

## NREPA SEWER AND STORMWATER GRANTS

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**House Bill 5395 as enacted**

**Public Act 164 of 2016**

**Sponsor: Rep. Joel Johnson**

**House Committee: Natural Resources**

**Senate Committee: Natural Resources**

**Complete to 4-7-17**

Analysis available at  
<http://www.legislature.mi.gov>

**BRIEF SUMMARY:** House Bill 5395 amended Section 5204e of the Natural Resources and Environmental Protection Act (NREPA) to add a new allowable use for grant money paid out of the Strategic Water Quality Initiatives Fund (SWQIF), which funds grants to municipalities for sewage collection and treatment systems and storm water or nonpoint source pollution control, among other uses. Specifically, the bill allows a municipality to use a grant received under Section 5204e to pay for *up to 50 percent of the project costs related to the planning, design, and construction of a sewage collection and treatment system to address a substantial public health risk from treatment system failure*. Construction funding under this provision could not exceed \$10 million and would be allocated from wetland mitigation bank funding authorized in Section 5204f(1) of the act.

**FISCAL IMPACT:** House Bill 5395 would have no fiscal impact on the Department of Environmental Quality. This bill would not affect departmental revenues nor have a significant effect on departmental costs. The expansion of eligibility for SWQIF assistance would not increase or decrease the amount of funding available to be awarded. Annual awards of SWQIF funding are governed by appropriations included in DEQ's annual budget. According to department testimony, about \$300.0 million of an available \$450.0 million for the SAW program has been awarded. Awards are ongoing based on annual appropriation.

This bill would also not have a direct impact on local government costs or revenues. However, it would indirectly affect local government costs by expanding the existing grant program, which would allow local governments to partially shift their respective resources away from the planning, design, and construction costs covered in HB 5395 and towards other costs. Although this shift would not change local costs or revenues, it would provide local governments with additional funding options and the increased flexibility that corresponds with the expansion of funding resources.

### **THE CONTENT OF THE BILL:**

House Bill 5395 amended Section 5204e of the Natural Resources and Environmental Protection Act (NREPA) to add a new allowable use for grant money paid out of the Strategic Water Quality Initiatives Fund (SWQIF), which funds grants to municipalities for sewage collection and treatment systems and storm water or nonpoint source pollution control, among other uses.

Specifically, the bill allows a municipality to use a grant received under Section 5204e of the Natural Resource and Environmental Protection Act to pay for *up to 50 percent of the project costs related to the planning, design, and construction of a sewage collection and treatment system to address a substantial public health risk from treatment system failure*. A

municipality must meet criteria developed by the DEQ and provide a demonstration of financial need, including an economic feasibility study with which the Department of Treasury concurs. Construction funding under this provision could not exceed \$10 million and would be allocated from wetland mitigation bank funding authorized in Section 5204f(1) of the act.

Section 5204e grants under the Strategic Water Quality Initiatives Fund previously could be used for:

- Development of an asset management program for a sewage collection and treatment system or a storm water system.
- Development of management plans for the treatment of storm water.
- Planning and design of a sewage treatment works project or stormwater treatment project, or planning and design of construction activities designed to reduce nonpoint source pollution.
- Project costs of a municipality related to the testing and demonstration of innovative wastewater and storm water technologies approved by the department.

The bill took effect June 9, 2016.

MCL 324.5204e

#### ***BACKGROUND INFORMATION AND DISCUSSION:***

According to committee testimony, in 2010, the DEQ made a recommendation to the village of Sterling (in Arenac County) that the village clean its sewer lagoon. However, the contractor hired to do the cleaning ruptured the lining, resulting in damages. After inflow and outflow calculations did not match, the village notified the DEQ of the incident and attempted to reach an agreement as to how to remedy the situation. (The contractor involved declared bankruptcy, according to testimony.)

According to testimony given by the village president in committee on March 8, 2016, without the changes made to the grant program by the bill, the village's only option would be to take out a 40-year loan to cover the cost of the project, which was originally estimated to be \$1.3 million. According to the DEQ's calculations, taking out such a loan would result in an average increase of \$713 per household per year to pay for the project. Based upon Sterling's average household income of \$34,000, the DEQ's calculation for an "affordable" project was \$377 per household.

The main concern voiced regarding the HB 5395 was whether it would upset the order in which communities had applied and/or been approved for grant dollars under the Strategic Water Quality Initiatives Fund and whether Sterling was getting preferential treatment. However, the DEQ said in committee passage of the bill would not displace communities that were already approved, or in line for, these grants.

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