

Act No. 309
Public Acts of 1993
Approved by the Governor
December 24, 1993
Filed with the Secretary of State
December 28, 1993

**STATE OF MICHIGAN
87TH LEGISLATURE
REGULAR SESSION OF 1993**

Introduced by Reps. Griffin, Middaugh, Freeman, O'Neill, Brown, Shepich, Gnodtke, Dolan, Sikkema, Hood, Wallace, Stallworth, Gire, Varga, Demars, Points, Pitoniak, Murphy, Saunders, Bennane, Bryant, Llewellyn, Bodem, Rhead, Hill, Goschka, Nye, Bobier, Wetters and Randall
Rep. Yokich named co-sponsor

ENROLLED HOUSE BILL No. 4720

AN ACT to amend section 8 of Act No. 328 of the Public Acts of 1988, entitled "An act to implement the environmental protection bond authorization act; to create the environmental protection bond fund; to provide for the use of the fund; and to prescribe the powers and duties of certain state agencies," being section 299.678 of the Michigan Compiled Laws.

The People of the State of Michigan enact:

Section 1. Section 8 of Act No. 328 of the Public Acts of 1988, being section 299.678 of the Michigan Compiled Laws, is amended to read as follows:

Sec. 8. (1) Except as provided in subsection (3), money in the fund that is allocated under section 7 shall be used for the following purposes:

(a) Money in the fund that is allocated under section 7(1)(a) shall be used for sites identified through the environmental response act, Act No. 307 of the Public Acts of 1982, being sections 299.601 to 299.618 of the Michigan Compiled Laws, to be expended and recovered by the state in the same manner as provided in that act. Of the funds allocated under section 7(1)(a), the following apply:

(i) Not more than \$35,000,000.00 shall be used to clean up sites of environmental contamination that have been identified under Act No. 307 of the Public Acts of 1982; that will not be funded in the next fiscal year; and have been approved by the commission as having measurable economic benefit. The commission, after consultation with the department of commerce, shall promulgate rules that establish the criteria and process by which sites will be selected and determined to qualify as sites having measurable economic benefit.

(ii) Not more than \$10,000,000.00 may be used to provide grants to eligible communities to investigate and determine whether property within an eligible community is a site of environmental contamination and, if so, to characterize the nature and extent of the contamination. A grant shall only be issued under this subparagraph if all of the following conditions are met:

(A) The characterization of the nature and extent of contamination includes an estimate of response activity costs in relation to the value of the property in an uncontaminated state and identifies future potential limitations on the use of the property based upon current environmental conditions.

(B) The property has demonstrable economic development potential. This provision does not require a specific development proposal to be identified.

(C) The property is located within an eligible community that has received less than \$1,000,000.00 in total grants under this subparagraph. However, a grant that has resulted in measurable economic benefits shall not be included in the calculation of the \$1,000,000.00.

(b) Money in the fund that is allocated for solid waste projects including, but not limited to, reducing, recycling, and properly disposing of solid waste shall be used to fund state projects, to provide grants and loans to local units of government, and to provide grants and loans to private entities for any of the programs identified in the clean Michigan fund act, Act No. 249 of the Public Acts of 1986, being sections 299.371 to 299.393 of the Michigan Compiled Laws, in the amounts appropriated pursuant to subsection (5). However, the commission shall not use any of the money in the fund for any of the costs associated with the advisory panel described in section 20 of Act No. 249 of the Public Acts of 1986, being section 299.390 of the Michigan Compiled Laws. Not less than \$17,500,000.00 of the money for solid waste projects shall be used to fund the following:

- (i) To promote and expand markets for recycled materials.
- (ii) To assist in the recycling of solid wastes, including, but not limited to, plastics, metals, tires, wood, and paper.
- (iii) To promote research on resource recovery.
- (iv) To study marketing options for products that use recycled materials.

(c) Money in the fund that is allocated to capitalize the state water pollution control revolving fund created in section 16a of the shared credit rating act, Act No. 227 of the Public Acts of 1985, being section 141.1066a of the Michigan Compiled Laws, shall be used as provided in the state clean water assistance act, Act No. 317 of the Public Acts of 1988, being sections 323.451 to 323.470 of the Michigan Compiled Laws.

(d) Money in the fund that is allocated to fund this state's participation in a regional Great Lakes protection fund pursuant to the Great Lakes protection fund authorization act, Act No. 155 of the Public Acts of 1989, being sections 3.671 to 3.677 of the Michigan Compiled Laws.

(2) If, within 18 months after the effective date of subsection (8), the commission determines that money allocated under subsection (1)(a)(ii) is unlikely to be expended pursuant to that subparagraph, \$5,000,000.00 of the money allocated pursuant to that subparagraph shall be expended pursuant to subsection (1)(a)(i).

(3) If money that is expended pursuant to subsection (1)(a)(ii) is recovered by an eligible community from a person who may be liable under the environmental response act, Act No. 307 of the Public Acts of 1982, being sections 299.601 to 299.618 of the Michigan Compiled Laws, through proceeds from the sale of the property, or through any other mechanism, and additional funds for environmental response activities on the property are not necessary, the eligible community may retain those funds for expenditure on projects that the department determines are eligible to receive funding under subsection (1)(a)(ii). An accounting of such recovered funds must be provided to the department within 30 days of receipt, and approval and expenditure of such recovered funds shall be in the same manner as funds awarded pursuant to subsection (1)(a)(ii). If funds are recovered and not spent on other projects pursuant to this subparagraph within 2 years after they are recovered by the eligible community, the eligible community shall forward the money collected to the state treasurer for deposit into the fund to be used pursuant to subsection (1)(a)(ii). When accounting for the use of recovered funds, eligible communities may itemize deductions for site preparation and other costs directly related to the reuse of a site funded under this section.

(4) Money provided in the fund may be used by the department of treasury to pay for the cost of issuing bonds under the environmental protection bond authorization act and by the department to pay department costs as provided in this subsection. Not more than 6% of the total amount specified in section 7(1)(a), (b), and (d) shall be available for appropriation to the department to pay department costs directly associated with the completion of a project described in section 7(1)(a), (b), or (d), for which bonds are issued as provided under this act. Any department costs associated with a project described in section 7(1)(c) for which bonds are issued under this act shall be paid as provided in the state statute implementing the state water pollution control revolving fund. Bond proceeds shall not be available to pay indirect, administrative overhead costs incurred by any organizational unit of the department not directly responsible for the completion of a project. It is the intent of the legislature that general fund appropriations to the department shall not be reduced as a result of department costs funded pursuant to this subsection.

(5) Except as provided in subsection (3), the commission shall annually submit to the governor, the committee of the house of representatives on conservation and environment, the committee of the senate on natural resources and environmental affairs, and the appropriations committees in the house of representatives and the senate a list of all projects that are recommended to be funded under this act. Beginning in fiscal year 1990, this list shall be submitted to the legislature not later than February 15 of each year. This list shall also be submitted before any request for supplemental appropriation of bond funds. The list shall include the name, address, and telephone number of the eligible recipient or participant; the nature of the eligible project; the county in which the eligible project is located; an estimate of the total cost of the eligible project; and other information considered pertinent by the commission.

(6) The legislature shall appropriate prospective or actual bond proceeds for projects proposed to be funded. Appropriations shall be carried over to succeeding fiscal years until the project for which the funds are appropriated is completed. Environmental cleanup projects that are eligible for funding under subsection (1)(a), but not including

subsection (1)(a)(i) and (ii), shall be prioritized and approved pursuant to the procedures outlined in Act No. 307 of the Public Acts of 1982. Projects to which loans are provided from the state water pollution control revolving fund shall be approved pursuant to state law implementing that fund. The capitalization of the regional Great Lakes protection fund shall be a 1-time appropriation.

(7) Not later than December 31 of each year, the commission shall report to the governor, the committee of the house of representatives on conservation and environment, the committee of the senate on natural resources and environmental affairs, and the committees of the house of representatives and the senate on appropriations for the department a list of the projects financed under this act. The list shall include the name, address, and telephone number of the recipient or participant; the nature of the project; the amount of money received; the county in which the project is located; and other information considered pertinent by the commission.

(8) As used in this section, "eligible community" means any of the following:

(a) A city, village, or township, or a county on behalf of a city, village, or township, that on May 1, 1993 meets the applicable criteria of section 2(d)(i) or (ii) of the neighborhood enterprise zone act, Act No. 147 of the Public Acts of 1992, being section 207.772 of the Michigan Compiled Laws.

(b) A city that meets any of the following descriptions:

(i) Has a population of greater than 10,000 and is located within a county that has a population density of less than 39 residents per square mile.

(ii) Has a population of greater than 2,500 and is located within a county that has a population density of less than 39 residents per square mile.

(iii) Had an average unemployment rate of 11.5% or more during the most recent calendar year for which data is available from the Michigan employment security commission and meets the criteria of section 2(d)(i)(A), (D), and (E) of Act No. 147 of the Public Acts of 1992.

This act is ordered to take immediate effect.

Co-Clerk of the House of Representatives.

Secretary of the Senate.

Approved -----

Governor.