

Act No. 286
Public Acts of 1998
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STATE OF MICHIGAN
89TH LEGISLATURE
REGULAR SESSION OF 1998

Introduced by Reps. Schermesser and Birkholz

ENROLLED HOUSE BILL No. 5719

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," (MCL 324.101 to 324.90106) by adding part 716.

The People of the State of Michigan enact:

PART 716 LOCAL RECREATION GRANTS

Sec. 71601. As used in this part:

(a) "Community recreation plan" means a 5-year, comprehensive recreation plan for a given local unit of government, approval of which is required by the department for participation in the land and water conservation fund program pursuant to the land and water conservation fund act of 1965, public law 88-578, 78 Stat. 897, and the Michigan natural resources trust fund grant program under part 19.

(b) "Department" means the department of natural resources.

(c) "Director" means the director of the department.

(d) "Grant" means a local recreation grant under this part.

(e) "Infrastructure improvement" means restoration of the natural environment or the renovation, repair, replacement, upgrading, or structural improvement of an existing facility that is not less than 15 years old, including any of the following:

(i) Recreation centers.

(ii) Sports fields.

(iii) Beaches.

(iv) Trails.

(v) Playgrounds.

(f) "Local recreation project" means capital improvement projects including, but not limited to, the construction, expansion, development, or rehabilitation of recreational facilities. Local recreation project does not include the operation, maintenance, or administration of those facilities, wages, or administration of projects or purchase of facilities already dedicated to public recreational purposes.

(g) “Local unit of government” means a county, city, township, village, the Huron-Clinton metropolitan authority, or any authority composed of counties, cities, townships, villages, or any combination of those entities, which authority is legally constituted to provide public recreation.

(h) “Regional park” means a public recreation site that is under the applicant’s control and that is in compliance with all of the following requirements as determined by the department:

(i) The site does now, or will, attract not less than 25% of its users from areas in the region that are 30 minutes or more driving time from the site.

(ii) The site provides passive, water-based, and active recreation opportunities.

(iii) The site is contiguous to, or encompasses, a natural resource feature.

Sec. 71602. (1) The department shall establish a local recreation grant program. The grant program shall provide grants to local units of government for local recreation projects that provide for 1 or more of the following:

(a) Public recreation infrastructure improvements that involve the replacement of or structural improvements relating specifically to existing public recreation facilities, including, but not limited to, recreation centers, sports fields, beaches, trails, playgrounds, skating rinks, toboggan runs, sledding hills, and park support facilities.

(b) The construction of community public recreation facilities for the purpose of addressing the recreational needs of local residents, including, but not limited to, playgrounds, sports fields and courts, community and senior centers, picnic facilities, nature centers, nonmotorized trails and walkways, amphitheaters, and fishing piers and fishing access sites.

(c) The development of public recreation improvements that will attract tourists or otherwise increase tourism, where such developments are reasonably expected to have a substantial positive impact, relative to cost, on the local, regional, or state economy, including, but not limited to, campgrounds, beaches, and fishing access sites.

(2) A grant shall not be provided under this part for land acquisition or a commercial theme park.

(3) A grant shall not be provided under this part for a project that is located at any of the following:

(a) Land sited for use as a gaming facility or as a stadium or arena for use by a professional sports team.

(b) Land or other facilities owned or operated by a gaming facility or by a stadium or arena for use by a professional sports team.

(c) Land within a project area described in a project plan pursuant to the economic development corporations act, 1974 PA 338, MCL 125.1601 to 125.1636, for a gaming facility.

Sec. 71603. (1) Subject to amounts appropriated to the department under section 19608(5), the total amount of grants made to local units of government under this part shall be allocated as follows:

(a) Local recreation projects within zone 1 3.6%

(b) Local recreation projects within zone 2 14.4%

(c) Local recreation projects within zone 3 72%

(d) Local recreation projects at regional parks..... 10%

(2) For purposes of the distribution of grants for local recreation projects under this part, the state is divided into the following 3 zones:

(a) Zone 1—all of the counties of the Upper Peninsula.

(b) Zone 2—Emmet, Charlevoix, Cheboygan, Presque Isle, Leelanau, Antrim, Otsego, Montmorency, Alpena, Benzie, Grand Traverse, Kalkaska, Crawford, Oscoda, Alcona, Manistee, Wexford, Missaukee, Roscommon, Ogemaw, Iosco, Mason, Lake, Osceola, Clare, Gladwin, Arenac, Isabella, Midland, Bay, Huron, Saginaw, Tuscola, and Sanilac counties.

(c) Zone 3—Oceana, Newaygo, Mecosta, Muskegon, Montcalm, Gratiot, Ottawa, Kent, Ionia, Clinton, Shiawassee, Genesee, Lapeer, St. Clair, Allegan, Barry, Eaton, Ingham, Livingston, Oakland, Macomb, Van Buren, Kalamazoo, Calhoun, Jackson, Washtenaw, Wayne, Berrien, Cass, St. Joseph, Branch, Hillsdale, Lenawee, and Monroe counties.

(3) A grant made under this part to a local unit of government shall require a 25% match by the local unit of government. Not more than 50% of the local unit of government’s contribution under this subsection may be in the form of goods and services directly rendered to the construction of the project, or federal funds, or both. A local unit of government shall establish to the satisfaction of the department the cost or fair market value, whichever is less as of the date of the notice of approval by the department, of any such goods and services with which the local unit of government seeks to meet the match requirement.

(4) A facility funded under this section shall not be sold, disposed of, or converted to a use not specified in the application for the grant without express approval of the department.

Sec. 71604. The department shall consider a project application for funding under this part if it is in compliance with all of the following conditions:

- (a) The application is submitted by the deadline established by the department.
- (b) The application is complete and submitted on the form required by the department.
- (c) The application includes the following information:
 - (i) An 8-1/2-inch by 11-inch project location map.
 - (ii) An 8-1/2-inch by 11-inch preliminary site development plan.
 - (iii) Preliminary floor plans and elevation drawings for any building construction.
 - (iv) A certified resolution from the governing body of the local unit of government stating that the proposal will be undertaken if a grant is awarded and designating an authorized project representative.
 - (v) Evidence and results of a preannounced public meeting on the application proposal.
 - (vi) A brief description of the project proposal.
 - (vii) The total cost of the project proposal and the amount of grant requested.
 - (viii) Sources of the local match.
 - (ix) A breakdown of development items and their projected costs.
 - (x) A narrative, limited to 1 page, of what the proposal is and why it is needed.
 - (xi) Attestation, by signature of an authorized project representative, that all statements on the application form are true, complete, and accurate to the best of the representative's knowledge.
 - (xii) Other information as determined by the department.
- (d) The local unit of government has an approved community recreation plan on file with the department. Department-approved plans are valid through December 31 of the fifth full calendar year after adoption by the local unit's governing body.
- (e) The project for which funding assistance is sought is listed and justified in the local unit of government's recreation plan.
- (f) The local unit of government has submitted notice of the project application to the regional planning agency for review.
- (g) The local unit of government has fee title or a legal instrument that demonstrates property control for not less than 15 years from the date of application. If control is evidenced by less than fee title, the length of control shall be commensurate with the value of the proposed project.
- (h) The local unit of government's grant request is not more than \$750,000.00 and not less than \$15,000.00. An applicant may receive more than 1 grant in a funding cycle.
 - (i) The proposed project addresses at least 1 of the following purposes as described in section 71602:
 - (i) Infrastructure improvement.
 - (ii) Community recreation.
 - (iii) Tourist attraction.
 - (j) The proposed project is not for the purpose of meeting the physical education and athletic program requirements of a school. Facilities funded under this program on school grounds shall not restrict public use to less than 50% of operating hours. A schedule of when such sites are open to the public may be requested by the department.
 - (k) The proposed project does not unfairly compete with the private sector. Projects that would create an unfairly competitive situation with private enterprises are not eligible for funding. In situations where privately managed facilities are providing identical or similar recreation opportunities, the local unit of government shall provide written justification of the need for the proposed facility in light of the private sector's presence.

Sec. 71605. (1) Final grant awards will be determined by the director.

(2) The department shall use the 3 factors listed in subsection (3)(a), (b), and (c) to evaluate projects. All factors are of equal importance in the evaluation of a project.

(3) Each of the 3 factors listed in subdivisions (a), (b), and (c) shall be rated exceptional, good, or fair. An exceptional rating is equal to a score of 80; a good rating is equal to a score of 60; and a fair rating is equal to a score of 10. The factors are as follows:

- (a) The need for the project as determined by an overall assessment of the following:
 - (i) The merits of the project relative to cost in addressing 1 of the following program priorities as designated by the applicant:
 - (A) Infrastructure improvement.

(B) Community recreation.

(C) Tourism.

(ii) How well the project meets the following priorities:

(A) Proximity to urban areas.

(B) Attention, beyond the requirements of law, to the needs of special populations, such as minorities, senior citizens, low income individuals, and the handicapped.

(C) Impact on county and regional recreation opportunity deficiencies or identified local recreation deficiencies documented in the community recreation plan.

(b) The capability of the local unit of government to complete the project and to operate and maintain it once completed. Capability will be determined by an overall assessment of all of the following criteria:

(i) Demonstrated satisfactory performance of the local unit of government in other department grant programs.

(ii) Demonstrated ability to operate and maintain existing recreation facilities.

(iii) Assurance of funds for the maintenance and operation of the proposed project.

(iv) Demonstrated commitment to public recreation through recreation staffing and the existence of a citizen recreation board or commission.

(c) The quality of the site and project design. Quality will be determined by an overall assessment of all of the following criteria:

(i) The appropriateness of the site for the intended uses.

(ii) Clarity and detail of the development plans and the quality of the project design in terms of orientation, spacing of facilities, traffic flow, and effective use of site features.

(iii) The quality of any existing development.

(iv) The adequacy of safety and health considerations.

(v) Evaluation of the impact of proposed development on the natural environment.

(4) If the score on 2 or more projects is the same and does not determine which project should be recommended within available dollars, the department shall consider the following factors to determine priority:

(a) The amount of local recreation grants funds previously received by a local unit of government under this part.

(b) A local unit of government's need for financial assistance. Financial need will be determined by the local unit of government's rank on the distressed communities list.

(c) A local unit of government's commitment to provide more than the required 25% match.

(d) The amount of Michigan natural resources trust fund development grants and land and water conservation grants previously received by the local unit of government.

(5) If a project is determined to be eligible for a grant and the needs at the location of the project include the upgrade of drinking water systems or rest room facilities, the grant award for the project shall first be used for such upgrades at that project location.

Sec. 71606. Grants made under this part are subject to the applicable requirements of part 196. The department shall administer this part in compliance with the applicable requirements of part 196, including the reporting requirements to the legislature of the grants provided under this part.

Sec. 71607. The department may promulgate rules to implement this part.

Enacting section 1. This amendatory act takes effect December 1, 1998.

Enacting section 2. This amendatory act does not take effect unless the question provided for in the clean Michigan initiative act is approved by a majority of the registered electors voting on the question at the November 1998 general election.

Enacting section 3. This amendatory act does not take effect unless all of the following bills of the 89th Legislature are enacted into law:

(a) House Bill No. 5620.

(b) House Bill No. 5622.

(c) Senate Bill No. 902.

(d) Senate Bill No. 904.

This act is ordered to take immediate effect.



Clerk of the House of Representatives.



Secretary of the Senate.

Approved -----

Governor.