



SENATE BILL No. 651

May 19, 1993, Introduced by Senator EHLERS and referred to the Committee on Natural Resources and Environmental Affairs.

A bill 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:

1 Section 1. The title of Act No. 245 of the Public Acts of
2 1929, as amended, being sections 323.1 to 323.12a of the Michigan
3 Compiled Laws, is amended and sections 13 and 13a are added to
4 read as follows:

TITLE

5
6 An act to regulate, protect, and conserve the water
7 resources of the state, to provide for the control over the pol-
8 lution of any waters of the state and the Great Lakes, to provide
9 for the control over the alteration of the watercourses and the
10 floodplains of all rivers and streams; to create a water
11 resources commission; to prescribe the powers and duties of cer-
12 tain state agencies and officials; to require the registration of
13 manufacturing products, production materials, and waste products
14 where certain wastes are discharged; TO PROVIDE FOR CERTAIN FEES
15 AND THE DISPOSITION OF THOSE FEES; to require permits to regulate
16 the discharge or storage of any substance which may affect the
17 quality of the waters of the state and to establish restrictions
18 to assure compliance with applicable state standards and to
19 authorize the establishment of permit restrictions and programs
20 to assure compliance with applicable federal law and regulations;
21 to prohibit the pollution of any waters of the state and the
22 Great Lakes; to prohibit the obstruction of the floodways of the
23 rivers and streams of the state; to designate the department of
24 natural resources as the state agency to cooperate and negotiate
25 with other governments and agencies in matters concerning the

1 water resources of the state; and to provide penalties and
2 remedies for the violation of this act.

3 SEC. 13. (1) THE DEPARTMENT SHALL COLLECT STORM WATER DIS-
4 CHARGE FEES FROM PERSONS WHO APPLY FOR OR HAVE BEEN ISSUED STORM
5 WATER DISCHARGE PERMITS AS FOLLOWS:

6 (A) EXCEPT AS PROVIDED IN SUBSECTIONS (2) AND (3), THE FEE
7 FOR A PERMIT RELATED SOLELY TO A SITE OF CONSTRUCTION ACTIVITY IS
8 A 1-TIME FEE OF \$330.00 PER PERMITTED SITE. THE FEE SHALL BE
9 SUBMITTED BY THE PERMIT APPLICANT WITH HIS OR HER APPLICATION FOR
10 A GENERAL OR INDIVIDUAL PERMIT. IF RULES PROMULGATED UNDER THIS
11 ACT PROVIDE FOR A PERMIT BY RULE, THE FEE SHALL BE SUBMITTED BY
12 THE PERSON WHOSE ACTIVITIES ARE COVERED BY THE PERMIT BY RULE
13 ALONG WITH HIS OR HER NOTICE OF COVERAGE. A PERSON NEEDING MORE
14 THAN 1 PERMIT MAY SUBMIT A SINGLE PAYMENT FOR MORE THAN 1 PERMIT
15 AND RECEIVE APPROPRIATE CREDIT. PAYMENT OF THE FEE UNDER THIS
16 SUBDIVISION OR VERIFICATION OF PREPAYMENT IS A NECESSARY PART OF
17 A VALID PERMIT APPLICATION OR NOTICE OF COVERAGE UNDER A PERMIT
18 BY RULE.

19 (B) EXCEPT AS PROVIDED IN SUBSECTIONS (2) AND (3), THE FEE
20 FOR A PERMIT NOT RELATED SOLELY TO A SITE OF CONSTRUCTION ACTIV-
21 ITY IS \$230.00 TO BE PAID AS FOLLOWS:

22 (i) A PERSON WHO, BEFORE MARCH 1, 1994, HAS APPLIED FOR OR
23 BEEN ISSUED A PERMIT NOT RELATED SOLELY TO A SITE OF CONSTRUCTION
24 ACTIVITY SHALL BE ASSESSED A FEE IN THE FISCAL YEAR ENDING
25 SEPTEMBER 30, 1994. THE DEPARTMENT SHALL NOTIFY THOSE PERSONS OF
26 THEIR FEE ASSESSMENTS BY MARCH 31, 1994 AND PAYMENT SHALL BE
27 POSTMARKED NO LATER THAN MAY 15, 1994. THE DEPARTMENT SHALL NOT

1 ASSESS A FEE FOR APPLICATIONS RECEIVED BEFORE OCTOBER 1, 1993 FOR
2 WHICH A PERMIT HAS BEEN DENIED OR FOR A PERMIT THAT HAS EXPIRED
3 BEFORE OCTOBER 1, 1993 WITHOUT APPLICATION FOR REISSUANCE.

4 (ii) IN THE FISCAL YEAR BEGINNING OCTOBER 1, 1994 AND EACH
5 FOLLOWING FISCAL YEAR, A PERSON POSSESSING A PERMIT NOT RELATED
6 SOLELY TO A SITE OF CONSTRUCTION ACTIVITY AS OF JANUARY 1 OF THAT
7 FISCAL YEAR SHALL BE ASSESSED A FEE. THE DEPARTMENT SHALL NOTIFY
8 THOSE PERSONS OF THEIR FEE ASSESSMENTS BY FEBRUARY 1 OF THAT
9 FISCAL YEAR. PAYMENT SHALL BE POSTMARKED NO LATER THAN MARCH 15
10 OF THAT FISCAL YEAR.

11 (2) NOTWITHSTANDING ANY OTHER PROVISION IN THIS SECTION, FOR
12 THE STATE FISCAL YEAR BEGINNING OCTOBER 1, 1993 AND ENDING
13 SEPTEMBER 30, 1994, ALL FEES REQUIRED UNDER THIS SECTION IMPOSED
14 DURING THAT FISCAL YEAR SHALL BE 75% OF THE FEE THAT IS OTHERWISE
15 PROVIDED FOR IN THIS SECTION.

16 (3) IF IN ANY FISCAL YEAR THE AMOUNT OF UNEXPENDED MONEY IN
17 THE FUND CARRIED FORWARD FROM THE IMMEDIATELY PRECEDING FISCAL
18 YEAR EXCEEDS 20% OF THE APPROPRIATED FEE REVENUE IN THE CURRENT
19 FISCAL YEAR, FEES FOR PERMITS NOT RELATED SOLELY TO SITES OF CON-
20 STRUCTION ACTIVITY SHALL BE REDUCED FOR THAT YEAR ONLY. THE
21 REDUCED FEE SHALL BE EQUAL TO 90% OF THE PREVIOUS FEE, EXCEPT
22 THAT THE FEE SHALL BE INCREASED TO THE NEXT HIGHER INCREMENT OF
23 \$5.00. IF IN ANY FISCAL YEAR THE UNEXPENDED MONEY IN THE FUND
24 CARRIED FORWARD FROM THE IMMEDIATELY PRECEDING FISCAL YEAR PLUS
25 REVENUE GENERATED BY FEES IS LESS THAN 95% OF THE APPROPRIATED
26 FEE REVENUE FOR THAT FISCAL YEAR, THE FEES FOR SUCCEEDING FISCAL
27 YEARS SHALL BE INCREASED. THE INCREASED FEE SHALL BE EQUAL TO

1 115% OF THE PREVIOUS FEE, EXCEPT THAT THE FEE SHALL BE INCREASED
2 TO THE NEXT HIGHER INCREMENT OF \$5.00.

3 (4) THE DEPARTMENT SHALL ASSESS INTEREST ON ALL FEE PAYMENTS
4 SUBMITTED UNDER THIS SECTION AFTER THE DUE DATE. THE PERMITTEE
5 SHALL PAY AN ADDITIONAL AMOUNT EQUAL TO 0.75% OF THE PAYMENT DUE
6 FOR EACH MONTH OR PORTION OF A MONTH THE PAYMENT REMAINS PAST
7 DUE.

8 (5) THE DEPARTMENT SHALL FORWARD ALL FEES COLLECTED UNDER
9 THIS SECTION TO THE STATE TREASURER FOR DEPOSIT INTO THE FUND.

10 (6) THE DEPARTMENT SHALL MAKE PAYMENT OF THE REQUIRED FEE
11 ASSESSED UNDER THIS SECTION A CONDITION OF A PERMIT NOT RELATED
12 SOLELY TO A SITE OF CONSTRUCTION ACTIVITY AT THE TIME OF PERMIT
13 ISSUANCE OR REISSUANCE.

14 (7) IF A PERSON FAILS TO PAY THE FEE REQUIRED UNDER THIS
15 SECTION IN FULL, PLUS ANY INTEREST ACCRUED, BY OCTOBER 1 OF THE
16 YEAR FOLLOWING THE DATE OF NOTIFICATION OF THE FEE ASSESSMENT,
17 THE DEPARTMENT MAY REVOKE THE PERMIT HELD BY THAT PERSON. THE
18 FAILURE BY A PERSON TO PAY A FEE IMPOSED BY THIS SECTION IS A
19 VIOLATION OF THIS ACT AND SUBJECTS THAT PERSON TO THE PENALTY
20 PROVISIONS IN SECTION 10.

21 (8) WITHIN 1 YEAR AFTER THE REAUTHORIZATION OF THE CLEAN
22 WATER ACT, THE DEPARTMENT SHALL CONVENE A COMMITTEE TO REVIEW THE
23 STORM WATER DISCHARGE FEE SYSTEM PROVIDED IN THIS SECTION. THE
24 COMMITTEE SHALL BE COMPRISED OF A MEMBER OF THE DEPARTMENT AND
25 REPRESENTATIVES OF GROUPS AFFECTED BY THE STORM WATER DISCHARGE
26 FEE. THE COMMITTEE SHALL MAKE RECOMMENDATIONS FOR CHANGES IN THE

1 FEE SYSTEM TO THE DEPARTMENT AND TO THE CHAIRPERSONS OF THE HOUSE
2 AND SENATE APPROPRIATION COMMITTEES.

3 (9) AS USED IN THIS SECTION:

4 (A) "CLEAN WATER ACT" MEANS THE FEDERAL WATER POLLUTION CON-
5 TROL ACT, CHAPTER 758, 86 STAT. 816, 33 U.S.C. 1251 TO 1252, 1253
6 TO 1254, 1255 TO 1257, 1258 TO 1263, 1265 TO 1270, 1281, 1282 TO
7 1293, 1294 TO 1299, 1311 TO 1313, 1314 TO 1326, 1328 TO 1330,
8 1341 TO 1345, 1361 TO 1377, AND 1381 TO 1387.

9 (B) "CONSTRUCTION ACTIVITY" MEANS A HUMAN-MADE EARTH CHANGE
10 OR DISTURBANCE IN THE EXISTING COVER OR TOPOGRAPHY OF LAND THAT
11 IS 5 ACRES OR MORE IN SIZE FOR WHICH A NATIONAL PERMIT IS
12 REQUIRED PURSUANT TO 40 C.F.R. 122.26(A) AND WHICH IS DESCRIBED
13 AS A CONSTRUCTION ACTIVITY IN 40 C.F.R. 122.26(B)(14)(X).
14 CONSTRUCTION ACTIVITY INCLUDES CLEARING, GRADING, AND EXCAVATING
15 ACTIVITIES. CONSTRUCTION ACTIVITY DOES NOT INCLUDE THE PRACTICE
16 OF CLEARING, PLOWING, TILLING SOIL, AND HARVESTING FOR THE PUR-
17 POSE OF CROP PRODUCTION.

18 (C) "FEE" MEANS A STORM WATER DISCHARGE FEE AUTHORIZED UNDER
19 THIS SECTION.

20 (D) "FISCAL YEAR" MEANS THE STATE FISCAL YEAR BEGINNING
21 OCTOBER 1 AND ENDING SEPTEMBER 30.

22 (E) "FUND" MEANS THE STORM WATER FUND CREATED IN
23 SECTION 13A.

24 (F) "PERMIT" OR "STORM WATER DISCHARGE PERMIT" MEANS A
25 PERMIT AUTHORIZING THE DISCHARGE OF WASTEWATER OR ANY OTHER SUB-
26 STANCE TO SURFACE WATERS OF THE STATE UNDER THE NATIONAL
27 POLLUTANT DISCHARGE ELIMINATION SYSTEM PURSUANT TO THE CLEAN

1 WATER ACT OR PURSUANT TO THIS ACT AND THE RULES AND REGULATIONS
2 PROMULGATED UNDER THESE ACTS.

3 (G) "STORM WATER" MEANS STORM WATER RUNOFF, SNOWMELT RUNOFF,
4 AND SURFACE RUNOFF AND DRAINAGE.

5 SEC. 13A. (1) THE STORM WATER FUND IS CREATED WITHIN THE
6 STATE TREASURY.

7 (2) THE STATE TREASURER MAY RECEIVE MONEY OR OTHER ASSETS
8 FROM ANY SOURCE FOR DEPOSIT INTO THE FUND. THE STATE TREASURER
9 SHALL DIRECT THE INVESTMENT OF THE FUND. THE STATE TREASURER
10 SHALL CREDIT TO THE FUND INTEREST AND EARNINGS FROM FUND
11 INVESTMENTS.

12 (3) MONEY IN THE FUND AT THE CLOSE OF THE FISCAL YEAR SHALL
13 REMAIN IN THE FUND AND SHALL NOT LAPSE TO THE GENERAL FUND.

14 (4) THE DEPARTMENT SHALL EXPEND MONEY FROM THE FUND, UPON
15 APPROPRIATION, ONLY FOR 1 OR MORE OF THE FOLLOWING PURPOSES:

16 (A) REVIEW OF STORM WATER PERMIT APPLICATIONS.

17 (B) STORM WATER PERMIT DEVELOPMENT, ISSUANCE, REISSUANCE,
18 AND MODIFICATION.

19 (C) SURFACE WATER MONITORING TO SUPPORT THE STORM WATER PER-
20 MITTING PROCESS.

21 (D) ASSESSMENT OF COMPLIANCE WITH STORM WATER PERMIT
22 CONDITIONS.

23 (E) ENFORCEMENT AGAINST STORM WATER PERMIT VIOLATIONS.

24 (F) DEPARTMENT OVERSIGHT OF THE SOIL EROSION AND SEDIMENTA-
25 TION CONTROL ACT OF 1972, ACT NO. 347 OF THE PUBLIC ACTS OF 1972,
26 BEING SECTIONS 282.101 TO 282.125 OF THE MICHIGAN COMPILED LAWS.

- 1 (G) CLASSIFICATION OF STORM WATER CONTROL FACILITIES.
- 2 (H) CERTIFICATION OF STORM WATER OPERATORS.
- 3 (5) MONEY IN THE FUND SHALL NOT BE USED TO SUPPORT THE
- 4 DIRECT COSTS OF LITIGATION UNDERTAKEN TO ENFORCE THIS ACT.