

Act No. 203
Public Acts of 1993
Approved by the Governor
October 18, 1993
Filed with the Secretary of State
October 19, 1993

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

Introduced by Senator Ehlers

ENROLLED SENATE BILL No. 651

AN ACT to amend the title of Act No. 245 of the Public Acts of 1929, entitled as amended "An act to regulate, protect, and conserve the water resources of the state, to provide for the control over the pollution of any waters of the state and the Great Lakes, to provide for the control over the alteration of the watercourses and the floodplains of all rivers and streams; to create a water resources commission; to prescribe the powers and duties of certain state agencies and officials; to require the registration of manufacturing products, production materials, and waste products where certain wastes are discharged; to require permits to regulate the discharge or storage of any substance which may affect the quality of the waters of the state and to establish restrictions to assure compliance with applicable state standards and to authorize the establishment of permit restrictions and programs to assure compliance with applicable federal law and regulations; to prohibit the pollution of any waters of the state and the Great Lakes; to prohibit the obstruction of the floodways of the rivers and streams of the state; to designate the department of natural resources as the state agency to cooperate and negotiate with other governments and agencies in matters concerning the water resources of the state; and to provide penalties and remedies for the violation of this act," as amended, being sections 323.1 to 323.12a of the Michigan Compiled Laws; and to add sections 13 and 13a.

The People of the State of Michigan enact:

Section 1. The title of Act No. 245 of the Public Acts of 1929, as amended, being sections 323.1 to 323.12a of the Michigan Compiled Laws, is amended and sections 13 and 13a are added to read as follows:

TITLE

An act to regulate, protect, and conserve the water resources of the state, to provide for the control over the pollution of any waters of the state and the Great Lakes, to provide for the control over the alteration of the watercourses and the floodplains of all rivers and streams; to create a water resources commission; to prescribe the powers and duties of certain state agencies and officials; to require the registration of manufacturing products, production materials, and waste products where certain wastes are discharged; to provide for certain fees and the disposition of those fees; to require permits to regulate the discharge or storage of any substance which may affect the quality of the waters of the state and to establish restrictions to assure compliance with applicable state standards and to authorize the establishment of permit restrictions and programs to assure compliance with applicable federal law and regulations; to prohibit the pollution of any waters of the state and the Great Lakes; to prohibit the obstruction of the floodways of the rivers and streams of the state; to designate the department of natural resources as the state agency to cooperate and negotiate with other governments and agencies in matters concerning the water resources of the state; and to provide penalties and remedies for the violation of this act.

Sec. 13. (1) Until October 1, 1995, the department shall collect storm water discharge fees from persons who apply for or have been issued storm water discharge permits as follows:

(a) The fee for a permit related solely to a site of construction activity is a 1-time fee of \$125.00 per permitted site. The fee shall be submitted by the permit applicant with his or her application for a general or individual permit. If rules promulgated under this act provide for a permit by rule, the fee shall be submitted by the construction permittee along with his or her notice of coverage. A person needing more than 1 permit may submit a single payment for more than 1 permit and receive appropriate credit. Payment of the fee under this subdivision or verification of prepayment is a necessary part of a valid permit application or notice of coverage under a permit by rule.

(b) The fee for a permit not related solely to a site of construction activity is \$200.00 to be paid as follows:

(i) A person who, before March 1, 1994, has applied for or been issued a permit not related solely to a site of construction activity shall be assessed a fee in the fiscal year ending September 30, 1994. The department shall notify those persons of their fee assessments by March 31, 1994 and payment shall be postmarked no later than May 15, 1994. The department shall not assess a fee for applications received before October 1, 1993 for which a permit has been denied or for a permit that has expired before October 1, 1993 without application for reissuance.

(ii) In the fiscal year beginning October 1, 1994 and each following fiscal year, a person possessing a permit not related solely to a site of construction activity as of January 1 of that fiscal year shall be assessed a fee. The department shall notify those persons of their fee assessments by February 1 of that fiscal year. Payment shall be postmarked no later than March 15 of that fiscal year.

(2) The department shall assess interest on all fee payments submitted under this section after the due date. The permittee shall pay an additional amount equal to 0.75% of the payment due for each month or portion of a month the payment remains past due.

(3) The department shall forward all fees collected under this section to the state treasurer for deposit into the fund.

(4) The department shall make payment of the required fee assessed under this section a condition of a permit not related solely to a site of construction activity at the time of permit issuance or reissuance.

(5) If a person fails to pay the fee required under this section in full, plus any interest accrued, by October 1 of the year following the date of notification of the fee assessment, the department may revoke the permit held by that person. The failure by a person to pay a fee imposed by this section is a violation of this act and subjects that person to the penalty provisions in section 10.

(6) Within 1 year after the reauthorization of the clean water act, the department shall convene a committee to review the storm water discharge fee system provided in this section. The committee shall be comprised of a member of the department and representatives of groups affected by the storm water discharge fee. The committee shall make recommendations for changes in the fee system to the department and to the chairpersons of the house and senate appropriations committees.

(7) As used in this section:

(a) "Clean water act" means the federal water pollution control act, chapter 758, 86 Stat. 816, 33 U.S.C. 1251 to 1252, 1253 to 1254, 1255 to 1257, 1258 to 1263, 1265 to 1270, 1281, 1282 to 1293, 1294 to 1299, 1311 to 1313, 1314 to 1326, 1328 to 1330, 1341 to 1345, 1361 to 1377, and 1381 to 1387.

(b) "Construction activity" means a human-made earth change or disturbance in the existing cover or topography of land that is 5 acres or more in size for which a national permit is required pursuant to 40 C.F.R. 122.26(a) and which is described as a construction activity in 40 C.F.R. 122.26(b)(14)(x). Construction activity includes clearing, grading, and excavating activities. Construction activity does not include the practice of clearing, plowing, tilling soil, and harvesting for the purpose of crop production.

(c) "Fee" means a storm water discharge fee authorized under this section.

(d) "Fiscal year" means the state fiscal year beginning October 1 and ending September 30.

(e) "Fund" means the storm water fund created in section 13a.

(f) "Permit" or "storm water discharge permit" means a permit authorizing the discharge of wastewater or any other substance to surface waters of the state under the national pollutant discharge elimination system pursuant to the clean water act or pursuant to this act and the rules and regulations promulgated under these acts.

(g) "Storm water" means storm water runoff, snowmelt runoff, and surface runoff and drainage.

Sec. 13a. (1) The storm water fund is created within the state treasury.

(2) The state treasurer may receive money or other assets from any source for deposit into the fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments.

(3) Money in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund.

(4) The department shall expend money from the fund, upon appropriation, only for 1 or more of the following purposes:

- (a) Review of storm water permit applications.
- (b) Storm water permit development, issuance, reissuance, and modification.
- (c) Surface water monitoring to support the storm water permitting process.
- (d) Assessment of compliance with storm water permit conditions.
- (e) Enforcement against storm water permit violations.
- (f) Classification of storm water control facilities.
- (g) Certification of storm water operators.
- (5) Money in the fund shall not be used to support the direct costs of litigation undertaken to enforce this act.

(6) Upon the expenditure or appropriation of funds raised in section 13 for any other purpose than those specifically listed in section 13a, authorization to collect fees under section 13 shall be suspended until such time as the funds expended or appropriated for purposes other than those listed in section 13a are returned to the storm water fund.

This act is ordered to take immediate effect.

Secretary of the Senate.

Co-Clerk of the House of Representatives.

Approved -----

Governor.