

# HOUSE BILL NO. 5890

March 10, 2022, Introduced by Reps. Griffin, Cambensy, Bellino, Roth, Outman, Steenland, Garza, Haadsma, O'Malley, Sabo and Witwer and referred to the Committee on Natural Resources and Outdoor Recreation.

A bill to amend 1994 PA 451, entitled  
"Natural resources and environmental protection act,"  
by amending sections 5204d, 5301, 5302, 5303, 5306, 5307, 5308,  
5309, 5310, 5311, 5401, 5402, 5403, 5404, 5405, 5406, 5407, 5408,  
5409, 5412, 5415, 5416, and 19703a (MCL 324.5204d, 324.5301,  
324.5302, 324.5303, 324.5306, 324.5307, 324.5308, 324.5309,  
324.5310, 324.5311, 324.5401, 324.5402, 324.5403, 324.5404,  
324.5405, 324.5406, 324.5407, 324.5408, 324.5409, 324.5412,  
324.5415, 324.5416, and 324.19703a), sections 5204d and 19703a as

added by 2010 PA 232, sections 5301, 5403, and 5405 as amended by 2021 PA 45, section 5303 as amended by 2012 PA 560, sections 5401, 5404, 5407, 5408, 5409, 5412, 5415, and 5416 as added by 1997 PA 26, and sections 5402 and 5406 as amended by 2012 PA 561, and by adding sections 5307a, 5313b, 5313c, 5407a, and 5415a; and to repeal acts and parts of acts.

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

1           Sec. 5204d. The state may establish a grant program within the  
2 strategic water quality initiatives fund for the purpose of funding  
3 specific wastewater treatment facility infrastructure improvement  
4 projects designed to prevent chronic discharges and projected to  
5 have significant regional benefits to Great Lakes water quality and  
6 recreational opportunities. ~~In establishing such a program, the~~  
7 ~~state may consider the recommendations of the advisory committee~~  
8 ~~created in section 5317.~~

9           Sec. 5301. As used in this part:

10           (a) "Assistance" means 1 or more of the following activities  
11 to the extent authorized by the federal water pollution control  
12 act:

13           (i) Provision of loans to municipalities for construction of  
14 sewage treatment works projects, stormwater treatment projects, or  
15 nonpoint source projects.

16           (ii) Project refinancing assistance.

17           (iii) The guarantee or purchase of insurance for local  
18 obligations, if the guarantee or purchase action would improve  
19 credit market access or reduce interest rates.

20           (iv) Use of the proceeds of the fund as a source of revenue or  
21 security for the payment of principal and interest on revenue or  
22 general obligation bonds issued by this state, if the proceeds of

1 the sale of the bonds will be deposited into the fund.

2 (v) Provision of loan guarantees for similar revolving funds  
3 established by municipalities.

4 (vi) The use of deposited funds to earn interest on fund  
5 accounts.

6 (vii) Provision for reasonable costs of administering and  
7 conducting activities under title VI of the federal water pollution  
8 control act, 33 USC 1381 to ~~1388-1389~~.

9 (b) "Authority" means the Michigan municipal bond authority  
10 created in the shared credit rating act, 1985 PA 227, MCL 141.1051  
11 to 141.1076.

12 (c) "Capitalization grant" means the federal grant made to  
13 this state by the United States Environmental Protection Agency for  
14 the purpose of establishing a state water pollution control  
15 revolving fund, as provided in title VI of the federal water  
16 pollution control act, 33 USC 1381 to ~~1388-1389~~.

17 (d) "Construction activities" means ~~any actions~~ **an action**  
18 ~~undertaken in the planning, designing, to plan, design, or building~~  
19 ~~of build~~ sewage treatment works projects, stormwater treatment  
20 projects, or nonpoint source projects. Construction activities  
21 include, but are not limited to, all of the following:

22 (i) Project planning services.

23 (ii) Engineering services.

24 (iii) Legal services.

25 (iv) Financial services.

26 (v) Design of plans and specifications.

27 (vi) Acquisition of land or structural components, or both.

28 (vii) Building, erection, alteration, remodeling, or extension  
29 of ~~a~~ **any of the following:**

1 (A) A sewage treatment works.

2 ~~(viii) Building, erection, alteration, remodeling, or extension~~  
3 ~~of projects~~

4 (B) **Projects** designed to control nonpoint source pollution,  
5 consistent with section 319 of title III of the federal water  
6 pollution control act, 33 USC 1329.

7 ~~(ix) Building, erection, alteration, or remodeling of a~~

8 (C) A stormwater treatment project.

9 (viii) ~~(x) Municipal~~ **Reasonable expenses of** supervision of the  
10 project activities described in subparagraphs (i) to ~~(ix)~~ (vii) .

11 ~~(e) "Disadvantaged community" means a municipality in which~~  
12 ~~all of the following conditions are met:~~

13 ~~(i) Users within the area served by a proposed sewage treatment~~  
14 ~~works project or stormwater treatment project are directly assessed~~  
15 ~~for the costs of construction.~~

16 ~~(ii) The median household income of the area served by a~~  
17 ~~proposed sewage treatment works project or stormwater treatment~~  
18 ~~project does not exceed 120% of the statewide median annual~~  
19 ~~household income for this state.~~

20 ~~(iii) The municipality demonstrates at least 1 of the following:~~

21 ~~(A) More than 50% of the area served by a proposed sewage~~  
22 ~~treatment works project or stormwater treatment project is~~  
23 ~~identified as a poverty area by the United States Census Bureau.~~

24 ~~(B) The median annual household income of the area served by a~~  
25 ~~proposed sewage treatment works project or stormwater treatment~~  
26 ~~project is less than the federal poverty guidelines for a family of~~  
27 ~~4 in the 48 contiguous United States. In determining the median~~  
28 ~~annual household income of the area served by the proposed sewage~~  
29 ~~treatment works project or stormwater treatment project under this~~

1 ~~sub-subparagraph, the municipality shall utilize the most recently~~  
2 ~~published statistics from the United States Census Bureau, updated~~  
3 ~~to reflect current dollars, for the community that most closely~~  
4 ~~approximates the area being served by the project. As used in this~~  
5 ~~sub-subparagraph, "federal poverty guidelines" means the poverty~~  
6 ~~guidelines published annually in the Federal Register by the United~~  
7 ~~States Department of Health and Human Services under its authority~~  
8 ~~to revise the poverty line under 42 USC 9902.~~

9 ~~(C) The median annual household income of the area served by a~~  
10 ~~proposed sewage treatment works project or stormwater treatment~~  
11 ~~project is less than the most recently published statewide median~~  
12 ~~annual household income for this state, and annual user costs for~~  
13 ~~sewage treatment or stormwater treatment exceed 1% of the median~~  
14 ~~annual household income of the area served by the proposed sewage~~  
15 ~~treatment works project or stormwater treatment project.~~

16 ~~(D) The median annual household income of the area served by a~~  
17 ~~proposed sewage treatment works project or stormwater treatment~~  
18 ~~project is not greater than 120% of the statewide median annual~~  
19 ~~household income for this state, and annual user costs for sewage~~  
20 ~~treatment or stormwater treatment exceed 3% of the median annual~~  
21 ~~household income of the area served by the proposed project.~~

22 ~~(e) (f) "Federal water pollution control act" means 33 USC~~  
23 ~~1251 to 1388.1389.~~

24 ~~(f) (g) "Fund" means the state water pollution control~~  
25 ~~revolving fund established under section 16a of the shared credit~~  
26 ~~rating act, 1985 PA 227, MCL 141.1066a. , established under title~~  
27 ~~VI of the federal water pollution control act, 33 USC 1381 to 1388.~~

28 ~~(g) (h) "Fundable range" means those projects, taken in~~  
29 ~~descending order on the priority lists, for which sufficient funds~~

1 are estimated by the department to exist to provide assistance at  
2 the beginning of each annual funding cycle.

3 **(h) ~~(i)~~**—"Municipality" means a city, village, county,  
4 township, authority, or other public body, including ~~an~~**either of**  
5 **the following:**

6 **(i) An** intermunicipal agency of 2 or more municipalities,  
7 authorized or created under state law. ~~;~~~~or~~~~an~~

8 **(ii) An** Indian tribe that has jurisdiction over construction  
9 and operation of sewage treatment works or other projects  
10 qualifying under section 319 of the federal water pollution control  
11 act, 33 USC 1329.

12 **(i) ~~(j)~~**—"Nonpoint source project" means construction  
13 activities designed to reduce nonpoint source pollution consistent  
14 with the state nonpoint source management plan under section 319 of  
15 the federal water pollution control act, 33 USC 1329.

16 **(j) "Overburdened community" means a municipality in which all**  
17 **of the following conditions are met:**

18 **(i) Users within the area served by a proposed sewage treatment**  
19 **works project or stormwater treatment project are directly assessed**  
20 **for the costs of construction.**

21 **(ii) The median household income of the area served by a**  
22 **proposed sewage treatment works project or stormwater treatment**  
23 **project does not exceed 100% of the statewide median annual**  
24 **household income for this state.**

25 **(iii) The municipality demonstrates at least 1 of the following:**

26 **(A) The median annual household income of the area served by a**  
27 **proposed sewage treatment works project or stormwater treatment**  
28 **project is less than the federal poverty guidelines for a family of**  
29 **4 in the 48 contiguous United States. In determining the median**

1 annual household income of the area served by the proposed sewage  
2 treatment works project or stormwater treatment project under this  
3 sub-subparagraph, the municipality shall utilize the most recently  
4 published statistics from the United States Census Bureau, updated  
5 to reflect current dollars, for the community that most closely  
6 approximates the area being served by the project. As used in this  
7 sub-subparagraph, "federal poverty guidelines" means the poverty  
8 guidelines published annually in the Federal Register by the United  
9 States Department of Health and Human Services under its authority  
10 to revise the poverty line under 42 USC 9902.

11 (B) The median annual household income of the area served by a  
12 proposed sewage treatment works project or stormwater treatment  
13 project is less than the most recently published statewide median  
14 annual household income for this state, and annual user costs for  
15 sewage treatment or stormwater treatment exceed 1% of the median  
16 annual household income of the area served by the proposed sewage  
17 treatment works project or stormwater treatment project.

18 (C) The median annual household income of the area served by a  
19 proposed sewage treatment works project or stormwater treatment  
20 project is not greater than 90% of the statewide median annual  
21 household income for this state, and annual user costs for sewage  
22 treatment or stormwater treatment exceed 2% of the household income  
23 cutoff for the lowest quintile of the area served by the proposed  
24 project.

25 (k) "Priority list" means the annual ranked listing of  
26 projects developed by the department in section 5303.

27 (l) "Project" means a sewage treatment works project, a  
28 stormwater treatment project, or a ~~a~~ nonpoint source project, or a  
29 combination of these and may include utilization of more efficient

1 energy and resources as described in any of the following:

2 (i) The cost-effective governmental energy use act, 2012 PA  
3 625, MCL 18.1711 to 18.1725.

4 (ii) Section 11c of 1851 PA 156, MCL 46.11c.

5 (iii) Section 75b of 1846 RS 16, MCL 41.75b.

6 (iv) Section 5f of the home rule city act, 1909 PA 279, MCL  
7 117.5f.

8 (v) Section 24b of the home rule village act, 1909 PA 278, MCL  
9 78.24b.

10 (vi) Section 36 of the general law village act, 1895 PA 3, MCL  
11 68.36.

12 (m) "Project refinancing assistance" means buying or  
13 refinancing the debt obligations of municipalities within this  
14 state if construction activities commenced after March 7, 1985 and  
15 the debt obligation was incurred after March 7, 1985.

16 (n) "Sewage treatment works project" means construction  
17 activities on any device or system for the treatment, storage,  
18 collection, conveyance, recycling, or reclamation of the sewage of  
19 a municipality, including combined sewer overflow correction and  
20 major rehabilitation of sewers.

21 (o) "Significantly overburdened community" means a  
22 municipality in which all of the following conditions are met:

23 (i) Users within the area served by a proposed sewage treatment  
24 works project or stormwater treatment project are directly assessed  
25 for the costs of construction.

26 (ii) The median household income of the area served by a  
27 proposed sewage treatment works project or stormwater treatment  
28 project does not exceed 100% of the statewide median annual  
29 household income for this state.

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

2 (A) The median annual household income of the area served by a  
3 proposed sewage treatment works project or stormwater treatment  
4 project is less than the federal poverty guidelines for a family of  
5 4 in the 48 contiguous United States. In determining the median  
6 annual household income of the area served by the proposed sewage  
7 treatment works project or stormwater treatment project under this  
8 sub-subparagraph, the municipality shall utilize the most recently  
9 published statistics from the United States Census Bureau, updated  
10 to reflect current dollars, for the community that most closely  
11 approximates the area being served by the project. As used in this  
12 sub-subparagraph, "federal poverty guidelines" means the poverty  
13 guidelines published annually in the Federal Register by the United  
14 States Department of Health and Human Services under its authority  
15 to revise the poverty line under 42 USC 9902.

16 (B) The median annual household income of the area served by a  
17 proposed sewage treatment works project or stormwater treatment  
18 project is less than the most recently published statewide median  
19 annual household income for this state, and annual user costs for  
20 sewage treatment or stormwater treatment exceed 2% of the median  
21 annual household income of the area served by the proposed sewage  
22 treatment works project or stormwater treatment project.

23 (C) The median annual household income of the area served by a  
24 proposed sewage treatment works project or stormwater treatment  
25 project is not greater than 90% of the statewide median annual  
26 household income for this state, and annual user costs for sewage  
27 treatment or stormwater treatment exceed 4% of the household income  
28 cutoff for the lowest quintile of the area served by the proposed  
29 project.

1           **(p)** ~~(e)~~ "Stormwater treatment project" means construction  
 2 activities of a municipality on any device or system for the  
 3 treatment, storage, recycling, or reclamation of storm water that  
 4 is conveyed by a storm sewer that is separate from a sanitary  
 5 sewer.

6           ~~(p) "Tier I project" means a project for which assistance is~~  
 7 ~~sought or provided from funds made directly available from the~~  
 8 ~~federal capitalization grant or from the Great Lakes water quality~~  
 9 ~~bond fund under section 19708(1) (a).~~

10           ~~(q) "Tier II project" means a project for which assistance is~~  
 11 ~~sought or provided from funds other than those made directly~~  
 12 ~~available from the federal capitalization grant or from the Great~~  
 13 ~~Lakes water quality bond fund under section 19708(1) (a).~~

14           Sec. 5302. (1) This part ~~shall~~**must** be construed liberally to  
 15 effectuate the legislative intent. All powers granted under this  
 16 part ~~shall~~**must** be broadly interpreted to effectuate the intent and  
 17 purposes of this part and ~~shall~~**must** not be interpreted as a  
 18 limitation of powers.

19           (2) Except as may be authorized by the federal water pollution  
 20 control act, the fund ~~shall~~**must** not provide grant assistance to a  
 21 municipality or provide loans for the local share of projects  
 22 constructed with grants provided under title II of the federal  
 23 water pollution control act, ~~chapter 758, 86 Stat. 833, 33 U.S.C.~~  
 24 **USC 1281, 1282 to 1293, and 1294 to 1299.1302f.**

25           (3) This state is not liable to a municipality, or any other  
 26 person performing services for the municipality, for costs incurred  
 27 in developing or submitting an application for assistance under  
 28 this part.

29           ~~(4) It is the specific intent of the legislature to minimize~~

1 ~~paperwork for tier II projects.~~

2       Sec. 5303. (1) ~~Municipalities~~ **During the development of a**  
 3 **planning document, a municipality** shall consider and utilize, where  
 4 possible, cooperative regional or intermunicipal projects in  
 5 satisfying sewerage needs. ~~in the development of project plans.~~ **A**  
 6 **municipality shall consider and utilize a cost comparison between**  
 7 **consolidation, if feasible, considered over a 20-year planning**  
 8 **period. The cost comparison must include consideration of ancillary**  
 9 **factors such as certified operator availability, impacts on**  
 10 **receiving water, consistency with facility plans, energy costs and**  
 11 **availability, long-term compliance with regulations, and**  
 12 **resiliency.**

13       (2) A municipality may submit a ~~project plan~~ **planning document**  
 14 for use by the department in developing a priority list. **A**  
 15 **municipality may submit as part of the planning document for a**  
 16 **project either of the following:**

17       (a) **Any preexisting documents or plans that were prepared for**  
 18 **another project for other purposes.**

19       (b) **Any preexisting documents that were developed under**  
 20 **another local, state, or federal program, as applicable.**

21       (3) ~~The project plan for a tier I project shall~~ **A planning**  
 22 **document must** include documentation that demonstrates ~~that the~~ **all**  
 23 **of the following:**

24       (a) **The project is needed to** ~~assure~~ **enable** maintenance of, or  
 25 to progress toward, compliance with the federal water pollution  
 26 control act, ~~or part 31,~~ **or part 41,** and to meet the minimum  
 27 requirements of the national environmental policy act of 1969,  
 28 Public Law 91-190, 42 USC 4321, 4331 to 4335, and 4341 to 4347. ~~The~~  
 29 ~~documentation shall demonstrate all of the following:~~

1           (b) An analysis of alternatives that meet the requirements of  
2 parts 31 or 41, including the cost of each alternative and a  
3 resolution adopted by the municipality to implement a selected  
4 alternative.

5           (c) A description of project costs and how the project will be  
6 paid for including, but not limited to, an explanation of how the  
7 debt will be repaid.

8           (d) A list of the environmental implications and mitigation  
9 plans.

10          (e) ~~(a)~~ The need for the project.

11          (f) ~~(b)~~ That feasible alternatives to the project were  
12 evaluated, ~~taking into consideration~~ **considering** volume reduction  
13 opportunities and the demographic, topographic, hydrologic, and  
14 institutional characteristics of the area.

15          (g) ~~(c)~~ That the project is ~~cost effective and~~ implementable  
16 from a legal, institutional, financial, and management standpoint.

17          (h) ~~(d)~~ ~~Other~~ **Any other** information ~~as~~ required by the  
18 department.

19          ~~(4) The project plan for a tier II project shall include~~  
20 ~~documentation that demonstrates that the project is or was needed~~  
21 ~~to assure maintenance of or progress towards compliance with the~~  
22 ~~federal water pollution control act or part 31, and is consistent~~  
23 ~~with all applicable state environmental laws. The documentation~~  
24 ~~shall include all of the following information:~~

25           ~~(a) Information to demonstrate the need for the project.~~

26           ~~(b) A showing that the cost of the project is or was~~  
27 ~~justified, taking into account available alternatives. Those costs~~  
28 ~~determined by the department to be in excess of those costs~~  
29 ~~justified are not eligible for assistance under this part.~~

1           (4) A planning document must describe the public participation  
2 activities conducted during planning and must include all of the  
3 following:

4           (a) Significant issues raised by the public and any changes to  
5 the project that were made as a result of the public participation  
6 process.

7           (b) A demonstration that there were adequate opportunities for  
8 making public consultation, participation, and input in the  
9 decision-making process during alternatives selection.

10           (c) A demonstration that before the adoption of the planning  
11 document, the municipality held a public meeting on the proposed  
12 project not less than 15 days after advertising the public meeting  
13 in local media of general circulation including, but not limited  
14 to, the municipality's website, and at a time and place conducive  
15 to maximizing public input.

16           (d) A demonstration that, concurrent with advertisement of the  
17 public meeting, a notice of the public meeting was sent to all  
18 affected local, state, and federal agencies and to any public or  
19 private parties that expressed an interest in the proposed project.

20           (e) A summary of the public meeting including a list of all  
21 attendees, and any specific concerns that were raised.

22           (5) After notice and an opportunity for public comment, the  
23 department shall annually develop separate priority lists for  
24 sewage treatment works projects and stormwater treatment projects,  
25 ~~for~~ nonpoint source projects, and ~~for~~ projects funded under the  
26 strategic water quality initiatives fund created in section 5204.  
27 Projects not funded during the time that a priority list developed  
28 under this section is in effect ~~shall~~**must** be automatically  
29 prioritized on the next annual list using the same criteria, unless

1 the municipality submits an amendment to its ~~plan~~**planning document**  
 2 that introduces new information to be used as the basis for  
 3 prioritization. ~~These~~**The** priority lists ~~shall~~**must** be based upon  
 4 project plans submitted by municipalities, and the following  
 5 eriteria:

6 ~~(a) That a project complies with all applicable standards in~~  
 7 ~~part 31 and the federal water pollution control act.~~

8 ~~(b) An application for a segment of a project that received~~  
 9 ~~funds under the title II construction grant program or title VI~~  
 10 ~~state revolving loan funds of the federal water pollution control~~  
 11 ~~act or the strategic water quality initiatives fund created in~~  
 12 ~~section 5204 shall be first priority on its respective priority~~  
 13 ~~list for funding for a period of not more than 3 years after funds~~  
 14 ~~were first committed under those programs.~~

15 ~~(c) If the project is a sewage treatment works project or a~~  
 16 ~~stormwater treatment project, all of the following criteria:~~

17 ~~(i) The severity of the water pollution problem to be~~  
 18 ~~addressed, maximizing progress towards restoring beneficial uses~~  
 19 ~~and meeting water quality standards.~~

20 ~~(ii) A determination of whether a project is or was necessary~~  
 21 ~~to comply with an order, permit, or other document with an~~  
 22 ~~enforceable schedule for addressing a municipality's sewage-related~~  
 23 ~~water pollution problems that was issued by the department or~~  
 24 ~~entered as part of an action brought by the state against the~~  
 25 ~~municipality or any component of the municipality. A municipality~~  
 26 ~~may voluntarily agree to an order, permit, or other document with~~  
 27 ~~an enforceable schedule as described in this subparagraph.~~

28 ~~(iii) The population to be served by the project. However, the~~  
 29 ~~criterion provided in this subparagraph shall not be applied to~~

1 ~~projects funded by the strategic water quality initiatives fund~~  
 2 ~~created in section 5204.~~

3 ~~(iv) The dilution ratio existing between the discharge volume~~  
 4 ~~and the receiving stream.~~

5 ~~(v) If the project is within a disadvantaged community, a~~  
 6 ~~maximum of 50 points shall be awarded to the project in the manner~~  
 7 ~~that points are awarded in rules promulgated under this part.~~

8 ~~(d) If the project is a sewage treatment works project, 100~~  
 9 ~~priority points shall be awarded pursuant to R 323.958 of the~~  
 10 ~~Michigan administrative code for each of the following that apply~~  
 11 ~~to the project:~~

12 ~~(i) The project addresses on-site septic systems that are~~  
 13 ~~adversely affecting the water quality of a water body or represent~~  
 14 ~~a threat to public health, provided that soil and hydrologic~~  
 15 ~~conditions are not suitable for the replacement of those on-site~~  
 16 ~~septic systems.~~

17 ~~(ii) The project includes the construction of facilities for~~  
 18 ~~the acceptance or treatment of septage collected from on-site~~  
 19 ~~septic systems.~~

20 ~~(e) Rankings for nonpoint source projects shall be consistent~~  
 21 ~~with the state nonpoint source management plan developed pursuant~~  
 22 ~~to section 319 of title III of the federal water pollution control~~  
 23 ~~act, chapter 758, 101 Stat. 52, 33 USC 1329.~~

24 ~~(f) Any other criteria established by the department by~~  
 25 ~~rule on the planning documents and the scoring criteria developed~~  
 26 ~~under subsection (6).~~

27 **(6) The department shall publish and allow for public comment**  
 28 **on scoring criteria that assign points to and prioritize projects**  
 29 **under this section. The department shall review the scoring**

1 criteria at least once every 3 years and publish and allow for  
 2 public comment on any changes made to the scoring criteria. The  
 3 scoring criteria developed under this subsection must address the  
 4 following:

- 5 (a) Wastewater regulatory compliance.
- 6 (b) Achieving water quality standards.
- 7 (c) Improving infrastructure.
- 8 (d) Impacts on overburdened communities and significantly  
 9 overburdened communities.

10 (7) If a municipality is an overburdened community or a  
 11 significantly overburdened community, the department shall  
 12 automatically award the municipality at least 20% of the total  
 13 allowable points.

14 (8) ~~(6)~~ The priority list shall ~~shall~~ **must** be submitted annually to  
 15 the chair of the senate and house of representatives standing  
 16 committees that primarily consider legislation pertaining to the  
 17 protection of natural resources and the environment.

18 (9) ~~(7)~~ For purposes of providing assistance, the priority  
 19 list shall ~~take~~ **takes** effect on the first day of each fiscal year.

20 (10) ~~(8)~~ This section does not limit other actions undertaken  
 21 to enforce part 31, **part 41**, the federal water pollution control  
 22 act, or any other act.

23 ~~(9) As used in this section, "on-site septic system" means~~  
 24 ~~that term as defined in section 5201.~~

25 Sec. 5306. (1) The department shall prepare and submit an  
 26 intended use plan annually to identify proposed annual intended  
 27 uses of the fund, and to facilitate the negotiation process that  
 28 the department may conduct with the United States ~~environmental~~  
 29 ~~protection agency~~ **Environmental Protection Agency** for the

1 capitalization grant agreement and schedule of payments to be made  
2 to this state under the federal water pollution control act.

3 (2) The department ~~shall provide~~ **must allow** for a public  
4 participation process that requires not less than 1 public hearing  
5 for the intended use plan. The department may make changes in the  
6 intended use plan without holding additional hearings in response  
7 to the comments received from the United States environmental  
8 protection agency and through the public participation process.

9 ~~(3) The intended use plan shall include all of the following:~~

10 ~~(a) A copy of the state's priority lists.~~

11 ~~(b) A description of the long- and short-term goals of the~~  
12 ~~fund.~~

13 ~~(c) The proposed fundable range and an allocation of the funds~~  
14 ~~available for projects on the nonpoint source priority list and for~~  
15 ~~the sewage treatment works projects and stormwater treatment~~  
16 ~~projects priority list.~~

17 ~~(d) A description of the projects that are on the priority~~  
18 ~~lists, including project categories and types, applicable discharge~~  
19 ~~or enforceable requirements, proposed terms of the assistance,~~  
20 ~~including a schedule of estimated disbursements of funds, and the~~  
21 ~~names of the municipalities proposed to receive assistance.~~

22 ~~(e) Any necessary assurances or proposals indicating how the~~  
23 ~~state intends to meet applicable federal requirements.~~

24 ~~(f) A description of the criteria and method for distribution~~  
25 ~~of the fund.~~

26 ~~(g) A description of the public participation process followed~~  
27 ~~in the development of the intended use plan and the results of that~~  
28 ~~process.~~

29 ~~(h) Any other information needed to comply with the federal~~

1 ~~water pollution control act.~~

2 ~~(i) Any other information considered appropriate by the~~  
 3 ~~department.~~ **by publishing a draft of the intended use plan on the**  
 4 **department's website at least 14 days before a final intended use**  
 5 **plan is submitted under subsection (1).**

6 **(3)** ~~(4)~~ Upon notice from the United States ~~environmental~~  
 7 ~~protection agency~~ **Environmental Protection Agency** that the intended  
 8 use plan is approved, the department shall notify each municipality  
 9 of its inclusion on the intended use plan and shall ~~further~~ provide  
 10 copies of the sewage treatment works projects and stormwater  
 11 treatment projects priority list, the nonpoint source project  
 12 priority list, and the intended use plan to ~~all persons requesting~~  
 13 ~~such~~ **any person that requests that** information. Following  
 14 notification **under this subsection**, the department shall establish,  
 15 with the concurrence of the municipality, a schedule for ~~project~~  
 16 ~~plan~~ **planning document** approval, submittal of a ~~complete~~ **completed**  
 17 application for assistance, and approval of plans and  
 18 specifications.

19 Sec. 5307. (1) The department shall review, generally in  
 20 priority order, ~~the project plans~~ **any planning documents** for  
 21 projects in the fundable range and either approve or disapprove ~~the~~  
 22 ~~plans~~ **a planning document** within 120 days ~~of~~ **after** notifying the  
 23 ~~municipalities~~ **municipality** of their ~~its~~ inclusion in the intended  
 24 use plan **submitted under section 5306**. Upon determination by the  
 25 department that a project is complex and warrants additional  
 26 review, the department shall notify the municipality and may extend  
 27 the review period **described in this subsection** for not more than 60  
 28 days.

29 (2) If ~~the project plan~~ **a planning document** is disapproved,

1 the department shall notify the municipality of any deficiencies  
 2 that need to be corrected. **The municipality shall correct any**  
 3 **deficiencies and submit an amended planning document to the**  
 4 **department within 45 days after receiving notice under this**  
 5 **subsection.**

6 (3) The department shall review subsequent submittals and  
 7 either approve or disapprove ~~the~~**an amended project plan** ~~planning~~  
 8 **document** within ~~120~~**90** days ~~of these submittals.~~**after the amended**  
 9 **planning document is submitted.**

10 (4) If ~~the project plan~~**an amended planning document** is not  
 11 approved, the department shall notify the municipality of the  
 12 deficiencies.

13 **Sec. 5307a. (1) The department shall conduct an environmental**  
 14 **review of the planning document for each project in the fundable**  
 15 **range of the priority list to determine whether any significant**  
 16 **impacts are anticipated and whether any changes can be made in the**  
 17 **project to eliminate significant adverse impacts. As part of the**  
 18 **environmental review, the department may require a municipality to**  
 19 **submit additional information or meet additional public**  
 20 **participation and coordination requirements to justify the**  
 21 **environmental determination.**

22 (2) Based on the environmental review completed under  
 23 subsection (1), the department may determine that an environmental  
 24 assessment is necessary and the department may describe any of the  
 25 following in its determination:

26 (a) The purpose and need for the project.

27 (b) The project costs.

28 (c) The alternatives considered and the reasons for their  
 29 acceptance or rejection.

1 (d) The existing environment.

2 (e) Any potential adverse impacts and mitigative measures.

3 (f) How mitigative measures will be incorporated into the  
4 project, as well as any proposed conditions of financial assistance  
5 and the means for monitoring compliance with the conditions.

6 (3) Based on an environmental assessment completed under  
7 subsection (2), the department may issue a finding of no  
8 significant impact. The finding of no significant impact must  
9 document that the potential environmental impacts will not be  
10 significant or that the environmental impacts may be mitigated  
11 without extraordinary measures.

12 (4) Based on an environmental assessment completed under  
13 subsection (2), the department may require a municipality to  
14 complete an environmental impact statement if the department  
15 determines any of the following:

16 (a) The project will have significant adverse impacts on any  
17 of the following:

18 (i) Wetlands.

19 (ii) Flood plains.

20 (iii) Threatened or endangered species or habitats.

21 (iv) Cultural resources, including any of the following:

22 (A) Park lands.

23 (B) Preserves.

24 (C) Other public lands.

25 (D) Areas of recognized scenic, recreational, agricultural,  
26 archeological, or historical value.

27 (b) The project will cause significant displacement of  
28 population.

29 (c) The project will directly or indirectly, such as through

1 induced development, have a significant adverse effect upon any of  
2 the following:

- 3 (i) Local ambient air quality.
- 4 (ii) Local noise levels.
- 5 (iii) Surface water and groundwater quantity or quality.
- 6 (iv) Shellfish.
- 7 (v) Fish.
- 8 (vi) Wildlife.
- 9 (vii) Wildlife natural habitats.

10 (d) The project will generate significant public controversy.

11 (5) Based on the environmental impact statement, the  
12 department shall issue a record of decision summarizing the  
13 findings of the environmental impact statement that identifies the  
14 conditions under which the project can proceed and maintain  
15 compliance with the national environmental policy act of 1969,  
16 Public Law 91-190, 42 USC 4321, 4331 to 4335, and 4341 to 4347.

17 (6) If 5 or more years have elapsed since a determination of  
18 compliance with the national environmental policy act of 1969,  
19 Public Law 91-190, 42 USC 4321, 4331 to 4335, and 4341 to 4347, or  
20 if significant changes in the project have occurred, the department  
21 shall reevaluate the project for compliance with the national  
22 environmental policy act of 1969, Public Law 91-190, 42 USC 4321,  
23 4331 to 4335, and 4341 to 4347, and the department may do any of  
24 the following:

25 (a) Reaffirm the original finding of no significant impact or  
26 the record of decision through the issuance of a public notice or  
27 statement of finding.

28 (b) Issue an amendment to a finding of no significant impact  
29 or revoke a finding of no significant impact and issue a public

1 notice that the preparation of an environmental impact statement is  
2 required.

3 (c) Issue a supplement to a record of decision or revoke a  
4 record of decision and issue a public notice that financial  
5 assistance will not be provided.

6 (7) Action regarding approval of a planning document or  
7 provision of financial assistance must not be taken during a 30-day  
8 public comment period after the issuance of a finding of no  
9 significant impact or record of decision.

10 Sec. 5308. (1) To apply for assistance from the fund, a  
11 municipality shall submit the following, if applicable, as  
12 determined by the department:

13 (a) If assistance is in the form of a loan, financial  
14 documentation that a dedicated source of revenue is established,  
15 consistent with municipal bond obligations existing at the time  
16 assistance is requested, and pledged to both of the following  
17 purposes:

18 (i) If assistance is in the form of a loan, the timely  
19 repayment of the loan.

20 (ii) Adequate revenues from a user-based source to fund the  
21 operation and maintenance of the project.

22 (b) A ~~project plan~~ **planning document** approved under section  
23 5307.

24 (c) A certification by an authorized representative of a  
25 municipality affirming that the municipality has the legal,  
26 managerial, institutional, and financial capability to build,  
27 operate, and maintain the project.

28 (d) A letter of credit, insurance, or other credit enhancement  
29 to support the credit position of the municipality, as required by

1 the department.

2 (e) A set of plans and specifications suitable for bidding.

3 (f) A certification from an authorized representative of the  
4 municipality that the applicant has, or will have ~~prior to~~**before**  
5 the start of construction, all applicable state and federal permits  
6 required for construction of the project.

7 (g) A certified resolution from the municipality designating  
8 an authorized representative for the project.

9 (h) A certification from an authorized representative of the  
10 municipality that an undisclosed fact or event, or pending  
11 litigation, will not materially or adversely affect the project,  
12 the prospects for ~~its~~**the project's** completion, or the  
13 municipality's ability to make timely loan repayments, if  
14 applicable.

15 (i) ~~If applicable, all~~**All** executed intermunicipal service  
16 agreements, **if applicable**.

17 (j) An agreement that the municipality will operate the  
18 project in compliance with applicable state and federal laws.

19 (k) An agreement that the municipality will not sell, lease,  
20 abandon, or otherwise dispose of the project without an effective  
21 assignment of obligations and the ~~prior~~ written approval of the  
22 department and the authority.

23 (l) An agreement that all municipal project accounts will be  
24 maintained in accordance with generally accepted government  
25 accounting standards as defined and required under the federal  
26 water pollution control act.

27 (m) An agreement that the municipality will provide written  
28 authorizations to the department for the purpose of examining the  
29 physical plant and for examining, reviewing, or auditing the

1 operational or financial records of the project, and that the  
 2 municipality will require similar authorizations from all  
 3 contractors, consultants, or agents with which it negotiates an  
 4 agreement.

5 (n) An agreement that all municipal contracts with contractors  
 6 will provide that the contractor and any subcontractor may be  
 7 subject to a financial audit and that contractors and  
 8 subcontractors shall comply with generally accepted governmental  
 9 accounting standards.

10 (o) An agreement that all pertinent records ~~shall~~**must** be  
 11 retained and available to the department for a minimum of 3 years  
 12 after initiation of the operation and that if litigation, a claim,  
 13 an appeal, or an audit is begun before the end of the 3-year  
 14 period, records ~~shall~~**must** be retained and available until the 3  
 15 years have passed or until the action is completed and resolved,  
 16 whichever is longer. As used in this subdivision, "initiation of  
 17 the operation" means the date certain set by the municipality and  
 18 accepted by the department, on which use of the project begins for  
 19 the purposes for which it was constructed.

20 (p) If the project is segmented as provided in section 5309, a  
 21 schedule for completion of the project and adequate assurance that  
 22 the project ~~shall~~**will** be completed with or without assistance from  
 23 the fund or that the segmented project ~~shall~~**will** be operational  
 24 without completion of the entire project.

25 (q) An agreement that the project ~~shall~~**will** proceed in a  
 26 timely fashion if the application for assistance is approved.

27 (r) An application fee, if required by the department.

28 (2) The requirement ~~of~~**under** subsection (1)(a) for a dedicated  
 29 source of revenue may include a revenue source pledged to repay the

1 debt to the fund from sources including, but not limited to, 1 or  
2 more of the following:

- 3 (a) Ad valorem taxes.
- 4 (b) Special assessments.
- 5 (c) User-based revenue collections.
- 6 (d) General funds of the municipality.
- 7 (e) Benefit charges.
- 8 (f) Tap-in fees, or other 1-time assessments.

9 (3) The department shall accept applications for assistance  
10 from municipalities in the fundable range of the priority list that  
11 have approved ~~project plans and~~ **planning documents**. **The department**  
12 shall determine whether an application for assistance is  
13 administratively complete and notify the applicant within 30  
14 ~~calendar days of~~ **after** receipt of the application specifying any  
15 additional information necessary to complete the application.

16 (4) The department shall approve or disapprove an application  
17 within 30 ~~calendar~~ days of the determination that the application  
18 is complete.

19 Sec. 5309. ~~To~~ **When the department prepares the priority list**  
20 **under section 5303, to** ensure that a disproportionate share of  
21 available funds for a given fiscal year is not committed to a  
22 single ~~sewage treatment work project or stormwater project~~, the  
23 department may segment a ~~sewage treatment work project~~ if either of  
24 ~~the following criteria is present:~~

25 ~~(a) The~~ **the** cost of the proposed project is more than 30% of  
26 the amount available in the fund.

27 ~~(b) Upon application of a municipality, the department has~~  
28 ~~approved a municipality's application for segmenting a project.~~

29 Sec. 5310. **(1)** ~~A project in the fundable range of a priority~~

1 ~~list~~**The department may bypass a project** that fails to meet the  
 2 schedule established ~~by the department~~ under section 5306, or **that**  
 3 does not have **an approved plans and specifications planning**  
 4 **document** and an ~~approveable~~ application 90 days ~~prior to~~ **before** the  
 5 last day of the fiscal year, whichever comes first. ~~, is subject to~~  
 6 ~~bypass.~~**The department must provide a municipality with written**  
 7 **notice of the department's intent to bypass not less than 30 days**  
 8 **before a project is bypassed under this section.**

9 (2) ~~A~~**If demand exceeds funding availability, a municipality**  
 10 **may submit a written** request ~~an extension of the to the department~~  
 11 **to extend the** schedule ~~for cause.~~**established under section 5306 for**  
 12 **not more than 60 days. A municipality must include in its written**  
 13 **request the reason or reasons for its noncompliance with the**  
 14 **schedule. A municipality may submit 1 additional written request to**  
 15 **the department to extend the schedule established under section**  
 16 **5306 for not more than 30 days.**

17 (3) A project bypassed ~~pursuant to~~ **under** this section ~~shall~~  
 18 **must** not be considered for an order of approval until all other  
 19 projects in the fundable range have ~~either been funded or rejected.~~  
 20 This section does not prohibit the inclusion of the project in the  
 21 priority list of the next annual funding cycle or the resubmission  
 22 of an application for assistance in the next annual funding cycle.

23 (4) **A bypass action under this section does not modify any**  
 24 **compliance dates established in a permit, order, or other document**  
 25 **issued by the department or entered as part of an action brought by**  
 26 **this state or a federal agency.**

27 (5) After a project ~~within the fundable range has been is~~  
 28 bypassed **under this section**, the department may award assistance to  
 29 projects outside the fundable range. ~~Assistance shall be made~~ **The**

1 **department shall make assistance** available to projects outside the  
 2 fundable range in priority order contingent ~~upon~~**on** the  
 3 municipality's satisfaction of all applicable requirements for  
 4 assistance ~~pursuant to~~**under** section 5308 within the time period  
 5 established by the department, but not to exceed 60 days from the  
 6 date of ~~notification~~**notice** of bypass. **The department shall notify**  
 7 **a municipality with a project outside the fundable range of bypass**  
 8 **action, of the amount of the bypassed funds available for**  
 9 **obligation, and of the deadline for submitting a complete,**  
 10 **approvable application.**

11 Sec. 5311. (1) The department shall review a complete  
 12 application for assistance for a project in the fundable range. If  
 13 the department approves the application for assistance, the  
 14 department shall issue, subject to section 5310, an order of  
 15 approval to establish the specific terms of the assistance. The  
 16 order of approval ~~shall~~**must** include, but **is** not ~~be~~ limited to, all  
 17 of the following:

18 (a) The term of the assistance.

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

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

22 (2) The order of approval ~~shall~~**must** incorporate all  
 23 requirements, provisions, or information included in the  
 24 application and other documents submitted to the department during  
 25 the application process.

26 (3) After issuance of the order, the department shall certify  
 27 to the authority that the municipality is eligible to receive  
 28 assistance.

29 ~~(4) Within each annual funding cycle, the method of~~

1 ~~establishing the interest rate applicable to a loan or project~~  
 2 ~~refinancing assistance shall be applied equally within tier I and~~  
 3 ~~tier II projects to all municipalities receiving such assistance.~~

4 (4) ~~(5) The method of~~ **The department shall annually establish**  
 5 **the interest rates to be assessed for projects receiving assistance**  
 6 **under this part. In establishing interest rates under this section,**  
 7 **the department** may provide for a different level of subsidy for  
 8 ~~tier I projects than for tier II projects.~~ **The interest rates must**  
 9 **be in effect for loans made during the next state fiscal year.**

10 **Sec. 5313b. (1) A municipality is responsible for obtaining**  
 11 **any federal, state, or local permits necessary for the project and**  
 12 **shall perform any surveys or studies that are required under the**  
 13 **permits.**

14 (2) **A municipality shall incorporate all appropriate**  
 15 **provisions, conditions, and mitigative measures included in the**  
 16 **studies, surveys, permits, and licenses into the construction**  
 17 **documents. The construction documents are subject to review by the**  
 18 **department for conformity with environmental determinations and**  
 19 **coordination requirements.**

20 (3) **All applicable and appropriate conditions and mitigative**  
 21 **measures must be enforced by the municipality or its designated**  
 22 **representative and apply to all construction and post-construction**  
 23 **activities, including disposal of all liquid or solid spoils, waste**  
 24 **material, and residuals from construction.**

25 (4) **A municipality may seek guidance from the department**  
 26 **regarding the requirements under this part or the rules promulgated**  
 27 **under this part.**

28 **Sec. 5313c. (1) The state revolving administration fund is**  
 29 **created within the state treasury. The state treasurer may receive**

1 money or other assets for any source for deposit into the state  
 2 revolving administration fund. The state treasurer shall direct the  
 3 investment of the state revolving administration fund and credit to  
 4 the fund interest and earnings from fund investments. Money in the  
 5 state revolving administration fund at the end of the fiscal year  
 6 remains in the fund and does not lapse to the general fund. The  
 7 department is the administrator of the state revolving  
 8 administration fund for auditing purposes.

9 (2) Not more than 0.25% of the interest charged on a loan  
 10 issued under this part or part 54 may be deposited into the state  
 11 revolving administration fund.

12 (3) The department shall expend money from the fund only for  
 13 the reasonable costs of administering and conducting activities  
 14 under this part and part 54.

15 Sec. 5401. As used in this part:

16 (a) "Act 399" means the safe drinking water act, 1976 PA 399,  
 17 MCL ~~325.101~~**325.1001** to 325.1023.

18 (b) "Annual user costs" means an annual charge levied by a  
 19 water supplier on users of the waterworks system to pay for each  
 20 user's share of the cost for operation, maintenance, and  
 21 replacement of the waterworks system. These costs may also include  
 22 a charge to pay for the debt obligation.

23 (c) "Assistance" means 1 or more of the following activities  
 24 to the extent authorized by the federal safe drinking water act:

25 (i) Provision of loans for the planning, design, and  
 26 construction or alteration of waterworks systems.

27 (ii) Project refinancing assistance.

28 (iii) The guarantee or purchase of insurance for local  
 29 obligations, if the guarantee or purchase action would improve

1 credit market access or reduce interest rates.

2 (iv) Use of the proceeds of the fund as a source of revenue or  
3 security for the payment of principal and interest on revenue or  
4 general obligation bonds issued by this state, if the proceeds of  
5 the sale of the bonds will be deposited into the fund.

6 (v) Provision of loan guarantees for sub-state revolving funds  
7 established by water suppliers that are municipalities.

8 (vi) The use of deposited funds to earn interest on fund  
9 accounts.

10 (vii) Provision for reasonable costs of administering and  
11 conducting activities under this part.

12 (viii) Provision of technical assistance under this part.

13 (ix) Provision of loan forgiveness for certain planning costs  
14 incurred by ~~disadvantaged~~ **overburdened** communities.

15 (d) "Authority" means the Michigan municipal bond authority  
16 created in the shared credit rating act, 1985 PA 227, MCL 141.1051  
17 to 141.1077.

18 (e) "Capitalization grant" means the federal grant made to  
19 this state by the United States ~~environmental protection agency,~~  
20 **Environmental Protection Agency**, as provided in the federal safe  
21 drinking water act.

22 (f) "Community water supply" means a public water supply that  
23 provides year-round service to not less than 15 living units or  
24 ~~which~~ **that** regularly provides year-round service to not less than  
25 25 residents.

26 (g) "Construction activities" means any actions undertaken in  
27 the planning, designing, or building of a waterworks system.  
28 Construction activities include, but are not limited to, all of the  
29 following:

1 (i) Engineering services.

2 (ii) Legal services.

3 (iii) Financial services.

4 (iv) Preparation of plans and specifications.

5 (v) Acquisition of land or structural components, or both, if  
6 the acquisition is integral to a project authorized by this part  
7 and the purchase is from a willing seller at fair market value.

8 (vi) Building, erection, alteration, remodeling, or extension  
9 of waterworks systems, providing the extension is not primarily for  
10 the anticipation of future population growth.

11 (vii) Reasonable expenses of supervision of the project  
12 activities described in subparagraphs (i) to (vi).

13 Sec. 5402. As used in this part:

14 (a) "Department" means the department of ~~environmental quality~~  
15 **environment, Great Lakes, and energy** or its authorized agent or  
16 representative.

17 (b) "Director" means the director of the department of  
18 ~~environmental quality~~ or his or her designated representative.

19 ~~(c) "Disadvantaged community" means a municipality in which~~  
20 ~~all of the following conditions are met:~~

21 ~~(i) Users within the area served by a proposed public water~~  
22 ~~supply project are directly assessed for the costs of construction.~~

23 ~~(ii) The median annual household income of the area served by a~~  
24 ~~proposed public water supply project does not exceed 120% of the~~  
25 ~~statewide median annual household income for Michigan.~~

26 ~~(iii) The municipality demonstrates at least 1 of the following:~~

27 ~~(A) More than 50% of the area served by a proposed public~~  
28 ~~water supply project is identified as a poverty area by the United~~  
29 ~~States bureau of the census.~~

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

14       ~~(C) The median annual household income of the area served by a~~  
 15 ~~proposed public water supply project is less than the most recently~~  
 16 ~~published statewide median annual household income for this state,~~  
 17 ~~and annual user costs for water supply exceed 1% of the median~~  
 18 ~~annual household income of the area served by the proposed public~~  
 19 ~~water supply project.~~

20       ~~(D) The median annual household income of the area served by a~~  
 21 ~~proposed public water supply project is not greater than 120% of~~  
 22 ~~the statewide median annual household income for this state, and~~  
 23 ~~annual user costs for water supply exceed 3% of the median annual~~  
 24 ~~household income of the area served by the proposed project.~~

25       **(c)** ~~(d)~~—"Federal safe drinking water act" means the safe  
 26 drinking water act, 42 USC 300f to ~~300j-26,~~ **300j-25**, and the rules  
 27 promulgated under that act.

28       **(d)** ~~(e)~~—"Fund" means the ~~safe~~**state** drinking water revolving  
 29 fund established under section 16b of the shared credit rating act,

1 1985 PA 227, MCL 141.1066b.

2 (e) ~~(f)~~—"Fundable range" means those projects, taken in  
3 descending order on the priority list, for which the department  
4 estimates sufficient funds exist to provide assistance during each  
5 annual funding cycle.

6 (f) ~~(g)~~—"Municipality" means a city, village, county,  
7 township, authority, public school district, or other public body  
8 with taxing authority, including an intermunicipal agency of 2 or  
9 more municipalities, authorized or created under state law.

10 (g) ~~(h)~~—"Noncommunity water supply" means a public water  
11 supply that is not a community water supply, but that has not less  
12 than 15 service connections or that serves not less than 25  
13 individuals on an average daily basis for not less than 60 days per  
14 year.

15 (h) "Overburdened community" means a municipality in which all  
16 of the following conditions are met:

17 (i) Users within the area served by a proposed public water  
18 supply project are directly assessed for the costs of construction.

19 (ii) The median annual household income of the area served by a  
20 proposed public water supply project does not exceed 100% of the  
21 statewide median annual household income for this state.

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

23 (A) The median annual household income of the area served by a  
24 proposed public water supply project is less than the most recently  
25 published federal poverty guidelines for a family of 4 in the 48  
26 contiguous United States. In determining the median annual  
27 household income of the area served by the proposed public water  
28 supply project under this sub-subparagraph, the municipality shall  
29 utilize the most recently published statistics from the United

1 States Census Bureau, updated to reflect current dollars, for the  
2 community which most closely approximates the area being served. If  
3 these figures are not available for the area served by the proposed  
4 public water supply project, the municipality may have a survey  
5 conducted to document the median annual household income of the  
6 area served by the project. As used in this sub-subparagraph,  
7 "federal poverty guidelines" means the poverty guidelines published  
8 annually in the Federal Register by the United States Department of  
9 Health and Human Services under its authority to revise the poverty  
10 line under 42 USC 9902.

11 (B) The median annual household income of the area served by a  
12 proposed public water supply project is less than the most recently  
13 published statewide median annual household income for this state,  
14 and annual user costs for water supply exceed 1% of the median  
15 annual household income of the area served by the proposed public  
16 water supply project.

17 (C) The median annual household income of the area served by a  
18 proposed public water supply project is not greater than 90% of the  
19 statewide median annual household income for this state, and annual  
20 user costs for water supply exceed 2% of the household income  
21 cutoff for the lowest quintile of the area served by the proposed  
22 project.

23 Sec. 5403. As used in this part:

24 (a) "Priority list" means the annual ranked listing of  
25 projects developed by the department in section 5406.

26 (b) "Project" means a project related to the planning, design,  
27 and construction or alteration of a waterworks system, and may  
28 include utilization of more efficient energy and resources as  
29 described in any of the following:

1 (i) The cost-effective governmental energy use act, 2012 PA  
2 625, MCL 18.1711 to 18.1725.

3 (ii) Section 11c of 1851 PA 156, MCL 46.11c.

4 (iii) Section 75b of 1846 RS 16, MCL 41.75b.

5 (iv) Section 5f of the home rule city act, 1909 PA 279, MCL  
6 117.5f.

7 (v) Section 24b of the home rule village act, 1909 PA 278, MCL  
8 78.24b.

9 (vi) Section 36 of the general law village act, 1895 PA 3, MCL  
10 68.36.

11 (c) "Project refinancing assistance" means buying or  
12 refinancing the debt obligations of water suppliers if construction  
13 activities commenced, and the debt obligation was incurred, after  
14 June 17, 1997.

15 (d) "Public water supply" means a waterworks system that  
16 provides water for drinking or household purposes to persons other  
17 than the ~~supplier of the water~~ **supplier**, except for those  
18 waterworks systems that supply water to only 1 house, apartment, or  
19 other domicile occupied or intended to be occupied on a day-to-day  
20 basis by an individual, family group, or equivalent.

21 (e) **"Significantly overburdened community" means a**  
22 **municipality in which all of the following conditions are met:**

23 (i) **Users within the area served by a proposed public water**  
24 **supply project are directly assessed for the costs of construction.**

25 (ii) **The median household income of the area served by a**  
26 **proposed public water supply project does not exceed 100% of the**  
27 **statewide median annual household income for this state.**

28 (iii) **The municipality demonstrates at least 1 of the following:**

29 (A) **The median annual household income of the area served by a**

1 proposed public water supply project is less than the federal  
2 poverty guidelines for a family of 4 in the 48 contiguous United  
3 States. In determining the median annual household income of the  
4 area served by the proposed public water supply project under this  
5 sub-subparagraph, the municipality shall utilize the most recently  
6 published statistics from the United States Census Bureau, updated  
7 to reflect current dollars, for the community that most closely  
8 approximates the area being served by the project. As used in this  
9 sub-subparagraph, "federal poverty guidelines" means the poverty  
10 guidelines published annually in the Federal Register by the United  
11 States Department of Health and Human Services under its authority  
12 to revise the poverty line under 42 USC 9902.

13 (B) The median annual household income of the area served by a  
14 proposed public water supply project is less than the most recently  
15 published statewide median annual household income for this state,  
16 and annual user costs for water supply exceed 2% of the median  
17 annual household income of the area served by the proposed public  
18 water supply project.

19 (C) The median annual household income of the area served by a  
20 proposed public water supply project is not greater than 90% of the  
21 statewide median annual household income for this state, and annual  
22 user costs for water supply exceed 4% of the household income  
23 cutoff for the lowest quintile of the area served by the proposed  
24 project.

25 (f) ~~(e)~~ "State drinking water standards" means rules  
26 promulgated under section 5 of Act 399, MCL 325.1005, that  
27 establish water quality standards necessary to protect public  
28 health or that establish treatment techniques to meet these water  
29 quality standards.

1           **(g)** ~~(f)~~—"Water supplier" or "supplier" means a municipality or  
 2 its designated representative accepted by the director, a legal  
 3 business entity, or any other person that owns a public water  
 4 supply. However, water supplier does not include a water hauler.

5           **(h)** ~~(g)~~—"Waterworks system" or "system" means a system of  
 6 pipes and structures through which water is obtained or distributed  
 7 and includes any of the following that are actually used or  
 8 intended to be used for the purpose of furnishing water for  
 9 drinking or household purposes:

- 10           (i) Wells and well structures.
- 11           (ii) Intakes and cribs.
- 12           (iii) Pumping stations.
- 13           (iv) Treatment plants.
- 14           (v) Storage tanks.
- 15           (vi) Pipelines and appurtenances.
- 16           (vii) A combination of any of the items specified in  
 17 subparagraphs (i) to (vi).

18           Sec. 5404. (1) Water suppliers ~~owning~~ **that own** the following  
 19 types of public water supplies qualify to receive assistance under  
 20 this part:

- 21           (a) A community water supply.
- 22           (b) A noncommunity water supply that operates as a nonprofit  
 23 entity.

24           (2) Water suppliers identified in subsection (1) that serve  
 25 10,000 people or less may qualify for assistance from funds  
 26 prescribed in section 1452(a)(2) ~~of part 6~~ of the federal safe  
 27 drinking water act, 42 U.S.C. ~~USC~~ 300j-12.

28           ~~(3) Project planning costs are eligible for funding under this~~  
 29 ~~part and will be reimbursed by the department as follows:~~

1       ~~(a) For a municipality serving greater than 10,000 people,~~  
 2       ~~incurred planning costs related to the proposed project may be~~  
 3       ~~reimbursed as part of the construction loan approved by the~~  
 4       ~~Michigan municipal bond authority. These costs shall be repaid as~~  
 5       ~~part of the outstanding construction loan proceeds according to a~~  
 6       ~~schedule established by the authority.~~

7       ~~(b) For a municipality serving less than 10,000 people,~~  
 8       ~~incurred planning costs related to the proposed project will be~~  
 9       ~~directly reimbursed by the department upon completion and submittal~~  
 10       ~~of an approvable project plan by the municipality to the~~  
 11       ~~department. These costs shall be repaid as part of the outstanding~~  
 12       ~~planning loan proceeds according to a schedule established by the~~  
 13       ~~authority.~~

14       **(3) ~~(c) For disadvantaged communities, On completion and~~**  
 15       **~~submittal of approved planning documents by an overburdened~~**  
 16       **~~community to the department, if the overburdened community~~** incurred  
 17       ~~planning costs related to the proposed project, shall the~~  
 18       **~~overburdened community must~~** be directly reimbursed **by the**  
 19       **~~department~~** to the extent funds are available. ~~by the department~~  
 20       ~~upon completion and submittal of an approvable project plan by the~~  
 21       ~~municipality to the department. Technical assistance funds~~  
 22       ~~identified in section 1452(g) (2) (D) or section 1452(d) (1) of part E~~  
 23       ~~of the federal safe drinking water act, 42 U.S.C. USC 300j-12,~~  
 24       ~~shall must~~ be used to the extent available, to forgive repayment of  
 25       ~~the planning loan.~~

26       (4) Only water suppliers that have no outstanding prior year  
 27       fees as prescribed in Act 399 may receive assistance under this  
 28       part.

29       ~~(5) A federal, state, or other water supplier that is not~~

1 ~~regulated by the department shall not receive assistance under this~~  
 2 ~~part.~~

3       Sec. 5405. (1) A water supplier that is interested in applying  
 4 for assistance under this part shall prepare and submit to the  
 5 department a ~~project plan~~**planning document** as provided in this  
 6 section. The department shall use a ~~project plan~~**the planning**  
 7 **documents** submitted under this section to develop a priority list  
 8 for assistance as provided under this part. **A water supplier may**  
 9 **submit as part of the planning document for a project either of the**  
 10 **following:**

11       (a) **Any preexisting documents or plans that were prepared for**  
 12 **other projects or purposes.**

13       (b) **Any preexisting documents that were developed under**  
 14 **another local, state, or federal program, as applicable.**

15       (2) During the development of a ~~project plan~~**planning**  
 16 **document**, a water supplier that is a municipality shall consider  
 17 and utilize, where practicable, cooperative regional or  
 18 intermunicipal projects, and a water supplier that is not a  
 19 municipality shall consider and utilize, where practicable,  
 20 connection to, or ownership by, a water supplier that is a  
 21 municipality.

22       ~~(3) The project plan for a project must include documentation~~  
 23 ~~that demonstrates that the project is needed to assure maintenance~~  
 24 ~~of, or progress toward, compliance with the federal safe drinking~~  
 25 ~~water act. A complete project plan must include all of the~~  
 26 ~~following as background:~~

27       ~~(a) Identification of planning area boundaries and~~  
 28 ~~characteristics.~~

29       ~~(b) A description of the existing waterworks systems.~~

1           ~~(c) A description of the existing waterworks problems and~~  
 2 ~~needs, including the severity and extent of water supply problems~~  
 3 ~~or public health problems.~~

4           ~~(d) An examination of projected needs for the next 20 years.~~

5           ~~(e) Population projections and the source and basis for the~~  
 6 ~~population projections.~~

7           ~~(4) A project plan must include an analysis of alternatives,~~  
 8 ~~which must consist of a systematic identification, screening,~~  
 9 ~~study, evaluation, and cost-effectiveness comparison of feasible~~  
 10 ~~technologies, processes, and techniques. The alternatives must be~~  
 11 ~~capable of meeting the applicable state drinking water standards~~  
 12 ~~over the design life of the facility, while recognizing~~  
 13 ~~environmental and other nonmonetary considerations. The analysis~~  
 14 ~~must include, but is not limited to, all of the following:~~

15           ~~(a) A planning period for the cost effectiveness analysis of~~  
 16 ~~20 years or other such planning period as is justified by the~~  
 17 ~~unique characteristics of the project.~~

18           ~~(b) Monetary costs that consider the present worth or~~  
 19 ~~equivalent annual value of all capital costs and operation and~~  
 20 ~~maintenance costs.~~

21           ~~(c) Provisions for the ultimate disposal of residuals and~~  
 22 ~~sludge resulting from drinking water treatment processes.~~

23           ~~(d) A synopsis of the environmental setting of the project and~~  
 24 ~~an analysis of the potential environmental and public health~~  
 25 ~~impacts of the various alternatives, as well as the identification~~  
 26 ~~of any significant environmental or public health benefits~~  
 27 ~~precluded by rejection of an alternative.~~**A water supplier shall**  
 28 **consider and utilize a cost comparison between consolidation, if**  
 29 **feasible, and water independence considered over a 20-year planning**

1 period. The cost comparison must include consideration of ancillary  
2 factors such as operator availability, source water vulnerability  
3 regulatory forecast, energy costs and availability, demand  
4 forecasts, and customer satisfaction.

5 (3) A planning document must include documentation that  
6 demonstrates all of the following:

7 (a) The project is needed to ensure maintenance of or progress  
8 toward compliance with the minimum requirements of the national  
9 environmental policy act of 1969, Public Law 91-190, 42 USC 4321,  
10 4331 to 4335, and 4341 to 4347.

11 (b) An analysis of alternatives including the cost of each  
12 alternative.

13 (c) A description of project costs and how the project will be  
14 paid for including, but not limited to, an explanation of how the  
15 debt will be repaid.

16 (d) A list of the environmental implications and mitigation  
17 plans.

18 (e) Consideration of opportunities to utilize more efficient  
19 energy and resources as described in any of the following:

20 (i) The cost-effective governmental energy use act, 2012 PA  
21 625, MCL 18.1711 to 18.1725.

22 (ii) Section 11c of 1851 PA 156, MCL 46.11c.

23 (iii) Section 75b of 1846 RS 16, MCL 41.75b.

24 (iv) Section 5f of the home rule city act, 1909 PA 279, MCL  
25 117.5f.

26 (v) Section 24b of the home rule village act, 1909 PA 278, MCL  
27 78.24b.

28 (vi) Section 36 of the general law village act, 1895 PA 3, MCL  
29 68.36.

1 ~~(f) A description of the relationship between the service~~  
2 ~~capacity of each waterworks systems alternative and the estimated~~  
3 ~~future needs using population projections under subsection (3) (e).~~

4 ~~(5) A project plan must include a description of the selected~~  
5 ~~alternative, including all of the following:~~

6 ~~(a) Relevant design parameters.~~

7 ~~(b) Estimated capital construction costs, operation and~~  
8 ~~maintenance costs, and a description of the manner in which project~~  
9 ~~costs will be financed.~~

10 ~~(c) A demonstration of the water supplier's ability to repay~~  
11 ~~the incurred debt, including an analysis of the impacts of the~~  
12 ~~annual user costs for water supply on its users.~~

13 ~~(d) A demonstration that the selected alternative can be~~  
14 ~~implemented considering the legal, institutional, technical,~~  
15 ~~financial, and managerial resources of the water supplier.~~

16 ~~(e) Assurance that there is sufficient waterworks system~~  
17 ~~service capacity for the service area based on projected needs~~  
18 ~~identified in subdivision (d) while avoiding the use of funds~~  
19 ~~available under this part to finance the expansion of any public~~  
20 ~~water system if a primary purpose of the expansion is to~~  
21 ~~accommodate future development.~~

22 ~~(f) Documentation of the project's consistency with the~~  
23 ~~approved general plan prepared under section 4 of Act 399, MCL~~  
24 ~~325.1004.~~

25 ~~(g) An analysis of the environmental and public health impacts~~  
26 ~~of the selected alternative.~~

27 ~~(h) Consideration of structural and nonstructural measures~~  
28 ~~that could be taken to mitigate or eliminate adverse effects on the~~  
29 ~~environment.~~

1           (4) ~~(6)~~ A ~~project plan~~ **planning document** must describe the  
2 public participation activities conducted during planning and must  
3 include all of the following:

4           (a) Significant issues raised by the public and any changes to  
5 the project that were made as a result of the public participation  
6 process.

7           (b) A demonstration that there were adequate opportunities for  
8 public consultation, participation, and input in the decision-  
9 making process during alternative selection.

10           (c) A demonstration that before the adoption of the ~~project~~  
11 ~~plan,~~ **planning document**, the water supplier held a public ~~hearing~~  
12 **meeting** on the proposed project not less than ~~30~~ **10** days after  
13 advertising **the public meeting** in local media of general  
14 circulation **including, but not limited to, the water supplier's**  
15 **website**, and at a time and place conducive to maximizing public  
16 input.

17           (d) A demonstration that, concurrent with advertisement of the  
18 ~~hearing,~~ **public meeting**, a notice of public ~~hearing~~ **meeting** was  
19 sent to all affected local, state, and federal agencies and to any  
20 public or private parties that ~~have~~ expressed an interest in the  
21 proposed project.

22           (e) A ~~transcript or recording of the hearing,~~ **summary of the**  
23 **public meeting, including** a list of all attendees ~~, and any written~~  
24 ~~testimony received, and the water supplier's responses to the~~  
25 ~~issues~~ **specific concerns that were** raised.

26           (5) ~~(7)~~ A ~~project plan~~ **planning document** must include either  
27 of the following, as appropriate:

28           (a) For a water supplier that is a municipality, a resolution  
29 adopted by the governing board of the municipality approving the

1 ~~project plan.~~**planning document.**

2 (b) For a water supplier that is not a municipality, a  
3 statement of intent to implement the ~~project plan.~~**planning**  
4 **document.**

5 (6) ~~(8)~~-A ~~project plan.~~**planning document** must not have as a  
6 primary purpose the construction of or expansion of a waterworks  
7 system to accommodate future development **or fire protection.**

8 Sec. 5406. (1) The department shall annually develop a  
9 priority list of projects eligible for assistance under this part.  
10 **The priority list must be based on planning documents and the**  
11 **scoring criteria developed under subsection (2).** ~~Projects that are~~  
12 ~~not funded during the year that a priority list developed under~~  
13 ~~this section is in effect shall be automatically prioritized on the~~  
14 ~~next annual list using the same criteria, unless the water supplier~~  
15 ~~submits an amendment to its project plan that introduces new~~  
16 ~~information to be used as the basis for prioritization. The~~  
17 ~~priority list shall be based on project plans submitted by water~~  
18 ~~suppliers under section 5405 and the criteria listed in~~  
19 ~~subdivisions (a) through (f). Each project shall be assigned points~~  
20 ~~up to a maximum of 1,000. The point values are maximum values~~  
21 ~~available for each category or subcategory listed in this section~~  
22 ~~and shall only be awarded if the project substantially addresses~~  
23 ~~the problem for which the point award is given. If a project is~~  
24 ~~primarily designed to replace individual wells at private homes,~~  
25 ~~50% or more of the homes in the affected area shall meet equivalent~~  
26 ~~water quality or infrastructure deficiency criteria listed in~~  
27 ~~subdivisions (a) through (f) in order to receive the maximum~~  
28 ~~available points. If less than 50% of the homes in the affected~~  
29 ~~area can demonstrate deficiencies, 1/2 of the total points~~

1 ~~available shall be awarded. Points shall be awarded as follows:~~

2 ~~(a) A maximum of 450 points may be awarded to a project that~~  
3 ~~addresses drinking water quality as outlined in Act 399, if the~~  
4 ~~project:~~

5 ~~(i) Is designed to eliminate an acute violation of a drinking~~  
6 ~~water standard as described in R 325.10401 to R 325.10420 of the~~  
7 ~~Michigan administrative code. A violation of a surface water~~  
8 ~~treatment technique, or if a waterborne disease outbreak has been~~  
9 ~~documented, 250 points shall be awarded for each violation.~~

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

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

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

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

21 ~~(i) If source or treatment facilities are upgraded, including~~  
22 ~~the watermains to connect to the distribution system, a maximum of~~  
23 ~~125 points shall be awarded, if the improvement is:~~

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

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

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

29 ~~(D) To satisfy the conditions of a formal enforcement action,~~

1 ~~25 points shall be awarded. Points awarded for formal enforcement~~  
 2 ~~actions are in addition to the maximum points allowable in any~~  
 3 ~~category.~~

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

5 ~~(ii) If transmission or distribution watermains are upgraded, a~~  
 6 ~~maximum of 125 points shall be awarded, if the improvement is:~~

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

9 ~~(B) For reliability, including looping or redundant feeds, 75~~  
 10 ~~points shall be awarded.~~

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

13 ~~(D) To satisfy the conditions of a formal enforcement action,~~  
 14 ~~25 points shall be awarded. Points awarded for formal enforcement~~  
 15 ~~actions are in addition to the maximum points allowable in any~~  
 16 ~~category.~~

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

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

25 ~~(D) To satisfy the conditions of a formal enforcement action,~~  
 26 ~~25 points shall be awarded. Points awarded for formal enforcement~~  
 27 ~~actions are in addition to the maximum points allowable in any~~  
 28 ~~category.~~

29 ~~(c) A maximum of 50 points shall be awarded based on the~~

1 ~~population served by the water system according to the following~~  
 2 ~~table. However, a transient noncommunity water supply as defined in~~  
 3 ~~section 2 of Act 399, MCL 325.1002, is eligible for 1/2 of the~~  
 4 ~~point value listed in the following table:~~

5	Population	Points
6	>50,000	50
7	<del>10,001 — 50,000</del>	40
8	<del>3,301 — 10,000</del>	30
9	<del>501 — 3,300</del>	20
10	<del>0 — 500</del>	10

11 ~~(d) A maximum of 50 points shall be awarded to a community~~  
 12 ~~water supply that serves a disadvantaged community.~~

13 ~~(e) A maximum of 100 points shall be awarded for projects that~~  
 14 ~~include consolidation as follows:~~

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

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

21 ~~(iii) Other consolidations, not included under subparagraph (i)~~  
 22 ~~or (ii), shall be awarded 40 points.~~

23 ~~(f) For communities that have completed an approved source~~  
 24 ~~water protection program, 100 points shall be awarded.~~

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

28 ~~(i) If the system has fewer than 2 violations of the~~  
 29 ~~monitoring, record-keeping, and reporting requirements of Act 399~~

1 ~~in the previous 2-year reporting period, or no violations if~~  
2 ~~ownership of the system has changed in the previous 2 years, it~~  
3 ~~shall rank above systems having more violations.~~

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

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

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

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

20 ~~(b) The department has approved a water supplier's application~~  
21 ~~for segmenting a project.~~

22 ~~(4) Segments of a project that have been segmented under~~  
23 ~~subsection (3) shall be assigned priority points based on the~~  
24 ~~project as identified in the project plan. After funding assistance~~  
25 ~~for the first segment is accepted, the remaining segments will~~  
26 ~~retain first priority for funding assistance on the next 3 fiscal~~  
27 ~~year priority lists. All projects with previously funded segments~~  
28 ~~will be designated with first priority. Ranking order for these~~  
29 ~~projects to receive funding assistance will be subject to the~~

1 ~~relative ranking of all first segment projects.~~

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

5 (2) The department shall publish and allow for public comment  
 6 on scoring criteria that assign points to and prioritize projects  
 7 under subsection (1). The department shall review the scoring  
 8 criteria at least once every 3 years and publish and allow for  
 9 public comment on any changes made to the scoring criteria. The  
 10 scoring criteria developed under this subsection must address the  
 11 following:

12 (a) Drinking water regulatory compliance.

13 (b) Improving infrastructure.

14 (c) Impacts on overburdened communities and significantly  
 15 overburdened communities.

16 (3) ~~(6)~~ For purposes of providing assistance, the priority  
 17 list ~~shall take~~ **takes** effect on the first day of each fiscal year.

18 Sec. 5407. The department shall annually identify those  
 19 projects in the fundable range of the priority list. Following the  
 20 identification of projects in the fundable range, the department  
 21 shall review, generally in priority order, the ~~project plans~~  
 22 **planning documents** for these projects and, following completion of  
 23 the environmental review process described in section 5408, either  
 24 approve or disapprove the ~~project plans~~ **planning documents**.

25 Sec. 5407a. When the department prepares the priority list  
 26 under section 5406, to ensure that a disproportionate share of  
 27 available funds for a given fiscal year is not committed to a  
 28 single project, the department may segment the project if the cost  
 29 of the proposed project is more than 30% of the amount available in

1 **the fund.**

2           Sec. 5408. (1) The department shall conduct an environmental  
3 review of the ~~project plan~~ **planning documents** of each project in  
4 the fundable range of the priority list to determine whether any  
5 significant impacts are anticipated and whether any changes can be  
6 made in the project to eliminate significant adverse impacts. As  
7 part of this review, the department may require the ~~submittal of~~  
8 **water supplier to submit** additional information or **meet** additional  
9 public participation and coordination **requirements** to justify the  
10 environmental determination.

11           (2) Based on the environmental review under subsection (1),  
12 the department may issue a categorical exclusion for categories of  
13 actions that do not individually, cumulatively over time, or in  
14 conjunction with other federal, state, local, or private actions  
15 have a significant adverse effect on the quality of the human  
16 environment or public health. Additional environmental information  
17 documentation, environmental assessments, and environmental impact  
18 statements will not be required for excluded actions.

19           (3) Following receipt of the ~~project plan,~~ **planning document,**  
20 the director shall determine if the proposed ~~public water supply~~  
21 project qualifies for a categorical exclusion and document the  
22 decision.

23           (4) The director may revoke a categorical exclusion and  
24 require a complete environmental review if, ~~subsequent to~~ **after** the  
25 determination, the director finds any of the following:

26           (a) The proposed ~~public water supply~~ project no longer  
27 qualifies for a categorical exclusion due to changes in the  
28 proposed plan.

29           (b) New evidence exists documenting a serious health or

1 environmental issue.

2 (c) Federal, state, local, or tribal laws will be violated by  
3 the proposed ~~public water supply~~ project.

4 (5) The proposed project ~~shall~~**must** not qualify for a  
5 categorical exclusion if the director determines any of the  
6 following criteria are applicable:

7 (a) The proposed ~~facilities~~**project will** result in an increase  
8 in residuals and sludge generated by drinking water processes,  
9 either volume or type, ~~which~~**that** would negatively impact the  
10 performance of the waterworks system or the disposal methods, or  
11 would threaten an aquifer recharge zone.

12 (b) The proposed ~~facilities would~~**project will** provide service  
13 to a population greater than 30% of the existing population. ~~τ~~  
14 ~~unless population projections required in section 5405(3)(e)~~  
15 ~~support projected needs.~~

16 (c) The proposed ~~public water supply~~ project is known, or  
17 expected, to directly or indirectly affect cultural areas, fauna or  
18 flora habitats, endangered or threatened species, or  
19 environmentally important natural resource areas.

20 (d) The proposed ~~public water supply~~ project directly or  
21 indirectly involves the extension of transmission systems to new  
22 service areas.

23 (e) The proposed ~~public water supply~~ project ~~has been~~**is** shown  
24 not to be the cost-effective alternative.

25 (f) The proposed ~~public water supply~~ project will cause  
26 significant public controversy.

27 (6) If, based on the environmental review under subsection  
28 (1), the department determines that an environmental assessment is  
29 necessary, the department may describe the following:

- 1 (a) The purpose and need for the project.
- 2 (b) The project, including its costs.
- 3 (c) The alternatives considered and the reasons for their  
4 acceptance or rejection.
- 5 (d) The existing environment.
- 6 (e) Any potential adverse impacts and mitigative measures.
- 7 (f) How mitigative measures will be incorporated into the  
8 project, as well as any proposed conditions of financial assistance  
9 and the means for monitoring compliance with the conditions.
- 10 (7) The department may issue a finding of no significant  
11 impact, based ~~upon~~**on** an environmental assessment ~~which~~**that**  
12 documents that potential environmental impacts will not be  
13 significant or that they may be mitigated without extraordinary  
14 measures.
- 15 (8) An environmental impact statement may be required when the  
16 department determines any of the following:
- 17 (a) The project will have a significant impact on the pattern  
18 and type of land use or the growth and distribution of the  
19 population.
- 20 (b) The effects of the project's construction or operation  
21 will conflict with local or state laws or policies.
- 22 (c) The project will have significant adverse impacts on any  
23 of the following:
- 24 (i) Wetlands.
- 25 (ii) Flood plains.
- 26 (iii) Threatened or endangered species or habitats.
- 27 (iv) Cultural resources, including any of the following:
- 28 (A) Park lands.
- 29 (B) Preserves.

1 (C) Other public lands.

2 (D) Areas of recognized scenic, recreational, agricultural,  
3 archeological, or historical value.

4 (d) The project will cause significant displacement of  
5 population.

6 (e) The project will directly or indirectly, such as through  
7 induced development, have a significant adverse effect ~~upon~~ **on** any  
8 of the following:

9 (i) Local ambient air quality.

10 (ii) Local noise levels.

11 (iii) Surface water and groundwater quantity or quality.

12 (iv) Shellfish.

13 (v) Fish.

14 (vi) Wildlife.

15 (vii) Wildlife natural habitats.

16 (f) The project will generate significant public controversy.

17 (9) Based on the environmental impact statement, a record of  
18 decision summarizing the findings of the environmental impact  
19 statement ~~shall~~ **must** be issued identifying those conditions under  
20 which the project can proceed and maintain compliance with the  
21 national environmental policy act of 1969, Public Law 91-190, 42  
22 ~~U.S.C.~~ **USC** 4321, 4331 to 4335, and 4341 to 4347.

23 (10) If 5 or more years have elapsed since a determination of  
24 compliance with **the** national environmental policy act **of 1969,**  
25 **Public Law 91-190, 42 USC 4321, 4331 to 4335, and 4341 to 4347,** or  
26 if significant changes in the project have taken place, the  
27 department shall reevaluate the project for compliance with the  
28 national environmental policy act **of 1969, Public Law 91-190, 42**  
29 **USC 4321, 4331 to 4335, and 4341 to 4347,** requirements. The

1 department may do any of the following:

2 (a) Reaffirm the original finding of no significant impact or  
3 the record of decision through the issuance of a public notice or  
4 statement of finding.

5 (b) Issue an amendment to a finding of no significant impact  
6 or revoke a finding of no significant impact and issue a public  
7 notice that the preparation of an environmental impact statement is  
8 required.

9 (c) Issue a supplement to a record of decision or revoke a  
10 record of decision and issue a public notice that financial  
11 assistance will not be provided.

12 (11) Action regarding approval of a ~~project plan~~ **planning**  
13 **document** or provision of financial assistance ~~shall~~ **must** not be  
14 taken during a 30-day public comment period after the issuance of a  
15 finding of no significant impact or record of decision.

16 Sec. 5409. (1) A water supplier whose ~~project plan~~ **planning**  
17 **document** is approved or under review by the department under  
18 section 5407 may apply for assistance from the fund by submitting  
19 an application to the department. A ~~complete~~ **completed** application  
20 ~~shall~~ **must** include all of the following, if applicable, as  
21 determined by the department:

22 (a) If assistance is in the form of a loan, financial  
23 documentation that a dedicated source of revenue is established,  
24 consistent with obligations of debt instruments existing at the  
25 time assistance is requested, and pledged to both of the following  
26 purposes:

27 (i) The timely repayment of principal and interest.

28 (ii) Adequate revenues to fund the operation and maintenance of  
29 the project.

1 (b) Evidence of an approved ~~project plan~~. **planning document**.

2 (c) A certified resolution from a water supplier that is a  
3 municipality, or a letter of appointment from a water supplier that  
4 is not a municipality, designating an authorized representative for  
5 the project.

6 (d) A certification by an authorized representative of the  
7 water supplier affirming that the **water** supplier has the legal,  
8 institutional, technical, financial, and managerial capability to  
9 build, operate, and maintain the project.

10 (e) A letter of credit, insurance, or other credit enhancement  
11 to support the credit position of the water supplier, as required  
12 by the department.

13 (f) A set of plans and specifications ~~—~~developed in  
14 accordance with Act 399 ~~, which~~ **that** is suitable for bidding.

15 (g) A certification from an authorized representative of the  
16 water supplier that it has, or will have before the start of  
17 construction, all applicable state and federal permits required for  
18 construction of the project.

19 (h) A certification from an authorized representative of the  
20 water supplier that an undisclosed fact or event, or pending  
21 litigation, will not materially or adversely affect the project,  
22 the prospects for its completion, or the water supplier's ability  
23 to make timely loan repayments, if applicable.

24 (i) If applicable, all executed service contracts or  
25 agreements.

26 (j) An agreement that the water supplier will operate the  
27 waterworks system in compliance with applicable state and federal  
28 laws.

29 (k) An agreement that the water supplier will not sell, lease,

1 abandon, or otherwise dispose of the waterworks system without an  
 2 effective assignment of obligations and ~~the~~ prior written approval  
 3 of the department and the authority.

4 (l) An agreement that:

5 (i) For water suppliers that are municipalities, all accounts  
 6 ~~will~~**must** be maintained in accordance with generally accepted  
 7 accounting practices, generally accepted government auditing  
 8 standards, and ~~chapter 75 of title 31 of the United States Code, 31~~  
 9 ~~U.S.C. USC~~ 7501 to 7507, as required by the federal safe drinking  
 10 water act.

11 (ii) For water suppliers that are not municipalities, all  
 12 accounts ~~will~~**must** be maintained in accordance with generally  
 13 accepted accounting practices and generally accepted auditing  
 14 standards.

15 (m) An agreement that all water supplier contracts with  
 16 contractors will require them to maintain project accounts in  
 17 accordance with the requirements of this subsection and provide  
 18 notice that any subcontractor may be subject to a financial audit  
 19 as part of an overall project audit.

20 (n) An agreement that the water supplier will provide written  
 21 authorizations to the department for the purpose of examining the  
 22 physical plant and for examining, reviewing, or auditing the  
 23 operational or financial records of the project, and that the water  
 24 supplier will require similar authorizations from all contractors,  
 25 consultants, or agents with which it negotiates an agreement.

26 (o) An agreement that all pertinent records ~~shall~~**must** be  
 27 retained and available to the department for a minimum of 3 years  
 28 after initiation of the operation and that if litigation ~~, or~~ a  
 29 claim, ~~an~~ appeal, ~~or~~ an audit is begun before the end of the 3-year

1 period, records ~~shall~~**must** be retained and available until the 3  
 2 years have passed or until the action is completed and resolved,  
 3 whichever is longer. As used in this subdivision, "initiation of  
 4 the operation" means the date certain set by the water supplier and  
 5 accepted by the department, on which use of the project begins for  
 6 the purposes for which it was constructed.

7 ~~(p) If the project is segmented, as provided in section~~  
 8 ~~5406(3), a schedule for completion of the project and adequate~~  
 9 ~~assurance that the project will be completed with or without~~  
 10 ~~assistance from the fund or that the segmented project will be~~  
 11 ~~operational without completion of the entire project.~~

12 **(p)** ~~(q)~~An agreement that the project will proceed in a timely  
 13 fashion if the application for assistance is approved.

14 **(q)** ~~(r)~~An application fee, if required by the department.

15 (2) A demonstration that a dedicated source of revenue will be  
 16 available for operating and maintaining the waterworks system and  
 17 repaying the incurred debt.

18 (3) The department shall accept applications for assistance  
 19 from water suppliers in the fundable range of the priority list and  
 20 ~~shall~~determine whether an application for assistance is complete.

21 (4) ~~The~~**This** state is not liable to a water supplier, or any  
 22 other person performing services for the water supplier, for costs  
 23 incurred in developing or submitting an application for assistance  
 24 under this part.

25 Sec. 5412. (1) The department may bypass projects that fail to  
 26 meet the schedule negotiated and agreed upon between the water  
 27 supplier and the department, or that do not have approved ~~project~~  
 28 ~~plans~~**planning documents** and specifications and an approvable  
 29 application 90 days ~~prior to~~**before** the last day of the state

1 fiscal year, whichever comes first.

2 (2) A water supplier may submit a written request to the  
3 department to extend a project schedule for not more than 60 days.  
4 The request ~~shall~~**must** provide the reason for the noncompliance  
5 with the schedule. A water supplier may file 1 additional 30-day  
6 extension request to its schedule.

7 (3) A project bypassed under this section ~~shall~~**must** not be  
8 considered for an order of approval until all other projects have  
9 either been funded or rejected. This section does not prohibit the  
10 inclusion of the project in the priority list of the next annual  
11 funding cycle or the resubmission of an application for assistance  
12 in the next annual funding cycle.

13 (4) The department shall provide affected water suppliers with  
14 a written notice of intent to bypass not less than 30 days before  
15 the bypass action.

16 (5) For projects bypassed under this section, the department  
17 shall transmit to the water supplier an official notice of bypass  
18 for the fundable project.

19 (6) A bypass action under this section does not modify any  
20 compliance dates established ~~pursuant to~~**under** a permit, order, or  
21 other document issued by the department or entered as part of an  
22 action brought by ~~the~~**this** state or a federal agency.

23 (7) After a project is bypassed, the department may award  
24 assistance to projects outside the fundable range. Assistance ~~shall~~  
25 **must** be made available to projects outside the fundable range in  
26 priority order contingent upon the **water** supplier's satisfaction of  
27 all applicable requirements for assistance within the time period  
28 established by the department, but not to exceed 60 days from the  
29 date of notification. The department shall notify water suppliers

1 with projects outside the fundable range of bypass action, of the  
 2 amount of bypassed funds available for obligation, and of the  
 3 deadline for submittal of a complete, approvable application.

4 Sec. 5415. ~~(1)~~The department shall annually establish the  
 5 interest rates to be assessed for projects receiving assistance  
 6 under this part. ~~These rates of~~ **In establishing interest rates**  
 7 **under this section, the department may provide for a different**  
 8 **level of subsidy for projects. The** interest ~~shall rates must~~ be in  
 9 effect for loans made during the next state fiscal year.

10 ~~(2) In establishing the interest rates under subsection (1),~~  
 11 ~~all of the following criteria shall be considered:~~

12 ~~(a) Future demands.~~

13 ~~(b) Present demands.~~

14 ~~(c) Market conditions.~~

15 ~~(d) Cost of compliance with program elements.~~**The interest**  
 16 **rates must be in effect for loans made during the next state fiscal**  
 17 **year.**

18 Sec. 5415a. (1) A water supplier is responsible for obtaining  
 19 any federal, state, or local permits necessary for the project and  
 20 shall perform any surveys or studies that are required under the  
 21 permits.

22 (2) A water supplier shall incorporate all appropriate  
 23 provisions, conditions, and mitigative measures included in the  
 24 studies, surveys, permits, and licenses into the construction  
 25 documents. The construction documents are subject to review by the  
 26 department for conformity with environmental determinations and  
 27 coordination requirements.

28 (3) All applicable and appropriate conditions and mitigative  
 29 measures must be enforced by the municipality or its designated

1 **representative and apply to all construction and post-construction**  
 2 **activities, including disposal of all liquid or solid spoils, waste**  
 3 **material, and residuals from construction.**

4 **(4) A water supplier may seek guidance from the department**  
 5 **regarding the requirements under this part or the rules promulgated**  
 6 **under this part.**

7 Sec. 5416. The costs of administering and implementing this  
 8 part by the department, the designated agents of the department,  
 9 and the authority may be paid from funds annually appropriated by  
 10 the legislature from 1 or more of the following sources:

11 (a) ~~An amount taken from the federal capitalization grant,~~  
 12 ~~subject to the limitations prescribed in~~ **allowed under** the federal  
 13 safe drinking water act.

14 (b) A local match provided by the water supplier receiving  
 15 assistance not to exceed the department's administrative costs  
 16 associated with providing the assistance.

17 (c) Interest or earnings realized on loan repayments to the  
 18 fund, unless the earnings are pledged to secure or repay any  
 19 indebtedness of the authority.

20 (d) Proceeds of bonds or notes issued pursuant to the fund and  
 21 sold by the authority.

22 **(e) Collection of fees and charges by the department in**  
 23 **connection with a transaction authorized under this part.**

24 **(f) ~~(e)~~**Any other money appropriated by the legislature.

25 Sec. 19703a. (1) Bonds issued under this part are subject to  
 26 the following:

27 (a) For the state fiscal year ending on September 30, 2011,  
 28 bonds ~~shall~~**must** not be issued or expended under this part for the  
 29 purposes of section 5204b, unless the department of natural

1 resources and environment has established a fundable range of at  
2 least \$210,000,000.00 for that state fiscal year to fund projects  
3 under the state water pollution control revolving fund created in  
4 section 16a of the shared credit rating act, 1985 PA 227, MCL  
5 141.1066a.

6 (b) For the state fiscal year ending on September 30, 2012,  
7 bonds ~~shall~~**must** not be issued or expended under this part for the  
8 purposes of section 5204b, unless the department of natural  
9 resources and environment has established a fundable range of at  
10 least \$259,000,000.00 for that state fiscal year to fund projects  
11 under the state water pollution control revolving fund created in  
12 section 16a of the shared credit rating act, 1985 PA 227, MCL  
13 141.1066a, to the extent administratively possible and as long as  
14 sufficient applications have been submitted to the department of  
15 natural resources and environment.

16 (c) For each state fiscal year beginning with the state fiscal  
17 year ending September 30, 2013, the department of natural resources  
18 and environment, in conjunction with the department of treasury,  
19 shall seek to fully fund all eligible projects applying for  
20 assistance under part 53, to the extent administratively possible,  
21 utilizing the bond proceeds under this part as necessary to achieve  
22 this goal. ~~, considering the recommendations of the state water~~  
23 ~~pollution control revolving fund advisory committee created in~~  
24 ~~section 5317.~~

25 (2) If the department of natural resources and environment is  
26 not able to establish a fundable range under subsection (1)(b) of  
27 at least \$259,000,000.00, the department of natural resources and  
28 environment shall submit to the standing committees of the senate  
29 and house of representatives with jurisdiction over issues

1 primarily pertaining to natural resources and the environment a  
2 report detailing the reasons why the fundable range was not set at  
3 this level.

4 (3) As used in this section, "fundable range" means that term  
5 as it is defined in section 5301.

6 Enacting section 1. Section 5317 of the natural resources and  
7 environmental protection act, 1994 PA 451, MCL 324.5317, is  
8 repealed.