

**SENATE SUBSTITUTE FOR
HOUSE BILL NO. 5883**

A bill to amend 1984 PA 431, entitled
"The management and budget act,"
by amending sections 237, 353c, and 358 (MCL 18.1237, 18.1353c,
and 18.1358), section 237 as amended by 1999 PA 8, section 353c
as amended by 2001 PA 161, and section 358 as amended by 2000
PA 189, and by adding section 237b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 237. (1) For state agency capital outlay projects or
2 facilities, the department is responsible for development,
3 oversight, review, and approval of program statements, studies,
4 designs, plans, management, specifications, contract documents,
5 construction management, and construction, relative to the
6 acquisition, construction, lease purchase, improvement,
7 demolition, or other capital outlay projects for state agencies
8 for which an appropriation or other authorization has been made.

1 (2) The department shall approve the award, selection, and
2 employment of architects, professional engineers, construction
3 managers, and other design or construction professional services
4 contractors, subject to **section 237b and** rules of the department
5 of civil service, to do all of the following:

6 (a) Prepare program statements, studies, designs, plans, and
7 specifications for the construction of, repairing of, making
8 additions to, remodeling or demolition of, lease purchase of, or
9 acquisition of state facilities.

10 (b) Administer construction work, including resident
11 inspectors, on-site management, and supervision of construction
12 projects.

13 (3) The department may obtain independent testing services to
14 provide quality control of work performed on facilities.

15 (4) Prior to state building authority financing, the
16 department shall provide final approval of the capital outlay
17 project to ensure compliance with the authorized program, plans,
18 and specifications.

19 (5) The attorney general shall review all standard lease and
20 lease purchase agreement formats and approve any exceptions to
21 the standard formats and may assess a fee for legal services
22 pursuant to an agreement with the department.

23 **Sec. 237b. (1) The selection of architects, professional**
24 **engineers, professional surveyors, and qualified firms shall be**
25 **based upon the appropriate qualifications of the architect,**
26 **professional engineer, professional surveyor, or qualified firm**
27 **for the type of professional service required by the department.**

1 (2) The department shall prepare a written description of the
2 scope of the proposed services to be used as the basis of
3 negotiation, taking into account the estimated value, scope,
4 complexity, and professional nature of the services to be
5 rendered. Notification of the written description for services
6 shall be given to architects, professional engineers,
7 professional surveyors, or qualified firms under procedures
8 established by the department. The department shall not
9 establish a maximum overhead rate or other payment formula
10 designed to eliminate architects, professional engineers,
11 professional surveyors, or qualified firms from contention or to
12 restrict competition.

13 (3) Upon receiving proposals for services from an architect,
14 professional engineer, professional surveyor, or qualified firm
15 made to the department in response to the written description
16 made under subsection (2), the department shall select no fewer
17 than 3 architects, professional engineers, professional
18 surveyors, or qualified firms the department determines to be
19 most qualified to provide services for the project and rank them
20 in order of qualifications to provide services regarding the
21 specific request.

22 (4) The department shall notify in writing the architect,
23 professional engineer, professional surveyor, or qualified firm
24 the department determines most qualified to negotiate a contract
25 for services for the project at fair and reasonable
26 compensation. The department shall establish procedures for
27 notifying those it determines as not qualified for the project.

1 If fewer than 3 architects, professional engineers, professional
2 surveyors, or qualified firms submit a response to the
3 department's proposal, the department may proceed to negotiate a
4 contract with all those who responded to the department's
5 request.

6 (5) If the department is unable to negotiate a satisfactory
7 contract with the architect, professional engineer, professional
8 surveyor, or qualified firm that the department has determined as
9 most qualified, negotiations shall be terminated. If the
10 department is unable to negotiate a satisfactory contract with
11 the architect, professional engineer, professional surveyor, or
12 qualified firm it has determined to be the next most qualified to
13 perform the services for the project, negotiations shall be
14 terminated. If the department is unable to negotiate a
15 satisfactory contract with the architect, professional engineer,
16 professional surveyor, or qualified firm it has determined to be
17 the next most qualified to perform services for the project,
18 negotiations shall be terminated.

19 (6) If the department is unable to negotiate a satisfactory
20 contract with any of the 3 selected as most qualified, the
21 department shall give written notice of those affected, shall
22 reevaluate the services requested, and shall proceed to determine
23 the next most qualified architect, professional engineer,
24 professional surveyor, or qualified firm following the same
25 procedures for notification and negotiation as provided in this
26 act.

27 (7) If a qualified professional company enters into a

1 contract with the department, the department shall provide as a
2 condition in that contract that if the qualified professional
3 company needs to subcontract or hire an architect, professional
4 engineer, professional surveyor, or qualified firm under that
5 contract, the qualified professional company shall select the
6 architect, professional engineer, professional surveyor, or
7 qualified firm in the same manner as the qualified professional
8 company was selected under this section.

9 (8) As used in this article:

10 (a) "Architect" means that term as defined in section 2001 of
11 the occupational code, 1980 PA 299, MCL 339.2001.

12 (b) "Professional engineer" means that term as defined in
13 section 2001 of the occupational code, 1980 PA 299, MCL
14 339.2001.

15 (c) "Professional surveyor" means that term as defined in
16 section 2001 of the occupational code, 1980 PA 299, MCL
17 339.2001.

18 (d) "Qualified firm" means a firm described in sections 2001
19 and 2010 of the occupation code, 1980 PA 299, MCL 339.2001 and
20 339.2010.

21 (e) "Qualified professional company" means an architect,
22 professional engineer, professional surveyor, or qualified firm
23 that was selected and has entered into a contract under this
24 section.

25 Sec. 353c. (1) For the fiscal year ending September 30, 1995
26 only, there is appropriated from the fund to the general fund the
27 sum of \$59,500,000.00 to be used to pay the court settlement

1 amount for the department of natural resources in the matter of
2 Miller Brothers, et al v State of Michigan, et al (Court of
3 Claims docket no. 88-11848-CM).

4 (2) For the fiscal year ending September 30, 1995 only, there
5 is appropriated from the fund to the general fund the sum of
6 \$875,000.00 to be used to pay the court settlement liquidated
7 damages for the department of natural resources in the matter of
8 Miller Brothers, et al v State of Michigan, et al (Court of
9 Claims docket no. 88-11848-CM).

10 (3) For the fiscal year ending September 30, 1995 only, there
11 is appropriated from the fund to the general fund the sum of
12 \$30,000,000.00 to be used to pay the court settlement and
13 purchase mineral rights for the department of natural resources
14 in the matter of Carnagel Oil Associates, et al v State of
15 Michigan, et al (Court of Claims docket no. 88-11848-CC).

16 (4) For the fiscal year ending September 30, 1995 only, there
17 is appropriated to the department of natural resources from the
18 general fund \$59,500,000.00. This appropriation may only be used
19 to pay the court settlement associated with the matter of Miller
20 Brothers, et al v State of Michigan, et al (Court of Claims
21 docket no. 88-11848-CM).

22 (5) For the fiscal year ending September 30, 1995 only, there
23 is appropriated to the department of natural resources from the
24 general fund \$875,000.00. This appropriation may only be used to
25 pay the court settlement liquidated damages associated with the
26 matter of Miller Brothers, et al v State of Michigan, et al
27 (Court of Claims docket no. 88-11848-CM).

1 (6) For the fiscal year ending September 30, 1995 only, there
2 is appropriated to the department of natural resources from the
3 general fund \$30,000,000.00. This appropriation may only be used
4 to pay the court settlement and purchase mineral rights
5 associated with the matter of Carnagel Oil Associates, et al v
6 State of Michigan, et al (Court of Claims docket
7 no. 88-11848-CC). The payment authorized under this subsection
8 shall be made on or before November 30, 1995.

9 (7) It is the intent of the legislature that money
10 appropriated from the fund to pay the court settlement and
11 liquidated damages associated with the matter of Miller Brothers,
12 et al v State of Michigan, et al (Court of Claims docket
13 no. 88-11848-CM) be repaid to the fund from the Michigan
14 strategic fund created in the Michigan strategic fund act, 1984
15 PA 270, MCL 125.2001 to 125.2093.

16 (8) It is the intent of the legislature that money
17 appropriated from the fund to pay the court settlement and
18 purchase mineral rights associated with the matter of Carnagel
19 Oil Associates, et al v State of Michigan, et al (Court of Claims
20 docket no. 88-11848-CC) be repaid to the fund from the Michigan
21 strategic fund created in the Michigan strategic fund act, 1984
22 PA 270, MCL 125.2001 to 125.2093.

23 (9) Following November 13, 1995, if the recipient of the
24 \$59,500,000.00 appropriation pursuant to subsections (1) and (4)
25 obtains, by lease, purchase, or otherwise, the mineral rights for
26 the real property that was the subject of the court settlement
27 referenced in this section, the state shall seek repayment of

1 that portion of the \$59,500,000.00 settlement that was not
2 attributed to the cost of the initial lease or to lawfully
3 accrued interest.

4 (10) For the fiscal year ending September 30, 2001 only,
5 there is appropriated from the fund to the general fund the sum
6 of \$77,000,000.00.

7 (11) For the fiscal year ending September 30, 2001 only, the
8 state budget director, before the final accounting of state
9 revenues and expenditures is completed, shall calculate the
10 amount of funds that will be necessary to ensure a zero balance
11 in the general fund/general purpose state budget at bookclosing.
12 This calculation shall be made excluding any net general
13 fund/general purpose appropriation lapses that occur when the
14 final accounting of state expenditures is completed. For
15 purposes of this calculation, the closure or reduction of prior
16 year work projects shall not be considered appropriation lapses.
17 The state budget director shall provide a report to the house and
18 senate appropriations committees and the house and senate fiscal
19 agencies of this calculation as soon as it is completed. Based
20 on this calculation, there is appropriated from the fund to the
21 general fund the amount calculated by the state budget director,
22 not to exceed \$200,000,000.00.

23 (12) For the fiscal year ending September 30, 2002 only,
24 there is appropriated from the fund to the general fund the sum
25 of ~~-\$155,000,000.00~~ \$335,000,000.00.

26 (13) In addition to subsection (12), for the fiscal year
27 ending September 30, 2002 only, ~~the state budget director,~~

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~~1 before the final accounting of state revenues and expenditures is~~
~~2 completed, shall calculate the amount of funds that will be~~
~~3 necessary to ensure a zero balance in the school aid fund state~~
~~4 budget at bookclosing. The state budget director shall provide a~~
~~5 report to the house and senate appropriations committees and the~~
~~6 house and senate fiscal agencies of this calculation as soon as~~
~~7 it is completed. Based on this calculation, there is~~
~~8 appropriated from the fund to the school aid fund the amount~~
~~9 calculated by the state budget director, not to exceed sum of~~
10 \$350,000,000.00.

11 **(14) For the fiscal year ending September 30, 2003 only,**
12 **there is appropriated from the fund to the general fund the sum**
13 **of \$207,000,000.00.**

14 Sec. 358. (1) Except as otherwise provided in this section,
15 the legislature may make an emergency appropriation from the fund
16 subject to all of the following conditions:

17 (a) The maximum appropriation from the fund for budget
18 stabilization as provided in section 352(2) has already been made
19 for the current fiscal year.

20 (b) The legislature has approved the emergency appropriations
21 bill by a 2/3 majority vote of the members elected to and serving
22 in each house.

23 (c) The emergency appropriations bill becomes law.

24 (2) The additional transfer from the fund may be made only
25 for the current fiscal year.

26 (3) For ~~each~~ **the** fiscal year ~~—, beginning with the fiscal~~
27 ~~year~~ ending September 30, 2001<<,and>> ~~ending with~~ the fiscal year

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1 ending September 30, ~~2016~~ 2002<<and for each fiscal year beginning with
the fiscal year ending September 30, 2004 and ending with the fiscal year
2 ending September 30, 2016>>, there is appropriated and
transferred from the fund to the state trunk line fund
3 established under section 11 of 1951 PA 51, MCL 247.661, the sum
4 of \$35,000,000.00.

5 (4) For the fiscal year ending September 30, 2000, there is
6 appropriated and transferred from the fund to the state trunk
7 line fund established under section 11 of 1951 PA 51,
8 MCL 247.661, the sum of \$37,100,000.00.

9 (5) For the fiscal year ending September 30, 2000, an amount
10 equal to the unreserved general fund general purpose balance
11 transferred to the fund for the fiscal year ending September 30,
12 2000, but not to exceed \$62,900,000.00, is appropriated and
13 transferred from the fund to the state trunk line fund
14 established under section 11 of 1951 PA 51, MCL 247.661.

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