

HOUSE BILL No. 5753

March 22, 2018, Introduced by Reps. Hammoud and Lower and referred to the Committee on Natural Resources.

A bill to amend 1978 PA 368, entitled "Public health code," by amending section 12752 (MCL 333.12752) and by adding sections 12802, 12808, and 12809.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 12752. **(1)** Public sanitary sewer systems are essential to
2 the health, safety, and welfare of the people of the state. ~~Septic~~
3 ~~tank disposal~~ **ONSITE WASTEWATER TREATMENT** systems are subject to
4 failure due to soil conditions or other reasons. Failure or
5 potential failure of ~~septic tank disposal~~ **ONSITE WASTEWATER**
6 **TREATMENT** systems poses a threat to the public health, safety, and
7 welfare; presents a potential for ill health, transmission of
8 disease, mortality, and economic blight; and constitutes a threat
9 to the quality of surface and subsurface waters of this state. The

1 connection to available public sanitary sewer systems at the
2 earliest, reasonable date is a matter for the protection of the
3 public health, safety, and welfare and necessary in the public
4 interest which is declared as a matter of legislative
5 determination.

6 (2) ONSITE WASTEWATER TREATMENT SYSTEMS ARE SUBJECT TO
7 REGULATION UNDER PART 128. LOCAL HEALTH DEPARTMENTS MAY IMPLEMENT
8 AND ENFORCE THIS PART AND PART 128 UNDER ANY APPLICABLE PROVISIONS
9 OF THIS ACT.

10 (3) AS USED IN THIS SECTION, "ONSITE WASTEWATER TREATMENT
11 SYSTEM" MEANS THAT TERM AS IT IS DEFINED IN SECTION 12801.

12 SEC. 12802. THE DEPARTMENT SHALL AUTHORIZE A LOCAL HEALTH
13 DEPARTMENT TO ADMINISTER THIS PART FOR CONVENTIONAL SYSTEMS IF THE
14 LOCAL HEALTH DEPARTMENT DOES ALL OF THE FOLLOWING:

15 (A) ADOPTS REGULATIONS CONSISTENT WITH THIS PART FOR THE
16 PURPOSE OF CARRYING OUT THE RESPONSIBILITIES OF THIS PART AND THE
17 STATEWIDE CODE, INCLUDING AUTHORITY TO DO ALL OF THE FOLLOWING:

18 (i) CONDUCT SITE EVALUATIONS, ISSUE CONSTRUCTION PERMITS, AND
19 PERFORM INTERIM INSPECTIONS DURING CONSTRUCTION AND FINAL
20 INSPECTIONS UPON COMPLETION OF CONSTRUCTION, IF REQUIRED.

21 (ii) ISSUE NOTICES AND PENALTIES TO PERSONS THAT VIOLATE THIS
22 PART OR ENDANGER PUBLIC HEALTH OR THE ENVIRONMENT.

23 (iii) RESPOND TO COMPLAINTS OF FAILURE OF AN ONSITE WASTEWATER
24 TREATMENT SYSTEM.

25 (iv) PROVIDE AN ADMINISTRATIVE REVIEW FOR ANY PERSON AFFECTED
26 BY AN ORDER, DECISION, OR NOTICE ISSUED BY THE LOCAL HEALTH
27 DEPARTMENT. THE RESULTS OF THE ADMINISTRATIVE REVIEW SHALL BE

1 PROVIDED TO THE DEPARTMENT, IF REQUESTED.

2 (B) MAINTAINS QUALIFIED STAFF TO ADMINISTER A CONVENTIONAL
3 ONSITE WASTEWATER TREATMENT SYSTEM PROGRAM. A STAFF MEMBER SHALL
4 MEET THE FOLLOWING MINIMUM EDUCATIONAL AND TRAINING REQUIREMENTS TO
5 WORK INDEPENDENTLY IN AN ONSITE WASTEWATER TREATMENT SYSTEM
6 PROGRAM:

7 (i) POSSESS A MINIMUM OF A 4-YEAR BACHELOR OF SCIENCE OR ARTS
8 DEGREE WITH A MAJOR IN ENVIRONMENTAL HEALTH, CHEMISTRY, BIOLOGY,
9 GEOLOGY, ENGINEERING, OR EQUIVALENT.

10 (ii) OBTAIN A MINIMUM OF 8 HOURS OF TRAINING THAT INCLUDES A
11 MINIMUM OF 4 HOURS OF FIELD TRAINING ON THE UNITED STATES
12 DEPARTMENT OF AGRICULTURE SOIL CLASSIFICATION SYSTEM FROM THE
13 DEPARTMENT OR ANOTHER ENTITY APPROVED BY THE DEPARTMENT.

14 (iii) DEMONSTRATE COMPETENCY AND UNDERSTANDING OF LOCAL
15 SANITARY REGULATIONS, CRITERIA FOR SUBSURFACE SEWAGE DISPOSAL
16 PROVIDED IN STATE LAW AND RULES, AND THE LAND DIVISION ACT, 1967 PA
17 288, MCL 560.101 TO 560.293.

18 (iv) DEMONSTRATE COMPETENCY AND UNDERSTANDING OF THE MICHIGAN
19 LOCAL PUBLIC HEALTH ACCREDITATION PROGRAM, ACCREDITATION
20 INDICATORS, AND ALL MINIMUM PROGRAM REQUIREMENTS PERTAINING TO
21 ONSITE WASTEWATER TREATMENT SYSTEMS.

22 (v) CONDUCT A MINIMUM OF 10 SUPERVISED FIELD EVALUATIONS OF
23 ONSITE WASTEWATER SYSTEM DESIGNS AND 10 SUPERVISED FINAL
24 INSPECTIONS WITH SENIOR STAFF OR A SUPERVISOR.

25 (vi) CONDUCT A MINIMUM OF 5 SOLO FIELD EVALUATIONS OF ONSITE
26 WASTEWATER SYSTEM DESIGNS AND 5 SOLO FINAL INSPECTIONS
27 DEMONSTRATING UNDERSTANDING OF THE ONSITE WASTEWATER TREATMENT

1 PROGRAM AS DETERMINED BY SENIOR STAFF OR A SUPERVISOR.

2 (vii) ATTEND AND OBSERVE A MINIMUM OF 2 COMPLETE ONSITE
3 WASTEWATER SYSTEM INSTALLATIONS FROM BEGINNING TO END.

4 (C) ADOPTS LOCAL HEALTH DEPARTMENT REGULATIONS THAT, AT A
5 MINIMUM, PROVIDE PROTECTION FOR PUBLIC HEALTH AND THE ENVIRONMENT
6 EQUIVALENT TO THIS PART AND SUBMIT ITS REGULATIONS TO THE
7 DEPARTMENT FOR REVIEW AND APPROVAL. SUBJECT TO SECTION 12815, LOCAL
8 HEALTH DEPARTMENT REGULATIONS MAY REQUIRE A GREATER LEVEL OF
9 PROTECTION TO PUBLIC HEALTH AND THE ENVIRONMENT THAN PROVIDED BY
10 THIS PART.

11 SEC. 12808. (1) THE TECHNICAL ADVISORY COMMITTEE IS CREATED IN
12 THE DEPARTMENT TO ADVISE THE DEPARTMENT REGARDING ALL OF THE
13 FOLLOWING:

14 (A) RECOMMENDED STANDARDS AND GUIDANCE FOR THE MANAGEMENT OF
15 ONSITE WASTEWATER SYSTEMS.

16 (B) NONPROPRIETARY TECHNOLOGIES AND RECOMMENDED STANDARDS AND
17 GUIDANCE FOR THEIR USE.

18 (C) TESTING AND DESIGN STANDARDS USED FOR PROPRIETARY PRODUCT
19 REGISTRATION AND RECOMMENDED STANDARDS AND GUIDANCE FOR USE OF
20 PROPRIETARY PRODUCTS.

21 (D) RECOMMENDED STANDARDS AND GUIDANCE FOR ALTERNATIVE ONSITE
22 WASTEWATER TREATMENT SYSTEMS.

23 (E) INSPECTION ELEMENTS AND REPORTING.

24 (F) INSPECTOR QUALIFICATIONS.

25 (G) DOCUMENTATION REQUIRED TO BE SUBMITTED TO THE DEPARTMENT
26 FOR QUALIFYING REGISTERED INSPECTORS.

27 (H) QUALIFICATIONS OF INDIVIDUALS OTHER THAN REGISTERED

1 INSPECTORS INVOLVED IN THE MANAGEMENT OF ONSITE WASTEWATER SYSTEMS.

2 (I) CONTINUING EDUCATION REQUIREMENTS FOR PERSONS INVOLVED IN
3 THE MANAGEMENT OF ONSITE WASTEWATER TREATMENT SYSTEMS.

4 (2) THE GOVERNOR SHALL APPOINT MEMBERS TO THE TECHNICAL
5 ADVISORY COMMITTEE WHO HAVE TECHNICAL OR SCIENTIFIC KNOWLEDGE
6 APPLICABLE TO ONSITE WASTEWATER SYSTEMS FROM AGENCIES, PROFESSIONS,
7 AND ORGANIZATIONS AS FOLLOWS:

8 (A) FOUR REGIONAL LOCAL HEALTH DEPARTMENT REPRESENTATIVES
9 RECOMMENDED BY A STATE ORGANIZATION REPRESENTING LOCAL HEALTH
10 DEPARTMENTS.

11 (B) TWO PROFESSIONAL ENGINEERS.

12 (C) TWO HYDROGEOLOGISTS.

13 (D) ONE UNIVERSITY REPRESENTATIVE.

14 (E) ONE ONSITE SYSTEM PRODUCT MANUFACTURER.

15 (F) ONE ONSITE WASTEWATER SYSTEM INSTALLER.

16 (G) ONE ONSITE WASTEWATER SYSTEM SERVICE PROVIDER.

17 (H) TWO DEPARTMENT REPRESENTATIVES.

18 (I) ONE STATE EPIDEMIOLOGIST.

19 (J) ONE INDIVIDUAL WITH KNOWLEDGE OF THE USE OF ONSITE
20 WASTEWATER TREATMENT SYSTEMS REPRESENTING USERS OF ONSITE
21 WASTEWATER SYSTEMS.

22 (3) THE MEMBERS FIRST APPOINTED TO THE TECHNICAL ADVISORY
23 COMMITTEE SHALL BE APPOINTED WITHIN 90 DAYS AFTER THE EFFECTIVE
24 DATE OF THE AMENDATORY ACT THAT ADDED THIS PART.

25 (4) MEMBERS OF THE TECHNICAL ADVISORY COMMITTEE SHALL SERVE
26 FOR TERMS OF 4 YEARS OR UNTIL A SUCCESSOR IS APPOINTED.

27 (5) IF A VACANCY OCCURS ON THE TECHNICAL ADVISORY COMMITTEE,

1 THE GOVERNOR SHALL MAKE AN APPOINTMENT FOR THE UNEXPIRED TERM IN
2 THE SAME MANNER AS THE ORIGINAL APPOINTMENT.

3 (6) THE GOVERNOR MAY REMOVE A MEMBER OF THE TECHNICAL ADVISORY
4 COMMITTEE FOR INCOMPETENCE, DERELICTION OF DUTY, MALFEASANCE,
5 MISFEASANCE, OR NONFEASANCE IN OFFICE, OR ANY OTHER GOOD CAUSE.

6 (7) THE FIRST MEETING OF THE TECHNICAL ADVISORY COMMITTEE
7 SHALL BE CALLED BY THE GOVERNOR. AT THE FIRST MEETING, THE
8 TECHNICAL ADVISORY COMMITTEE SHALL ELECT FROM AMONG ITS MEMBERS A
9 CHAIRPERSON AND OTHER OFFICERS AS IT CONSIDERS NECESSARY OR
10 APPROPRIATE. AFTER THE FIRST MEETING, THE TECHNICAL ADVISORY
11 COMMITTEE SHALL MEET AT LEAST BIMONTHLY, OR MORE FREQUENTLY AT THE
12 CALL OF THE CHAIRPERSON OR IF REQUESTED BY THE DEPARTMENT.

13 (8) A MAJORITY OF THE MEMBERS OF THE TECHNICAL ADVISORY
14 COMMITTEE CONSTITUTE A QUORUM FOR THE TRANSACTION OF BUSINESS AT A
15 MEETING OF THE TECHNICAL ADVISORY COMMITTEE. A MAJORITY OF THE
16 MEMBERS PRESENT AND SERVING ARE REQUIRED FOR OFFICIAL ACTION OF THE
17 TECHNICAL ADVISORY COMMITTEE.

18 (9) THE BUSINESS THAT THE TECHNICAL ADVISORY COMMITTEE MAY
19 PERFORM SHALL BE CONDUCTED AT A PUBLIC MEETING OF THE TECHNICAL
20 ADVISORY COMMITTEE HELD IN COMPLIANCE WITH THE OPEN MEETINGS ACT,
21 1976 PA 267, MCL 15.261 TO 15.275.

22 (10) A WRITING PREPARED, OWNED, USED, IN THE POSSESSION OF, OR
23 RETAINED BY THE TECHNICAL ADVISORY COMMITTEE IN THE PERFORMANCE OF
24 AN OFFICIAL FUNCTION IS SUBJECT TO THE FREEDOM OF INFORMATION ACT,
25 1976 PA 442, MCL 15.231 TO 15.246.

26 (11) MEMBERS OF THE TECHNICAL ADVISORY COMMITTEE SHALL SERVE
27 WITHOUT COMPENSATION. HOWEVER, MEMBERS OF THE TECHNICAL ADVISORY

1 COMMITTEE MAY BE REIMBURSED FOR THEIR ACTUAL AND NECESSARY EXPENSES
2 INCURRED IN THE PERFORMANCE OF THEIR OFFICIAL DUTIES AS MEMBERS OF
3 THE TECHNICAL ADVISORY COMMITTEE.

4 (12) THE TECHNICAL ADVISORY COMMITTEE SHALL CONSIDER THE
5 FOLLOWING IN ITS ADVICE TO THE DEPARTMENT:

6 (A) SUFFICIENT THEORY AND APPLIED RESEARCH TO DOCUMENT
7 EFFICACY OF ONSITE WASTEWATER TREATMENT SYSTEMS.

8 (B) POTENTIAL USE, LOCAL SOIL CONDITIONS, AND OTHER FACTORS
9 THAT MAY AFFECT THE OPERATION OF ONSITE WASTEWATER TREATMENT
10 SYSTEMS.

11 (C) FIELD PERFORMANCE DATA THAT CONFIRM THE PRODUCT OR
12 TECHNOLOGY FUNCTIONS WHEN INSTALLED ON SITE AS INDICATED BY
13 SUBMITTED DOCUMENTS.

14 (D) CERTIFICATION OF ONSITE WASTEWATER TREATMENT SYSTEMS BY
15 NSF INTERNATIONAL OR ANOTHER RECOGNIZED CERTIFYING AGENCY.

16 (13) THE TECHNICAL ADVISORY COMMITTEE MAY CONSULT WITH EXPERTS
17 IN THE FIELD OF MANAGEMENT OF ONSITE WASTEWATER TREATMENT SYSTEMS
18 AND OTHER PERSONS WITH KNOWLEDGE AND EXPERTISE IN THE MANAGEMENT OF
19 ONSITE WASTEWATER TREATMENT SYSTEMS, INCLUDING, BUT NOT LIMITED TO,
20 ENVIRONMENTAL ORGANIZATIONS, FINANCIAL ORGANIZATIONS, HOME
21 BUILDERS, REALTORS, LOCAL UNITS OF GOVERNMENT, AND CONSERVATION
22 DISTRICTS.

23 (14) THE DEPARTMENT SHALL PROVIDE ADMINISTRATIVE SUPPORT TO
24 THE TECHNICAL ADVISORY COMMITTEE.

25 SEC. 12809. NOT LATER THAN 3 YEARS AFTER THE EFFECTIVE DATE OF
26 THE AMENDATORY ACT THAT ADDED THIS PART, THE DEPARTMENT SHALL
27 PROMULGATE RULES THAT ESTABLISH A STATEWIDE CODE CONTAINING

1 PERFORMANCE-BASED STANDARDS FOR CONVENTIONAL AND ALTERNATIVE ONSITE
2 WASTEWATER TREATMENT SYSTEMS. PRIOR TO PROMULGATING THESE RULES,
3 THE DEPARTMENT SHALL CONSULT WITH THE TECHNICAL ADVISORY COMMITTEE.
4 THE RULES SHALL PROVIDE BASELINE PROTECTION FOR PUBLIC HEALTH AND
5 THE ENVIRONMENT, INCLUDING ALL OF THE FOLLOWING:

6 (A) MINIMUM STANDARDS AND CRITERIA FOR THE SITING, DESIGN, AND
7 INSTALLATION OF ONSITE WASTEWATER TREATMENT SYSTEMS.

8 (B) WASTEWATER EFFLUENT STANDARDS, IF APPLICABLE.

9 (C) CORRECTIVE ACTIONS NECESSARY TO PROTECT THE PUBLIC HEALTH
10 AND THE ENVIRONMENT FOR ONSITE WASTEWATER TREATMENT SYSTEMS THAT
11 FAIL TO MEET THESE STANDARDS.

12 (D) REQUIREMENTS RELATING TO THE CONSTRUCTION APPROVAL PROCESS
13 BY THE DEPARTMENT AND LOCAL HEALTH DEPARTMENTS FOR ONSITE
14 WASTEWATER TREATMENT SYSTEMS.

15 (E) REQUIREMENTS FOR THE OPERATION, INSPECTION, AND
16 MAINTENANCE OF CONVENTIONAL AND ALTERNATIVE ONSITE WASTEWATER
17 TREATMENT SYSTEMS THAT DEFINE REQUIRED ROUTINE MAINTENANCE
18 NECESSARY TO ENSURE CONTINUED PROPER PERFORMANCE OF THE SYSTEM TO
19 PROTECT PUBLIC HEALTH AND THE ENVIRONMENT.

20 (F) REQUIREMENTS FOR THE APPROVAL OF CONVENTIONAL,
21 ALTERNATIVE, AND EXPERIMENTAL WASTEWATER SYSTEM PRODUCTS,
22 COMPONENTS, OR DEVICES.

23 (G) CRITERIA FOR REQUESTING AND GRANTING APPEALS BY AN
24 AUTHORIZED LOCAL HEALTH DEPARTMENT.

25 (H) CRITERIA FOR ALLOWING THE CONTINUED USE OF APPROVED ONSITE
26 WASTEWATER TREATMENT SYSTEMS IN WHICH A CONSTRUCTION PERMIT WAS
27 ISSUED PRIOR TO THE EFFECTIVE DATE OF THE STATEWIDE CODE IF USE OF

1 AN ONSITE WASTEWATER TREATMENT SYSTEM CAN BE MANAGED IN A MANNER
2 THAT DOES ALL OF THE FOLLOWING:

3 (i) ENSURES AN EFFECTIVE LEVEL OF TREATMENT OF SANITARY SEWAGE
4 DETERMINED TO BE NECESSARY, BASED UPON RISK.

5 (ii) PROTECTS PUBLIC HEALTH AND THE ENVIRONMENT.

6 (iii) PROTECTS THE SURFACE WATERS OF THE STATE.

7 (iv) PROTECTS GROUNDWATER QUALITY.

8 (I) QUALIFICATIONS AND CONTINUING EDUCATION REQUIREMENTS FOR
9 THOSE INVOLVED IN THE MANAGEMENT OF ONSITE WASTEWATER TREATMENT
10 SYSTEMS.

11 (J) A REQUIREMENT FOR SEPTIC TANKS INSTALLED OR ALTERED AFTER
12 THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SECTION TO
13 CONTAIN A SEPTIC TANK ACCESS RISER AND SECONDARY SAFETY DEVICE.

14 Enacting section 1. This amendatory act takes effect 90 days
15 after the date it is enacted into law.

16 Enacting section 2. This amendatory act does not take effect
17 unless Senate Bill No. ____ or House Bill No. 5752 (request no.
18 00280'17) of the 99th Legislature is enacted into law.