

# HOUSE BILL No. 5657

February 27, 2018, Introduced by Reps. Rabhi, Sabo, Neeley, Lucido, Hammoud, Elder, LaGrand, Yanez and Sowerby and referred to the Committee on Natural Resources.

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending section 3103 (MCL 324.3103), as amended by 2005 PA 33, and by adding part 4.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

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**PART 4 PUBLIC TRUST RESOURCES**

**SEC. 401. (1) THE NATURAL RESOURCES OF THIS STATE ARE CENTRAL TO THE HEALTH, ECONOMIC WELL-BEING, AND HAPPINESS OF THE PEOPLE OF THIS STATE AND ARE HELD IN THE PUBLIC TRUST FOR THE BENEFIT OF THE PEOPLE OF THIS STATE. THE AIR, WATER, SOIL, AND OTHER NATURAL RESOURCES OF THIS STATE THAT ARE HELD IN THE PUBLIC TRUST SHALL BE PROTECTED FROM POLLUTION, IMPAIRMENT, AND DESTRUCTION FOR THE BENEFIT OF FUTURE GENERATIONS. THE OBLIGATION TO MANAGE NATURAL RESOURCES IN THE PUBLIC INTEREST SHALL NOT BE CEDED BY THIS STATE**

1 TO ANY OTHER ENTITY.

2 (2) THE WATERS OF THIS STATE, INCLUDING GROUNDWATER, ARE HELD  
3 IN THE PUBLIC TRUST BY THIS STATE. THE PUBLIC TRUST IN THE WATERS  
4 OF THIS STATE APPLIES TO BOTH THE QUANTITY AND QUALITY OF THE  
5 WATER. WITHIN 180 DAYS AFTER THE EFFECTIVE DATE OF THE AMENDATORY  
6 ACT THAT ADDED THIS SECTION, THE DEPARTMENT AND THE DEPARTMENT OF  
7 ENVIRONMENTAL QUALITY SHALL REVIEW RULES PROMULGATED UNDER THIS ACT  
8 TO ASCERTAIN WHETHER THEY SUFFICIENTLY ENSURE THE PROTECTION OF THE  
9 PUBLIC TRUST INTEREST IN THE WATERS OF THIS STATE. IF THE  
10 DEPARTMENT OR THE DEPARTMENT OF ENVIRONMENTAL QUALITY DETERMINES  
11 THAT NEW OR REVISED RULES ARE NECESSARY TO MANAGE THE WATERS OF  
12 THIS STATE IN THE PUBLIC INTEREST, THAT DEPARTMENT SHALL PROMULGATE  
13 NEW RULES OR REVISIONS TO EXISTING RULES WITHIN 1 YEAR AFTER THE  
14 EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SECTION.

15 (3) THE ATTORNEY GENERAL, ON BEHALF OF THIS STATE, OR ANY  
16 OTHER PERSON, MAY MAINTAIN AN ACTION TO REMEDY AN INJURY TO THE  
17 PUBLIC TRUST INTEREST IN THE QUANTITY OR QUALITY OF THE WATERS OF  
18 THIS STATE OR TO OTHER NATURAL RESOURCES IN THE PUBLIC TRUST. AN  
19 ACTION UNDER THIS SUBSECTION SHALL BE BROUGHT IN THE CIRCUIT COURT  
20 HAVING JURISDICTION TO ENFORCE THE PUBLIC TRUST, EITHER ALONE OR IN  
21 CONJUNCTION WITH OTHER PROVISIONS OF THIS ACT OR OTHER LEGAL  
22 REMEDIES THAT ARE APPROPRIATE. THE CIRCUIT COURT MAY APPORTION  
23 COSTS, INCLUDING ATTORNEY FEES, IF THE INTERESTS OF JUSTICE  
24 REQUIRE.

25 Sec. 3103. (1) The department shall protect and conserve the  
26 ~~water resources~~ **WATERS** of the state and shall have control of the  
27 pollution of surface or underground waters of the state and the

1 Great Lakes, which are or may be affected by waste disposal of any  
2 person. The department may make or cause to be made surveys,  
3 studies, and investigations of the uses of waters of the state,  
4 both surface and underground, and cooperate with other governments  
5 and governmental units and agencies in making the surveys, studies,  
6 and investigations. The department shall assist in an advisory  
7 capacity a flood control district that may be authorized by ~~the~~  
8 ~~legislature.~~ **LAW.** The department, in the public interest, shall  
9 appear and present evidence, reports, and other testimony during  
10 the hearings involving the creation and organization of flood  
11 control districts. The department shall advise and consult with the  
12 legislature on the obligation of the state to participate in the  
13 costs of construction and maintenance as provided for in the  
14 official plans of a flood control district or intercounty drainage  
15 district.

16 (2) The department shall enforce this part and may promulgate  
17 rules as it considers necessary to carry out its duties under this  
18 part. ~~However, notwithstanding any rule-promulgation authority that~~  
19 ~~is provided in this part, except for rules authorized under section~~  
20 ~~3112(6), the department shall not promulgate any additional rules~~  
21 ~~under this part after December 31, 2006.~~

22 (3) The department may promulgate rules and take other actions  
23 as may be necessary to comply with the federal water pollution  
24 control act, 33 USC 1251 to 1387, and to expend funds available  
25 under ~~such~~ **THAT** law for extension or improvement of the state or  
26 interstate program for prevention and control of water pollution.  
27 This part shall ~~DOES~~ not be construed as authorizing **AUTHORIZE** the

1 department to expend or to incur any obligation to expend any state  
2 funds ~~for such purpose~~ in excess of any amount that is appropriated  
3 by the legislature.

4 ~~—— (4) Notwithstanding the limitations on rule promulgation under~~  
5 ~~subsection (2), rules promulgated under this part before January 1,~~  
6 ~~2007 shall remain in effect unless rescinded.~~