

# SENATE BILL No. 1442

July 28, 2010, Introduced by Senator BIRKHOLZ and referred to the Committee on Natural Resources and Environmental Affairs.

A bill to amend 1994 PA 451, entitled  
"Natural resources and environmental protection act,"  
by amending sections 5204 and 19708 (MCL 324.5204 and 324.19708),  
section 5204 as amended by 2005 PA 253 and section 19708 as amended  
by 2005 PA 256, and by adding sections 5204b, 5204c, and 19703a.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 5204. (1) The strategic water quality initiatives fund is  
2       created within the state treasury.

3       (2) The state treasurer may receive money or other assets from  
4       any source for deposit into the fund. The state treasurer shall  
5       direct the investment of the fund. The state treasurer shall credit  
6       to the fund interest and earnings from fund investments. The  
7       authority shall act as fiscal agent for the fund in accordance with  
8       the shared credit rating act, 1985 PA 227, MCL 141.1051 to

1 141.1076.

2 (3) Money in the fund at the close of the fiscal year shall  
3 remain in the fund and shall not lapse to the general fund.

4 (4) The authority in consultation with the department shall  
5 expend money from the fund, upon appropriation, only for the  
6 following:

7 (a) Loans under section 5202.

8 (b) Grants under section 5204a.

9 (C) **RESPONSE ACTIVITIES TO ADDRESS NONPOINT SOURCE WATER**  
10 **POLLUTION UNDER SECTION 5204B.**

11 (D) **GRANTS AND LOANS FOR BROWNFIELD SITES UNDER SECTION 5204C.**

12 (E) ~~(e)~~—The costs of the authority and the department in  
13 administering the fund.

14 (5) The fund may be pledged as security for bonds to be issued  
15 by the authority for the purpose of funding loans if authorized by  
16 the state administrative board.

17 **SEC. 5204B. (1) SUBJECT TO SUBSECTION (2), THE DEPARTMENT MAY**  
18 **EXPEND NOT MORE THAN \$200,000,000.00 OF THE MONEY FROM THE FUND FOR**  
19 **RESPONSE ACTIVITIES TO ADDRESS NONPOINT SOURCE WATER POLLUTION AT**  
20 **FACILITIES. MONEY SHALL BE EXPENDED UNDER THIS SECTION AS FOLLOWS:**

21 (A) BEGINNING ON THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT  
22 ADDED THIS SECTION, NOT MORE THAN \$100,000,000.00 MAY BE EXPENDED  
23 UNDER THIS SECTION.

24 (B) BEGINNING JANUARY 1, 2013, AN ADDITIONAL \$100,000,000.00  
25 MAY BE EXPENDED UNDER THIS SECTION IF THE DEPARTMENT DOCUMENTS THAT  
26 IT HAS ACHIEVED THE FOLLOWING PERFORMANCE OBJECTIVES:

27 (i) INCREASING THE LEVEL OF INVESTMENT IN SEWAGE COLLECTION AND

1 TREATMENT SYSTEMS.

2 (ii) PROVIDING INCENTIVES FOR ACTIONS THAT NOT ONLY IMPROVE  
3 WATER QUALITY BUT RESULT IN POLLUTION PREVENTION.

4 (iii) OPTIMIZING THE COST BENEFIT RATIO OF ALTERNATIVE DESIGNS  
5 OF SEWAGE COLLECTION AND TREATMENT SYSTEMS.

6 (2) THE DEPARTMENT SHALL EXPEND MONEY UNDER THIS SECTION IN  
7 COMPLIANCE WITH ALL OF THE FOLLOWING:

8 (A) THE EXPENDITURE IS USED TO ADDRESS NONPOINT SOURCE WATER  
9 POLLUTION.

10 (B) THE EXPENDITURE IS USED ONLY FOR FACILITIES IN WHICH THE  
11 DEPARTMENT DOES NOT KNOW THE IDENTITY OF THE PERSON OR PERSONS WHO  
12 ARE LIABLE UNDER PART 201 FOR THE RELEASE RESULTING IN THE WATER  
13 POLLUTION OR THE PERSON OR PERSONS WHO ARE LIABLE DO NOT HAVE  
14 SUFFICIENT RESOURCES TO FUND THE REQUIRED RESPONSE ACTIVITIES.

15 (C) THE FACILITIES ARE LOCATED WITHIN THE IDENTIFIED PLANNING  
16 AREA BOUNDARIES OF A PUBLICLY OWNED SANITARY SEWER SYSTEM ELIGIBLE  
17 FOR FUNDING UNDER THE STATE WATER POLLUTION CONTROL REVOLVING FUND  
18 ESTABLISHED IN SECTION 16A OF THE SHARED CREDIT RATING ACT, 1985 PA  
19 227, MCL 141.1066A.

20 (D) RESPONSE ACTIVITIES CONDUCTED AT FACILITIES SHALL BE  
21 PRIORITIZED BY THE DEPARTMENT BASED UPON A CONSIDERATION OF ALL OF  
22 THE FOLLOWING:

23 (i) ACTIONS NECESSARY TO ADDRESS EXISTING OR IMMINENT  
24 UNACCEPTABLE EXPOSURE RISKS ARISING FROM CONDITIONS THAT CONTRIBUTE  
25 TO NONPOINT SOURCE WATER POLLUTION.

26 (ii) ACTIONS NECESSARY TO ABATE DISCHARGES TO SURFACE WATER  
27 THAT EXCEED GROUNDWATER-SURFACE WATER INTERFACE CRITERIA AS

1 PROVIDED FOR IN PART 201, INCLUDING FREE PRODUCT DISCHARGING TO  
2 SURFACE WATER, WITH PRIORITY GIVEN TO ACUTE CRITERIA.

3 (iii) ACTIONS FOR OPERATION AND MAINTENANCE OF REMEDIAL SYSTEMS  
4 THAT ARE REQUIRED TO ACHIEVE RISK REDUCTION OBJECTIVES AND PRESERVE  
5 THE VALUE OF PREVIOUS INVESTMENT IN THE SYSTEMS.

6 (iv) MONITORING TO CONFIRM EFFECTIVENESS OF RESPONSE ACTIVITIES  
7 OR TO CONFIRM THAT FURTHER ACTION IS NOT REQUIRED.

8 (v) WHETHER MONEY IS NEEDED FOR THE STATE'S SHARE OF COSTS AT  
9 SUPERFUND SITES IN THE STATE.

10 (vi) WHETHER MONEY IS NEEDED FOR THE STATE'S SHARE OF COSTS AT  
11 FACILITIES FUNDED WITH UNITED STATES ENVIRONMENTAL PROTECTION  
12 AGENCY RURAL BROWNFIELD GRANTS OR OTHER COMPARABLE GRANTS.

13 (vii) ACTIONS REQUIRED TO BE CONDUCTED AT A SPECIFIC TIME TO  
14 COORDINATE WITH OTHER NECESSARY ACTIVITIES, SUCH AS ROAD  
15 CONSTRUCTION.

16 (viii) ACTIONS THAT ARE RELATIVELY LOW COST AND THAT, IF  
17 IMPLEMENTED, WOULD ACHIEVE CLOSURE STATUS AT THE FACILITY.

18 (ix) RESPONSE ACTIVITIES TO ADDRESS FACILITIES WHERE DATA  
19 DEMONSTRATE THAT CLEANUP CRITERIA ARE EXCEEDED AND STATE-FUNDED  
20 RISK REDUCTION IS WARRANTED TO ADDRESS CONDITIONS THAT CONTRIBUTE  
21 TO NONPOINT SOURCE WATER POLLUTION.

22 (x) WHETHER RESPONSE ACTIVITIES CONDUCTED AT A FACILITY ARE  
23 LIKELY TO PROVIDE AN ECONOMIC BENEFIT OR PREVENT AN ECONOMIC HARM.

24 (E) MONEY EXPENDED TO SUPPORT PROJECT MANAGEMENT WITHIN THE  
25 DEPARTMENT TO MANAGE RESPONSE ACTIVITIES AT THE FACILITY SHALL BE  
26 EXPENDED PURSUANT TO GENERALLY ACCEPTED ACCOUNTING PRINCIPLES.

27 (3) THE DEPARTMENT SHALL ANNUALLY SUBMIT A REPORT TO THE

1 STANDING COMMITTEES OF THE SENATE AND HOUSE OF REPRESENTATIVES WITH  
2 JURISDICTION OVER ISSUES PRIMARILY PERTAINING TO NATURAL RESOURCES  
3 AND THE ENVIRONMENT AND TO THE SENATE AND HOUSE OF REPRESENTATIVES  
4 APPROPRIATIONS SUBCOMMITTEES ON NATURAL RESOURCES AND THE  
5 ENVIRONMENT THAT DESCRIBES THE PROJECTS FUNDED UNDER THIS SECTION.  
6 FOR PROJECTS FUNDED UNDER SUBSECTION (1) (A), THE REPORT SHALL  
7 INCLUDE BOTH OF THE FOLLOWING:

8 (A) HOW THE PROJECT MET THE CRITERIA DESCRIBED IN SUBSECTION  
9 (2) (A) TO (D).

10 (B) IF THE PROJECT INCLUDED FUNDING FOR PROJECT MANAGEMENT  
11 WITHIN THE DEPARTMENT, A BREAKDOWN OF THE AMOUNT OF MONEY USED TO  
12 SUPPORT THE PROJECT MANAGEMENT AS JUSTIFIED USING GENERALLY  
13 ACCEPTED ACCOUNTING PRINCIPLES.

14 (4) AS USED IN THIS SECTION, "FACILITY", "RELEASE", AND  
15 "RESPONSE ACTIVITY" MEAN THOSE TERMS AS THEY ARE DEFINED IN PART  
16 201.

17 SEC. 5204C. THE DEPARTMENT MAY EXPEND NOT MORE THAN  
18 \$25,000,000.00 OF MONEY FROM THE FUND TO PROVIDE BROWNFIELD  
19 REDEVELOPMENT GRANTS AND LOANS TO MUNICIPALITIES AND BROWNFIELD  
20 REDEVELOPMENT AUTHORITIES CREATED UNDER THE BROWNFIELD  
21 REDEVELOPMENT FINANCING ACT, 1996 PA 381, MCL 125.2651 TO 125.2672,  
22 FOR RESPONSE ACTIVITIES TO ADDRESS NONPOINT SOURCE WATER POLLUTION  
23 AT FACILITIES. OF THE MONEY EXPENDED UNDER THIS SECTION, NOT MORE  
24 THAN \$15,000,000.00 SHALL BE USED FOR GRANTS AND NOT MORE THAN  
25 \$10,000,000.00 SHALL BE USED FOR LOANS.

26 SEC. 19703A. WHENEVER BONDS ARE ISSUED UNDER THIS PART TO  
27 SUPPORT THE PURPOSES OF SECTION 19708(1) (B), AT LEAST AN EQUIVALENT

1    **AMOUNT OF BONDS SHALL BE ISSUED UNDER THIS PART TO SUPPORT PURPOSES**  
 2    **OF SECTION 19708(1) (A) .**

3            Sec. 19708. (1) Subject to subsections (2), (3), and (4), the  
 4    state treasurer shall transfer money in the fund as follows:

5            (a) In aggregate, not more than ~~\$900,000,000.00~~  
 6    \$675,000,000.00 of the money in the fund shall be deposited into  
 7    the state water pollution control revolving fund created in section  
 8    16a of the shared credit rating act, 1985 PA 227, MCL 141.1066a.

9            (b) In aggregate, not more than ~~\$100,000,000.00~~  
 10   \$325,000,000.00 of the money in the fund shall be deposited into  
 11   the strategic water quality initiatives fund created in section  
 12   5204.

13           (2) Money in the fund may be used by the department of  
 14   treasury to pay for the cost of issuing bonds and the costs  
 15   incurred under section 19703(3) .

16    ~~—— (3) Money from the fund shall not be used as the state match~~  
 17   ~~for receipt of federal funds for purposes of the state water~~  
 18   ~~pollution control revolving fund established under section 16a of~~  
 19   ~~the shared credit rating act, 1985 PA 227, MCL 141.1066a, at 2002~~  
 20   ~~state match levels. However, if federal revenues become available~~  
 21   ~~at higher levels than were provided in 2002, money from the fund~~  
 22   ~~may be used to match federal revenues in excess of 2002 levels.~~

23           (3) ~~(4)~~ Bonds that are directly deposited into the state water  
 24   pollution control revolving fund or strategic water quality  
 25   initiatives fund as authorized by section 19703 shall be taken into  
 26   account for the purpose of determining the allocation and transfer  
 27   of money set forth in subsection (1) .

1           (4) NOT LATER THAN 2 YEARS AFTER THE EFFECTIVE DATE OF THE  
2 AMENDATORY ACT THAT ADDED THIS SUBSECTION, THE AUDITOR GENERAL  
3 SHALL CONDUCT AN AUDIT OF THE FUND TO ASSURE THAT THE MONEY IN THE  
4 FUND HAS BEEN EXPENDED IN COMPLIANCE WITH LAW. NOT LATER THAN 4  
5 YEARS AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED  
6 THIS SUBSECTION, THE AUDITOR GENERAL SHALL UPDATE ITS INITIAL AUDIT  
7 TO ASSURE THAT MONEY IN THE FUND HAS BEEN EXPENDED IN COMPLIANCE  
8 WITH LAW.

9           Enacting section 1. This amendatory act does not take effect  
10 unless all of the following bills of the 95th Legislature are  
11 enacted into law:

12           (a) Senate Bill No. 1345.

13           (b) Senate Bill No. 1346.

14           (c) Senate Bill No. 1348.

15           (d) House Bill No. 6360.

16           (e) House Bill No. 6363.

17           (f) Senate Bill No. 1443.

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19           (g) House Bill No. 6359.

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