

# HOUSE BILL No. 5699

March 24, 2004, Introduced by Reps. Kolb, Tobocman, Dennis, Jamnick, Sak and Rivet and referred to the Committee on Conservation and Outdoor Recreation.

A bill to amend 1994 PA 451, entitled  
"Natural resources and environmental protection act,"  
by amending sections 31101, 31102, 31105, 31106, 31107, 31108,  
31109, 31110, 31111, and 31114 (MCL 324.31101, 324.31102,  
324.31105, 324.31106, 324.31107, 324.31108, 324.31109, 324.31110,  
324.31111, and 324.31114), as added by 1995 PA 59, and by adding  
sections 31106a, 31106b, 31108a, and 31109a.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 31101. As used in this part:

2       (a) "Board" means a ~~river~~ **district** management board created  
3 as the governing body of a river management district ~~in~~  
4 ~~accordance with this part~~ **or a watershed conservation district,**  
5 **or both.**

6       (b) "Council" means a watershed council created under this  
7 part.

1 ~~(c) "District" means a river management district established~~  
2 ~~under this part.~~

3 (c) ~~(d)~~ "Level of stream flow" means a measure of water  
4 quantity including the amount of water passing a designated point  
5 over a designated period and the levels of lakes that are an  
6 integral part of the surface drainage system of the watershed.

7 (d) ~~(e)~~ "Local agencies" means local units of government,  
8 special districts, or other legally constituted agencies of local  
9 units of government exercising powers that may affect water  
10 resources.

11 (e) ~~(f)~~ "River management" means the control of river flow  
12 by the operation of dams, reservoirs, conduits, and other  
13 human-made devices in order to improve and expand the uses of the  
14 river for those who depend upon it for a variety of private and  
15 public benefits.

16 (f) "River management district" means a river management  
17 district established under section 31106.

18 (g) "Watershed" means the drainage area of a stream.

19 (h) "Watershed conservation" means activities related to the  
20 protection or enhancement of water quality within a watershed  
21 including, but not limited to, stream bank restoration, water  
22 quality monitoring, and watershed conservation education.

23 (i) "Watershed conservation district" means a watershed  
24 conservation district created under section 31106a.

25 Sec. 31102. (1) To promote cooperation among local units of  
26 government in river management **or watershed conservation, or**  
27 **both**, a watershed council shall be established by the department

1 upon a petition from 3 or more local units of government lying  
2 wholly or partially in the watershed as defined in the petition.  
3 The petition shall provide a statement of necessity, a  
4 description of general purposes and functions to be performed, a  
5 description of the area, including a map, and a list of all local  
6 units of government lying wholly or partly within the watershed,  
7 which shall be eligible for membership on the watershed council.

8 (2) Upon finding that the petition is in conformance with  
9 this part, the department shall establish the council, schedule  
10 an organizational meeting, and notify all local units of  
11 government eligible for membership by registered mail. The date  
12 for the meeting shall be not less than 60 or more than 90 days  
13 after the date of mailing the notice.

14 Sec. 31105. A watershed council may do 1 or more of the  
15 following:

16 (a) Conduct, or cause to be conducted, studies of the water  
17 resources of the watershed, including investigations of water  
18 uses, water quality, and the reliability of the water resource.

19 **(b) Conduct, or cause to be conducted, watershed conservation**  
20 **activities.**

21 **(c) —(b)—** Prepare periodic reports concerning, among other  
22 things, trends in water use and availability, emerging water  
23 problems, and recommendations for appropriate public policies and  
24 programs necessary to maintain adequate water resources for the  
25 watershed area.

26 **(d) —(e)—** Request the department to survey the watershed for  
27 the purpose of determining minimum levels of stream flow

1 necessary for health, welfare, and safety as provided in sections  
2 31112 through 31117.

3       **(e)** ~~—(d)—~~ Recommend the creation of a river management  
4 district ~~or districts under the provisions of sections 31106~~  
5 ~~through 31111 when the need for river management seems to warrant~~  
6 ~~such an action~~ **under section 31106.**

7       **(f)** **Recommend the creation of a watershed conservation**  
8 **district under section 31106a.**

9       **(g)** ~~—(e)—~~ Advise agencies of federal, state, and local units  
10 of government as to the council's view of the watershed's  
11 problems and needs.

12       **(h)** ~~—(f)—~~ Cooperate with federal, state, and local agencies  
13 in providing stream gauges, water quality sampling stations, or  
14 other water resource data-gathering facilities or programs that  
15 aid the council in its responsibility for studying and reporting  
16 on water conditions.

17       **(i)** ~~—(g)—~~ Employ an executive secretary and such other  
18 professional, administrative, or clerical staff, including  
19 consultants, as may be provided for in an approved budget.

20       **(j)** ~~—(h)—~~ Establish such subcommittees or advisory committees  
21 as are considered helpful in the discharge of its functions.

22       **(k)** ~~—(i)—~~ Establish special project funds as needed to  
23 finance special studies outside its annual budget capacity. For  
24 this purpose, the council may accept gifts and grants from any  
25 person.

26       Sec. 31106. (1) The governing bodies of 2 or more local  
27 units of government may petition the department to establish a

1 river management district in order to provide an agency for the  
2 acquisition, construction, operation, and financing of water  
3 storage and other river control facilities necessary for river  
4 management. The petition shall be accompanied by a statement of  
5 necessity, a description of the district purposes, functions, and  
6 operating procedures, which shall include methods of financing  
7 capital improvements and of apportioning benefit charges, and a  
8 general plan of development. Not later than 60 days following  
9 receipt of such a petition, the department shall establish the  
10 time and place for a public hearing on the petition and shall  
11 publish notice of the hearing. The notice shall be published  
12 twice in each county involved in at least 1 newspaper of general  
13 circulation in the county. At the hearing, the applicant and any  
14 other interested party may appear, present witnesses, and submit  
15 evidence. Following the hearing, the department may establish  
16 the **river management** district and publish notice of the  
17 establishment in the manner provided for publication of notice of  
18 hearing, upon finding the following conditions:

19 (a) That the proposal is consistent with the public interest  
20 in the conservation, development, and use of water resources, and  
21 the proposed **river management** district is geographically suitable  
22 to effectuation of the **river management** district purposes.

23 (b) That the establishment and operation of the district will  
24 not unreasonably impair the interests of the public or of  
25 riparians in lands or waters or the beneficial public use of  
26 lands or waters, and will not endanger public health or safety.

27 (2) A **river** management district shall not be created that

1 affects any city ~~new or hereafter~~ having a population of more  
2 than 1,500,000, except with the concurrence of the governing body  
3 of that city.

4 (3) Prior to approving the establishment of a **river**  
5 **management** district consisting of a portion of a river basin, the  
6 department shall determine the feasibility of establishing the  
7 **river management** district to include the entire river basin or as  
8 large a portion of the basin as possible. Approval of **river**  
9 **management** districts consisting of a portion of a river basin  
10 shall be on the basis that, when in the judgment of the  
11 department it becomes feasible to form a **river management**  
12 district including the entire river basin, the ~~river management~~  
13 **district** boards shall initiate proceedings to combine the smaller  
14 **river management** districts into larger districts or into an  
15 entire watershed-wide district.

16 (4) Any plans for a river management district shall be  
17 coordinated with plans of adjacent river basins, organizations,  
18 or agencies and with any comprehensive regional master programs  
19 for river management.

20 **Sec. 31106a. (1) The governing bodies of 2 or more local**  
21 **units of government may petition the department to establish a**  
22 **watershed conservation district in order to provide an agency to**  
23 **finance watershed conservation activities. The petition shall be**  
24 **accompanied by a statement of necessity, a description of the**  
25 **watershed conservation district purposes, functions, and**  
26 **operating procedures, which shall include methods of financing**  
27 **capital improvements and of apportioning benefit charges, and a**

1 general plan of development.

2       (2) Not later than 60 days following receipt of a petition  
3 under subsection (1), the department shall establish the time and  
4 place for a public hearing on the petition and shall publish  
5 notice of the hearing. The notice shall be published twice in  
6 each county involved in at least 1 newspaper of general  
7 circulation in the county. At the hearing, the applicant and any  
8 other interested party may appear, present witnesses, and submit  
9 evidence. Following the hearing, the department may establish  
10 the watershed conservation district and publish notice of the  
11 establishment in the manner provided for publication of notice of  
12 hearing, upon finding the following conditions:

13       (a) That the proposal is consistent with the public interest  
14 in watershed conservation and the proposed district is  
15 geographically suitable to effectuation of the watershed  
16 conservation district purposes.

17       (b) That the establishment and operation of the watershed  
18 conservation district will not unreasonably impair the interests  
19 of the public or of riparians in lands or waters or the  
20 beneficial public use of lands or waters, and will not endanger  
21 public health or safety.

22       (3) A watershed conservation district shall not be created  
23 that affects any city having a population of more than 1,500,000,  
24 except with the concurrence of the governing body of that city.

25       (4) Prior to approving the establishment of a watershed  
26 conservation district consisting of a portion of a river basin,  
27 the department shall determine the feasibility of establishing

1 the watershed conservation district to include the entire river  
2 basin or as large a portion of the basin as possible. Approval  
3 of watershed conservation districts consisting of a portion of a  
4 river basin shall be on the basis that, when in the judgment of  
5 the department it becomes feasible to form a watershed  
6 conservation district including the entire river basin, the  
7 district boards shall initiate proceedings to combine the smaller  
8 watershed conservation districts into larger districts or into an  
9 entire watershed-wide district.

10 (5) Any plans for a watershed conservation district shall be  
11 coordinated with plans of adjacent river basins, organizations,  
12 or agencies and with any comprehensive regional master programs  
13 for river management.

14 Sec. 31106b. A river management district and a watershed  
15 conservation district may be established as a single entity to  
16 carry out the functions of a river management district and a  
17 watershed conservation district under this part.

18 Sec. 31107. (1) Within 60 days after establishing a **river**  
19 **management district or a watershed conservation** district, the  
20 department shall schedule an organizational meeting of the  
21 ~~district~~ board **of that district** and shall provide notice of the  
22 meeting by registered mail to the governing bodies of all local  
23 units of government comprising the district. The date for the  
24 meeting shall be not less than 60 or more than 90 days after the  
25 date of mailing the notice. At the meeting, the department shall  
26 serve as temporary chairperson. The board shall elect a  
27 chairperson, vice-chairperson, secretary, and treasurer and adopt



1 bylaws.

2       (2) A **river management district or a watershed conservation**  
 3 **district, or both,** shall be governed by a ~~river management~~  
 4 board composed of representatives of local units of government  
 5 within the district. The representation of each local unit of  
 6 government on the board may be provided as part of the operating  
 7 procedures submitted to the department in the petition of local  
 8 units of government made in accordance with section 31106 **or**  
 9 **31106a, as appropriate.** If the composition of the board is not  
 10 so designated, representation shall be established under section  
 11 31103.

12       (3) Representatives on the ~~river management~~ board shall be  
 13 appointed for 2 years but are subject to replacement at the  
 14 pleasure of the appointing authority. A representative is not  
 15 eligible to vote on the board unless the local **unit of** government  
 16 he or she represents has met its financial obligations to the  
 17 district.

18       (4) Representatives to the ~~river management~~ board may also  
 19 serve as representatives of their local units of government, if  
 20 so designated by their local units of government, on the  
 21 watershed council.

22       Sec. 31108. ~~A river management~~ **For a river management**  
 23 **district, the** board may do any of the following:

24       (a) Conduct a continuing study of river use requirements and  
 25 needs for river management within its area of jurisdiction;  
 26 analyze alternative methods of meeting needs; and develop and  
 27 adopt a river management program, including plans for

1 constructing, operating, and financing water storage and river  
2 control structures and negotiating coordinated policies and  
3 programs relating to river use among local units of government  
4 within the district.

5 (b) Impound and control the waters of the river system within  
6 the district, subject to minimum levels of stream flow  
7 established pursuant to sections 31112 and 31113, through  
8 acquisition, construction, maintenance, and/or operation of water  
9 storage reservoirs, dams, or other river control structures as  
10 necessary to assure adequate quantity, quality, and stability of  
11 river flow to protect the public health, welfare, and safety. A  
12 river management district shall not release water in such an  
13 amount as to produce or increase flooding or otherwise damage  
14 downstream interests.

15 (c) Contract with or enter into agreement with the federal  
16 government or any agency or department of the federal government  
17 or with other governmental agencies or with private individuals  
18 or corporations that may maintain and operate reservoirs and  
19 control structures or that may construct, maintain, and operate  
20 new reservoirs and control structures as necessary to carry out  
21 the purposes of this part.

22 (d) Perform, with respect to the area within the district,  
23 the functions assigned to a watershed council by sections 31102  
24 through 31105 whenever a relevant watershed council has not been  
25 formed, or if the appropriate watershed council's failure to act  
26 impairs the functions and programs of a district.

27 **Sec. 31108a. For a watershed conservation district, the**

1 board may undertake watershed conservation activities, including  
2 the employment of staff and purchase of equipment related to  
3 those activities.

4       Sec. 31109. A **river management** district formed under this  
5 part is a body corporate with powers to contract; to sue and be  
6 sued; to exercise the right of eminent domain; to apportion  
7 administrative costs and benefit charges for river management and  
8 related facilities among the local units of government members,  
9 which costs shall be payable from general funds or taxes raised  
10 by the local units of government; to collect revenues for  
11 services rendered by the exercise of its functions; to issue  
12 bonds; to apply for and receive grants, gifts, and other devises  
13 from any governmental agency or from the federal government; and  
14 to exercise other powers as necessary to implement this part.  
15 The river management district ~~shall~~ **does** not have direct taxing  
16 power.

17       Sec. 31109a. A **watershed conservation** district formed under  
18 this part is a body corporate with powers to contract; to sue and  
19 be sued; to apportion administrative costs and benefit charges  
20 for watershed conservation among the local units of government  
21 members, which costs shall be payable from general funds or taxes  
22 raised by the local units of government; to collect revenues for  
23 services rendered by the exercise of its functions; to issue  
24 bonds; to apply for and receive grants, gifts, and other devises  
25 from any governmental agency or from the federal government; and  
26 to exercise other powers as necessary to implement this part.  
27 The watershed conservation district does not have direct taxing

1 power.

2 Sec. 31110. A ~~river management~~ board shall do all of the  
3 following:

4 (a) Adopt bylaws to govern its operations.

5 (b) Prepare an annual operating budget and levy an annual  
6 assessment of local unit of government members to cover costs of  
7 organizing, developing plans, and maintaining general overhead  
8 administration.

9 (c) Adopt and maintain a schedule of benefit assessments upon  
10 local units of government in the district levied to help defray  
11 the costs of capital improvements, which schedule constitutes a  
12 legal obligation upon those assessed.

13 (d) Hold an annual meeting at which it shall report to its  
14 members and to the watershed council, elect officers, and adopt  
15 an annual budget.

16 (e) Maintain a public record of its transactions.

17 (f) Do all other things necessary for the operation of the  
18 district.

19 Sec. 31111. The executive secretary of a watershed council  
20 may serve as executive secretary to ~~the river management~~ a  
21 board. If a relevant watershed council does not exist, or if the  
22 executive secretary of a watershed council is otherwise  
23 unavailable, the board may employ an executive secretary. In  
24 addition, the board may employ additional staff as it determines  
25 appropriate within its approved budget.

26 Sec. 31114. ~~A river management~~ **For a river management**  
27 **district, the** board may request a watershed council to seek a

1 determination of minimum levels of stream flow in accordance with  
2 sections 31112 and 31113, or the board may request the department  
3 to make the determinations if a watershed council has not been  
4 formed for the larger watershed of which the district is a part,  
5 or when an appropriately established council fails to act within  
6 90 days upon the district's request.