

Act No. 231
Public Acts of 2010
Approved by the Governor
December 14, 2010
Filed with the Secretary of State
December 14, 2010
EFFECTIVE DATE: December 14, 2010

**STATE OF MICHIGAN
95TH LEGISLATURE
REGULAR SESSION OF 2010**

Introduced by Senator Gilbert

ENROLLED SENATE BILL No. 1443

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, assessments, and donations; to provide certain appropriations; to prescribe penalties and provide remedies; and to repeal acts and parts of acts," 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:

Sec. 5204a. (1) The authority, in conjunction with the department, shall establish a strategic water quality initiatives grant program that provides grants totaling not more than \$80,000,000.00 to eligible municipalities. The grant program shall provide assistance to municipalities to complete the loan application requirements of section 5308 or to complete the loan application requirements for other sources of financing for sewage treatment works projects, storm water treatment projects, or 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 storm water 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.

(3) 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 60 days after receipt of an application, the department shall publish notice of the application on the department's calendar. Within 60 days after receipt of an administratively complete grant application, the department shall, in writing, notify the applicant whether the application is approved or rejected. If the department approves a grant under this section, the department and the authority shall enter into a grant agreement with the recipient prior to transferring funds. The

grant agreement shall contain terms established by the department and the authority and a requirement that the grant recipient repay the grant, within 90 days of being informed to do so, with interest at a rate not to exceed 8% per year, to the authority for deposit into the fund if any of the following occur:

(a) The applicant fails to submit an administratively complete loan application for assistance from the state water pollution control revolving fund or the fund or other source of financing for the project within 3 years of the grant award.

(b) The project has been identified as being in the fundable range or is approved for funding from another source and the applicant declines the loan assistance for 2 consecutive fiscal years unless the applicant proceeds with funding from another source.

(c) The applicant is unable to, or decides not to, proceed with constructing the project.

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

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

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

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

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

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

Sec. 5317. (1) The state water pollution control revolving fund advisory committee is created within the department of natural resources and environment.

(2) The committee shall consist of a representative of the department of natural resources and environment and additional members appointed by the director of the department of natural resources and environment upon recommendation from at least the following organizations:

(a) The American council of engineering companies.

(b) The American waterworks association.

(c) The Michigan chamber of commerce.

(d) The Michigan association of counties.

(e) The Michigan townships association.

(f) The Michigan municipal league with regard to appointing members from the following:

(i) A rural municipality with a population of 10,000 or less that operates a sewage treatment works system.

(ii) A suburban municipality that operates a sewage treatment works system.

(iii) A city that operates a sewage treatment works system.

(g) A statewide association representing drain commissioners.

(h) The Michigan infrastructure and transportation association.

(i) The Michigan water and environment association.

(j) A statewide organization of regional planning authorities.

(k) A statewide environmental or conservation organization.

(3) The members first appointed to the committee shall be appointed within 60 days after the effective date of the amendatory act that added this section.

(4) If a vacancy occurs on the committee, the director shall make an appointment for the unexpired term in the same manner as the original appointment.

(5) The director may remove a member of the committee for incompetency, dereliction of duty, malfeasance, misfeasance, or nonfeasance in office, or any other good cause.

(6) The first meeting of the committee shall be called by the director of the department of natural resources and environment.

(7) A majority of the members of the committee constitute a quorum for the transaction of business at a meeting of the committee. A majority of the members present and serving are required for official action of the committee.

(8) The business that the committee may perform shall be conducted at a public meeting of the committee held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(9) A writing prepared, owned, used, in the possession of, or retained by the committee in the performance of an official function is subject to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(10) Members of the committee shall serve without compensation.

(11) Staff from the department of natural resources and environment shall assist with the administrative tasks of the committee, including meeting notices, minutes, and compilation of resource materials and reports.

(12) The committee shall evaluate this part and make recommendations on how this part could be amended to achieve the following outcomes:

(a) Increasing the level of investment in sewage collection and treatment systems.

(b) Providing incentives for actions that not only improve water quality but result in pollution prevention.

(c) Optimizing the cost benefit ratio of alternative designs of sewage collection and treatment systems.

(13) The committee shall review and make recommendations on revisions to this part related to at least all of the following:

(a) Revising procedures to accommodate concurrent design and build type procurement and other nontraditional contracting procedures.

(b) Allowing project planning and preconstruction as costs eligible for assistance from the fund.

(c) Reducing and streamlining the cost-effectiveness review requirements to be more consistent with local planning needs.

(d) Updating the scoring system to take into account infrastructure asset management.

(e) Simplifying application procedures.

(f) Reviewing options to provide grants to municipalities for timely and appropriate project planning, including disincentives for failure to demonstrate progress.

(g) Establishing protocols for a premeeting process for the department of natural resources and environment to provide informal feedback to review the application and determine the likelihood of receiving funding.

(h) Recommending a new model for establishing interest rates on a sliding scale based on the percentage of income paid in utility fees.

(i) Reviewing options to allow municipalities to be able to roll project plan expenses into the loans.

(j) Alternative financing mechanisms for funding sewage treatment works projects, storm water projects, and nonpoint source projects.

(14) The committee shall review and make recommendations regarding the need for and design of a grant program for the purpose of funding specific wastewater treatment facility infrastructure improvements projects designed to prevent chronic discharges and projected to have significant regional benefits to Great Lakes water quality and recreational opportunities.

(15) Not later than August 1, 2011, the committee shall submit a report to the department of natural resources and environment and to the standing committees of the senate and house of representatives with jurisdiction over issues primarily pertaining to natural resources and the environment, containing the committee's conclusions and recommendations.

(16) Effective 6 months after the committee submits its report under subsection (15), the committee is abolished.

(17) As used in this section, "committee" means the state water pollution control revolving fund advisory committee created in subsection (1).

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

(a) Senate Bill No. 1345.

(b) Senate Bill No. 1346.

(c) Senate Bill No. 1348.

(d) House Bill No. 6359.

(e) House Bill No. 6360.

(f) House Bill No. 6363.

(g) House Bill No. 6416.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate

Richard J. Brown

Clerk of the House of Representatives

Approved

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Governor