

# SENATE BILL No. 1443

July 28, 2010, Introduced by Senator GILBERT 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 section 5204a (MCL 324.5204a), as added by 2005 PA 254,  
and by adding section 5317.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 5204a. (1) The authority, in conjunction with the  
2       department, shall establish a strategic water quality initiatives  
3       grant program that provides grants totaling not more than  
4       ~~\$40,000,000.00~~ **\$80,000,000.00** to eligible municipalities. The grant  
5       program shall provide assistance to municipalities to complete the  
6       loan application requirements of section 5308 **OR TO COMPLETE THE**  
7       **LOAN APPLICATION REQUIREMENTS FOR OTHER SOURCES OF FINANCING FOR**  
8       **SEWAGE TREATMENT WORKS PROJECTS, STORMWATER TREATMENT PROJECTS, OR**  
9       **NONPOINT SOURCE PROJECTS.**

(2) The grant program is subject to all of the following:

(a) The grant program shall provide grants to cover not more than 90% of the costs incurred by a municipality to complete an application for loan assistance from the state water pollution control revolving fund or the fund **OR TO COMPLETE AN APPLICATION FOR LOAN ASSISTANCE FROM ANOTHER SOURCE OF FINANCING FOR A SEWAGE TREATMENT WORKS PROJECT, A STORMWATER TREATMENT PROJECT, OR A NONPOINT SOURCE PROJECT.**

(b) The 10% local match is not eligible for loan assistance from the state water pollution control revolving fund or the fund **OR OTHER SOURCE OF FINANCING FOR THE PROJECT.**

(c) Grant funds shall not be used for general local government administrative activities or activities performed by municipal employees.

(d) A municipality shall not receive more than \$1,000,000.00 in total grant assistance under this section.

(e) Grants under this section shall be available for projects seeking or intending to seek loan assistance after September 30, 2006.

~~—— (f) The department shall cease accepting grant applications under this section 2 years after the date the first grant agreement is entered into under subsection (3).~~

(3) ~~Within 6 months after the effective date of the amendatory act that added this section, the~~ **THE** department shall establish an application and review process for considering grant applications under this section. The application shall contain the information required by the department and the authority. Within ~~30~~ **60** days

1 after receipt of an application, the department shall publish  
2 notice of the application on the department's calendar. Within 60  
3 days after receipt of an administratively complete grant  
4 application, the department shall, in writing, notify the applicant  
5 whether the application is approved or rejected. If the department  
6 approves a grant under this section, the department and the  
7 authority shall enter into a grant agreement with the recipient  
8 prior to transferring funds. The grant agreement shall contain  
9 terms established by the department and the authority and a  
10 requirement that the grant recipient repay the grant, within 90  
11 days of being informed to do so, with interest at a rate not to  
12 exceed 8% per year, to the authority for deposit into the fund if  
13 any of the following occur:

14 (a) The applicant fails to submit an administratively complete  
15 loan application for assistance from the state water pollution  
16 control revolving fund or the fund **OR OTHER SOURCE OF FINANCING** for  
17 the project within 3 years of the grant award.

18 (b) The project has been identified as being in the fundable  
19 range **OR IS APPROVED FOR FUNDING** and the applicant declines **THE**  
20 loan assistance ~~from the state water pollution control revolving~~  
21 ~~fund or the fund in that fiscal year.~~ **DURING THE CURRENT OR**  
22 **SUBSEQUENT FISCAL YEAR.**

23 (c) The applicant is unable to, or decides not to, proceed  
24 with constructing the project. ~~or opts to finance construction by~~  
25 ~~means other than a grant from the state water pollution control~~  
26 ~~revolving fund or the fund.~~

27 (4) For each year in which the department receives grant

1 applications under this section, the department shall report by  
2 July 1 of each year to the standing committees of the senate and  
3 the house of representatives with primary jurisdiction over issues  
4 pertaining to natural resources and the environment and to the  
5 senate and house of representatives appropriations committees on  
6 the utilization of funds under this part that were received from  
7 the Great Lakes water quality bond fund created in section 19706.  
8 The report shall include, at a minimum, all of the following:

9 (a) The number of grant applications received under this  
10 section.

11 (b) The name of each municipality applying for a grant.

12 (c) The individual and annual cumulative amount of grant funds  
13 awarded, including an identification of whether each award was for  
14 the purpose of applying for assistance from the state water  
15 pollution control revolving fund or the fund.

16 (d) A summary of loan assistance, by year, tendered from the  
17 state water pollution control revolving fund and the fund.

18 (5) The senate and house appropriations committees shall  
19 annually review whether there is sufficient money in the fund to  
20 implement this section and section 5202.

21 **SEC. 5317. (1) THE STATE WATER POLLUTION CONTROL REVOLVING**  
22 **FUND ADVISORY COMMITTEE IS CREATED WITHIN THE DEPARTMENT OF NATURAL**  
23 **RESOURCES AND ENVIRONMENT.**

24 **(2) THE COMMITTEE SHALL CONSIST OF A REPRESENTATIVE OF THE**  
25 **DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENT AND ADDITIONAL**  
26 **MEMBERS APPOINTED BY THE DIRECTOR OF THE DEPARTMENT OF NATURAL**  
27 **RESOURCES AND ENVIRONMENT UPON RECOMMENDATION FROM AT LEAST THE**

1 FOLLOWING ORGANIZATIONS:

2 (A) THE AMERICAN COUNCIL OF ENGINEERING COMPANIES.

3 (B) THE AMERICAN WATERWORKS ASSOCIATION.

4 (C) THE MICHIGAN TOWNSHIPS ASSOCIATION.

5 (D) THE MICHIGAN CHAMBER OF COMMERCE.

6 (E) THE MICHIGAN MUNICIPAL LEAGUE WITH REGARD TO APPOINTING  
7 MEMBERS FROM THE FOLLOWING:

8 (i) A RURAL MUNICIPALITY WITH A POPULATION OF 10,000 OR LESS  
9 THAT OPERATES A SEWAGE TREATMENT WORKS SYSTEM.

10 (ii) A SUBURBAN MUNICIPALITY THAT OPERATES A SEWAGE TREATMENT  
11 WORKS SYSTEM.

12 (iii) A CITY THAT OPERATES A SEWAGE TREATMENT WORKS SYSTEM.

13 (F) THE MICHIGAN INFRASTRUCTURE AND TRANSPORTATION  
14 ASSOCIATION.

15 (G) THE MICHIGAN WATER AND ENVIRONMENT ASSOCIATION.

16 (H) A STATEWIDE ORGANIZATION OF REGIONAL PLANNING AUTHORITIES.

17 (I) A STATEWIDE ENVIRONMENTAL OR CONSERVATION ORGANIZATION.

18 (3) THE MEMBERS FIRST APPOINTED TO THE COMMITTEE SHALL BE  
19 APPOINTED WITHIN 60 DAYS AFTER THE EFFECTIVE DATE OF THE AMENDATORY  
20 ACT THAT ADDED THIS SECTION.

21 (4) IF A VACANCY OCCURS ON THE COMMITTEE, THE DIRECTOR SHALL  
22 MAKE AN APPOINTMENT FOR THE UNEXPIRED TERM IN THE SAME MANNER AS  
23 THE ORIGINAL APPOINTMENT.

24 (5) THE DIRECTOR MAY REMOVE A MEMBER OF THE COMMITTEE FOR  
25 INCOMPETENCY, DERELICTION OF DUTY, MALFEASANCE, MISFEASANCE, OR  
26 NONFEASANCE IN OFFICE, OR ANY OTHER GOOD CAUSE.

27 (6) THE FIRST MEETING OF THE COMMITTEE SHALL BE CALLED BY THE

1 DIRECTOR OF THE DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENT.

2 (7) A MAJORITY OF THE MEMBERS OF THE COMMITTEE CONSTITUTE A  
3 QUORUM FOR THE TRANSACTION OF BUSINESS AT A MEETING OF THE  
4 COMMITTEE. A MAJORITY OF THE MEMBERS PRESENT AND SERVING ARE  
5 REQUIRED FOR OFFICIAL ACTION OF THE COMMITTEE.

6 (8) THE BUSINESS THAT THE COMMITTEE MAY PERFORM SHALL BE  
7 CONDUCTED AT A PUBLIC MEETING OF THE COMMITTEE HELD IN COMPLIANCE  
8 WITH THE OPEN MEETINGS ACT, 1976 PA 267, MCL 15.261 TO 15.275.

9 (9) A WRITING PREPARED, OWNED, USED, IN THE POSSESSION OF, OR  
10 RETAINED BY THE COMMITTEE IN THE PERFORMANCE OF AN OFFICIAL  
11 FUNCTION IS SUBJECT TO THE FREEDOM OF INFORMATION ACT, 1976 PA 442,  
12 MCL 15.231 TO 15.246.

13 (10) MEMBERS OF THE COMMITTEE SHALL SERVE WITHOUT  
14 COMPENSATION.

15 (11) STAFF FROM THE DEPARTMENT OF NATURAL RESOURCES AND  
16 ENVIRONMENT SHALL ASSIST WITH THE ADMINISTRATIVE TASKS OF THE  
17 COMMITTEE, INCLUDING MEETING NOTICES, MINUTES, AND COMPILATION OF  
18 RESOURCE MATERIALS AND REPORTS.

19 (12) THE COMMITTEE SHALL EVALUATE THIS PART AND MAKE  
20 RECOMMENDATIONS ON HOW THIS PART COULD BE AMENDED TO ACHIEVE THE  
21 FOLLOWING OUTCOMES:

22 (A) INCREASING THE LEVEL OF INVESTMENT IN SEWAGE COLLECTION  
23 AND TREATMENT SYSTEMS.

24 (B) PROVIDING INCENTIVES FOR ACTIONS THAT NOT ONLY IMPROVE  
25 WATER QUALITY BUT RESULT IN POLLUTION PREVENTION.

26 (C) OPTIMIZING THE COST BENEFIT RATIO OF ALTERNATIVE DESIGNS  
27 OF SEWAGE COLLECTION AND TREATMENT SYSTEMS.

1           (13) THE COMMITTEE SHALL REVIEW AND MAKE RECOMMENDATIONS ON  
2 REVISIONS TO THIS PART RELATED TO AT LEAST ALL OF THE FOLLOWING:

3           (A) REVISING PROCEDURES TO ACCOMMODATE CONCURRENT DESIGN AND  
4 BUILD TYPE PROCUREMENT AND OTHER NONTRADITIONAL CONTRACTING  
5 PROCEDURES.

6           (B) ALLOWING PROJECT PLANNING AND PRECONSTRUCTION AS COSTS  
7 ELIGIBLE FOR ASSISTANCE FROM THE FUND.

8           (C) REDUCING AND STREAMLINING THE COST-EFFECTIVENESS REVIEW  
9 REQUIREMENTS TO BE MORE CONSISTENT WITH LOCAL PLANNING NEEDS.

10          (D) UPDATING THE SCORING SYSTEM TO TAKE INTO ACCOUNT  
11 INFRASTRUCTURE ASSET MANAGEMENT.

12          (E) SIMPLIFYING APPLICATION PROCEDURES.

13          (F) REVIEWING OPTIONS TO PROVIDE GRANTS TO MUNICIPALITIES FOR  
14 TIMELY AND APPROPRIATE PROJECT PLANNING, INCLUDING DISINCENTIVES  
15 FOR FAILURE TO DEMONSTRATE PROGRESS.

16          (G) ESTABLISHING PROTOCOLS FOR A PREMEETING PROCESS FOR THE  
17 DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENT TO PROVIDE INFORMAL  
18 FEEDBACK TO REVIEW THE APPLICATION AND DETERMINE THE LIKELIHOOD OF  
19 RECEIVING FUNDING.

20          (H) RECOMMENDING A NEW MODEL FOR ESTABLISHING INTEREST RATES  
21 ON A SLIDING SCALE BASED ON THE PERCENTAGE OF INCOME PAID IN  
22 UTILITY FEES.

23          (I) REVIEWING OPTIONS TO ALLOW MUNICIPALITIES TO BE ABLE TO  
24 ROLL PROJECT PLAN EXPENSES INTO THE LOANS.

25          (J) ALTERNATIVE FINANCING MECHANISMS FOR FUNDING SEWAGE  
26 TREATMENT WORKS PROJECTS, STORM WATER PROJECTS, AND NONPOINT SOURCE  
27 PROJECTS.

1           (14) NOT LATER THAN AUGUST 1, 2011, THE COMMITTEE SHALL SUBMIT  
2 A REPORT TO THE DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENT AND  
3 TO THE STANDING COMMITTEES OF THE SENATE AND HOUSE OF  
4 REPRESENTATIVES WITH JURISDICTION OVER ISSUES PRIMARILY PERTAINING  
5 TO NATURAL RESOURCES AND THE ENVIRONMENT, CONTAINING THE  
6 COMMITTEE'S CONCLUSIONS AND RECOMMENDATIONS.

7           (15) EFFECTIVE 6 MONTHS AFTER THE COMMITTEE SUBMITS ITS REPORT  
8 UNDER SUBSECTION (14), THE COMMITTEE IS ABOLISHED.

9           (16) AS USED IN THIS SECTION, "COMMITTEE" MEANS THE STATE  
10 WATER POLLUTION CONTROL REVOLVING FUND ADVISORY COMMITTEE CREATED  
11 IN SUBSECTION (1).

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

15           (a) Senate Bill No. 1345.

16           (b) Senate Bill No. 1346.

17           (c) Senate Bill No. 1348.

18           (d) House Bill No. 6360.

19           (e) House Bill No. 6363.

20           (f) Senate Bill No. 1442.

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22           (g) House Bill No. 6359.  
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