

# HOUSE BILL NO. 5953

March 22, 2022, Introduced by Reps. Rabhi, Pohutsky, Hood, Aiyash, Steckloff, Breen, Cavanagh, Rogers, Brabec, Manoogian, Sowerby, Brixie, Weiss, Kuppa, Hope, Puri, Morse, Young, Camilleri, Cynthia Johnson, Neeley, Thanedar, O'Neal, Peterson, Ellison, Stone, Hertel and Jones and referred to the Committee on Natural Resources and Outdoor Recreation.

A bill to amend 1994 PA 451, entitled  
"Natural resources and environmental protection act,"  
by amending sections 1701 and 3103 (MCL 324.1701 and 324.3103),  
section 3103 as amended by 2005 PA 33, and by adding part 4.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1                                   **PART 4 PUBLIC TRUST RESOURCES**  
2           **Sec. 401. (1) The natural resources of this state are of**  
3 **paramount public concern in the interest of the health, safety, and**  
4 **general welfare of the people of this state and shall be managed**

1 and protected for the benefit of the people of this state. The air,  
2 water, soil, and other natural resources of this state shall be  
3 protected from pollution, impairment, and destruction for the  
4 benefit of current and future generations.

5 (2) The obligation to manage natural resources in the public  
6 interest is the express duty of the legislature under section 52 of  
7 article IV of the state constitution of 1963 and shall not be ceded  
8 to any other entity. This subsection does not prohibit the  
9 legislative delegation of authority to manage natural resources to  
10 a public entity consistent with the requirements of the state  
11 constitution of 1963.

12 (3) The waters of this state, including groundwater, are held  
13 in the public trust by this state. The public trust in the waters  
14 of this state applies to the quantity and quality of the water.  
15 Within 180 days after the effective date of the amendatory act that  
16 added this section, the department of natural resources and the  
17 department of environment, Great Lakes, and energy shall review  
18 rules administered by the respective departments under this act to  
19 ascertain whether the rules sufficiently ensure the protection of  
20 the public trust in the waters of this state. If the department of  
21 natural resources or the department of environment, Great Lakes,  
22 and energy determines that new or revised rules are necessary to  
23 sufficiently ensure the protection of the public trust in the  
24 waters of this state, that department shall promulgate new or  
25 revised rules within 1 year after the effective date of the  
26 amendatory act that added this section.

27 Sec. 1701. (1) The attorney general or any **other** person may  
28 maintain an action in the circuit court having jurisdiction where  
29 the alleged violation occurred or is likely to occur for

1 declaratory and equitable relief **and any other appropriate remedy**  
2 against any person for the protection of the air, water, and other  
3 natural resources and the public trust in these resources from  
4 pollution, impairment, or destruction.

5 (2) In granting relief provided by subsection (1), if there is  
6 a standard for pollution or for an antipollution device or  
7 procedure, fixed by rule or otherwise, by ~~the~~**this** state or an  
8 instrumentality, agency, or political subdivision of ~~the~~**this**  
9 state, the court may:

10 (a) Determine the validity, applicability, and reasonableness  
11 of the standard.

12 (b) If a court finds a standard to be deficient, direct the  
13 adoption of a standard approved and specified by the court.

14 Sec. 3103. (1) The department shall protect and conserve the  
15 ~~water resources~~**waters** of the state and shall have control of the  
16 pollution **and impairment, attributable to changes in water quality**  
17 **or quantity**, of surface or underground waters of the state and the  
18 Great Lakes, which are or may be affected by waste disposal ~~of~~**or**  
19 **other direct or indirect discharge or release by** any person. The  
20 department may make or cause to be made surveys, studies, and  
21 investigations of the uses of waters of the state, both surface and  
22 underground, and cooperate with other governments and governmental  
23 units and agencies in making the surveys, studies, and  
24 investigations. The department shall assist in an advisory capacity  
25 a flood control district that may be authorized by ~~the legislature.~~  
26 **state law**. The department, in the public interest, shall appear and  
27 present evidence, reports, and other testimony during the hearings  
28 involving the creation and organization of flood control districts.  
29 The department shall advise and consult with the legislature on the

1 obligation of ~~the~~**this** state to participate in the costs of  
2 construction and maintenance as provided for in the official plans  
3 of a flood control district or intercounty drainage district.

4 (2) The department shall enforce this part and may promulgate  
5 rules as it considers necessary to carry out its duties under this  
6 part. ~~However, notwithstanding any rule promulgation authority that~~  
7 ~~is provided in this part, except for rules authorized under section~~  
8 ~~3112(6), the department shall not promulgate any additional rules~~  
9 ~~under this part after December 31, 2006.~~

10 (3) The department may promulgate rules and take other actions  
11 as may be necessary to comply with the federal water pollution  
12 control act, 33 USC 1251 to ~~1387,~~**1388**, and to expend funds  
13 available under ~~such law that act~~ for extension or improvement of  
14 the state or interstate program for prevention and control of water  
15 pollution. This part ~~shall~~**does** not be construed as authorizing  
16 **authorize** the department to expend or to incur any obligation to  
17 expend any state funds ~~for such purpose~~ in excess of any amount  
18 that is appropriated by the legislature.

19 ~~(4) Notwithstanding the limitations on rule promulgation under~~  
20 ~~subsection (2), rules promulgated under this part before January 1,~~  
21 ~~2007 shall remain in effect unless rescinded.~~