

# HOUSE BILL No. 6293

June 27, 2008, Introduced by Reps. Proos, Nitz, Acciavatti, Palsrok, Elsenheimer, Horn, Walker, Marleau, LaJoy, Booher, Ball, Moolenaar, Wenke, Hansen, Sheltroun, Pastor, Schuitmaker, Meekhof, LeBlanc, Huizenga, Pearce, Moore and Brown and referred to the Committee on Tourism, Outdoor Recreation and Natural Resources.

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," (MCL 324.101 to 324.90106) by adding part 794; and to make an appropriation.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

PART 794 EMERGENCY WATER ACCESS

SEC. 79401. AS USED IN THIS PART:

(A) "BOTTOMLAND" MEANS THE LAND AREA OF A WATER BODY THAT LIES BELOW THE ORDINARY HIGH-WATER MARK AND THAT MAY OR MAY NOT BE COVERED BY WATER.

(B) "DREDGING" MEANS THE REMOVAL OF SEDIMENTS FROM BOTTOMLAND.

(C) "DREDGING COSTS" MEANS THE COSTS ASSOCIATED WITH DREDGING INCLUDING COSTS OF REMOVAL, DISPOSAL, AND TESTING OF SEDIMENTS, AND

1 THE COSTS ASSOCIATED WITH OBTAINING NECESSARY PERMITS REQUIRED TO  
2 CONDUCT DREDGING.

3 (D) "FUND" MEANS THE EMERGENCY WATER ACCESS FUND CREATED IN  
4 SECTION 79403.

5 (E) "ORDINARY HIGH-WATER MARK" MEANS EITHER OF THE FOLLOWING:

6 (i) FOR AN INLAND LAKE OR STREAM, THAT TERM AS IT IS DEFINED IN  
7 SECTION 30101.

8 (ii) FOR THE GREAT LAKES, THE ORDINARY HIGH-WATER MARK AS  
9 DESCRIBED IN SECTION 32502.

10 (F) "WATER BODY" MEANS THE GREAT LAKES AND THEIR CONNECTING  
11 WATERS AND INLAND LAKES AND STREAMS AS DEFINED IN SECTION 30101.

12 SEC. 79402. (1) BY JANUARY 1, 2009, THE DEPARTMENT SHALL  
13 ESTABLISH A LOAN PROGRAM WITH MONEY IN THE FUND THAT WILL PROVIDE  
14 LOANS TO COUNTIES FOR DREDGING COSTS NECESSITATED BY LOW WATER  
15 LEVELS. THE PROGRAM SHALL DO ALL OF THE FOLLOWING:

16 (A) PROVIDE LOANS FOR PROJECTS TO DREDGE NAVIGABLE WATERS THAT  
17 BEGIN ON OR AFTER JANUARY 1, 2009.

18 (B) PROVIDE LOANS ON A FIRST-COME-FIRST-SERVED BASIS TO  
19 COUNTIES THAT DOCUMENT THE NEED FOR DREDGING OF NAVIGABLE WATERS TO  
20 PROVIDE SAFE PASSAGE FOR WATERCRAFT.

21 (C) LIMIT THE MAXIMUM AMOUNT OF A LOAN TO A COUNTY TO 50% OF  
22 THE TOTAL PROJECT COST.

23 (D) LIMIT THE MAXIMUM AMOUNT OF A LOAN TO A COUNTY TO  
24 \$50,000.00.

25 (E) CHARGE INTEREST ON A LOAN IN AN AMOUNT EQUAL TO THE AMOUNT  
26 CHARGED FOR LOANS FROM THE STATE WATER POLLUTION CONTROL REVOLVING  
27 FUND ESTABLISHED UNDER SECTION 16A OF THE SHARED CREDIT RATING ACT,

1 1985 PA 227, MCL 141.1066A.

2 (F) REQUIRE THAT A LOAN BE REPAYED IN NOT MORE THAN 7 YEARS.

3 (G) REQUIRE THAT THE FIRST INSTALLMENT OF REPAYMENT ON A LOAN  
4 BEGIN 1 YEAR AFTER THE DATE OF ISSUANCE OF THE LOAN.

5 (2) A COUNTY THAT WISHES TO APPLY FOR A LOAN UNDER THIS  
6 SECTION SHALL SUBMIT AN APPLICATION TO THE DEPARTMENT ON A FORM  
7 PRESCRIBED BY THE DEPARTMENT AND CONTAINING THE INFORMATION  
8 REQUIRED BY THE DEPARTMENT. AT A MINIMUM, THE APPLICATION SHALL  
9 CONTAIN ALL OF THE FOLLOWING INFORMATION:

10 (A) THE LOAN AMOUNT REQUESTED.

11 (B) A DESCRIPTION OF THE PROPOSED DREDGING PROJECT.

12 (C) THE DREDGING COSTS OF THE PROPOSED DREDGING PROJECT.

13 (D) A DESCRIPTION OF HOW THE DREDGING COSTS WERE DETERMINED.

14 (E) EVIDENCE OF THE FINANCIAL CAPABILITY OF THE COUNTY TO  
15 REPAY THE LOAN AMOUNT REQUESTED.

16 (3) THE DEPARTMENT SHALL APPROVE A LOAN UNDER THIS SECTION IF  
17 ALL OF THE FOLLOWING CONDITIONS ARE MET:

18 (A) THE DEPARTMENT DETERMINES THAT DREDGING IS NECESSARY TO  
19 PROVIDE SAFE PASSAGE FOR WATERCRAFT.

20 (B) THE DEPARTMENT DETERMINES, IN CONSULTATION WITH THE  
21 DEPARTMENT OF TREASURY, THAT THE APPLICANT IS FINANCIALLY CAPABLE  
22 OF REPAYING THE LOAN.

23 (C) THE DEPARTMENT DETERMINES THAT THE APPLICANT WILL BE ABLE  
24 TO COMPLETE THE DREDGING PROJECT IN FULL COMPLIANCE WITH THIS PART.

25 (4) UPON APPROVAL OF A LOAN UNDER SUBSECTION (3), THE  
26 DEPARTMENT SHALL ENTER INTO A LOAN AGREEMENT WITH THE RECIPIENT  
27 THAT CONTAINS TERMS AND CONDITIONS AS REQUIRED BY THE DEPARTMENT.

1 THE DEPARTMENT SHALL REQUIRE AS PART OF THE LOAN AGREEMENT THAT THE  
2 LOAN RECIPIENT SUBMIT EVIDENCE TO THE DEPARTMENT THAT THE LOAN  
3 AMOUNT WAS USED TO PAY FOR DREDGING COSTS. THE LOAN AGREEMENT SHALL  
4 CONTAIN PENALTIES FOR DEFAULT ON THE LOAN.

5 (5) ALL MONEY RECEIVED BY THE DEPARTMENT FOR THE REPAYMENT OF  
6 A LOAN ISSUED UNDER THIS SECTION SHALL BE FORWARDED TO THE STATE  
7 TREASURER FOR DEPOSIT INTO THE FUND.

8 SEC. 79403. (1) THE EMERGENCY WATER ACCESS FUND IS CREATED  
9 WITHIN THE STATE TREASURY.

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

14 (3) THE DEPARTMENT SHALL BE THE ADMINISTRATOR OF THE FUND FOR  
15 AUDITING PURPOSES.

16 (4) MONEY IN THE FUND AT THE CLOSE OF THE FISCAL YEAR SHALL  
17 REMAIN IN THE FUND AND SHALL NOT LAPSE TO THE GENERAL FUND.

18 (5) MONEY FROM THE FUND SHALL BE EXPENDED, UPON APPROPRIATION,  
19 ONLY FOR THE FOLLOWING PURPOSES:

20 (A) LOANS TO COUNTIES FOR DREDGING COSTS AS PROVIDED IN THIS  
21 PART.

22 (B) THE DEPARTMENT'S COSTS OF ADMINISTERING THE LOAN PROGRAM  
23 CREATED UNDER THIS PART. HOWEVER, NOT MORE THAN 3% OF THE MONEY  
24 EXPENDED FROM THE FUND IN ANY STATE FISCAL YEAR SHALL BE EXPENDED  
25 FOR THE PURPOSE OF THIS SUBDIVISION.

26 SEC. 79404. (1) THE DEPARTMENT SHALL NOT APPROVE A LOAN FROM  
27 THE FUND AFTER JANUARY 1, 2015.

1           (2) PRIOR TO JANUARY 1, 2014, THE DEPARTMENT, IN CONSULTATION  
2 WITH THE DEPARTMENT OF TREASURY, SHALL PREPARE AND SUBMIT TO THE  
3 LEGISLATURE A DETAILED REPORT THAT EVALUATES THE LOAN PROGRAM  
4 PROVIDED FOR IN THIS PART AND RECOMMENDS WHETHER A NEED EXISTS IN  
5 THE STATE TO CONTINUE THE LOAN PROGRAM BEYOND JANUARY 1, 2015. THE  
6 DEPARTMENT MAY INCLUDE RECOMMENDATIONS IN THIS REPORT FOR STATUTORY  
7 CHANGES THAT WOULD IMPROVE THE LOAN PROGRAM.

8           SEC. 79405. (1) FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2009,  
9 THERE IS APPROPRIATED FROM THE GENERAL FUND TO THE FUND THE SUM OF  
10 \$5,000,000.00.

11           (2) FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2009, THERE IS  
12 APPROPRIATED FROM THE FUND TO THE DEPARTMENT THE SUM OF  
13 \$5,000,000.00 TO BE USED TO PROVIDE LOANS UNDER THIS PART.

14           (3) ANY MONEY APPROPRIATED TO THE DEPARTMENT UNDER SUBSECTION  
15 (2) THAT IS NOT EXPENDED BY SEPTEMBER 30, 2009 SHALL LAPSE TO THE  
16 FUND.