STATE OF MICHIGAN
101ST LEGISLATURE
REGULAR SESSION OF 2022

Introduced by Reps. Griffin, Cambensy, Bellino, Roth, Outman, Steenland, Garza, Haadsma, O'Malley, Sabo and Witwer

ENROLLED HOUSE BILL No. 5890

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to protect the people's right to hunt and fish; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, assessments, and donations; to provide certain appropriations; to prescribe penalties and provide remedies; and to repeal acts and parts of acts," by amending sections 5204d, 5301, 5302, 5303, 5306, 5307, 5308, 5309, 5310, 5311, 5401, 5402, 5403, 5404, 5405, 5406, 5407, 5408, 5409, 5412, 5415, 5416, 5417, and 19703a (MCL 324.5204d, 324.5301, 324.5302, 324.5303, 324.5306, 324.5307, 324.5308, 324.5309, 324.5310, 324.5311, 324.5401, 324.5402, 324.5403, 324.5404, 324.5405, 324.5406, 324.5407, 324.5408, 324.5409, 324.5412, 324.5415, 324.5416, 324.5417, and 324.19703a), sections 5204d and 19703a as added by 2010 PA 232, sections 5301, 5403, and 5405 as amended by 2021 PA 45, section 5303 as amended by 2012 PA 560, sections 5401, 5404, 5407, 5408, 5409, 5412, 5415, 5416, and 5417 as added by 1997 PA 26, and sections 5402 and 5406 as amended by 2012 PA 561, and by adding sections 5303a, 5307a, 5313b, 5313c, 5406a, 5407a, and 5415a; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

Sec. 5204d. The state may establish a grant program within the strategic water quality initiatives fund for the purpose of funding specific wastewater treatment facility infrastructure improvement projects designed to prevent chronic discharges and projected to have significant regional benefits to Great Lakes water quality and recreational opportunities.

Sec. 5301. As used in this part:

(a) "Assistance" means 1 or more of the following activities to the extent authorized by the federal water pollution control act:

(*i*) Provision of loans to municipalities for construction of sewage treatment works projects, stormwater management projects, or nonpoint source projects.

(*ii*) Project refinancing assistance.

(*iii*) The guarantee or purchase of insurance for local obligations, if the guarantee or purchase action would improve credit market access or reduce interest rates.

(*iv*) Use of the proceeds of the fund as a source of revenue or security for the payment of principal and interest on revenue or general obligation bonds issued by this state, if the proceeds of the sale of the bonds will be deposited into the fund.

(*v*) Provision of loan guarantees for similar revolving funds established by municipalities.

(*vi*) The use of deposited funds to earn interest on fund accounts.

(*vii*) Provision for reasonable costs of administering and conducting activities under title VI of the federal water pollution control act, 33 USC 1381 to 1389.

(b) "Authority" means the Michigan municipal bond authority created in the shared credit rating act, 1985 PA 227, MCL 141.1051 to 141.1076.

(c) "Capitalization grant" means the federal grant made to this state by the United States Environmental Protection Agency for the purpose of establishing a state water pollution control revolving fund, as provided in title VI of the federal water pollution control act, 33 USC 1381 to 1389.

(d) "Construction activities" means an action undertaken to plan, design, or build sewage treatment works projects, stormwater management projects, or nonpoint source projects. Construction activities include, but are not limited to, all of the following:

(*i*) Project planning services.

(*ii*) Engineering services.

(*iii*) Legal services.

(*iv*) Financial services.

(*v*) Design of plans and specifications.

(*vi*) Acquisition of land or structural components, or both.

(*vii*) Building, erection, alteration, remodeling, or extension of any of the following:

(A) A sewage treatment works.

(B) Projects designed to control nonpoint source pollution, consistent with section 319 of the federal water pollution control act, 33 USC 1329.

(C) A stormwater management project.

(*viii*) Reasonable expenses of supervision of the project activities described in subparagraphs (*i*) to (*vii*).

(e) "Federal water pollution control act" means 33 USC 1251 to 1389.

(f) "Fund" means the state water pollution control revolving fund established under section 16a of the shared credit rating act, 1985 PA 227, MCL 141.1066a.

(g) "Fundable range" means those projects, taken in descending order on the priority lists, for which sufficient funds are estimated by the department to exist to provide assistance at the beginning of each annual funding cycle.

(h) "Municipality" means a city, village, county, township, authority, or other public body, including either of the following:

(*i*) An intermunicipal agency of 2 or more municipalities, authorized or created under state law.

(*ii*) An Indian tribe that has jurisdiction over construction and operation of sewage treatment works or other projects qualifying under section 319 of the federal water pollution control act, 33 USC 1329.

(i) "Nonpoint source project" means construction activities designed to reduce nonpoint source pollution consistent with the state nonpoint source management plan under section 319 of the federal water pollution control act, 33 USC 1329.

(j) "Priority list" means the annual ranked listing of projects developed by the department in section 5303.

(k) "Project" means a sewage treatment works project, stormwater management project, or nonpoint source project, or a combination of these and may include utilization of more efficient energy and resources as described in any of the following:

(*i*) The cost-effective governmental energy use act, 2012 PA 625, MCL 18.1711 to 18.1725.

(*ii*) Section 11c of 1851 PA 156, MCL 46.11c.

(*iii*) Section 75b of 1846 RS 16, MCL 41.75b.

(*iv*) Section 5f of the home rule city act, 1909 PA 279, MCL 117.5f.

(*v*) Section 24b of the home rule village act, 1909 PA 278, MCL 78.24b.

(*vi*) Section 36 of the general law village act, 1895 PA 3, MCL 68.36.

(*l*) "Project refinancing assistance" means buying or refinancing the debt obligations of municipalities within this state if construction activities commenced after March 7, 1985 and the debt obligation was incurred after March 7, 1985.

(m) "Sewage treatment works 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.

(n) "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.

Sec. 5302. (1) This part must be construed liberally to effectuate the legislative intent. All powers granted under this part must be broadly interpreted to effectuate the intent and purposes of this part and must not be interpreted as a limitation of powers.

(2) Except as may be authorized by the federal water pollution control act, the fund must not provide grant assistance to a municipality or provide loans for the local share of projects constructed with grants provided under title II of the federal water pollution control act, 33 USC 1281, 1282 to 1293, and 1294 to 1302f.

(3) This state is not liable to a municipality, or any other person performing services for the municipality, for costs incurred in developing or submitting an application for assistance under this part.

Sec. 5303. (1) During the development of a planning document, a municipality shall consider and utilize, where possible, cooperative regional or intermunicipal projects in satisfying sewerage needs.

(2) A municipality may submit a planning document for use by the department in developing a priority list. A municipality may submit as part of the planning document for a project either of the following:

(a) Any preexisting documents or plans that were prepared for another project for other purposes.

(b) Any preexisting documents that were developed under another local, state, or federal program, as applicable.

(3) A planning document must include documentation that demonstrates all of the following:

(a) The project is 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, Public Law 91-190, 42 USC 4321, 4331 to 4335, and 4341 to 4347.

(b) An analysis of alternatives that meet the requirements of part 31 or 41, including the cost of each alternative and a resolution adopted by the municipality to implement a selected alternative.

(c) A description of project costs and how the project will be paid for including, but not limited to, an explanation of how the debt will be repaid.

(d) A list of the environmental and public health implications and mitigation plans.

(e) The need for the project.

(f) That feasible alternatives to the project were evaluated, considering volume reduction opportunities and the demographic, topographic, hydrologic, and institutional characteristics of the area.

(g) That the project is implementable from a legal, institutional, financial, and management standpoint.

(h) Any other information required by the department.

(4) A planning document must describe the public participation activities conducted during planning and must include all of the following:

(a) Significant issues raised by the public and any changes to the project that were made as a result of the public participation process.

(b) A demonstration that there were adequate opportunities for making public consultation, participation, and input in the decision-making process during alternatives selection.

(c) A demonstration that before the adoption of the planning document, the municipality held a public meeting on the proposed project not less than 15 days after advertising the public meeting in local media of general circulation including, but not limited to, the municipality's website, and at a time and place conducive to maximizing public input.

(d) A demonstration that, concurrent with advertisement of the public meeting, 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.

(e) A summary of the public meeting including a list of all attendees, and any specific concerns that were raised.

(5) After notice and an opportunity for public comment, the department shall annually develop separate priority lists for sewage treatment works projects and stormwater management projects, nonpoint source projects, and projects funded under the strategic water quality initiatives fund created in section 5204. Projects not funded during the time that a priority list developed under this section is in effect must be automatically prioritized on the next annual list using the same criteria, unless the municipality submits an amendment to its planning document that introduces new information to be used as the basis for prioritization. The priority lists must be based on the planning documents and the scoring criteria developed under section 5303a.

(6) If a municipality is an overburdened community or a significantly overburdened community, the department shall automatically award the municipality at least 20% of the total allowable points.

(7) The priority list must be submitted annually to the chair of the senate and house of representatives standing committees that primarily consider legislation pertaining to the protection of natural resources and the environment.

(8) For purposes of providing assistance, the priority list takes effect on the first day of each fiscal year.

(9) This section does not limit other actions undertaken to enforce part 31, part 41, the federal water pollution control act, or any other act.

Sec. 5303a. (1) The department shall develop scoring criteria that assign points to and prioritize projects under section 5303 and definitions of overburdened community and significantly overburdened community. In developing scoring criteria and the definitions under this subsection, the department shall do all of the following:

(a) Consult with members of statewide local government associations and drinking water, wastewater, stormwater, and environmental organizations regarding the content of the scoring criteria and definitions.

(b) Publish, hold at least 1 public hearing, and allow for public comment.

(c) Review the scoring criteria and definitions not more than once every 3 years, unless otherwise directed by the United States Environmental Protection Agency.

(d) Publish, hold at least 1 public hearing, and allow for public comment on any changes made after a review under subdivision (c).

(2) The scoring criteria developed under subsection (1) must address the following:

(a) Wastewater regulatory compliance.

(b) Public health.

(c) Achieving water quality standards.

(d) Improving infrastructure.

(e) Impacts on overburdened communities and significantly overburdened communities.

(3) The definitions of overburdened community and significantly overburdened community developed under subsection (1) must address the following:

(a) Income and unemployment data.

(b) Population trends.

(c) Housing costs and values.

(d) Annual user costs, allocation of costs across customer classes, and historical and projected trends in user costs.

(e) Existing public health, environmental, and affordability impacts.

(f) Other data considered relevant by the department.

Sec. 5306. (1) The department shall prepare and submit an intended use plan annually to identify proposed annual intended uses of the fund, and to facilitate the negotiation process that the department may conduct with the United States Environmental Protection Agency for the capitalization grant agreement and schedule of payments to be made to this state under the federal water pollution control act.

(2) The department must allow for a public participation process that requires not less than 1 public hearing for the intended use plan by publishing a draft of the intended use plan on the department's website at least 14 days before a final intended use plan is submitted under subsection (1). The intended use plan must describe and identify all of the following:

(a) Additional subsidization that will be allocated to projects.

(b) The projects that will receive additional subsidization identified under subdivision (a).

(c) The reasons why a project will receive additional subsidization.

(3) Upon notice from the United States Environmental Protection Agency that the intended use plan is approved, the department shall notify each municipality of its inclusion on the intended use plan and shall provide copies of the sewage treatment works projects and stormwater management projects priority list, the nonpoint source project priority list, and the intended use plan to any person that requests that information. Following notification under this subsection, the department shall establish, with the concurrence of the municipality, a schedule for planning document approval, submittal of a completed application for assistance, and approval of plans and specifications.

Sec. 5307. (1) The department shall review, generally in priority order, any planning documents for projects in the fundable range and either approve or disapprove a planning document within 120 days after notifying the municipality of its inclusion in the intended use plan submitted under section 5306. Upon determination by the department that a project is complex and warrants additional review, the department shall notify the municipality and may extend the review period described in this subsection for not more than 60 days.

(2) If a planning document is disapproved, the department shall notify the municipality of any deficiencies that need to be corrected. The municipality shall correct any deficiencies and submit an amended planning document to the department within 45 days after receiving notice under this subsection.

(3) The department shall review subsequent submittals and either approve or disapprove an amended planning document within 90 days after the amended planning document is submitted.

(4) If an amended planning document is not approved, the department shall notify the municipality of the deficiencies.

Sec. 5307a. (1) The department shall 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 are anticipated and whether any changes can be made in the project to eliminate significant adverse impacts. As part of the environmental review, the department may require a municipality to submit additional information or meet additional public participation and coordination requirements to justify the environmental determination.

(2) Based on the environmental review completed under subsection (1), the department may determine that an environmental assessment is necessary and the department may describe any of the following in its determination:

(a) The purpose and need for the project.

(b) The project costs.

(c) The alternatives considered and the reasons for their acceptance or rejection.

(d) The existing environment.

(e) Any potential adverse impacts and mitigative measures.

(f) How mitigative measures will be incorporated into the project, as well as any proposed conditions of financial assistance and the means for monitoring compliance with the conditions.

(3) Based on an environmental assessment completed under subsection (2), the department may issue a finding of no significant impact. The finding of no significant impact must document that the potential environmental impacts will not be significant or that the environmental impacts may be mitigated without extraordinary measures.

(4) Based on an environmental assessment completed under subsection (2), the department may require a municipality to complete an environmental impact statement if the department determines any of the following:

(a) The project will have significant adverse impacts on any of the following:

(*i*) Wetlands.

(*ii*) Flood plains.

(*iii*) Threatened or endangered species or habitats.

(*iv*) Cultural resources, including any of the following:

(A) Park lands.

(B) Preserves.

(C) Other public lands.

(D) Areas of recognized scenic, recreational, agricultural, archeological, or historical value.

(b) The project will cause significant displacement of population.

(c) The project will directly or indirectly, such as through induced development, have a significant adverse effect upon any of the following:

(*i*) Local ambient air quality.

(*ii*) Public health.

(*iii*) Local noise levels.

(*iv*) Surface water and groundwater quantity or quality.

(*v*) Shellfish.

(*vi*) Fish.

(*vii*) Wildlife.

(*viii*) Wildlife natural habitats.

(d) The project will generate significant public controversy.

(5) Based on the environmental impact statement, the department shall issue a record of decision summarizing the findings of the environmental impact statement that identifies the conditions under which the project can proceed and maintain compliance with the national environmental policy act of 1969, Public Law 91-190, 42 USC 4321, 4331 to 4335, and 4341 to 4347.

(6) If 5 or more years have elapsed since a determination of compliance with the national environmental policy act of 1969, Public Law 91-190, 42 USC 4321, 4331 to 4335, and 4341 to 4347, or if significant changes in the project have occurred, the department shall reevaluate the project for compliance with the national environmental policy act of 1969, Public Law 91-190, 42 USC 4321, 4331 to 4335, and 4341 to 4347, and the department may do any of the following:

(a) Reaffirm the original finding of no significant impact or the record of decision through the issuance of a public notice or statement of finding.

(b) 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 is required.

(c) Issue a supplement to a record of decision or revoke a record of decision and issue a public notice that financial assistance will not be provided.

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

Sec. 5308. (1) To apply for assistance from the fund, a municipality shall submit the following, if applicable, as determined by the department:

(a) If assistance is in the form of a loan, financial documentation that a dedicated source of revenue is established, consistent with municipal bond obligations existing at the time assistance is requested, and pledged to both of the following purposes:

(*i*) If assistance is in the form of a loan, the timely repayment of the loan.

(*ii*) Adequate revenues from a user-based source to fund the operation and maintenance of the project.

(b) A planning document approved under section 5307.

(c) A certification by an authorized representative of a municipality affirming that the municipality has the legal, managerial, institutional, and financial capability to build, operate, and maintain the project.

(d) A letter of credit, insurance, or other credit enhancement to support the credit position of the municipality, as required by the department.

(e) A set of plans and specifications suitable for bidding.

(f) A certification from an authorized representative of the municipality that the applicant has, or will have before the start of construction, all applicable state and federal permits required for construction of the project.

(g) A certified resolution from the municipality designating an authorized representative for the project.

(h) A certification from an authorized representative of the municipality that an undisclosed fact or event, or pending litigation, will not materially or adversely affect the project, the prospects for the project's completion, or the municipality's ability to make timely loan repayments, if applicable.

(i) All executed intermunicipal service agreements, if applicable.

(j) An agreement that the municipality will operate the project in compliance with applicable state and federal laws.

(k) An agreement that the municipality will not sell, lease, abandon, or otherwise dispose of the project without an effective assignment of obligations and the written approval of the department and the authority.

(*l*) An agreement that all municipal project accounts will be maintained in accordance with generally accepted government accounting standards as defined and required under the federal water pollution control act.

(m) An agreement that the municipality will provide written authorizations to the department for the purpose of examining the physical plant and for examining, reviewing, or auditing the operational or financial records of the project, and that the municipality will require similar authorizations from all contractors, consultants, or agents with which it negotiates an agreement.

(n) An agreement that all municipal contracts with contractors will provide that the contractor and any subcontractor may be subject to a financial audit and that contractors and subcontractors shall comply with generally accepted governmental accounting standards.

(o) An agreement that all pertinent records must be retained and available to the department for a minimum of 3 years after initiation of the operation and that if litigation, a claim, an appeal, or an audit is begun before the end of the 3-year period, records must be retained and available until the 3 years have passed or until the action is completed and resolved, whichever is longer. As used in this subdivision, "initiation of the operation" means

the date certain set by the municipality and accepted by the department, on which use of the project begins for the purposes for which it was constructed.

(p) If the project is segmented as provided in section 5309, a schedule for completion of the project and adequate assurance that the project will be completed with or without assistance from the fund or that the segmented project will be operational without completion of the entire project.

(q) An agreement that the project will proceed in a timely fashion if the application for assistance is approved.

(r) An application fee, if required by the department.

(2) The requirement under subsection (1)(a) for a dedicated source of revenue may include a revenue source pledged to repay the debt to the fund from sources including, but not limited to, 1 or more of the following:

(a) Ad valorem taxes.

(b) Special assessments.

(c) User-based revenue collections.

(d) General funds of the municipality.

(e) Benefit charges.

(f) Tap-in fees, or other 1-time assessments.

(3) The department shall accept applications for assistance from municipalities in the fundable range of the priority list that have approved planning documents. The department shall determine whether an application for assistance is administratively complete and notify the applicant within 30 days after receipt of the application specifying any additional information necessary to complete the application.

(4) The department shall approve or disapprove an application within 30 days of the determination that the application is complete.

Sec. 5309. When the department prepares the priority list under section 5303, to ensure that a disproportionate share of available funds for a given fiscal year is not committed to a single project, the department may segment a project if the cost of the proposed project is more than 30% of the amount available in the fund.

Sec. 5310. (1) The department may bypass a project that fails to meet the schedule established under section 5306, or that does not have an approved planning document and application 90 days before the last day of the fiscal year, whichever comes first. The department must provide a municipality with written notice of the department's intent to bypass not less than 30 days before a project is bypassed under this section.

(2) If demand exceeds funding availability, a municipality may submit a written request to the department to extend the schedule established under section 5306 for not more than 60 days. A municipality must include in its written request the reason or reasons for its noncompliance with the schedule. A municipality may submit 1 additional written request to the department to extend the schedule established under section 5306 for not more than 30 days.

(3) A project bypassed under this section must not be considered for an order of approval until all other projects in the fundable range have been funded or rejected. This section does not prohibit the inclusion of the project in the priority list of the next annual funding cycle or the resubmission of an application for assistance in the next annual funding cycle.

(4) A bypass action under this section does not modify any compliance dates established in a permit, order, or other document issued by the department or entered as part of an action brought by this state or a federal agency.

(5) After a project is bypassed under this section, the department may award assistance to projects outside the fundable range. The department shall make assistance available to projects outside the fundable range in priority order contingent on the municipality's satisfaction of all applicable requirements for assistance under section 5308 within the time period established by the department, but not to exceed 60 days from the date of notice of bypass. The department shall 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.

Sec. 5311. (1) The department shall review a complete application for assistance for a project in the fundable range. If the department approves the application for assistance, the department shall issue, subject to section 5310, an order of approval to establish the specific terms of the assistance. The order of approval must include, but is not limited to, all of the following:

(a) The term of the assistance.

(b) The maximum principal amount of the assistance.

(c) The maximum rate of interest or method of calculation of the rate of interest that will be used, or the premium charged.

(2) The order of approval must incorporate all requirements, provisions, or information included in the application and other documents submitted to the department during the application process.

(3) After issuance of the order, the department shall certify to the authority that the municipality is eligible to receive assistance.

(4) The department shall annually establish the interest rates to be assessed for projects receiving assistance under this part. In establishing interest rates under this section, the department may provide for a different level of subsidy. The interest rates must be in effect for loans made during the next state fiscal year.

Sec. 5313b. (1) A municipality is responsible for obtaining any federal, state, or local permits necessary for the project and shall perform any surveys or studies that are required under the permits.

(2) A municipality shall 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 the department for conformity with environmental determinations and coordination requirements.

(3) All applicable and appropriate conditions and mitigative measures must be enforced by the municipality or its designated representative and apply to all construction and post-construction activities, including disposal of all liquid or solid spoils, waste material, and residuals from construction.

(4) A municipality may seek guidance from the department regarding the requirements under this part or the rules promulgated under this part.

Sec. 5313c. (1) The state revolving administration fund is created within the state treasury. The state treasurer may receive money or other assets for any source for deposit into the state revolving administration fund. The state treasurer shall direct the investment of the state revolving administration fund and credit to the fund interest and earnings from fund investments. Money in the state revolving administration fund at the end of the fiscal year remains in the fund and does not lapse to the general fund. The department is the administrator of the state revolving administration fund for auditing purposes.

(2) Not more than 0.25% of the interest charged on a loan issued under this part or part 54 may be deposited into the state revolving administration fund.

(3) The department shall expend money from the fund only for the reasonable costs of administering and conducting activities under this part and part 54.

Sec. 5401. As used in this part:

(a) "Act 399" means the safe drinking water act, 1976 PA 399, MCL 325.1001 to 325.1023.

(b) "Annual user costs" means an annual charge levied by a water supplier on users of the waterworks system to pay for each user's share of the cost for operation, maintenance, and replacement of the waterworks system. These costs may also include a charge to pay for the debt obligation.

(c) "Assistance" means 1 or more of the following activities to the extent authorized by the federal safe drinking water act:

(*i*) Provision of loans for the planning, design, and construction or alteration of waterworks systems.

(*ii*) Project refinancing assistance.

(*iii*) The guarantee or purchase of insurance for local obligations, if the guarantee or purchase action would improve credit market access or reduce interest rates.

(*iv*) Use of the proceeds of the fund as a source of revenue or security for the payment of principal and interest on revenue or general obligation bonds issued by this state, if the proceeds of the sale of the bonds will be deposited into the fund.

(*v*) Provision of loan guarantees for sub-state revolving funds established by water suppliers that are municipalities.

(*vi*) The use of deposited funds to earn interest on fund accounts.

(*vii*) Provision for reasonable costs of administering and conducting activities under this part.

(*viii*) Provision of technical assistance under this part.

(*ix*) Provision of loan forgiveness for certain planning costs incurred by overburdened communities.

(d) "Authority" means the Michigan municipal bond authority created in the shared credit rating act, 1985 PA 227, MCL 141.1051 to 141.1077.

(e) "Capitalization grant" means the federal grant made to this state by the United States Environmental Protection Agency, as provided in the federal safe drinking water act.

(f) "Community water supply" means a public water supply that provides year-round service to not less than 15 living units or that regularly provides year-round service to not less than 25 residents.

(g) "Construction activities" means any actions undertaken in the planning, designing, or building of a waterworks system. Construction activities include, but are not limited to, all of the following:

(*i*) Engineering services.

(*ii*) Legal services.

(*iii*) Financial services.

(*iv*) Preparation of plans and specifications.

(*v*) Acquisition of land or structural components, or both, if the acquisition is integral to a project authorized by this part and the purchase is from a willing seller at fair market value.

(*vi*) Building, erection, alteration, remodeling, or extension of waterworks systems, providing the extension is not primarily for the anticipation of future population growth.

(*vii*) Reasonable expenses of supervision of the project activities described in subparagraphs (*i*) to (*vi*).

Sec. 5402. As used in this part:

(a) "Department" means the department of environment, Great Lakes, and energy or its authorized agent or representative.

(b) "Director" means the director of the department or his or her designated representative.

(c) "Federal safe drinking water act" means the safe drinking water act, 42 USC 300f to 300j-25, and the rules promulgated under that act.

(d) "Fund" means the state drinking water revolving fund established under section 16b of the shared credit rating act, 1985 PA 227, MCL 141.1066b.

(e) "Fundable range" means those projects, taken in descending order on the priority list, for which the department estimates sufficient funds exist to provide assistance during each annual funding cycle.

(f) "Municipality" means a city, village, county, township, authority, public school district, or other public body with taxing authority, including an intermunicipal agency of 2 or more municipalities, authorized or created under state law.

(g) "Noncommunity water supply" means a public water supply that is not a community water supply, but that has not less than 15 service connections or that serves not less than 25 individuals on an average daily basis for not less than 60 days per year.

Sec. 5403. As used in this part:

(a) "Priority list" means the annual ranked listing of projects developed by the department in section 5406.

(b) "Project" means a project related to the planning, design, and construction or alteration of a waterworks system and may include utilization of more efficient energy and resources as described in any of the following:

(*i*) The cost-effective governmental energy use act, 2012 PA 625, MCL 18.1711 to 18.1725.

(*ii*) Section 11c of 1851 PA 156, MCL 46.11c.

(*iii*) Section 75b of 1846 RS 16, MCL 41.75b.

(*iv*) Section 5f of the home rule city act, 1909 PA 279, MCL 117.5f.

(*v*) Section 24b of the home rule village act, 1909 PA 278, MCL 78.24b.

(*vi*) Section 36 of the general law village act, 1895 PA 3, MCL 68.36.

(c) "Project refinancing assistance" means buying or refinancing the debt obligations of water suppliers if construction activities commenced, and the debt obligation was incurred, after June 17, 1997.

(d) "Public water supply" means a waterworks system that provides water for drinking or household purposes to persons other than the water supplier, except for those waterworks systems that supply water to only 1 house, apartment, or other domicile occupied or intended to be occupied on a day-to-day basis by an individual, family group, or equivalent.

(e) "State drinking water standards" means rules promulgated under section 5 of Act 399, MCL 325.1005, that establish water quality standards necessary to protect public health or that establish treatment techniques to meet these water quality standards.

(f) "Water supplier" or "supplier" means a municipality or its designated representative accepted by the director, a legal business entity, or any other person that owns a public water supply. However, water supplier does not include a water hauler.

(g) "Waterworks system" or "system" means 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:

(*i*) Wells and well structures.

(*ii*) Intakes and cribs.

(*iii*) Pumping stations.

(*iv*) Treatment plants.

(*v*) Storage tanks.

(*vi*) Pipelines, service lines, and appurtenances.

(*vii*) A combination of any of the items specified in subparagraphs (*i*) to (*vi*).

Sec. 5404. (1) Water suppliers that own the following types of public water supplies qualify to receive assistance under this part:

(a) A community water supply.

(b) A noncommunity water supply that operates as a nonprofit entity.

(2) Water suppliers identified in subsection (1) that serve 10,000 people or less may qualify for assistance from funds prescribed in section 1452(a)(2) of the federal safe drinking water act, 42 USC 300j-12.

(3) On completion and submittal of approved planning documents by an overburdened community to the department, if the overburdened community incurred planning costs related to the proposed project, the overburdened community must be directly reimbursed by the department to the extent funds are available. Technical assistance funds identified in section 1452(g)(2)(D) or section 1452(d)(1) of the federal safe drinking water act, 42 USC 300j-12, must be used to the extent available, to forgive repayment of the planning loan.

(4) Only water suppliers that have no outstanding prior year fees as prescribed in Act 399 may receive assistance under this part.

Sec. 5405. (1) A water supplier that is interested in applying for assistance under this part shall prepare and submit to the department a planning document as provided in this section. The department shall use the planning documents submitted under this section to develop a priority list for assistance as provided under this part. A water supplier may submit as part of the planning document for a project either of the following:

(a) Any preexisting documents or plans that were prepared for other projects or purposes.

(b) Any preexisting documents that were developed under another local, state, or federal program, as applicable.

(2) During the development of a planning document, a water supplier that is a municipality shall consider and utilize, where practicable, cooperative regional or intermunicipal projects, and a water supplier that is not a municipality shall consider and utilize, where practicable, connection to, or ownership by, a water supplier that is a municipality.

(3) A planning document must include documentation that demonstrates all of the following:

(a) The project is needed to ensure maintenance of or progress toward compliance with the minimum requirements of the national environmental policy act of 1969, Public Law 91-190, 42 USC 4321, 4331 to 4335, and 4341 to 4347.

(b) An analysis of alternatives including the cost of each alternative.

(c) A description of project costs and how the project will be paid for including, but not limited to, an explanation of how the debt will be repaid.

(d) A list of the environmental and public health implications and mitigation plans.

(e) Consideration of opportunities to utilize more efficient energy and resources as described in any of the following:

(*i*) The cost-effective governmental energy use act, 2012 PA 625, MCL 18.1711 to 18.1725.

(*ii*) Section 11c of 1851 PA 156, MCL 46.11c.

(*iii*) Section 75b of 1846 RS 16, MCL 41.75b.

(*iv*) Section 5f of the home rule city act, 1909 PA 279, MCL 117.5f.

(*v*) Section 24b of the home rule village act, 1909 PA 278, MCL 78.24b.

(*vi*) Section 36 of the general law village act, 1895 PA 3, MCL 68.36.

(4) A planning document must describe the public participation activities conducted during planning and must include all of the following:

(a) Significant issues raised by the public and any changes to the project that were made as a result of the public participation process.

(b) A demonstration that there were adequate opportunities for public consultation, participation, and input in the decision-making process during alternative selection.

(c) 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 at a time and place conducive to maximizing public input.

(d) A demonstration that, concurrent with advertisement of the public meeting, a notice of 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.

(e) A summary of the public meeting, including a list of all attendees and any specific concerns that were raised.

(5) A planning document must include either of the following, as appropriate:

(a) For a water supplier that is a municipality, a resolution adopted by the governing board of the municipality approving the planning document.

(b) For a water supplier that is not a municipality, a statement of intent to implement the planning document.

(6) A planning document must not have as a primary purpose the construction of or expansion of a waterworks system to accommodate future development or fire protection.

Sec. 5406. (1) The department shall annually develop a priority list of projects eligible for assistance under this part. The priority list must be based on planning documents and the scoring criteria developed under section 5406a.

(2) For purposes of providing assistance, the priority list takes effect on the first day of each fiscal year.

Sec. 5406a. (1) The department shall develop scoring criteria that assign points to and prioritize projects under section 5406 and definitions of overburdened community and significantly overburdened community. In developing scoring criteria and the definitions under this subsection, the department shall do all of the following:

(a) Consult with members of statewide local government associations and drinking water, wastewater, stormwater, and environmental organizations regarding the content of the scoring criteria and definitions.

(b) Publish, hold at least 1 public hearing, and allow for public comment.

(c) Review the scoring criteria and the definitions not more than once every 3 years, unless otherwise directed by the United States Environmental Protection Agency.

(d) Publish, hold at least 1 public hearing, and allow for public comment on any changes made after a review under subdivision (c).

(2) The scoring criteria developed under subsection (1) must address the following:

(a) Drinking water regulatory compliance.

(b) Public health.

(c) Drinking water quality.

(d) Improving infrastructure.

(e) Impacts on overburdened communities and significantly overburdened communities.

(3) The definitions of overburdened community and significantly overburdened community developed under subsection (1) must address the following:

(a) Income and unemployment data.

(b) Population trends.

(c) Housing costs and values.

(d) Annual user costs, allocation of costs across customer classes, and historical and projected trends in user costs.

(e) Existing public health, environmental, and affordability impacts.

(f) Other data considered relevant by the department.

Sec. 5407. The department shall annually identify those projects in the fundable range of the priority list. Following the identification of projects in the fundable range, the department shall review, generally in priority order, the planning documents for these projects and, following completion of the environmental review process described in section 5408, either approve or disapprove the planning documents.

Sec. 5407a. When the department prepares the priority list under section 5406, to ensure that a disproportionate share of available funds for a given fiscal year is not committed to a single project, the department may segment the project if the cost of the proposed project is more than 30% of the amount available in the fund.

Sec. 5408. (1) The department shall conduct an environmental review of the planning documents 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. As part of this review, the department may require the water supplier to submit additional information or meet additional public participation and coordination requirements to justify the environmental determination.

(2) Based on the environmental review under subsection (1), the department may issue a categorical exclusion for categories of actions that do not individually, cumulatively over time, or in conjunction with other federal, state, local, or private actions have a significant adverse effect on the quality of the human environment or public health. Additional environmental information documentation, environmental assessments, and environmental impact statements will not be required for excluded actions.

(3) Following receipt of the planning document, the director shall determine if the proposed project qualifies for a categorical exclusion and document the decision.

(4) The director may revoke a categorical exclusion and require a complete environmental review if, after the determination, the director finds any of the following:

(a) The proposed project no longer qualifies for a categorical exclusion due to changes in the proposed plan.

(b) New evidence exists documenting a serious health or environmental issue.

(c) Federal, state, local, or tribal laws will be violated by the proposed project.

(5) The proposed project must not qualify for a categorical exclusion if the director determines any of the following criteria are applicable:

(a) The proposed project will result in an increase in residuals and sludge generated by drinking water processes, either volume or type, that would negatively impact the performance of the waterworks system or the disposal methods, or would threaten an aquifer recharge zone.

(b) The proposed project will provide service to a population greater than 30% of the existing population.

(c) The proposed project is known, or expected, to directly or indirectly affect cultural areas, fauna or flora habitats, endangered or threatened species, or environmentally important natural resource areas.

(d) The proposed project directly or indirectly involves the extension of transmission systems to new service areas.

(e) The proposed project is shown not to be the cost-effective alternative.

(f) The proposed project will cause significant public controversy.

(6) If, based on the environmental review under subsection (1), the department determines that an environmental assessment is necessary, the department may describe the following:

(a) The purpose and need for the project.

(b) The project, including its costs.

(c) The alternatives considered and the reasons for their acceptance or rejection.

(d) The existing environment.

(e) Any potential adverse impacts and mitigative measures.

(f) How mitigative measures will be incorporated into the project, as well as any proposed conditions of financial assistance and the means for monitoring compliance with the conditions.

(7) The department may issue a finding of no significant impact, based on an environmental assessment that documents that potential environmental impacts will not be significant or that they may be mitigated without extraordinary measures.

(8) An environmental impact statement may be required when the department determines any of the following:

(a) The project will have a significant impact on the pattern and type of land use or the growth and distribution of the population.

(b) The effects of the project's construction or operation will conflict with local or state laws or policies.

(c) The project will have significant adverse impacts on any of the following:

(*i*) Wetlands.

(*ii*) Flood plains.

(*iii*) Threatened or endangered species or habitats.

(*iv*) Cultural resources, including any of the following:

(A) Park lands.

(B) Preserves.

(C) Other public lands.

(D) Areas of recognized scenic, recreational, agricultural, archeological, or historical value.

(d) The project will cause significant displacement of population.

(e) The project will directly or indirectly, such as through induced development, have a significant adverse effect on any of the following:

(*i*) Local ambient air quality.

(*ii*) Public health.

(*iii*) Local noise levels.

(*iv*) Surface water and groundwater quantity or quality.

(*v*) Shellfish.

(*vi*) Fish.

(*vii*) Wildlife.

(*viii*) Wildlife natural habitats.

(f) The project will generate significant public controversy.

(9) Based on the environmental impact statement, a record of decision summarizing the findings of the environmental impact statement must be issued identifying those conditions under which the project can proceed and maintain compliance with the national environmental policy act of 1969, Public Law 91-190, 42 USC 4321, 4331 to 4335, and 4341 to 4347.

(10) If 5 or more years have elapsed since a determination of compliance with the national environmental policy act of 1969, Public Law 91-190, 42 USC 4321, 4331 to 4335, and 4341 to 4347, or if significant changes in the project have taken place, the department shall reevaluate the project for compliance with the national environmental policy act of 1969, Public Law 91-190, 42 USC 4321, 4331 to 4335, and 4341 to 4347, requirements. The department may do any of the following:

(a) Reaffirm the original finding of no significant impact or the record of decision through the issuance of a public notice or statement of finding.

(b) 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 is required.

(c) Issue a supplement to a record of decision or revoke a record of decision and issue a public notice that financial assistance will not be provided.

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

Sec. 5409. (1) A water supplier whose planning document is approved or under review by the department under section 5407 may apply for assistance from the fund by submitting an application to the department. A completed application must include all of the following, if applicable, as determined by the department:

(a) If assistance is in the form of a loan, financial documentation that a dedicated source of revenue is established, consistent with obligations of debt instruments existing at the time assistance is requested, and pledged to both of the following purposes:

(*i*) The timely repayment of principal and interest.

(*ii*) Adequate revenues to fund the operation and maintenance of the project.

(b) Evidence of an approved planning document.

(c) A certified resolution from a water supplier that is a municipality, or a letter of appointment from a water supplier that is not a municipality, designating an authorized representative for the project.

(d) A certification by an authorized representative of the water supplier affirming that the water supplier has the legal, institutional, technical, financial, and managerial capability to build, operate, and maintain the project.

(e) A letter of credit, insurance, or other credit enhancement to support the credit position of the water supplier, as required by the department.

(f) A set of plans and specifications developed in accordance with Act 399 that is suitable for bidding.

(g) A certification from an authorized representative of the water supplier that it has, or will have before the start of construction, all applicable state and federal permits required for construction of the project.

(h) A certification from an authorized representative of the water supplier that an undisclosed fact or event, or pending litigation, will not materially or adversely affect the project, the prospects for its completion, or the water supplier's ability to make timely loan repayments, if applicable.

(i) If applicable, all executed service contracts or agreements.

(j) An agreement that the water supplier will operate the waterworks system in compliance with applicable state and federal laws.

(k) An agreement that the water supplier will not sell, lease, abandon, or otherwise dispose of the waterworks system without an effective assignment of obligations and prior written approval of the department and the authority.

(*l*) An agreement that:

(*i*) For water suppliers that are municipalities, all accounts must be maintained in accordance with generally accepted accounting practices, generally accepted government auditing standards, and 31 USC 7501 to 7507, as required by the federal safe drinking water act.

(*ii*) For water suppliers that are not municipalities, all accounts must be maintained in accordance with generally accepted accounting practices and generally accepted auditing standards.

(m) An agreement that all water supplier contracts with contractors will require them to maintain project accounts in accordance with the requirements of this subsection and provide notice that any subcontractor may be subject to a financial audit as part of an overall project audit.

(n) An agreement that the water supplier will provide written authorizations to the department for the purpose of examining the physical plant and for examining, reviewing, or auditing the operational or financial records of the project, and that the water supplier will require similar authorizations from all contractors, consultants, or agents with which it negotiates an agreement.

(o) An agreement that all pertinent records must be retained and available to the department for a minimum of 3 years after initiation of the operation and that if litigation or a claim, appeal, or audit is begun before the end of the 3-year period, records must be retained and available until the 3 years have passed or until the action is completed and resolved, whichever is longer. As used in this subdivision, "initiation of the operation" means the date certain set by the water supplier and accepted by the department, on which use of the project begins for the purposes for which it was constructed.

(p) An agreement that the project will proceed in a timely fashion if the application for assistance is approved.

(q) An application fee, if required by the department.

(2) A demonstration that a dedicated source of revenue will be available for operating and maintaining the waterworks system and repaying the incurred debt.

(3) The department shall accept applications for assistance from water suppliers in the fundable range of the priority list and determine whether an application for assistance is complete.

(4) This state is not liable to a water supplier, or any other person performing services for the water supplier, for costs incurred in developing or submitting an application for assistance under this part.

Sec. 5412. (1) The department may bypass projects that fail to meet the schedule negotiated and agreed upon between the water supplier and the department, or that do not have approved planning documents and specifications and an approvable application 90 days before the last day of the state fiscal year, whichever comes first.

(2) A water supplier may submit a written request to the department to extend a project schedule for not more than 60 days. The request must provide the reason for the noncompliance with the schedule. A water supplier may file 1 additional 30-day extension request to its schedule.

(3) A project bypassed under this section must not be considered for an order of approval until all other projects have either been funded or rejected. This section does not prohibit the inclusion of the project in the priority list of the next annual funding cycle or the resubmission of an application for assistance in the next annual funding cycle.

(4) The department shall provide affected water suppliers with a written notice of intent to bypass not less than 30 days before the bypass action.

(5) For projects bypassed under this section, the department shall transmit to the water supplier an official notice of bypass for the fundable project.

(6) A bypass action under this section does not modify any compliance dates established under a permit, order, or other document issued by the department or entered as part of an action brought by this state or a federal agency.

(7) After a project is bypassed, the department may award assistance to projects outside the fundable range. Assistance must be made available to projects outside the fundable range in priority order contingent upon the water supplier's satisfaction of all applicable requirements for assistance within the time period established by the department, but not to exceed 60 days from the date of notification. The department shall notify water suppliers with projects outside the fundable range of bypass action, of the amount of bypassed funds available for obligation, and of the deadline for submittal of a complete, approvable application.

Sec. 5415. The department shall annually establish the interest rates to be assessed for projects receiving assistance under this part. In establishing interest rates under this section, the department may provide for a different level of subsidy for projects. The interest rates must be in effect for loans made during the next state fiscal year. The interest rates must be in effect for loans made during the next state fiscal year.

Sec. 5415a. (1) A water supplier is responsible for obtaining any federal, state, or local permits necessary for the project and shall perform any surveys or studies that are required under the permits.

(2) A water supplier shall 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 the department for conformity with environmental determinations and coordination requirements.

(3) All applicable and appropriate conditions and mitigative measures must be enforced by the municipality or its designated representative and apply to all construction and post-construction activities, including disposal of all liquid or solid spoils, waste material, and residuals from construction.

(4) A water supplier may seek guidance from the department regarding the requirements under this part or the rules promulgated under this part.

Sec. 5416. The costs of administering and implementing this part by the department, the designated agents of the department, and the authority may be paid from funds annually appropriated by the legislature from 1 or more of the following sources:

(a) An amount allowed under the federal safe drinking water act.

(b) A local match provided by the water supplier receiving assistance not to exceed the department's administrative costs associated with providing the assistance.

(c) Interest or earnings realized on loan repayments to the fund, unless the earnings are pledged to secure or repay any indebtedness of the authority.

(d) Proceeds of bonds or notes issued pursuant to the fund and sold by the authority.

(e) Collection of fees and charges by the department in connection with a transaction authorized under this part.

(f) Any other money appropriated by the legislature.

Sec. 5417. In implementing this part, the department may do 1 or more of the following:

(a) Make, execute, and deliver contracts, conveyances, and other instruments necessary or convenient for the implementation of this part.

(b) Solicit and accept gifts, grants, loans, allocations, appropriations, and other aid, including capitalization grant awards, from any person or the federal, state, or a local government or any agency of the federal, state, or local government, enter into agreements with any person or the federal, state, or a local government, or participate in any other way in any federal, state, or local government program consistent with this part and the purposes of this part.

(c) Expend federal and state money allocated under the federal safe drinking water act for any of the following purposes, in accordance with that act:

(*i*) Fund activities authorized under section 1452(g)(2) of the federal safe drinking water act, 42 USC 300j-12, which may include fund administration and the provision of set-asides annually identified as part of an intended use plan.

(*ii*) Fund implementation of a technical assistance program created in Act 399 and used by the state to provide technical assistance to public water systems serving not more than 10,000 persons.

(*iii*) Fund activities authorized under section 1452(k) of the federal safe drinking water act, 42 USC 300j-12, which may include the lending of money for certain source water protection efforts, assisting in the implementation of capacity development strategies, conducting source water assessments, and implementing wellhead protection programs.

(d) Negotiate and enter into agreements and amendments to agreements with the federal government to implement establishment and operation of the fund, including capitalization grant agreements and schedules of payments.

(e) Employ personnel as is necessary, and contract for the services of private consultants, managers, counsel, auditors, engineers, and scientists for rendering professional management and technical assistance and advice.

(f) Charge, impose, and collect fees and charges in connection with any transaction authorized under this part and provide for reasonable penalties for delinquent payment of fees or charges.

(g) Review and approve all necessary documents in a water supplier's application for assistance and issue an order authorizing assistance to the authority.

(h) Promulgate rules necessary to carry out the purposes of this part and to exercise the powers expressly granted in this part.

(i) Administer, manage, and do all other things necessary or convenient to achieve the objectives and purposes of the fund, the authority, this part, or other state and federal laws that relate to the purposes and responsibilities of the fund.

(j) Apply for a capitalization grant and prepare, submit, and certify any required or appropriate information with that application.

(k) Establish priority lists and fundable ranges for projects and the scoring criteria and methods used to determine the distribution of the funds available to the fund among the various types of assistance to be offered and select projects to be funded.

(*l*) Prepare and submit an annual intended use plan and an annual report as required under the federal safe drinking water act. The department shall annually invite stakeholders including, but not limited to, representatives of water utilities, local units of government, agricultural interests, industry, public health organizations, medical organizations, environmental organizations, consumer organizations, and drinking water consumers who are not affiliated with any of the other represented interests, to 1 or more public meetings to provide recommendations for the development of the annual intended use plan as it relates to the set-asides allowed under the federal safe drinking water act. The intended use plan must describe and identify all of the following:

(*i*) Additional subsidization that will be allocated to projects.

(*ii*) The projects that will receive additional subsidization identified under subparagraph (*i*).

(*iii*) The reasons why a project will receive additional subsidization.

(m) Perform other functions necessary or convenient for the implementation of this part.

Sec. 19703a. (1) Bonds issued under this part are subject to the following:

(a) For the state fiscal year ending on September 30, 2011, bonds must not be issued or expended under this part for the purposes of section 5204b, unless the department of natural resources and environment has established a fundable range of at least $210,000,000.00 for that state fiscal year to fund projects under the state water pollution control revolving fund created in section 16a of the shared credit rating act, 1985 PA 227, MCL 141.1066a.

(b) For the state fiscal year ending on September 30, 2012, bonds must not be issued or expended under this part for the purposes of section 5204b, unless the department of natural resources and environment has established a fundable range of at least $259,000,000.00 for that state fiscal year to fund projects under the state water pollution control revolving fund created in section 16a of the shared credit rating act, 1985 PA 227, MCL 141.1066a, to the extent administratively possible and as long as sufficient applications have been submitted to the department of natural resources and environment.

(c) For each state fiscal year beginning with the state fiscal year ending September 30, 2013, the department of natural resources and environment, in conjunction with the department of treasury, shall seek to fully fund all eligible projects applying for assistance under part 53, to the extent administratively possible, utilizing the bond proceeds under this part as necessary to achieve this goal.

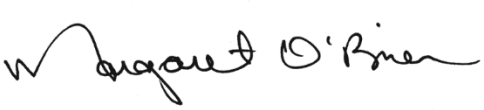
(2) If the department of natural resources and environment is not able to establish a fundable range under subsection (1)(b) of at least $259,000,000.00, the department of natural resources and environment shall submit to the standing committees of the senate and house of representatives with jurisdiction over issues primarily pertaining to natural resources and the environment a report detailing the reasons why the fundable range was not set at this level.

(3) As used in this section, "fundable range" means that term as it is defined in section 5301.

Enacting section 1. Section 5317 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.5317, is repealed.

This act is ordered to take immediate effect.

Clerk of the House of Representatives



Secretary of the Senate

Approved_____

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Governor