

HOUSE BILL No. 5440

January 14, 1992, Introduced by Reps. Brown, Kosteva, Sikkema, Hickner and Alley and referred to the Committee on Conservation, Recreation and Environment.

A bill to amend sections 3, 4, 6, 7, 9, and 12 of Act No. 317 of the Public Acts of 1988, entitled "State clean water assistance act," being sections 323.453, 323.454, 323.456, 323.457, 323.459, and 323.462 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 3, 4, 6, 7, 9, and 12 of Act No. 317 of
2 the Public Acts of 1988, being sections 323.453, 323.454,
3 323.456, 323.457, 323.459, and 323.462 of the Michigan Compiled
4 Laws, are amended to read as follows:

5 Sec. 3. (1) "Act 245" means Act No. 245 of the Public Acts
6 of 1929, being sections 323.1 to ~~323.13~~ 323.12A of the Michigan
7 Compiled Laws.

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

4 (a) Provision of loans to municipalities for construction of
5 sewage treatment works PROJECTS, STORMWATER TREATMENT PROJECTS,
6 or nonpoint source projects.

7 (b) Project refinancing assistance.

8 (c) The guarantee or purchase of insurance for local obliga-
9 tions, if the guarantee or purchase action would improve credit
10 market access or reduce interest rates.

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

15 (e) Provision of loan guarantees for similar revolving funds
16 established by municipalities.

17 (f) The use of deposited funds to earn interest on fund
18 accounts.

19 (g) Provision for reasonable costs of administering and con-
20 ducting activities under title VI of the federal water pollution
21 control act.

22 (3) "Authority" means the Michigan municipal bond authority
23 created in the shared credit rating act, Act No. 227 of the
24 Public Acts of 1985, being sections 141.1051 to ~~141.1077~~
25 141.1078 of the Michigan Compiled Laws.

26 (4) "Capitalization grant" means the federal grant made to
27 this state by the EPA for the purpose of establishing a state

1 water pollution control revolving fund, as provided in title VI
2 of the federal water pollution control act, chapter 758, 101
3 Stat. 22, 33 U.S.C. 1381 to 1387.

4 (5) "Construction activities" means any actions undertaken
5 in the designing or building of sewage treatment works PROJECTS,
6 STORMWATER TREATMENT PROJECTS, or nonpoint source projects. The
7 term includes, but is not limited to, all of the following:

8 (a) Engineering services.

9 (b) Legal services.

10 (c) Financial services.

11 (d) Design of plans and specifications.

12 (e) Acquisition of land or structural components, or both.

13 (f) Building, erection, alteration, remodeling, or exten-
14 sions of a sewage treatment works.

15 (g) Building, erection, alteration, remodeling, or exten-
16 sions of projects designed to control nonpoint source pollution,
17 consistent with section 319 of title III of the federal water
18 pollution control act, chapter 758, 101 Stat. 52, 33
19 U.S.C. 1329.

20 (H) BUILDING, ERECTION, ALTERATION, OR REMODELING OF A
21 STORMWATER TREATMENT PROJECT.

22 (I) ~~(h)~~ Municipal supervision of the project activities
23 described in subdivisions (a) to ~~(g)~~ (H).

24 (6) "Department" means the department of natural resources.

25 (7) "Director" means the director of the department or his
26 or her designated representative.

1 (8) "EPA" means the federal environmental protection
2 agency.

3 (9) "Federal water pollution control act" means chapter 758,
4 86 Stat. 816, 33 U.S.C. 1251 to 1252, 1253 to 1254, 1255 TO 1257,
5 1258 to 1263, 1265 to ~~1268~~ 1270, 1281, 1282 to 1293, 1294 to
6 1299, 1311 to 1313, 1314 to 1326, 1328 to 1330, 1341 to 1345,
7 1361 to 1377, and 1381 to 1387.

8 (10) "Fund" means the state water pollution control revolv-
9 ing fund created in the shared credit rating act, Act No. 227 of
10 the Public Acts of 1985, BEING SECTIONS 141.1051 TO 141.1078 OF
11 THE MICHIGAN COMPILED LAWS, established pursuant to title VI of
12 the federal water pollution control act, chapter 758, 101
13 Stat. 22, 33 U.S.C. 1381 to 1387.

14 Sec. 4. (1) "Fundable range" means those projects, taken in
15 descending order on the priority lists, for which sufficient
16 funds are estimated by the director to exist to provide assist-
17 ance at the beginning of each annual funding cycle.

18 (2) "Municipality" means a city, village, county, township,
19 authority, or other public body, including an intermunicipal
20 agency of 2 or more municipalities, authorized or created under
21 state law; or an Indian tribe that has jurisdiction over con-
22 struction and operation of sewage treatment works or other
23 projects qualifying under section 319 of title III of the federal
24 water pollution control act, chapter 758, 101 Stat. 52, 33
25 U.S.C. 1329.

26 (3) "Nonpoint source project" means construction activities
27 designed to reduce nonpoint source pollution consistent with the

1 state nonpoint source management plan pursuant to section 319 of
2 title III of the federal water pollution control act, chapter
3 758, 101 Stat. 52, 33 U.S.C. 1329.

4 (4) "Project" means a sewage treatment works project, A
5 STORMWATER TREATMENT PROJECT, or a nonpoint source project, or
6 ~~both~~ A COMBINATION OF THESE.

7 (5) "Project refinancing assistance" means buying or refi-
8 nancing the debt obligations of municipalities within the state
9 if construction activities commenced after March 7, 1985 and the
10 debt obligation was incurred after March 7, 1985.

11 (6) "Priority list" means the annual ranked listing of
12 projects developed by the director in section 6 or used by the
13 director pursuant to section 18.

14 (7) "Sewage treatment works project" means construction
15 activities on any device or system for the treatment, storage,
16 collection, conveyance, recycling, or reclamation of the sewage
17 of a municipality, including combined sewer overflow correction
18 and major rehabilitation of sewers.

19 (8) "STORMWATER TREATMENT PROJECT" MEANS CONSTRUCTION ACTIV-
20 ITIES OF A MUNICIPALITY ON ANY DEVICE OR SYSTEM FOR THE TREAT-
21 MENT, STORAGE, RECYCLING, OR RECLAMATION OF STORMWATER THAT IS
22 CONVEYED BY A STORM SEWER THAT IS SEPARATE FROM A SANITARY SEWER.

23 (9) ~~-(8)-~~ "Tier I project" means a project for which assist-
24 ance is sought or provided from funds made directly available
25 from the federal capitalization grant.

1 (10) ~~(9)~~ "Tier II project" means a project for which
2 assistance is sought or provided from funds other than those made
3 directly available from the federal capitalization grant.

4 Sec. 6. (1) Municipalities shall consider and utilize,
5 where possible, cooperative regional or intermunicipal projects
6 in satisfying sewerage needs in the development of project
7 plans.

8 (2) A municipality may submit a project plan for use by the
9 director in developing a priority list.

10 (3) The project plan for a tier I project shall include doc-
11 umentation that demonstrates that the project is needed to assure
12 maintenance of, or to progress toward, compliance with the fed-
13 eral water pollution control act or Act 245, and to meet the min-
14 imum requirements of the national environmental policy act of
15 1969, Public Law 91-190, 42 U.S.C. 4321, 4331 to 4335, and 4341
16 to 4347. The documentation shall demonstrate all of the
17 following:

18 (a) The need for the project.

19 (b) That feasible alternatives to the project were evaluated
20 taking into consideration the demographic, topographic, hydro-
21 logic, and institutional characteristics of the area.

22 (c) That the project is cost effective and implementable
23 from legal, institutional, financial, and management
24 standpoints.

25 (d) Other information as required by the director.

26 (4) The project plan for a tier II project shall include
27 documentation that demonstrates that the project is or was needed

1 to assure maintenance of or progress towards compliance with the
2 federal water pollution control act or Act 245, and is consistent
3 with all applicable state environmental laws. The documentation
4 shall include all of the following information:

5 (a) Information to demonstrate the need for the project.

6 (b) A showing that the cost of the project is or was justi-
7 fied, taking into account available alternatives. Those costs
8 determined by the director to be in excess of those costs justi-
9 fied will not be eligible for assistance under this act.

10 (5) After notice and an opportunity for public comment, the
11 director shall annually develop a priority list for sewage treat-
12 ment works projects AND STORMWATER TREATMENT PROJECTS, and a sep-
13 arate priority list for nonpoint source projects. Projects not
14 funded during the time that a priority list developed under this
15 section is in effect shall be automatically prioritized on the
16 next annual list using the same criteria, unless the municipality
17 submits an amendment to its plan that introduces new information
18 to be used as the basis for prioritization. These priority lists
19 shall be based upon project plans submitted by municipalities and
20 the following criteria:

21 (a) That a project complies with all applicable standards in
22 Act 245 and the federal water pollution control act.

23 (b) An application for a segment of a project that received
24 funds under the title II construction grant program or title VI
25 state revolving loan funds of the federal water pollution control
26 act shall be first priority for funding for a period of not more

1 than 3 years after funds were first committed under those
2 programs.

3 (c) If the project is a sewage treatment works project OR A
4 STORMWATER TREATMENT PROJECT, all of the following criteria:

5 (i) The severity of the water pollution problem to be
6 addressed, maximizing progress towards restoring beneficial uses
7 and meeting water quality standards.

8 (ii) A determination of whether a project is or was neces-
9 sary to comply with an order, permit, or other document issued by
10 the director or the department or entered as part of an action
11 brought by the state against the municipality or any component of
12 the municipality.

13 (iii) The population to be served by the project.

14 (iv) The dilution ratio existing between the discharge
15 volume and the receiving stream.

16 (d) Rankings for nonpoint source projects shall be consis-
17 tent with the state nonpoint source management plan developed
18 pursuant to section 319 of title III of the federal water pollu-
19 tion control act, chapter 758, 101 Stat. 52, 33 U.S.C. 1329.

20 (e) Any other criteria established by the director by rule.

21 (6) The priority list shall be submitted annually to the
22 chair of the senate and house of representatives standing commit-
23 tees that consider legislation pertaining to the environment and
24 natural resources.

25 (7) For purposes of providing assistance, the priority list
26 shall take effect at the beginning of each fiscal year.

1 (8) This section shall not limit other actions undertaken to
2 enforce provisions of Act 245, the federal water pollution
3 control act, or any other act.

4 Sec. 7. Subject to sections 12 and 13, assistance provided
5 to municipalities to construct sewage treatment works projects,
6 STORMWATER PROJECTS, and nonpoint source projects shall be in
7 accordance with all of the following requirements:

8 (a) Assistance for approved sewage treatment works projects
9 AND STORMWATER TREATMENT PROJECTS shall be provided for projects
10 in the fundable range of the priority list developed pursuant to
11 section ~~6(4)~~ 6(3) OR (4), and to other projects that may become
12 fundable pursuant to section 13.

13 (b) Assistance for approved qualified nonpoint source
14 projects shall be provided for projects in the fundable range of
15 the priority list developed pursuant to section ~~6(4)~~ 6(3) OR
16 (4).

17 Sec. 9. (1) The director shall prepare and submit an
18 intended use plan annually to identify proposed annual intended
19 uses of the fund, and to facilitate the negotiation process that
20 the director may conduct with the EPA for the capitalization
21 grant agreement and schedule of payments to be made to this state
22 under the federal water pollution control act.

23 (2) The director shall provide for a public participation
24 process that shall require not less than 1 public hearing for the
25 intended use plan. The director may make changes in the intended
26 use plan without holding additional hearings in response to the

1 comments received from the EPA and through the public
2 participation process.

3 (3) The intended use plan shall include all of the
4 following:

5 (a) A copy of the state's priority lists.

6 (b) A description of the long- and short-term goals of the
7 fund.

8 (c) The proposed fundable range and an allocation of the
9 funds available for projects on the nonpoint source priority list
10 and for the sewage treatment WORKS PROJECTS AND STORMWATER TREAT-
11 MENT PROJECTS priority list.

12 (d) A description of the projects that are on the priority
13 lists, including project categories and types, applicable dis-
14 charge or enforceable requirements, proposed terms of the assist-
15 ance, including a schedule of estimated disbursements of funds,
16 and the names of the municipalities proposed to receive
17 assistance.

18 (e) Any necessary assurances or proposals indicating how the
19 state intends to meet applicable federal requirements.

20 (f) A description of the criteria and method for distribu-
21 tion of the fund.

22 (g) A description of the public participation process fol-
23 lowed in the development of the intended use plan and the results
24 of that process.

25 (h) Any other information needed to comply with the federal
26 water pollution control act.

1 (i) Any other information considered appropriate by the
2 director.

3 (4) Upon notice from the EPA that the intended use plan is
4 approved, the director shall notify each municipality of its
5 inclusion on the intended use plan and shall further provide
6 copies of the sewage treatment works projects AND STORMWATER
7 TREATMENT PROJECTS priority list, the nonpoint source project
8 priority list, and the intended use plan to all persons request-
9 ing such information. Following notification, the director shall
10 establish, with the concurrence of the municipality, a schedule
11 for project plan approval, submittal of a complete application
12 for assistance, and approval of plans and specifications.

13 Sec. 12. To ensure that a disproportionate share of avail-
14 able funds for a given fiscal year is not committed to a single
15 sewage treatment work project OR STORMWATER PROJECT, the director
16 may segment a sewage treatment work project if either of the fol-
17 lowing criteria is present:

18 (a) The cost of the proposed project is more than 30% of the
19 amount available in the fund.

20 (b) Upon application of a municipality, the director has
21 approved a municipality's application for segmenting a project.