

**SUBSTITUTE FOR
HOUSE BILL NO. 5406**

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
(MCL 324.101 to 324.90106) by adding part 50.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

PART 50 WATER ASSET MANAGEMENT COUNCIL

SEC. 5001. AS USED IN THIS SECTION:

(A) "ASSET MANAGEMENT" MEANS AN ONGOING PROCESS OF
MAINTAINING, UPGRADING, AND OPERATING PHYSICAL ASSETS COST-
EFFECTIVELY, BASED ON A CONTINUOUS PHYSICAL INVENTORY AND CONDITION
ASSESSMENT AND INVESTMENT TO ACHIEVE PERFORMANCE GOALS.

(B) "ASSET MANAGEMENT PLAN" MEANS A SET OF PROCEDURES TO
MANAGE ASSETS THROUGH THEIR LIFE CYCLES, BASED ON PRINCIPLES OF
LIFE CYCLE COSTING.

(C) "ASSET OWNER" MEANS A PERSON OR AGENCY THAT OWNS OR

1 OPERATES DRINKING WATER ASSETS, STORMWATER ASSETS, OR WASTEWATER
2 ASSETS THAT SERVE 1,000 OR MORE INDIVIDUALS.

3 (D) "CENTRAL STORAGE DATA AGENCY" MEANS THE ENTITY SELECTED BY
4 THE WATER ASSET MANAGEMENT COUNCIL WHERE THE DATA COLLECTED ARE
5 STORED AND MAINTAINED.

6 (E) "DEPARTMENT" MEANS THE DEPARTMENT OF ENVIRONMENTAL
7 QUALITY.

8 (F) "DRINKING WATER ASSETS" MEANS A SYSTEM OF PIPES AND
9 STRUCTURES THROUGH WHICH DRINKING WATER IS OBTAINED AND
10 DISTRIBUTED, INCLUDING, BUT NOT LIMITED TO, WELLS AND WELL
11 STRUCTURES, WELLHEAD PROTECTION AREAS, GROUNDWATER PROTECTION
12 AREAS, INTAKES AND CRIBS, PUMPING STATIONS, TREATMENT PLANTS,
13 STORAGE TANKS, PIPELINES, AND APPURTENANCES, OR A COMBINATION OF
14 THESE PIPES AND STRUCTURES THAT ARE USED OR INTENDED FOR USE FOR
15 THE PURPOSE OF FURNISHING DRINKING WATER FOR DRINKING OR HOUSEHOLD
16 PURPOSES.

17 (G) "MICHIGAN INFRASTRUCTURE COUNCIL" MEANS THE MICHIGAN
18 INFRASTRUCTURE COUNCIL CREATED IN THE MICHIGAN INFRASTRUCTURE
19 COUNCIL ACT.

20 (H) "PERFORMANCE GOALS" MEANS STANDARDS OF SYSTEM PERFORMANCE
21 THAT REFLECT ASSET MANAGEMENT PRINCIPLES FOR ASSET PRESERVATION AND
22 SUSTAINABILITY, OPERATIONS, CAPACITY CONSISTENT WITH LOCAL NEEDS,
23 AND IDENTIFIED LEVELS OF SERVICE.

24 (I) "REGION" MEANS THE GEOGRAPHIC JURISDICTION OF ANY OF THE
25 FOLLOWING:

26 (i) A REGIONAL PLANNING COMMISSION CREATED PURSUANT TO 1945 PA
27 281, MCL 125.11 TO 125.25.

1 (ii) A REGIONAL ECONOMIC DEVELOPMENT COMMISSION CREATED
2 PURSUANT TO 1966 PA 46, MCL 125.1231 TO 125.1237.

3 (iii) A METROPOLITAN AREA COUNCIL FORMED PURSUANT TO THE
4 METROPOLITAN COUNCILS ACT, 1989 PA 292, MCL 124.651 TO 124.729.

5 (iv) A METROPOLITAN PLANNING ORGANIZATION ESTABLISHED PURSUANT
6 TO FEDERAL LAW.

7 (v) AN AGENCY DIRECTED AND FUNDED BY SECTION 822F OF ARTICLE
8 VIII OF 2016 PA 268 TO ENGAGE IN JOINT DECISION-MAKING PRACTICES
9 RELATED BUT NOT LIMITED TO COMMUNITY DEVELOPMENT, ECONOMIC
10 DEVELOPMENT, TALENT, AND INFRASTRUCTURE OPPORTUNITIES.

11 (J) "STORMWATER ASSETS" MEANS GREEN OR GRAY FEATURES THAT ARE
12 LOCATED WITHIN THE GEOGRAPHIC LIMITS OF AN ASSET SERVICE AREA AND
13 ARE DESIGNED OR ACTIVELY MANAGED BY A LOCAL UNIT OF GOVERNMENT FOR
14 COLLECTING, STORING, TREATING, CONVEYING, OR ATTENUATING
15 STORMWATER, SUCH AS CATCH BASINS, CURBS, GUTTERS, DITCHES AND
16 CHANNELS SOLELY CONVEYING STORMWATER, PIPES, CONDUITS, SWALES,
17 BIOSWALES, STORM DRAINS, GULCHES, GULLIES, FLUMES, CULVERTS,
18 BRIDGES, SIPHONS, RETENTION, DETENTION, OR INFILTRATION AREAS,
19 FLOODWALLS, LEVEES, PUMPING STATIONS, AND OTHER SIMILAR FACILITIES.

20 (K) "TRANSPORTATION ASSET MANAGEMENT COUNCIL" MEANS THE
21 TRANSPORTATION ASSET MANAGEMENT COUNCIL CREATED IN SECTION 9A OF
22 1951 PA 51, MCL 247.659A.

23 (l) "WASTEWATER ASSETS" MEANS A SYSTEM OF PIPES AND
24 STRUCTURES, INCLUDING PIPES, CHANNELS, CONDUITS, MANHOLES, PUMPING
25 STATIONS, WASTEWATER OR WASTEWATER TREATMENT FIXED ASSETS,
26 DIVERSION AND REGULATORY DEVICES, OUTFALL STRUCTURES, AND
27 APPURTENANCES, USED TO COLLECT, CONVEY, TRANSPORT, TREAT, OR

1 OTHERWISE HANDLE WASTEWATER.

2 SEC. 5002. (1) THE WATER ASSET MANAGEMENT COUNCIL IS CREATED
3 WITHIN THE DEPARTMENT.

4 (2) THE WATER ASSET MANAGEMENT COUNCIL CONSISTS OF 9 VOTING
5 MEMBERS APPOINTED BY THE MICHIGAN INFRASTRUCTURE COUNCIL. THE
6 MEMBERS SHALL REPRESENT THE NONPROFIT, PUBLIC, AND PRIVATE SECTORS
7 AND ACADEMIA, INCLUDING INDIVIDUALS REPRESENTING INTERESTS SUCH AS
8 DRINKING WATER, WASTEWATER, AND STORMWATER AGENCIES, THIS STATE,
9 REGIONAL GOVERNMENT, LOCAL UNITS OF GOVERNMENT, DRAIN
10 COMMISSIONERS, AND ENVIRONMENTAL ORGANIZATIONS. AT LEAST 1 MEMBER
11 MUST HAVE PROFESSIONAL ENGINEERING EXPERIENCE AND A DEGREE IN
12 ENGINEERING. THE WATER ASSET MANAGEMENT COUNCIL MAY APPOINT THE
13 CENTRAL DATA STORAGE AGENCY AS AN EX OFFICIO, NONVOTING MEMBER.

14 (3) WATER ASSET MANAGEMENT COUNCIL MEMBERS SERVE FOR TERMS OF
15 3 YEARS. HOWEVER, OF THE INITIAL APPOINTMENTS TO THE WATER ASSET
16 MANAGEMENT COUNCIL, 3 SHALL SERVE FOR 1 YEAR, 3 SHALL SERVE FOR 2
17 YEARS, AND 3 SHALL SERVE FOR 3 YEARS. A VACANCY ON THE WATER ASSET
18 MANAGEMENT COUNCIL SHALL BE FILLED IN THE SAME MANNER AS THE
19 ORIGINAL APPOINTMENT.

20 (4) A MEMBER OF THE WATER ASSET MANAGEMENT COUNCIL MAY BE
21 REMOVED FOR INCOMPETENCE, DERELICTION OF DUTY, MALFEASANCE DURING
22 HIS OR HER TENURE IN OFFICE, OR ANY OTHER CAUSE CONSIDERED
23 APPROPRIATE BY THE MICHIGAN INFRASTRUCTURE COUNCIL.

24 (5) AT THE FIRST MEETING OF THE WATER ASSET MANAGEMENT
25 COUNCIL, THE WATER ASSET MANAGEMENT COUNCIL SHALL SELECT A
26 CHAIRPERSON FROM AMONG ITS MEMBERS.

27 (6) THE WATER ASSET MANAGEMENT COUNCIL MAY APPOINT

1 SUBCOMMITTEES WHOSE MEMBERS SERVE AS NEEDED TO PROVIDE RESEARCH ON
2 ISSUES AND PROJECTS AS DETERMINED BY THE WATER ASSET MANAGEMENT
3 COUNCIL.

4 (7) THE DEPARTMENT SHALL PROVIDE QUALIFIED ADMINISTRATIVE
5 STAFF AND QUALIFIED TECHNICAL ASSISTANCE TO THE WATER ASSET
6 MANAGEMENT COUNCIL.

7 SEC. 5003. THE WATER ASSET MANAGEMENT COUNCIL SHALL DO ALL OF
8 THE FOLLOWING:

9 (A) ADVISE THE MICHIGAN INFRASTRUCTURE COUNCIL ON A STATEWIDE
10 WATER ASSET MANAGEMENT STRATEGY AND THE PROCESSES AND TOOLS NEEDED
11 TO IMPLEMENT A STRATEGY FOR ALL DRINKING WATER, WASTEWATER, AND
12 STORMWATER AGENCIES AND ASSET OWNERS.

13 (B) PROMOTE AND OVERSEE THE IMPLEMENTATION OF THE
14 RECOMMENDATIONS FROM THE REGIONAL INFRASTRUCTURE ASSET MANAGEMENT
15 PILOT PROGRAM CREATED UNDER EXECUTIVE DIRECTIVE 2017-1 AT A STATE
16 LEVEL RELATED TO DRINKING WATER, WASTEWATER, AND STORMWATER
17 INFRASTRUCTURE.

18 (C) DEVELOP A TEMPLATE FOR AN ASSET MANAGEMENT PLAN BY OCTOBER
19 1, 2019 FOR USE UNDER SECTION 5004 BY LOCAL DRINKING WATER,
20 WASTEWATER, AND STORMWATER AGENCIES AND ASSET OWNERS SUBMITTING
21 ASSET MANAGEMENT PLANS TO THE WATER ASSET MANAGEMENT COUNCIL FOR
22 APPROVAL. AT A MINIMUM, THE TEMPLATE SHOULD ENSURE THAT LOCAL ASSET
23 MANAGEMENT PLANS INCLUDE ALL OF THE FOLLOWING COMPONENTS:

24 (i) AN ASSET INVENTORY THAT INCLUDES THE LOCATION, MATERIAL,
25 SIZE, AND CONDITION OF THE ASSETS IN A FORMAT THAT ALLOWS FOR
26 DIGITAL MAPPING. ALL QUALITY CONTROL STANDARDS AND PROTOCOLS SHALL,
27 AT A MINIMUM, BE CONSISTENT WITH EXISTING FEDERAL REQUIREMENTS AND

1 REGULATIONS AND EXISTING GOVERNMENT ACCOUNTING STANDARDS.

2 (ii) A LEVEL OF SERVICE ANALYSIS THAT INCLUDES DESIRED LEVELS
3 OF SERVICE AND PERFORMANCE GOALS OF THE ASSETS TO HELP THE SYSTEM
4 ACHIEVE RELIABILITY, RESPONSIVENESS, SAFETY, CAPACITY,
5 ENVIRONMENTAL IMPACTS, COST AND AFFORDABILITY, AND COMPLIANCE WITH
6 LAW. LEVELS OF SERVICE MAY VARY AMONG ASSETS UNDER THE LOCAL
7 AGENCY'S JURISDICTION.

8 (iii) A RISK OF FAILURE ANALYSIS THAT IDENTIFIES THE
9 PROBABILITY AND CRITICALITY OF FAILURE OF THE MOST CRITICAL ASSETS
10 AND ANY CONTINGENCY PLANS.

11 (iv) ANTICIPATED REVENUES AND EXPENSES, INCLUDING A
12 DESCRIPTION OF ALL REVENUE SOURCES AND ANTICIPATED RECEIPTS FOR THE
13 PERIOD OF THE ASSET MANAGEMENT PLAN, AND EXPECTED INFRASTRUCTURE
14 REPAIR AND REPLACEMENT EXPENDITURES, INCLUDING PLANNED IMPROVEMENTS
15 OR CAPITAL RECONSTRUCTION.

16 (v) A PERFORMANCE OUTCOMES ANALYSIS THAT DETERMINES HOW THE
17 INVESTMENT STRATEGY ACHIEVES THE DESIRED LEVELS OF SERVICE AND
18 PERFORMANCE GOALS. THE ASSET MANAGEMENT PLAN MUST INCLUDE STEPS
19 NECESSARY TO ENSURE ASSET CONDITIONS MEET OR ACHIEVE STATED GOALS,
20 INCLUDING A DESCRIPTION AND EXPLANATION FOR ANY GAP BETWEEN
21 ACHIEVABLE CONDITION AND PERFORMANCE THROUGH THE INVESTMENT
22 STRATEGY AND DESIRED GOALS.

23 (vi) A DESCRIPTION OF HOW THE AGENCY PLANS TO COORDINATE WITH
24 OTHER ASSET OWNERS, INCLUDING NEIGHBORING JURISDICTIONS, TO
25 MINIMIZE DUPLICATION OF EFFORT WITH REGARD TO INFRASTRUCTURE
26 PRESERVATION AND MAINTENANCE.

27 (vii) PROOF OF ACCEPTANCE, CERTIFICATION, OR ADOPTION BY THE

1 JURISDICTION'S GOVERNING BODY.

2 SEC. 5004. (1) BY OCTOBER 1, 2019, THE WATER ASSET MANAGEMENT
3 COUNCIL SHALL ESTABLISH A SCHEDULE FOR SUBMISSION OF ASSET
4 MANAGEMENT PLANS FOR DRINKING WATER, WASTEWATER, AND STORMWATER
5 AGENCIES AND ASSET OWNERS THAT INCLUDES ALL OF THE FOLLOWING:

6 (A) BEGINNING OCTOBER 1, 2020, EACH DRINKING WATER,
7 WASTEWATER, AND STORMWATER AGENCY AND ASSET OWNER SHALL SUBMIT AN
8 ASSET MANAGEMENT PLAN TO THE WATER ASSET MANAGEMENT COUNCIL.

9 (B) THE ASSET MANAGEMENT PLANS SUBMITTED UNDER SUBDIVISION (A)
10 SHALL COVER AND BE VALID FOR A MINIMUM OF 3 YEARS AND SHALL BE
11 CONSISTENT WITH THE TEMPLATE PROVIDED BY THE WATER ASSET MANAGEMENT
12 COUNCIL.

13 (C) THE ASSET MANAGEMENT PLANS SUBMITTED UNDER SUBDIVISION (A)
14 SHALL BE REVIEWED BY THE WATER ASSET MANAGEMENT COUNCIL WITHIN 6
15 MONTHS OF RECEIPT. THE WATER ASSET MANAGEMENT COUNCIL SHALL COMPARE
16 SUBMITTED ASSET MANAGEMENT PLANS TO THE MINIMUM COMPONENTS REQUIRED
17 BY THIS ACT AND THE TEMPLATE PROVIDED BY THE WATER ASSET MANAGEMENT
18 COUNCIL AND SHALL DETERMINE IF THE ASSET MANAGEMENT PLANS ARE IN
19 COMPLIANCE WITH THOSE STANDARDS. IF THE WATER ASSET MANAGEMENT
20 COUNCIL DETERMINES THAT AN ASSET MANAGEMENT PLAN DOES NOT MEET
21 ESTABLISHED STANDARDS, THE WATER ASSET MANAGEMENT COUNCIL SHALL
22 SEEK CONCURRENCE FROM THE DEPARTMENT. IF THE DEPARTMENT CONCURS,
23 THE WATER ASSET MANAGEMENT COUNCIL SHALL REQUIRE THAT THE ENTITY
24 SUBMITTING THE ASSET MANAGEMENT PLAN MEET ACCEPTABLE STANDARDS
25 WITHIN 6 MONTHS OF THE SUBMITTAL.

26 (D) A DRINKING WATER, WASTEWATER, OR STORMWATER AGENCY OR
27 ASSET OWNER THAT IS REQUIRED UNDER THIS PART TO HAVE AN APPROVED

1 ASSET MANAGEMENT PLAN MUST IMPLEMENT THE APPROVED ASSET MANAGEMENT
2 PLAN BY OCTOBER 1, 2024.

3 (2) A DRINKING WATER, WASTEWATER, OR STORMWATER AGENCY OR
4 ASSET OWNER MAY SEEK AND USE FEDERAL GRANTS OR LOANS TO ACHIEVE THE
5 GOALS AND MANAGE THE ASSET INVENTORY DESCRIBED IN ITS ASSET
6 MANAGEMENT PLAN.

7 SEC. 5005. THE WATER ASSET MANAGEMENT COUNCIL SHALL ANNUALLY
8 SUBMIT TO THE MICHIGAN INFRASTRUCTURE COUNCIL A REPORT ON ASSET
9 CONDITION AND INVESTMENT THAT INCLUDES A SUMMARY ANALYSIS OF THE
10 ASSET MANAGEMENT PLANS RECEIVED FROM DRINKING WATER, WASTEWATER,
11 AND STORMWATER ENTITIES. THE REPORT SHALL ALSO INCLUDE
12 RECOMMENDATIONS ON DRINKING WATER, WASTEWATER, AND STORMWATER
13 CONDITION GOALS AND ANALYSIS OF HOW THE UTILITIES ARE MEETING THOSE
14 GOALS. THE WATER INFRASTRUCTURE ASSET MANAGEMENT ANALYSES CONTAINED
15 IN THE REPORT SHALL BE CONSISTENT WITH THE MICHIGAN INFRASTRUCTURE
16 COUNCIL'S ASSET MANAGEMENT PROCESS AND SHALL BE REPORTED CONSISTENT
17 WITH CATEGORIES ESTABLISHED BY THE MICHIGAN INFRASTRUCTURE COUNCIL.

18 SEC. 5006. (1) STATE FUNDING MAY BE PROVIDED TO DRINKING
19 WATER, WASTEWATER, AND STORMWATER AGENCIES AND ASSET OWNERS TO
20 IMPLEMENT THIS PART AT A COST-SHARE DETERMINED BY THE WATER ASSET
21 MANAGEMENT COUNCIL. FUNDING NECESSARY FOR THE DEPARTMENT TO SUPPORT
22 THE ACTIVITIES DESCRIBED IN THIS SECTION SHALL BE PROVIDED BY AN
23 ANNUAL APPROPRIATION.

24 (2) EACH DRINKING WATER, WASTEWATER, AND STORMWATER AGENCY AND
25 ASSET OWNER SHALL ANNUALLY REPORT TO THE WATER ASSET MANAGEMENT
26 COUNCIL, CONSISTENT WITH CURRENT ACCOUNTING PROCEDURES, HOW ITS
27 CAPITAL IMPROVEMENT PLANS ARE MEETING ITS INVESTMENT GOALS, TO

1 ENSURE CONSISTENCY WITH ITS ASSET MANAGEMENT PLANS.

2 (3) THE DEPARTMENT AND EACH DRINKING WATER, WASTEWATER, AND
3 STORMWATER AGENCY AND ASSET OWNER SHALL KEEP ACCURATE AND UNIFORM
4 RECORDS ON ALL WORK PERFORMED AND FUNDS EXPENDED FOR THE PURPOSES
5 OF THIS SECTION, ACCORDING TO THE PROCEDURES DEVELOPED BY THE
6 MICHIGAN INFRASTRUCTURE COUNCIL.

7 (4) THE WATER ASSET MANAGEMENT COUNCIL SHALL ANNUALLY PREPARE
8 A REPORT ON THE ACTIVITIES CONDUCTED DURING THE PRECEDING YEAR AND
9 THE EXPENDITURE OF FUNDS RELATED TO THE PROCESSES AND ACTIVITIES
10 IDENTIFIED BY THE WATER ASSET MANAGEMENT COUNCIL. THE REPORT SHALL
11 ALSO INCLUDE AN OVERVIEW OF THE ACTIVITIES IDENTIFIED FOR THE
12 SUCCEEDING YEAR. THE WATER ASSET MANAGEMENT COUNCIL SHALL SUBMIT
13 THIS REPORT TO THE MICHIGAN INFRASTRUCTURE COUNCIL AND THE
14 LEGISLATURE BY MAY 2 OF EACH YEAR.

15 SEC. 5007. (1) THE WATER ASSET MANAGEMENT COUNCIL SHALL
16 IDENTIFY TRAINING NEEDS TO DEVELOP PROFICIENCY IN USING A MULTI-
17 ASSET MANAGEMENT SYSTEM FOR DRINKING WATER, WASTEWATER, AND
18 STORMWATER AGENCIES AND ASSET OWNERS, AND TRAINING TO IDENTIFY
19 ASSET SYSTEM CONDITIONS BASED ON A STATEWIDE ASSET CONDITION
20 MEASURE.

21 (2) THE WATER ASSET MANAGEMENT COUNCIL SHALL COORDINATE AND
22 COLLABORATE WITH THE TRANSPORTATION ASSET MANAGEMENT COUNCIL ON
23 PLANNING, REPORTING, AND TRAINING.

24 Enacting section 1. This amendatory act does not take effect
25 unless all of the following bills of the 99th Legislature are
26 enacted into law:

27 (a) House Bill No. 5335.

1 (b) House Bill No. 5408.