

SUBSTITUTE FOR  
SENATE BILL NO. 545

A bill to amend 1994 PA 451, entitled  
"Natural resources and environmental protection act,"  
by amending section 3118 (MCL 324.3118), as amended by 2004 PA 91.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 3118. (1) ~~Until~~ **EXCEPT AS OTHERWISE PROVIDED IN THIS**  
2 **SECTION, UNTIL** October 1, 2009, the department shall collect storm  
3 water discharge fees from persons who apply for or have been issued  
4 storm water discharge permits as follows:

5           (a) A 1-time fee of \$400.00 is required for a permit related  
6 solely to a site of construction activity for each permitted site.  
7 The fee shall be submitted by the permit applicant with his or her  
8 application for an individual permit or for a certificate of  
9 coverage under a general permit. For a permit by rule, the fee  
10 shall be submitted by the construction site permittee along with

1 his or her notice of coverage. A person needing more than 1 permit  
2 may submit a single payment for more than 1 permit and receive  
3 appropriate credit. Payment of the fee under this subdivision or  
4 verification of prepayment is a necessary part of a valid permit  
5 application or notice of coverage under a permit by rule.

6 (b) An annual fee of \$260.00 is required for a permit related  
7 solely to a storm water discharge associated with industrial  
8 activity or from a commercial site for which the department  
9 determines a permit is needed.

10 (c) An annual fee of \$500.00 is required for a permit for a  
11 municipal separate storm sewer system, unless the permit is issued  
12 to a city, a village, a township, or a county or is a single permit  
13 authorization for municipal separate storm sewer systems in  
14 multiple locations statewide.

15 (d) An annual fee for a permit for a municipal separate storm  
16 sewer system issued to a city, village, or township shall be  
17 determined by its population in an urbanized area as defined by the  
18 United States bureau of the census. The fee shall be based on the  
19 latest available decennial census as follows:

20 (i) For a population of 1,000 people or fewer, the annual fee  
21 is \$500.00.

22 (ii) For a population of more than 1,000 people, but fewer than  
23 3,001 people, the annual fee is \$1,000.00.

24 (iii) For a population of more than 3,000 people, but fewer than  
25 10,001 people, the annual fee is \$2,000.00.

26 (iv) For a population of more than 10,000 people, but fewer  
27 than 30,001 people, the annual fee is \$3,000.00.

1 (v) For a population of more than 30,000 people, but fewer  
2 than 50,001 people, the annual fee is \$4,000.00.

3 (vi) For a population of more than 50,000 people, but fewer  
4 than 75,001 people, the annual fee is \$5,000.00.

5 (vii) For a population of more than 75,000 people, but fewer  
6 than 100,001 people, the annual fee is \$6,000.00.

7 (viii) For a population of more than 100,000 people, the annual  
8 fee is \$7,000.00.

9 (e) An annual fee of \$3,000.00 is required for a permit for a  
10 municipal separate storm sewer system issued to a county.

11 (f) An annual fee for a single municipal separate storm sewer  
12 systems permit authorizing a state or federal agency to operate  
13 municipal separate storm sewer systems in multiple locations  
14 statewide shall be determined in accordance with a memorandum of  
15 understanding between that state or federal agency and the  
16 department and shall be based on the projected needs by the  
17 department to administer the permit.

18 **(2) A STORM WATER DISCHARGE PERMIT IS NOT REQUIRED FOR A**  
19 **MUNICIPALITY THAT DOES NOT OWN OR OPERATE A SEPARATE STORM SEWER**  
20 **SYSTEM. THE DEPARTMENT SHALL NOT COLLECT STORM WATER DISCHARGE FEES**  
21 **UNDER SUBSECTION (1) FROM A MUNICIPALITY THAT DOES NOT OWN OR**  
22 **OPERATE A SEPARATE STORM SEWER SYSTEM.**

23 **(3) ~~(2)~~**—The permit fees identified in subsection (1) are  
24 nonrefundable.

25 **(4) ~~(3)~~**—A person possessing a permit not related solely to a  
26 site of construction activity as of January 1 shall be assessed a  
27 fee. The department shall notify those persons of their fee

1 assessments by February 1. Payment shall be postmarked no later  
2 than March 15. Failure by the department to send a fee assessment  
3 notification by the deadline, or failure of a person to receive a  
4 fee assessment notification, does not relieve that person of his or  
5 her obligation to pay the fee. If the department does not meet the  
6 February deadline for sending the fee assessment, the fee  
7 assessment is due not later than 45 days after receiving a fee  
8 notification.

9 (5) ~~(4)~~—If a storm water permit is issued for a drainage  
10 district, the drainage district is responsible for the applicable  
11 fee under this section.

12 (6) ~~(5)~~—The department shall assess interest on all fee  
13 payments submitted under this section after the due date. The  
14 permittee shall pay an additional amount equal to 0.75% of the  
15 payment due for each month or portion of a month the payment  
16 remains past due.

17 (7) ~~(6)~~—The department shall forward all fees and interest  
18 payments collected under this section to the state treasurer for  
19 deposit into the fund.

20 (8) ~~(7)~~—The department shall make payment of the required fee  
21 assessed under this section a condition of issuance or reissuance  
22 of a permit not related solely to a site of construction activity.

23 (9) ~~(8)~~—In addition to any other penalty provided in this  
24 part, if a person fails to pay the fee required under this section  
25 by its due date, the person is in violation of this part and the  
26 department may undertake enforcement actions as authorized under  
27 this part.

1           (10) ~~(9)~~—The attorney general may bring an action to collect  
2 overdue fees and interest payments imposed under this section.

3           (11) ~~(10)~~—If the permit is for a municipal separate storm  
4 sewer system and the population served by that system is different  
5 than the latest decennial census, the permittee may appeal the  
6 annual fee determination and submit written verification of actual  
7 population served by the municipal separate storm sewer system.

8           (12) ~~(11)~~—A person who wishes to appeal either a fee or a  
9 penalty assessed under this section is limited to an administrative  
10 appeal, in accordance with section 631 of the revised judicature  
11 act of 1961, 1961 PA 236, MCL 600.631. The appeal shall be filed  
12 within 30 days of the department's fee notification under  
13 subsection ~~(3)~~—(4).

14           (13) ~~(12)~~—As used in this section and section 3119:

15           (a) "Certificate of coverage" means a document issued by the  
16 department that authorizes a discharge under a general permit.

17           (b) "Clean water act" means the federal water pollution  
18 control act, ~~chapter 758, 86 Stat. 816, 33 U.S.C. USC 1251 to 1252,~~  
19 ~~1253 to 1254, 1255 to 1257, 1258 to 1263, 1265 to 1270, 1273 to~~  
20 ~~1274, 1281, 1282 to 1293, 1294 to 1301, 1311 to 1313, 1314 to 1330,~~  
21 ~~1341 to 1346, 1361 to 1375, 1376 to 1377, and 1381 to 1387.~~

22           (c) "Construction activity" means a human-made earth change or  
23 disturbance in the existing cover or topography of land that is 5  
24 acres or more in size, for which a national permit is required  
25 pursuant to 40 C.F.R.—CFR 122.26(a), and which is described as a  
26 construction activity in 40 C.F.R.—~~122.26(b) (14) (x)~~—CFR  
27 **122.26(B) (14) (X)**. Construction activity includes clearing, grading,

1 and excavating activities. Construction activity does not include  
2 the practice of clearing, plowing, tilling soil, and harvesting for  
3 the purpose of crop production.

4 (d) "Fee" means a storm water discharge fee authorized under  
5 this section.

6 (e) "Fund" means the storm water fund created in section 3119.

7 (f) "General permit" means a permit issued authorizing a  
8 category of similar discharges.

9 (g) "Individual permit" means a site-specific permit.

10 (h) "Municipal separate storm sewer system" means all separate  
11 storm sewers that are owned or operated by the United States or a  
12 state, city, village, township, county, district, association, or  
13 other public body created by or pursuant to state law, having  
14 jurisdiction over disposal of sewage, industrial wastes, storm  
15 water, or other wastes, including special districts under state  
16 law, such as a sewer district, flood control district, or drainage  
17 district or similar entity, or a designated or approved management  
18 agency under section 208 of the clean water act, 33 ~~U.S.C.~~ **USC**  
19 1288, that discharges to waters of the state. Municipal separate  
20 storm sewer system includes systems similar to separate storm sewer  
21 systems in municipalities, such as systems at military bases, large  
22 hospital or prison complexes, and highways and other thoroughfares.  
23 Municipal separate storm sewer system does not include separate  
24 storm sewers in very discrete areas, such as individual buildings.

25 (i) "Notice of coverage" means a notice that a person engaging  
26 in construction activity agrees to comply with a permit by rule for  
27 that activity.

1 (j) "Permit" or "storm water discharge permit" means a permit  
2 authorizing the discharge of wastewater or any other substance to  
3 surface waters of the state under the national pollutant discharge  
4 elimination system, pursuant to the clean water act or this part  
5 and the rules and regulations promulgated under that act or this  
6 part.

7 (k) "Public body" means the United States, the state of  
8 Michigan, a city, village, township, county, school district,  
9 public college or university, or single purpose governmental  
10 agency, or any other body which is created by federal or state  
11 statute or law.

12 (l) "Separate storm sewer system" means a system of drainage,  
13 including, but not limited to, roads, catch basins, curbs, gutters,  
14 parking lots, ditches, conduits, pumping devices, or man-made  
15 channels, which has the following characteristics:

16 (i) The system is not a combined sewer where storm water mixes  
17 with sanitary wastes.

18 (ii) The system is not part of a publicly owned treatment  
19 works.

20 (m) "Storm water" means storm water runoff, snowmelt runoff,  
21 and surface runoff and drainage.

22 (n) "Storm water discharge associated with industrial  
23 activity" means a point source discharge of storm water from a  
24 facility which is defined as an industrial activity under 40 ~~C.F.R.~~  
25 **CFR** 122.26(b) (14) (i-ix and xi).