaluation, and cost-effectiveness comparison of feasible technologies, processes, and techniques. The Act specifies information that an analysis must contain, including a consideration of opportunities to make more efficient use of energy and resources. Under the bill, the analysis would have to include consideration of opportunities to

utilize more efficient energy and resources as described in the statutes listed in the proposed definition for "project" under Part 53.

MCL 324.5301 et al.

Legislative Analyst: Dana Adams

### **FISCAL IMPACT**

The bill would have no fiscal impact on the State and no fiscal impact on local governments in the aggregate. The bill would make new projects eligible for assistance that they otherwise would not be eligible, but it would not change the total amount of funding for the programs. If a newly eligible project displaced a project that otherwise would have been eligible for assistance, that would change the mix of projects that received assistance but would have no net fiscal impact on local governments.

Fiscal Analyst: Ryan Bergan

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.