

Act No. 324
Public Acts of 2018
Approved by the Governor
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**STATE OF MICHIGAN
99TH LEGISLATURE
REGULAR SESSION OF 2018**

Introduced by Rep. Victory

ENROLLED HOUSE BILL No. 5406

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 protect the people’s right to hunt and fish; 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,” (MCL 324.101 to 324.90106) by adding part 50.

The People of the State of Michigan enact:

PART 50 WATER ASSET MANAGEMENT COUNCIL

Sec. 5001. As used in this section:

(a) “Asset management” means an ongoing process of maintaining, upgrading, and operating physical assets cost-effectively, based on a continuous physical inventory and condition assessment and investment to achieve performance goals.

(b) “Asset management plan” means a set of procedures to manage assets through their life cycles, based on principles of life cycle costing.

(c) “Asset owner” means a person or agency that owns or operates an asset that meets either of the following requirements:

(i) Serves 1,000 or more individuals and is required by a national pollutant discharge elimination system permit to have an asset management plan.

(ii) Serves 1,000 or more individuals and is required by the safe drinking water act, 1976 PA 399, MCL 324.1001 to 324.1003, to have an asset management plan.

(d) “Department” means the department of environmental quality.

(e) “Drinking water assets” means a system, owned by an asset owner, of pipes and structures through which drinking water is obtained and distributed, including, but not limited to, wells and well structures, wellhead protection areas, groundwater protection areas, intakes and cribs, pumping stations, treatment plants, storage tanks, pipelines, and appurtenances, or a combination of these pipes and structures that are used or intended for use for the purpose of furnishing drinking water for drinking or household purposes.

(f) “Michigan infrastructure council” means the Michigan infrastructure council created in the Michigan infrastructure council act.

(g) “Performance goals” means standards of system performance that reflect asset management principles for asset preservation and sustainability, operations, capacity consistent with local needs, and identified levels of service.

(h) “Region” means the geographic jurisdiction of any of the following:

(i) A regional planning commission created pursuant to 1945 PA 281, MCL 125.11 to 125.25.

(ii) A regional economic development commission created pursuant to 1966 PA 46, MCL 125.1231 to 125.1237.

(iii) A metropolitan area council formed pursuant to the metropolitan councils act, 1989 PA 292, MCL 124.651 to 124.729.

(iv) A metropolitan planning organization established pursuant to federal law.

(v) An agency directed and funded by section 822f of article VIII of 2016 PA 268 to engage in joint decision-making practices related but not limited to community development, economic development, talent, and infrastructure opportunities.

(i) “Stormwater assets” means green or gray features, owned by an asset owner, that are located within the geographic limits of an asset service area and are designed or actively managed by an asset owner for collecting, storing, treating, conveying, or attenuating stormwater, such as catch basins, curbs, gutters, ditches and channels solely conveying stormwater, pipes, conduits, swales, bioswales, storm drains, gulches, gullies, flumes, culverts, bridges, siphons, retention, detention, or infiltration areas, floodwalls, levees, pumping stations, and other similar facilities.

(j) “Transportation asset management council” means the transportation asset management council created in section 9a of 1951 PA 51, MCL 247.659a.

(k) “Wastewater assets” means a system, owned by an asset owner, of pipes and structures, including pipes, channels, conduits, manholes, pumping stations, wastewater or wastewater treatment fixed assets, diversion and regulatory devices, outfall structures, and appurtenances, used to collect, convey, transport, treat, or otherwise handle wastewater.

Sec. 5002. (1) The water asset management council is created within the Michigan infrastructure council.

(2) Subject to subsection (3), the water asset management council consists of the following members:

(a) Nine voting members appointed by the Michigan infrastructure council as follows:

(i) One member from the department.

(ii) One member from the Michigan Municipal League.

(iii) One member from the Michigan Townships Association.

(iv) One member from the Michigan Association of Counties.

(v) One member from the Michigan Association of Drain Commissioners.

(vi) One member representing a regional drinking water, wastewater, or stormwater authority.

(vii) One member representing a water infrastructure association.

(viii) One member with drinking water, wastewater, or stormwater asset management experience.

(ix) One member representing a region.

(b) One ex officio, nonvoting member who has responsibilities related to the department of technology, management, and budget’s role as the central data storage agency under section 5008, appointed by the director of the department of technology, management, and budget.

(3) The Michigan Municipal League, Michigan Townships Association, Michigan Association of Counties, and Michigan Association of Drain Commissioners shall each submit a list of 2 nominees to the Michigan infrastructure council from which the respective appointments under subsection (2) shall be made. Names shall be submitted within 60 days after the effective date of the amendatory act that added this section. The Michigan infrastructure council shall make the appointments within 30 days after the receipt of the lists.

(4) Voting members of the water asset management council serve for terms of 3 years. However, of the initial appointments to the water asset management council, 3 shall serve for 1 year, 3 shall serve for 2 years, and 3 shall serve for 3 years. A vacancy on the water asset management council shall be filled in the same manner as the original appointment.

(5) A member of the water asset management council may be removed for incompetence, dereliction of duty, malfeasance during his or her tenure in office, or any other cause considered appropriate by the Michigan infrastructure council.

(6) At the first meeting of the water asset management council, the water asset management council shall select a chairperson from among its members.

(7) The water asset management council may appoint advisory committees whose members shall serve as needed to provide research on issues and projects as determined by the water asset management council. An advisory committee member who is not a member of the water asset management council does not have voting rights on the advisory

committee. A recommendation from the advisory committee appointed under this subsection is advisory only and is not binding.

(8) The department shall provide qualified administrative staff and qualified technical assistance to the water asset management council.

Sec. 5003. The water asset management council shall do all of the following:

(a) Advise the Michigan infrastructure council on a statewide water asset management strategy and the processes and tools needed to implement a strategy for all asset owners.

(b) Promote and oversee the implementation of the recommendations from the regional infrastructure asset management pilot program created under Executive Directive 2017-1 at a state level related to drinking water, wastewater, and stormwater infrastructure.

(c) By October 1, 2019, develop a template or templates that contain requirements for information to be included in an asset management plan submitted under section 5004. The template or templates shall allow for local asset management plan components, including, but not limited to, all of the following, but shall not require components beyond those required in an asset management plan associated with a permit:

(i) An asset inventory. This inventory may include the location, material, size, and condition of the assets in a format that allows for digital mapping. All quality control standards and protocols shall, at a minimum, be consistent with existing federal requirements and regulations and existing government accounting standards.

(ii) A level of service analysis. This analysis may include desired levels of service and performance goals of the assets to help the system achieve reliability, responsiveness, safety, capacity, environmental impacts, cost and affordability, and compliance with law. Levels of service may vary among assets under the asset owner's jurisdiction.

(iii) A risk of failure analysis. This analysis may identify the probability and criticality of failure of the most critical assets and any contingency plans.

(iv) Anticipated revenues and expenses. This component may include a description of all revenue sources and anticipated receipts for the period of the asset management plan, and expected infrastructure repair and replacement expenditures, including planned improvements or capital reconstruction.

(v) A performance outcomes analysis. This analysis may determine how the investment strategy achieves the desired levels of service and performance goals. The asset management plan may include steps necessary to ensure asset conditions meet or achieve stated goals, including a description and explanation for any gap between achievable condition and performance through the investment strategy and desired goals.

(vi) A description of any plans of the asset owner to coordinate with other entities, such as neighboring jurisdictions and utilities, to minimize duplication of effort with regard to infrastructure preservation and maintenance.

(vii) Proof of acceptance, certification, or adoption by the jurisdiction's governing body.

Sec. 5004. (1) By October 1, 2019, the water asset management council shall establish a schedule for submission of asset management plans that ensures that 1/3 of asset owners submit an asset management plan each year. The asset management plans are subject to all of the following:

(a) The asset management plans shall cover and be valid for a minimum of 3 years and shall be consistent with the template provided by the water asset management council.

(b) The asset management plans shall be reviewed by the water asset management council within 6 months of receipt. The water asset management council shall compare submitted asset management plans to the minimum components required by this act and the template provided by the water asset management council and shall determine if the asset management plans are in compliance with those standards. If the water asset management council determines that an asset management plan does not meet established standards, the water asset management council shall seek concurrence from the department. If the department concurs, the water asset management council shall notify the entity submitting the asset management plan of the deficiency in meeting the standards and shall require the entity to revise the asset management plan to meet the standards and resubmit the plan within 6 months of receiving the notice.

(c) An asset owner that is required under this part to have an approved asset management plan must implement the approved asset management plan by October 1, 2024.

(2) An asset owner may seek and use federal grants or loans to achieve the goals and manage the asset inventory described in its asset management plan.

Sec. 5005. The water asset management council shall annually submit to the Michigan infrastructure council a report on asset condition and investment that includes a summary analysis of the asset management plans received from drinking water, wastewater, and stormwater entities. The report shall also include recommendations on drinking water, wastewater, and stormwater condition goals and analysis of how the utilities are meeting those goals. The water infrastructure asset management analyses contained in the report shall be consistent with the Michigan infrastructure

council's asset management process and shall be reported consistent with categories established by the Michigan infrastructure council.

Sec. 5006. (1) State funding may be provided to asset owners to implement this part as determined by the water asset management council. Funding necessary for the department to support the activities described in this section shall be provided by an annual appropriation.

(2) Each asset owner shall annually report to the water asset management council, consistent with current accounting procedures, how its capital improvement program for assets included in any asset management plans required under section 5004 are meeting its investment goals in a form established by the water asset management council.

(3) The department and each asset owner shall keep accurate and uniform records on all work performed and funds expended for the purposes of this section, according to the procedures developed by the Michigan infrastructure council.

(4) The water asset management council shall annually prepare a report on the activities conducted during the preceding year and the expenditure of funds related to the processes and activities identified by the water asset management council. The report shall also include an overview of the activities identified for the succeeding year. The water asset management council shall submit this report to the Michigan infrastructure council and the legislature by May 2 of each year.

Sec. 5007. (1) The water asset management council shall identify training needs to develop proficiency in using a multi-asset management system for asset owners, and training to identify asset system conditions based on a statewide asset condition measure.

(2) The water asset management council shall coordinate and collaborate with the transportation asset management council on planning, reporting, and training. The water asset management council shall collaborate with the transportation asset management council created in section 9a of 1951 PA 51, MCL 247.659a, on potential coordination in the submission of asset management plans.

Sec. 5008. The department of technology, management, and budget shall serve as the central data storage agency for purposes of collecting, storing, and maintaining data under this part.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 99th Legislature are enacted into law:

- (a) House Bill No. 5335.
- (b) House Bill No. 5408.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor