

HOUSE BILL No. 5982

June 30, 1992, Introduced by Reps. Varga, Brown, Sikkema, Hickner, Yokich and Trim and referred to the Committee on Conservation, Recreation and Environment.

A bill to amend Act No. 348 of the Public Acts of 1965, entitled as amended

"Air pollution act,"

as amended, being sections 336.11 to 336.36 of the Michigan Compiled Laws, by adding section 6a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Act No. 348 of the Public Acts of 1965, as
2 amended, being sections 336.11 to 336.36 of the Michigan Compiled
3 Laws, is amended by adding section 6a to read as follows:

4 SEC. 6A. (1) A CITY OR COUNTY MAY APPLY TO THE COMMISSION
5 FOR DELEGATION OF A DESIGNATED PORTION OF THE AUTHORITY OF THE
6 DEPARTMENT OR THE COMMISSION PROVIDED FOR UNDER THIS ACT AND THE
7 RULES PROMULGATED UNDER THIS ACT. THE COMMISSION SHALL NOT
8 DELEGATE ANY PORTION OF THE POWERS OF THE DEPARTMENT UNLESS THE
9 DEPARTMENT CONSENTS TO THAT DELEGATION.

1 (2) THE COMMISSION, UPON APPLICATION, MAY DELEGATE
2 DESIGNATED AUTHORITIES TO IMPLEMENT AND ENFORCE THIS ACT AND
3 RULES PROMULGATED UNDER THIS ACT TO A CITY OR COUNTY, IF THE COM-
4 MISSION FINDS ALL OF THE FOLLOWING:

5 (A) THAT THE LOCAL PROGRAM WILL AT A MINIMUM COMPLY WITH
6 THOSE ASPECTS OF THE CLEAN AIR ACT, THIS ACT, AND RULES PROMUL-
7 GATED UNDER THIS ACT FOR WHICH DELEGATED AUTHORITY IS REQUESTED.

8 (B) THAT THE LOCAL PROGRAM WILL HAVE ADEQUATE STAFF AND
9 FUNDING, THAT ARE AT LEAST COMPARABLE TO THAT WHICH THE STATE
10 COULD PROVIDE, TO MEET THE RESPONSIBILITIES DELEGATED TO THE CITY
11 OR COUNTY.

12 (C) THAT THE LOCAL PROGRAM HAS LAWFUL AUTHORITY TO IMPLEMENT
13 ITS RESPONSIBILITY AND THE ABILITY AND AUTHORITY TO ENFORCE THIS
14 ACT AND THE RULES PROMULGATED UNDER THIS ACT.

15 (3) A DELEGATION OF AUTHORITY UNDER THIS SECTION SHALL BE IN
16 WRITING AND SHALL INCLUDE AT A MINIMUM A DESCRIPTION OF THE DELE-
17 GATED AUTHORITY AND THE RESOURCES THAT THE CITY OR COUNTY WILL
18 UTILIZE IN MEETING ITS OBLIGATIONS.

19 (4) A DELEGATION OF AUTHORITY UNDER THIS SECTION SHALL BE
20 FOR A TERM OF NOT MORE THAN 5 YEARS AND NOT LESS THAN 1 YEAR, AND
21 MAY BE RENEWED. AS A CONDITION OF MAINTAINING A DELEGATION OF
22 AUTHORITY, A CITY OR COUNTY SHALL PROVIDE TO THE COMMISSION AN
23 ANNUAL REPORT THAT INCLUDES THE STATUS OF THE CITY OR COUNTY'S
24 COMPLIANCE WITH THE RESPONSIBILITIES DELEGATED TO IT, A DETAILED
25 DESCRIPTION OF THE STAFF AND FUNDING USED TO MEET ITS RESPONSI-
26 BILITIES, AND ANY OTHER INFORMATION REQUIRED BY THE COMMISSION.
27 IF A REPORT IS NOT FILED OR A REPORT INDICATES SUBSTANTIAL

1 DEFICIENCIES IN A PROGRAM, THE COMMISSION MAY WITHDRAW THE
2 DELEGATION PURSUANT TO SUBSECTION (7).

3 (5) PRIOR TO ENTERING INTO OR RENEWING A DELEGATION OF
4 AUTHORITY, THE COMMISSION SHALL CONDUCT A PUBLIC HEARING IN THE
5 JURISDICTION FOR WHICH DELEGATION IS SOUGHT.

6 (6) A CITY OR COUNTY THAT SEEKS A RENEWAL OF DELEGATION
7 SHALL FILE AN APPLICATION WITH THE COMMISSION 1 YEAR PRIOR TO THE
8 EXPIRATION OF THE PREVIOUS DELEGATION UNLESS THE COMMISSION
9 ESTABLISHES A DIFFERENT DATE FOR THE FILING OF A RENEWAL
10 APPLICATION. THE COMMISSION SHALL GRANT OR DENY A COMPLETE
11 APPLICATION FOR DELEGATION WITHIN 9 MONTHS OF ITS SUBMITTAL OR
12 COMPLETION. THE COMMISSION MAY DENY A RENEWAL OF DELEGATION FOR
13 JUST CAUSE AS DETERMINED BY THE COMMISSION.

14 (7) THE COMMISSION MAY IMPOSE REASONABLE CONDITIONS ON A
15 DELEGATION TO A CITY OR COUNTY UNDER THIS ACT. IF FOLLOWING A
16 PUBLIC HEARING THE COMMISSION DETERMINES A CITY OR COUNTY IS NOT
17 EFFECTIVELY ADMINISTERING A DELEGATION OF AUTHORITY UNDER THIS
18 ACT, THEN THE COMMISSION MAY WITHDRAW THE DELEGATION.

19 (8) A CITY OR COUNTY SHALL NOT ISSUE A PERMIT OR ENTER INTO
20 AN ORDER FOR WHICH THE CITY OR COUNTY DETERMINES THERE IS A KNOWN
21 UNRESOLVED OBJECTION REGARDING AIR POLLUTION OR OTHER ENVIRONMEN-
22 TAL ISSUES. THE CITY OR COUNTY SHALL REFER SUCH AN APPLICATION
23 FOR A PERMIT TO THE COMMISSION.

24 (9) IF REQUIRED BY THE COMMISSION PURSUANT TO A DELEGATION,
25 A CITY OR COUNTY SHALL TRANSMIT TO THE COMMISSION A COPY OF EACH
26 PERMIT APPLICATION, EACH APPLICATION FOR A PERMIT MODIFICATION OR

1 RENEWAL, EACH ORDER, AND EACH PERMIT PROPOSED TO BE ISSUED AND
2 EACH PERMIT THAT IS ISSUED.

3 (10) IF THE COMMISSION DETERMINES THAT A PERMIT ISSUED OR AN
4 ORDER ENTERED INTO BY A CITY OR COUNTY CONTAINS PROVISIONS THAT
5 ARE NOT IN COMPLIANCE WITH THE APPLICABLE REQUIREMENTS OF THIS
6 ACT AND THE RULES PROMULGATED UNDER THIS ACT, THE COMMISSION
7 SHALL OBJECT IN WRITING TO ITS ISSUANCE WITHIN 45 DAYS OF THE
8 RECEIPT OF THE PERMIT OR ORDER. WITH THE OBJECTION, THE COMMISS-
9 SION SHALL PROVIDE A STATEMENT OF THE REASONS FOR THE OBJECTION.
10 A COPY OF THE OBJECTION AND STATEMENT SHALL ALSO BE PROVIDED TO
11 THE HOLDER OF THE PERMIT OR THE PARTIES TO THE ORDER. IF THE
12 COMMISSION OBJECTS TO A PERMIT WITHIN 45 DAYS OF ITS ISSUANCE,
13 THE COMMISSION SHALL MODIFY, TERMINATE, OR REVOKE THE PERMIT OR
14 REQUIRE THE CITY OR COUNTY TO ISSUE A REVISED PERMIT TO MEET THE
15 OBJECTION. IF THE CITY OR COUNTY FAILS, WITHIN 90 DAYS AFTER THE
16 DATE OF A COMMISSION OBJECTION, TO SUBMIT A PERMIT REVISED TO
17 MEET THE OBJECTION, THE COMMISSION SHALL ISSUE OR DENY THE PERMIT
18 IN ACCORDANCE WITH THE REQUIREMENTS OF THIS ACT AND RULES PROMUL-
19 GATED UNDER THIS ACT. A COMMISSION OBJECTION IS NOT SUBJECT TO
20 JUDICIAL REVIEW UNTIL THE COMMISSION TAKES FINAL ACTION TO ISSUE
21 OR DENY A PERMIT.

22 (11) THE COMMISSION MAY WAIVE THE REQUIREMENTS OF SUBSECTION
23 (9) OR (10), OR BOTH, AT THE TIME OF APPROVAL OF A DELEGATION FOR
24 ANY SOURCE OR CATEGORY OF SOURCES COVERED BY THE PROGRAM, OTHER
25 THAN MAJOR SOURCES.

26 (12) PRIOR TO THE RECEIPT OF A GRANT FROM THE STATE TO
27 IMPLEMENT ITS AIR POLLUTION CONTROL PROGRAM, A CITY OR COUNTY

1 SHALL ENTER INTO A 1-YEAR AGREEMENT THAT DETAILS THE MANNER IN
2 WHICH THE GRANT MONEY WILL BE EXPENDED. THE DEPARTMENT SHALL NOT
3 ISSUE A GRANT TO A CITY OR COUNTY IN AN AMOUNT THAT IS GREATER
4 THAN THE AMOUNT THE STATE WOULD HAVE EXPENDED TO OPERATE AN AIR
5 POLLUTION CONTROL PROGRAM IN THE CITY OR COUNTY. IN ADDITION,
6 THE DEPARTMENT SHALL NOT ISSUE A GRANT TO A CITY OR COUNTY UNLESS
7 THE CITY OR COUNTY IS CONTRIBUTING RESOURCES FOR ITS AIR POLLU-
8 TION CONTROL PROGRAM FOR THE FISCAL YEAR FOR WHICH THE AGREEMENT
9 APPLIES IN AN AMOUNT THAT IS AT LEAST EQUAL TO THE RESOURCES CON-
10 TRIBUTED BY THE CITY OR COUNTY IN THE PRECEDING FISCAL YEAR, IF
11 APPLICABLE. THE COMMISSION MAY EXEMPT A CITY OR COUNTY FROM THE
12 REQUIREMENT TO EQUAL OR EXCEED ITS CONTRIBUTION FOR THE PRECEDING
13 FISCAL YEAR IF THE COMMISSION FINDS EITHER OF THE FOLLOWING:

14 (A) THE CITY OR COUNTY CONTRIBUTION FOR THE PRECEDING FISCAL
15 YEAR WAS ELEVATED DUE TO EXTRAORDINARY CIRCUMSTANCES.

16 (B) A REDUCTION IN EXPENDITURES FOR A CITY OR COUNTY RESULTS
17 FROM A NONSELECTIVE REDUCTION IN THE OVERALL FUNDING AVAILABLE
18 FOR ALL OF THE PROGRAM OF THE CITY OR COUNTY.

19 (13) A PERMIT ISSUED BY A CITY OR COUNTY WITH DELEGATED
20 AUTHORITY IS THE EQUIVALENT OF A PERMIT ISSUED BY THE DEPARTMENT
21 IF IT MEETS OR EXCEEDS THE REQUIREMENTS OF THIS ACT AND RULES
22 PROMULGATED UNDER THIS ACT. THE AUTHORITY TO COLLECT FEES UNDER
23 THIS ACT SHALL NOT BE DELEGATED. FEES PAID BY A SOURCE WITHIN A
24 LOCAL UNIT OF GOVERNMENT THAT HAS DELEGATED AUTHORITY UNDER THIS
25 SECTION SHALL BE DIVIDED BETWEEN THE STATE AND THE LOCAL UNIT OF
26 GOVERNMENT ACCORDING TO AN EQUITABLE FORMULA ESTABLISHED BY THE
27 COMMISSION WHICH SHALL BE BASED ON THE DIVISION OF

1 RESPONSIBILITIES BETWEEN THE STATE AND THE CITY OR COUNTY. THE
2 PORTION OF THESE FEES TO BE RETURNED BY THE STATE TO THE LOCAL
3 UNIT OF GOVERNMENT SHALL BE INCLUDED WITHIN A GRANT TO THE LOCAL
4 UNIT OF GOVERNMENT.

5 (14) NOTWITHSTANDING A DELEGATION UNDER THIS ACT, THE
6 DEPARTMENT RETAINS THE AUTHORITY TO BRING ANY APPROPRIATE ACTION
7 AS AUTHORIZED UNDER THIS ACT AND THE RULES PROMULGATED UNDER THIS
8 ACT TO ENFORCE THIS ACT AND THE RULES PROMULGATED UNDER THIS
9 ACT. THE DEPARTMENT HAS AUTHORITY TO BRING ANY APPROPRIATE
10 ACTION TO ENFORCE A PERMIT ISSUED OR A CONSENT ORDER ENTERED INTO
11 BY A CITY OR COUNTY TO WHICH AUTHORITY IS DELEGATED.

12 (15) AS USED IN THIS SECTION, "CITY OR COUNTY" MEANS A CITY
13 OR COUNTY THAT APPLIES FOR OR ENTERS INTO A DELEGATION OF AUTHOR-
14 ITY AS AUTHORIZED UNDER THIS SECTION.