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House Bill 5890 (Substitute H-1 as passed by the House)
House Bill 5891 (as passed by the House)
House Bill 5892 (Substitute H-2 as passed by the House)
Sponsor: Representative Beth Griffin (H.B. 5890)
Representative David Martin (H.B. 5891)
Representative Sara Cambensy (H.B. 5892)
House Committee: Natural Resources and Outdoor Recreation
Senate Committee: Environmental Quality

Date Completed: 6-7-22

INTRODUCTION

House Bill 5890 (H-1) would amend Part 53 (Clean Water Assistance) and Part 54 (Safe Drinking Water Assistance) of the Natural Resources and Environmental Protection Act (NREPA) by modifying the requirements and Department of Environment, Great Lakes, and Energy (EGLE) scoring criteria for municipalities and water suppliers applying for permitting and funding for stormwater and sewage treatment projects. House Bill 5891 would amend the Shared Credit Rating Act to specify that the definition of "capitalization grant" would include a Federal grant made to the State to establish a State Drinking Water Revolving Fund. House Bill 5892 (H-1) would amend the Administrative Procedures Act to specify the definition of "rule" would not include the scoring criteria and the definitions of overburdened community and significantly overburdened community developed by EGLE.

The bill likely would result in an increase in costs for EGLE because of the increased workload caused by an increase in funding applications from municipalities; however, the extent of the increase is unknown. Additionally, the bill likely would decrease the costs and workload for local governments applying for project funding because of the proposed modifications to the application requirements that would allow municipalities to file existing studies and data with their applications.

CONTENT

House Bill 5890 (H-1) would amend Part 53 and Part 54 of NREPA to do the following:

- Modify the requirements and review process for a planning document created by a municipality or a water supplier when seeking funding assistance from EGLE for sewage treatment work projects, stormwater projects, and nonpoint source projects under Part 53 and for the planning, designing, construction or alteration of a waterworks system under Part 54.**
- Require EGLE to develop scoring criteria that considered certain aspects of a project under Parts 53 and 54, such as the project's impact on overburdened and significantly overburdened communities, and to use that scoring criteria to create priority lists for projects.**
- Require EGLE to conduct an environmental review of a planning document for each project under Part 53 that was in the fundable range of the priority list and allow EGLE to take certain actions based on the review.**

- **Modify the requirements of an intended use plan prepared by EGLE under Parts 53 and 54 for the proposed annual use of the State Water Pollution Control Revolving Fund and the State Drinking Water Revolving Fund.**
- **Modify the process for EGLE to bypass a project in the fundable range of a priority list for failing to meet certain requirements under Part 53.**
- **Require EGLE to establish annually the interest rates to be assessed for projects receiving assistance under Parts 53 and 54.**
- **Specify that a municipality and water supplier would be responsible for obtaining any Federal, State, or local permits necessary for a project using funding assistance under Parts 53 and 54 and require them to perform any surveys or studies that were required under the permits, among other responsibilities.**
- **Create the "State Revolving Administration Fund" within the State Treasury and require EGLE to spend money in the Fund only for the reasonable costs of administering and conducting activities under Parts 53 and 54.**

House Bill 5891 would amend the Shared Credit Rating Act to specify that the definition of "capitalization grant" would include a Federal grant made to the State by the United States Environmental Protection Agency (EPA) for the purpose of establishing a State Drinking Water Revolving Fund as provided in the Federal Safe Drinking Water Act.

House Bill 5892 (H-1) would amend the Administrative Procedures Act to specify the definition of "rule" would not include the scoring criteria and the definitions of overburdened community and significantly overburdened community developed by EGLE under Part 53 and 54 of NREPA.

House Bill 5890 (H-1) also would repeal Section 5317 of NREPA, which creates and prescribes the membership, powers, and duties of the State Water Pollution Control Revolving Fund Advisory Committee. In addition, House Bill 5891 and House Bill 5892 (H-1) are tie-barred to House Bill 5890.

House Bill 5890 (H-1) is discussed in further detail below.

Planning Document – Part 53

Part 53 (Clean Water Assistance) of NREPA allows municipalities seeking funding assistance from the State Water Pollution Control Revolving Fund to submit project plans for sewage treatment work projects, stormwater projects, and nonpoint source projects, or a combination of these, to EGLE. The bill would replace references to "project plans" with "planning document" throughout Part 53.

(Part 53 defines "nonpoint source project" as construction activities designed to reduce nonpoint source pollution consistent with the State nonpoint source management plan under the Federal Water Pollution Control Act. "Sewage treatment work project" means construction activities on any device or system for the treatment, storage, collection, conveyance, recycling, or reclamation of the sewage of a municipality, including combined sewer overflow correction and major rehabilitation of sewers. "Stormwater management project" means construction activities of a municipality on any device or system for the treatment, storage, recycling, or reclamation of storm water that is conveyed by a storm sewer that is separate from a sanitary sewer.)

"Construction activities" means an action undertaken to plan, design, or build sewage treatment works projects, stormwater management projects, or nonpoint source projects, including: 1) project planning services; 2) engineering services; 3) legal services; 4) financial

services; 5) design of plans and specifications; 6) acquisition of land or structural components; 7) the building, erection, alteration, remodeling, or extension of sewage treatment works, projects designed to control nonpoint source pollution, and a stormwater management project; 8) and municipal supervision of the project activities described above. The bill specifies that "construction activities" would include the reasonable expenses of supervision of the project activities described above, instead of municipal supervision of such.

Under the bill, a municipality could submit as part of the planning document for a project any preexisting documents or plans that were prepared for another project for other purposes or any preexisting documents that were developed under another local, State, or Federal program, as applicable.

Part 53 requires the project plan for a tier I project to include documentation that demonstrates that the project is needed to assure maintenance of, or progress toward, compliance with the Federal Water Pollution Control Act, or Part 31 (Water Resources Protection), and to meet the minimum requirements of the National Environmental Policy Act of 1969, among other things. Instead, under the bill, a planning document would have to include documentation that demonstrated all the following:

- The project was needed to enable maintenance of, or to progress toward, compliance with the Federal Water Pollution Control Act, Part 31, or Part 41, and to meet the minimum requirements of the National Environmental Policy Act of 1969.
- An analysis of alternatives that met requirements of Part 31 or 41, including the cost of each alternative and a resolution adopted by the municipality to implement a selected alternative.
- A description of project costs and how the project would be paid for, including an explanation of how the debt would be repaid.
- A list of the environmental and public health implications and mitigation plans.
- The need for the project.
- That the feasible alternatives to the project evaluated, considering volume reduction opportunities and the demographic, topographic, hydrologic, and institutional characteristics of the area.
- That the project was implementable from a legal, institutional, financial, and management standpoint.
- Any other information EGLE required.

Part 53 requires the project plan for a tier II project to include documentation that demonstrates that the project is or was needed to assure maintenance of or progress toward compliance with the Federal Water Pollution Control Act or Part 31, and is consistent with all applicable State environmental laws, among other things. The bill would delete this provision and the definitions for "tier I project" and "tier II project".

The bill also would require a planning document to describe the public participation activities conducted during planning and to include all the following:

- Significant issues raised by the public and any changes to the project that were made as a result of the public participation process.
- A demonstration that there were adequate opportunities for making public consultation, participation, and input in the decision-making process during alternatives selection.
- A demonstration that before the adoption of the planning document, the municipality held a public meeting on the proposed project at least 15 days after advertising the public meeting in local media of general circulation, including the municipality's website, and at a time and place conducive to maximizing public input.

- A demonstration that, concurrent with advertising efforts, a notice of the public meeting was sent to all affected local, State, and Federal agencies and to any public or private parties that expressed an interest in the proposed project.
- A summary of the public meeting including a list of all attendees, and any specific concerns that were raised.

Part 53 requires EGLE to notify a municipality of any deficiencies that need to be corrected if its planning document were disapproved. Under the bill, the municipality would have to correct any deficiencies and submit an amended planning document to EGLE within 45 days after receiving the notice.

The Department must review subsequent submittals and either approve or disapprove an amended project plan within 120 days after its submission. The bill would require EGLE to review the subsequent submission and either approve or disapprove the amended planning document within 90 days after it was submitted.

Priority List – Part 53

Part 53 requires EGLE to use these project plan submissions to develop annually separate priority lists for sewage treatment works projects and stormwater treatment projects and for nonpoint source projects. The priority lists must be based on certain criteria included in a project plan, including the demonstration that a project complies with all applicable standards in Part 31 and the Federal Water Pollution Control Act, among other criteria. Instead, under the bill, EGLE would have to develop annually separate priority lists for sewage treatment works projects and stormwater management projects and for nonpoint source projects and the priority lists would have to be based on the planning documents and the scoring criteria developed prescribed by the bill and described below. The bill also specifies that the provisions concerning EGLE's creation of priority lists would not limit other actions undertaken to enforce Part 41 (Sewerage Systems).

Under the bill, EGLE would have to develop scoring criteria that assigned points to and prioritized projects described above. In addition, the Department would have to develop definitions of overburdened community and significantly overburden community. In developing the scoring criteria and definitions, EGLE would have to do all the following:

- Publish, hold at least one public hearing, and all for public comment.
- Review the scoring criteria and definitions of overburdened community and significantly overburdened community not more than once every three years, unless otherwise directed by the EPA.
- Publish, hold at least one public hearing, and allow for public comment on any changes made after a review as described above.

The definitions would have to address the following:

- Income and unemployment data.
- Population trends.
- Housing costs and values.
- Annual user costs, allocation of costs across customer classes, and historical and projected trends in user costs.
- Existing public health, environmental, and affordability impacts.
- Other data EGLE considered relevant.

The bill would require the scoring criteria to address the following:

- Wastewater regulatory compliance.
- Public health.
- Achieving water quality standard.
- Improving infrastructure.
- Impacts on overburdened communities and significantly overburdened communities.

In addition to the scoring criteria, the bill would require EGLE to award 20% of the total allowable points if a municipality were an overburdened community or a significantly overburdened community.

Part 53 allows EGLE to segment a sewage treatment work project to ensure that a disproportionate share of available funds for a given fiscal year are not committed to a single sewage treatment work project if the cost of the proposed project is more than 30% of the amount available in the Fund or, upon application of the municipality, EGLE has approved a municipality's application for segmenting the project. Instead, under the bill, when EGLE prepared the priority list, EGLE could segment a project to ensure that a disproportionate share of available funds for a given fiscal year was not committed to a single project if the cost of the proposed project were not more than 30% of the amount available in the Fund.

Environmental Review – Part 53

Under the bill, EGLE would have to conduct an environmental review of the planning document for each project in the fundable range of the priority list to determine whether any significant impacts would be anticipated and whether any changes could be made in the project to eliminate significant adverse impacts. As part of the environmental review, EGLE could require a municipality to submit additional information or meet additional public participation and coordination requirements to justify the environmental determination.

(The Act defines "fundable range" as those projects, taken in descending order on the priority lists, for which sufficient funds are estimated by EGLE to exist to provide assistance at the beginning of each annual funding cycle.)

Based on the environmental review completed, EGLE could determine that an environmental assessment was necessary, and it could describe any of the following in its determination:

- The purpose and need for the project.
- The project costs.
- The alternatives considered and the reasons for their acceptance or rejection.
- The existing environment.
- Any potential adverse impacts and mitigative measures.
- How mitigative measures would be incorporated into the project, as well as any proposed conditions of financial assistance and the means for monitoring compliance with the conditions.

Based on an environmental assessment, EGLE could issue a finding of no significant impact. The finding of no significant impact would have to document that the potential environmental impacts would not be significant or that the environmental impacts could be mitigated without extraordinary measures. In addition, EGLE could require a municipality to complete an environmental impact statement if it determined any of the following:

- The project would have significant adverse impact on wetlands, flood plains, threatened or endangered species or habitats, or cultural resources, such as park lands, preserves, areas of recognized scenic, recreational, agricultural, archeological, or historical value, or other public lands.

- The project would cause significant displacement of population.
- The project would have directly or indirectly, such as through induced development, a significant adverse effect upon local ambient air quality, public health, local noise levels, surface water and groundwater quantity or quality, shellfish, fish, wildlife, or wildlife natural habitats.
- The project would generate significant public controversy.

Based on the environmental impact statement, EGLE would have to issue a record of decision summarizing the findings of the environmental impact statement that identified the conditions under which the project could proceed and maintain compliance with the National Environmental Policy Act of 1969. If five or more years had elapsed since a determination of compliance with the National Environmental Policy Act of 1969 or if significant changes in the project had occurred, EGLE would have to reevaluate the project for compliance with the National Environmental Policy Act of 1969 and EGLE could do any of the following:

- Reaffirm the original finding of no significant impact or the record of decision through the issuance of a public notice or statement of finding.
- Issue an amendment to a finding of no significant impact or revoke a finding of no significant impact and issue a public notice that the preparation of an environmental impact statement was required.
- Issue a supplement to a record of decision or revoke a record of decision and issue a public notice that financial assistance would not be provided.

Action regarding approval of a planning document or provision of financial assistance could not be taken during a 30-day public comment period after the issuance of a finding of no significant impact or record of decision.

Intended Use Plan – Part 53

Part 53 requires EGLE to prepare and submit an intended use plan annually to identify proposed annual intended uses of the Fund and to facilitate the negotiation process with the EPA for the capitalization grant agreement and schedule of payments to be made to the State under the Federal Water Pollution Control Act. The Department must allow for a public participation process that requires at least one public hearing for the intended use plan and it may make changes in the intended use plan without holding additional hearings in response to the comments received from the EPA and through the public participation process. Instead, under the bill, the EGLE would have to allow for a public participation process that requires at least one public hearing for the intended use plan by publishing a draft of the plan on its website at least 14 days before a final intended use plan was submitted as described above.

An intended use plan must include the following:

- A copy of the State's priority lists.
- A description of the long-and-short-term goals of the Fund.
- The proposed fundable range and an allocation of the funds available for projects on the nonpoint source priority list and for the sewage treatment works project and stormwater treatment projects priority list.
- A description of the projects on the priority list.
- Any necessary assurances or proposals indicating how the State intended to meet applicable Federal requirements.
- A description of the criteria and method for distribution of the Fund.
- A description of the public participation process followed in the development of the intended use plan and the results of that process.
- Any other information needed to comply with the Federal Water Pollution Control Act.

- Any other information that EGLE considered appropriate.

The bill would delete this provision. Instead, the intended use plan would have to describe and identify all the following:

- Additional subsidization that would be allocated to projects.
- The projects that would receive additional subsidization.
- The reasons why a project would receive additional subsidization.

Bypassed Projects – Part 53

Under Part 53, a project in the fundable range of a priority list may be bypassed if it fails to meet requirements associated with the intended use plan describe above or if it does not have approved plans and specifications and an approvable application 90 days before the last day of the fiscal year, whichever comes first. Under the bill, EGLE could bypass a project that failed to meet the requirements associated with the intended use plan or that did not have an approved planning document and application 90 days before the last day of the fiscal year, whichever came first. The Department would have to provide a municipality with written notice of the intent to bypass at least 30 days before a project was bypassed.

Part 53 allows a municipality to request an extension of the schedule for cause. The bill specifies that, if demand exceeded funding availability, a municipality could request that EGLE extend the schedule associated with the intended use plan for not more than 60 days. A municipality would have to include in its request the reason or reasons for its noncompliance with the schedule and would have to submit one additional written request to EGLE to extend the schedule for not more than 30 days.

The bill also specifies that a bypass action would not modify any compliance dates established in a permit, order, or other document issued by EGLE or entered as part of an action brought by the State or a Federal agency. The Department would have to notify a municipality with a project outside the fundable range of bypass action, of the amount of the bypassed funds available for obligation, and of the deadline for submitting a complete, approvable application.

Order of Approval for Assistance – Part 53

Part 53 requires EGLE to review a complete application for assistance for a project in the fundable range, and if it approves the application, require it to issue an order of approval to establish the specific terms of assistance. The order of approval must include the term of the assistance, the maximum principal amount of the assistance, and the maximum rate of interest or method of calculation of the rate of interest that will be used, or the premium charged. The method of establishing the interest rate applicable to a loan or project refinancing assistance must be applied equally within tier I and tier II projects to all municipalities receiving such assistance, but in establishing interest rates, EGLE may provide for a different level of subsidy for tier I and tier II projects. The bill would delete the provision concerning tier I and tier II projects.

Under the bill, EGLE would have to establish annually the interest rates to be assessed for projects receiving assistance. The Department could provide for a different level of subsidy when establishing interest rates. The interest rates would have to be in effect for loans made during the next State fiscal year.

Municipality Responsibilities – Part 53

Under the bill, a municipality would be responsible for obtaining any Federal, State, or local

permits necessary for the project and would have to perform any surveys or studies that were required under the permits. A municipality would have to incorporate all appropriate provisions, conditions, and mitigative measures included in the studies, surveys, permits, and licenses into the construction documents. The construction documents are subject to review by EGLE for conformity with environmental determinations and coordination requirements.

All applicable and appropriate conditions and mitigative measures would have to be enforced by the municipality or its designated representative and would have to apply to all construction and post-construction activities, including disposal of all liquid or solid spoils, waste material, and residuals from construction. A municipality could seek guidance from EGLE regarding the requirements under the bill or associated rules promulgated.

Planning Document – Part 54

Part 54 of NREPA requires a water supplier that is interested in applying for funding assistance from the State Drinking Water Revolving Fund for a project related to the planning, design, and construction or alteration of a waterworks system to prepare and submit to EGLE a project plan as prescribed by the Part. The bill would replace references to "project plans" with "planning document" above and throughout Part 54.

(Part 54 defines "waterworks system" as a system of pipes and structures through which water is obtained or distributed and includes any of the following that are actually used or intended to be used for the purpose of furnishing water for drinking or household purposes: 1) wells and well structures; 2) intakes and cribs; 3) pumping stations; 4) treatment plants; 5) storage tanks; 6) pipelines and appurtenances; 7) a combination of any of these listed.)

Under the bill, a municipality could submit as part of the planning document for a project any preexisting documents or plans that were prepared for another project for other purposes or any preexisting documents that were developed under another local, State, or Federal program, as applicable.

Part 54 requires the project plan for a project to include documentation that demonstrates that the project is needed to assure maintenance of, or progress toward, compliance with the Federal Safe Drinking Water Act. A complete project plan must include specified information as background, including the identification of planning area boundaries and characteristics and a description of the existing waterworks system, among other information. A project plan must include an analysis of alternatives, and other information, such as the planning period for the cost-effectiveness analysis of 20 years or other such planning periods as justified and the costs that consider the present worth or equivalent annual value of all capital, operation, and maintenance costs, among other information.

The bill would delete the requirements of a project plan as described above. Instead, a planning document would have to include documentation that demonstrated all the following:

- The project was needed to ensure maintenance of or progress toward compliance with the minimum requirements of the National Environmental Policy Act of 1969.
- An analysis of alternatives including the cost of each alternative.
- A description of project costs and how the project would be paid for including an explanation of how the debt would be repaid.
- A list of the environmental and public health implications and mitigation plans.
- Certain considerations of opportunities to use more efficient energy and resources.

In addition, a planning document would have to describe the public participation activities conducted during planning and would have to include the following:

- A demonstration that before the adoption of the planning document, the water supplier held a public meeting on the proposed project not less than 10 days after advertising the public meeting in local media of general circulation including, but not limited to, the water supplier's website, and a time and place conducive to maximize public input.
- A summary of the public meeting, including a list of attendees and specific concerns that were raised.
- Other requirements related to public participation currently prescribed by Part 54.

Part 54 prohibits a project plan from having as a primary purpose the construction or expansion of a waterworks system to accommodate future development. In addition, the bill would prohibit a planning document from having as its primary purpose fire protection.

Priority List – Part 54

Part 54 requires EGLE to use project plan submissions to develop priority lists of projects eligible for assistance. The priority list must be based on project plans submitted by water suppliers and certain criteria prescribed by Part 54. The Department must assign point values up a maximum of 1,000, which must be maximum values available for each category or subcategory provided by the Part's criteria. The bill would delete the requirement that priority lists be based on the criteria prescribed in Part 54. Instead, the priority list would have to be based on planning documents and the scoring criteria described below.

In addition, Part 54 requires that priority lists be submitted annually to the chairpersons of the Senate and House of Representatives standing committees that consider legislation pertaining to the protection of public health and the environment. The Department also must make every effort to assure that funding for assistance is equitably distributed among public water supplies of varying sizes. The bill would delete these provisions.

Under the bill, EGLE would have to develop scoring criteria that assigned points to and prioritized projects. In developing scoring criteria, EGLE would have to do all the following:

- Publish, hold at least one public hearing, and all for public comment.
- Review the scoring criteria and definitions of overburdened community and significantly overburdened community (see below) not more than once every three years, unless otherwise directed by the United States Environmental Protection Agency.
- Publish, hold at least one public hearing, and allow for public comment on any changes made after a review as described above.

The bill would require EGLE to develop definitions of overburdened community and significantly overburdened community and do all the following described above in the development of those definitions. The definitions would have to address the following:

- Income and unemployment data.
- Population trends.
- Housing costs and values.
- Annual user costs, allocation of costs across customer classes, and historical and projected trends in user costs.
- Existing public health, environmental, and affordability impacts.
- Other data considered relevant by EGLE.

The scoring criteria also would have to address the following:

- Drinking water regulatory compliance.
- Public health.

- Drinking water quality.
- Improving infrastructure.
- Impacts on overburdened communities and significantly overburdened communities.

Environmental Review – Part 54

Part 54 requires EGLE to conduct an environmental review of the project plan of each project in the fundable range of the priority list to determine whether any significant impacts are anticipated and whether any changes can be made in the project to eliminate significant adverse impacts. If, based on the environmental review, EGLE determines that an environmental assessment is necessary, it may take the actions specified in the Act. Among other reasons, Part 54 allows EGLE to require an environmental assessment if the project will directly or indirectly, such as through induced development, have a significant adverse effect on local ambient air quality, local noise levels, surface water and groundwater, shellfish, fish, wildlife, and wildlife natural habitats. The bill would include public health in this list.

Interest Rates for Assistance – Part 54

Part 54 requires EGLE to establish annually the interest rates to be assessed for projects receiving assistance. In establishing the interest rate, EGLE must consider the future demands, present demands, market conditions, and the cost of compliance with program elements. The bill would delete the requirement that EGLE consider these factors and, instead, allow EGLE to provide for a different level of subsidy for projects. The bill also specifies that interest rates would have to be in effect for loans made during the next State fiscal year.

Water Supplier Responsibilities – Part 54

Under the bill, a water supplier would be responsible for obtaining any Federal, State, or local permits necessary for the project and would have to perform any surveys or studies that were required under the permits. A water supplier would have to incorporate all appropriate provisions, conditions, and mitigative measures included in the studies, surveys, permits, and licenses into the construction documents. The construction documents would be subject to review by EGLE for conformity with environmental determinations and coordination requirements.

All applicable and appropriate conditions and mitigative measures would have to be enforced by the municipality or its designated representative and would apply to all construction and post-construction activities, including disposal of all liquid or solid spoils, waste material, and residuals from construction. A water supplier could seek guidance from EGLE regarding these requirements or the associated rules promulgated.

Costs of Administration – Part 54

Part 54 requires the Legislature to appropriate funds to EGLE each year for the cost of administering and implementing Part 54's requirements. Funds must be appropriated from the sources prescribed under Part 54. The bill would allow funds to be appropriated each year from the collection of fees and charges by EGLE in connection with a transaction authorized under Part 54.

Intended Use Plan – Part 54

In implementing Part 54, EGLE may prepare and submit an annual intended use plan and an annual report as required by the Federal Safe Drinking Water Act. The bill would require the intended use plan to describe and identify all the following:

- Additional subsidization that would be allocated to projects.
- The projects that would receive additional subsidization.
- The reasons why a project would receive additional subsidization.

State Revolving Administration Fund

The bill would create the State Revolving Administration Fund within the State Treasury and allow the State Treasurer to receive money or other assets for any source for deposit into the Fund. The State Treasurer would have to direct the investment of the Fund and credit to it interest and earnings from Fund investments. Money in the Fund at the end of the fiscal year would remain in the Fund and would not lapse to the General Fund. The Department of Environment, Great Lakes, and Energy would be the administrator of the State Revolving Administration Fund for auditing purposes.

Not more than 0.25% of the interest charged on a loan issued under Part 53 or Part 54 could be deposited into the Fund and EGLE would have to spend money from the Fund only for the reasonable costs of administering and conducting activities under Part 53 and Part 54.

MCL 324.5204d et al. (H.B. 5890)
141.1053 (H.B. 5891)
24.207 (H.B. 5892)

Legislative Analyst: Tyler P. VanHuysse

FISCAL IMPACT

House Bill 5890 (H-1)

The bill would have a minor fiscal impact on EGLE and no significant fiscal impact on local units of government. The bill would amend Part 53 and Part 54 of NREPA by modifying the requirements and Department scoring criteria for municipalities and water suppliers applying for permitting and funding for stormwater and sewage treatment projects. Additionally, the bill would create the State Revolving Administration Fund, which EGLE would have to use to administer the bill's requirements and to conduct activities under Parts 53 and Part 54 of NREPA.

The bill likely would result in an increase in costs and workload for EGLE because of the proposed modifications in the Department's project scoring and permitting roles; however, the extent of any cost increase is unknown. The bill's proposed changes also would result in a significant increase in qualified sewage and stormwater projects to apply for funding from the Department. Therefore, EGLE likely would experience an increase in workload necessary to address the influx of project applications. Funding for these projects currently comes from the Water State Revolving Funds, which receives a combination of State and Federal sources. The Water State Revolving Funds have increased significantly from fiscal year (FY) 2019-2020 through FY 2021-2022: [Table 1](#) below includes a brief funding history. Increased funding could be used to address the anticipated increase in qualified projects that the bill would create. This increase in funding will continue, in part, because of continued Federal investment through the Infrastructure Investment and Job Act, which includes funding through FY 2025-26.

Additionally, the bill would create the State Revolving Administration Fund, and would require that 0.25% of the interest charged on a loan issued under Part 53 or Part 54 be deposited into the Fund to reimburse the Department for costs associated with activities under Part 53 and Part 54. The Fund would be created within the State Treasury and any remaining funds at the end of each fiscal year would not lapse to the General Fund. The Department currently provides administrative support for their municipal loan programs, including the Water State

Revolving Fund programs, through Municipal Assistance Program. The distribution of gross appropriations and FTEs dedicated to this program from FY 2019-20 through FY 2021-22, including the executive recommendation for FY 2022-23, are shown in Table 2 below.

The bill would have no significant fiscal impact for local governments and likely would create a reduction in costs and workload for municipalities because of the proposed modifications to the requirements for permitting and funding applications. The extent of any cost decrease is currently unknown; however, revisions to the application requirements would result in a reduction in the time and workload necessary for municipalities to complete applications. For example, certain provisions of the bill would allow municipalities to complete applications with already existing documentation, making the application process more efficient for local governments and water suppliers. If enacted, it is likely the bill would significantly increase the number of projects qualified for funding from EGLE; however, the extent of that increase is currently unknown.

Table 1
Four-Year Appropriations History of Water State Revolving Funds
(millions of dollars)

Fiscal Year	FY 2019-20	FY 2020-21		FY 2021-22		FY 2022-23	
Appropriation Bills	PA 57 of 2019	PA 166 of 2020	PA 87 of 2021	PA 87 of 2021	PA 53 of 2022 ¹	Governor's Rec. ²	PA 53 of 2022 ¹
Water state revolving funds	\$120.0	\$120.0	\$168.0	\$120.0	\$1,487.2	\$120.0	\$247.5
Total Annual Funding	\$120.0	\$288.0		\$1,607.2		\$367.5	
Annual Change	0%	140%		458.1%		-77.1%	
Change from \$120.0 million ³	0%	140%		1239.4%		206.2%	
Notes: ¹ Public Act 53 of 2022 appropriated \$469.7 in Federal Infrastructure Investment and Jobs Act (IIJA) funding that is split between FY 2021-22 and FY 2022-23; the estimated distribution is pulled from information by the Federal Funds Information for States.							
² Governor's recommendation originally included a request for \$214.0 million and \$36.9 million in GF/GP matching, but those items were appropriated in PA 53 of 2022, and for that reason they are not included in this column. The House passed budget for the EGLE included the \$214.0 million in Federal funding in addition to the funding already appropriated.							
³ Since FY 2018-19 every budget that has passed has included \$120.0 million in funding for the Water State Revolving Funds; supplemental appropriations requests have led to increase appropriations for each year after 2020.							
Sources: Federal Funds Information for States. State Allocations. January 4, 2022.							

Table 2
4-Year Appropriations History of the Municipal Assistance Program

Fiscal Year	FY 2019-20	FY 2020-21	FY 2021-22	FY 2022-23
Appropriation Bills	PA 57 of 2019	PA 166 of 2020	PA 87 of 2021	Governor's Rec. ¹
Gross	\$4,881,200	\$5,027,500	\$5,007,600	\$5,125,300
FTEs	29.0	29.0	29.0	23.0
Notes: ¹ Governor's recommendation for FY 2022-23 included a request for internal transfers that amounted to 10.0 FTEs and \$1.3 million in funding from the municipal assistance program line; it also included a request for 4.0 FTEs and \$1.4 million in additional funding for the program. Therefore, the funding level appears to increase slightly but show a net reduction of 6.0 FTEs.				

House Bill 5891 & House Bill 5892 (H-1)

The bills would have no fiscal impact on State or local government.

Fiscal Analyst: Chris Semrinec

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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.