

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 1157

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending sections 5402, 5406, and 5411 (MCL 324.5402,
324.5406, and 324.5411), as added by 1997 PA 26.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 5402. As used in this part:

2 (a) "Department" means the department of environmental
3 quality or its authorized agent or representative.

4 (b) "Director" means the director of the department of
5 environmental quality or his or her designated representative.

6 (c) "Disadvantaged community" means a municipality in which
7 all of the following conditions are met:

8 (i) Users within the area served by a proposed public water
9 supply project are directly assessed for the costs of

1 construction.

2 (ii) The **MEDIAN ANNUAL HOUSEHOLD INCOME OF THE** area served by
3 a proposed public water supply project does not exceed 120% of
4 the statewide median annual household income for Michigan.

5 (iii) The municipality demonstrates at least 1 of the
6 following:

7 (A) More than 50% of the area served by a proposed public
8 water supply project is identified as a poverty area by the
9 United States bureau of the census.

10 (B) The median annual household income of the area served by
11 a proposed public water supply project is less than the most
12 recently published federal poverty guidelines for a family of 4
13 in the 48 contiguous United States. In determining the median
14 annual household income of the area served by the proposed public
15 water supply project under this subparagraph, the municipality
16 shall utilize the most recently published statistics from the
17 United States Bureau of the Census, updated to reflect current
18 dollars, for the community which most closely approximates the
19 area being served. If these figures are not available for the
20 area served by the proposed public water supply project, the
21 municipality may have a survey conducted to document the median
22 annual household income of the area served by the project.

23 (C) The median annual household income of the area served by
24 a proposed public water supply project is less than the most
25 recently published statewide median annual household income for
26 ~~Michigan~~, **THIS STATE**, and annual user costs for water supply
27 exceed ~~1.5%~~ **1%** of the median annual household income of the area

1 served by the proposed public water supply project.

2 (D) The median annual household income of the area served by
3 a proposed public water supply project is not greater than 120%
4 of the statewide median annual household income for ~~Michigan,~~
5 **THIS STATE**, and annual user costs for water supply exceed 3% of
6 the median annual household income of the area served by the
7 proposed project.

8 (d) "Federal safe drinking water act" means ~~title XIV of the~~
9 ~~public health service act, chapter 373, 88 Stat. 1660, THE SAFE~~
10 **DRINKING WATER ACT, 42 USC 300F TO 300J-26**, and the rules
11 promulgated under that act.

12 (e) "Fund" means the safe drinking water revolving fund
13 ~~created in~~ **ESTABLISHED UNDER** section 16b of the shared credit
14 rating act, 1985 PA 227, MCL 141.1066b.

15 (f) "Fundable range" means those projects, taken in
16 descending order on the priority list, for which the department
17 estimates sufficient funds exist to provide assistance during
18 each annual funding cycle.

19 (g) "Municipality" means a city, village, county, township,
20 authority, public school district, or other public body with
21 taxing authority, including an intermunicipal agency of 2 or more
22 municipalities, authorized or created under state law.

23 (h) "Noncommunity water supply" means a public water supply
24 that is not a community water supply, but that has not less than
25 15 service connections or that serves not less than 25
26 individuals on an average daily basis for not less than 60 days
27 per year.

1 Sec. 5406. (1) The department shall annually develop a
2 priority list of projects eligible for assistance under this
3 part. Projects that are not funded during the year that a
4 priority list developed under this section is in effect shall be
5 automatically prioritized on the next annual list using the same
6 criteria, unless the water supplier submits an amendment to its
7 project plan that introduces new information to be used as the
8 basis for prioritization. The priority list shall be based on
9 project plans submitted by water suppliers under section 5405 and
10 the criteria listed in subdivisions (a) through (f). Each project
11 shall be assigned points up to a maximum of 1,000. The point
12 values are maximum values available for each category or
13 subcategory listed in this section and shall only be awarded if
14 the project substantially addresses the problem for which the
15 point award is given. If a project is primarily designed to
16 replace individual wells at private homes, 50% or more of the
17 homes in the affected area shall meet equivalent water quality or
18 infrastructure deficiency criteria listed in subdivisions (a)
19 through (f) in order to receive the maximum available points. If
20 less than 50% of the homes in the affected area can demonstrate
21 deficiencies, 1/2 of the total points available shall be awarded.
22 Points shall be awarded as follows:

23 (a) A maximum of 450 points may be awarded to a project that
24 addresses drinking water quality as outlined in Act 399, if the
25 project:

26 (i) Is designed to eliminate an acute violation of a drinking
27 water standard as ~~defined in part 4 of the administrative rules~~

~~for Act 399.~~ DESCRIBED IN R 325.10401 TO R 325.10420 OF THE
MICHIGAN ADMINISTRATIVE CODE. A violation of a surface water
treatment technique, or if a waterborne disease outbreak has been
documented, 250 points shall be awarded for each violation.

(ii) Is designed to eliminate a violation of a drinking water
standard other than those outlined in subparagraph (i), 200 points
shall be awarded for each violation.

(iii) Is designed to upgrade a facility to maintain compliance
with drinking water standards or system capacity requirements,
150 points shall be awarded.

(iv) Is designed to eliminate an exceedance of a secondary
maximum contaminant level for aesthetic water quality, 25 points
shall be awarded.

(b) A maximum of 350 points may be awarded to a project that
addresses infrastructure improvements, as follows:

(i) If source or treatment facilities are upgraded, including
the watermains to connect to the distribution system, a maximum
of 125 points shall be awarded, if the improvement is:

(A) To meet minimum capacity requirements, 100 points shall
be awarded.

(B) For reliability, 75 points shall be awarded.

(C) For other source or treatment facility upgrades not
included in subparagraph (i) (A) or (B), 25 points shall be
awarded.

(D) To satisfy the conditions of a formal enforcement
action, 25 points shall be awarded. POINTS AWARDED FOR FORMAL
ENFORCEMENT ACTIONS ARE IN ADDITION TO THE MAXIMUM POINTS

1 **ALLOWABLE IN ANY CATEGORY.**

2 (E) For source water protection, 50 points shall be awarded.

3 (ii) If transmission or distribution watermain are upgraded,
4 a maximum of 125 points shall be awarded, if the improvement is:

5 (A) To meet minimum capacity where flow or residual pressure
6 is less than acceptable, 100 points shall be awarded.

7 (B) For reliability, including looping or redundant feeds,
8 75 points shall be awarded.

9 (C) Other transmission or distribution system upgrades not
10 included in subparagraph (ii) (A) or (B), 25 points shall be
11 awarded.

12 (D) To satisfy the conditions of a formal enforcement
13 action, 25 points shall be awarded. **POINTS AWARDED FOR FORMAL**
14 **ENFORCEMENT ACTIONS ARE IN ADDITION TO THE MAXIMUM POINTS**
15 **ALLOWABLE IN ANY CATEGORY.**

16 (iii) If water storage facilities or pumping stations are
17 upgraded, a maximum of 125 points shall be awarded, if the
18 improvement is:

19 (A) To meet minimum capacity where storage or pumping
20 capacity is less than minimum requirements, 100 points shall be
21 awarded.

22 (B) For reliability, 75 points shall be awarded.

23 (C) Other storage facility or pumping station upgrades not
24 included in subparagraph (iii) (A) or (B), 25 points shall be
25 awarded.

26 (D) To satisfy the conditions of a formal enforcement
27 action, 25 points shall be awarded. **POINTS AWARDED FOR FORMAL**

1 **ENFORCEMENT ACTIONS ARE IN ADDITION TO THE MAXIMUM POINTS**
 2 **ALLOWABLE IN ANY CATEGORY.**

3 (c) A maximum of 50 points shall be awarded based on the
 4 population served by the water system according to the following
 5 table. However, a transient noncommunity water supply as defined
 6 in section 2 of Act 399, **MCL 325.1002**, is eligible for 1/2 of the
 7 point value listed in the following table:

8	Population	Points
9	>50,000	50
10	10,001 - 50,000	40
11	3,301 - 10,000	30
12	501 - 3,300	20
13	0 - 500	10

14 (d) A maximum of 50 points shall be awarded to a community
 15 water supply that ~~is~~ **SERVES** a disadvantaged community.

16 (e) A maximum of 100 points shall be awarded for projects
 17 that include consolidation as follows:

18 (i) If 1 or more public water supplies are brought into
 19 compliance with state drinking water standards as a result of
 20 consolidation, 100 points shall be awarded.

21 (ii) If deficiencies, which are documented in writing by the
 22 department, at 1 or more public water supplies are corrected as a
 23 result of consolidation, 60 points shall be awarded.

24 (iii) Other consolidations, not included under subparagraph
 25 (i) or (ii), shall be awarded 40 points.

26 (f) For communities that have completed ~~a wellhead~~

~~protection plan or a~~ **AN APPROVED** source water protection plan,
PROGRAM, 100 points shall be awarded.

(g) After scoring, using the criteria in subdivisions (a) through (f), if 2 or more projects have the same score, the following tie-breaker shall be applied:

(i) If the system has fewer than 2 violations of the monitoring, record-keeping, and reporting requirements of Act 399 in the previous 2-year reporting period, or no violations if ownership of the system has changed in the previous 2 years, it shall rank above systems having more violations.

(ii) After applying the tie-breaker in subparagraph (i), if 2 or more projects score exactly the same, a calculation of the cost per population served by the water system shall be made. The affected projects shall be ranked with the ~~lowest~~ **HIGHEST** ratio of cost to population ranked higher.

(2) The priority list shall be submitted annually to the chairpersons of the senate and house of representatives standing committees that primarily consider legislation pertaining to the protection of public health and the environment.

(3) In preparing the priority list, to ensure that a disproportionate share of available funds for a given fiscal year is not committed to a single water supply project, the department may segment a project if either of the following criteria is present:

(a) The cost of the proposed project is more than 30% of the total amount available in the fund during the fiscal year.

(b) The department has approved a water supplier's

1 application for segmenting a project.

2 (4) Segments of a project that have been segmented under
3 subsection (3) shall be assigned priority points based on the
4 project as identified in the project plan. After funding
5 assistance for the first segment is accepted, the remaining
6 segments will retain first priority for funding assistance on the
7 next 3 fiscal year priority lists. All projects with previously
8 funded segments will be designated with first priority. Ranking
9 order for these projects to receive funding assistance will be
10 subject to the relative ranking of all first segment projects.

11 (5) In preparing the intended use plan, the department shall
12 make every effort to assure that funding for assistance is
13 equitably distributed among public water supplies of varying
14 sizes.

15 (6) For purposes of providing assistance, the priority list
16 shall take effect on the first day of each fiscal year.

17 Sec. 5411. (1) The department shall review a complete
18 application for assistance for a proposed project submitted under
19 section 5409. If the department approves the application for
20 assistance, the department shall issue an order of approval to
21 establish the specific terms of the assistance. The order of
22 approval shall include, but need not be limited to, all of the
23 following:

24 (a) The term of the assistance.

25 (b) The maximum principal amount of the assistance.

26 (c) The maximum rate of interest or method of calculation of
27 the rate of interest that will be used, or the premium charged.

(2) The order of approval under subsection (1) shall incorporate all requirements, provisions, or information included in the application and other documents submitted to the department during the application process.

(3) THE DEPARTMENT SHALL NOT PROHIBIT A WATER SUPPLIER FROM USING ASSISTANCE FOR A PROJECT TO MEET MATCH REQUIREMENTS FOR FEDERAL LOANS OR GRANTS FOR THAT PROJECT.

(4) ~~(3)~~—After issuance of the order of approval under subsection (1), the department shall certify to the authority that the water supplier is eligible to receive assistance.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 96th Legislature are enacted into law:

(a) Senate Bill No. 1155.

(b) Senate Bill No. 1156.

(c) Senate Bill No. 1158.

(d) House Bill No. 5673.