

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT (EXCERPT)
Act 451 of 1994

PART 197

GREAT LAKES WATER QUALITY BOND IMPLEMENTATION

324.19701 Definitions.

Sec. 19701. As used in this part:

- (a) "Bonds" means the bonds authorized under the Great Lakes water quality bond authorization act.
- (b) "Department" means the department of environmental quality.
- (c) "Fund" means the Great Lakes water quality bond fund created in section 19706.

History: Add. 2002, Act 397, Eff. Nov. 5, 2002.

Compiler's note: Enacting section 2 of Act 397 of 2002 provides:

"Enacting section 2. This amendatory act does not take effect unless the question provided for in the Great Lakes water quality bond authorization act is approved by a majority of the registered electors voting on the question at the November 2002 general election."

Act 396 of 2002, the Great Lakes water quality bond authorization act, which was approved by the Governor on May 29, 2002, and filed with the Secretary of State on May 30, 2002, provided that bonds "shall not be issued under this act unless the question set forth in section 5 [MCL 324.95205] is approved by a majority vote of the registered electors voting on the question." In accordance with Const 1963, art 9, sec 15, the question of borrowing a sum of not to exceed \$1,000,000,000.00 and the issuance of general obligation bonds of the state for the purposes set forth in the act was submitted to, and approved by, the qualified electors of the state as Proposal 02-2 at the November 5, 2002, general election.

Popular name: Act 451

Popular name: NREPA

324.19702 Legislative findings.

Sec. 19702. The legislature finds and declares that the environmental, natural resources, and water quality protection programs implemented under this part are a public purpose and of paramount public concern in the interest of the health, safety, and general welfare of the citizens of this state.

History: Add. 2002, Act 397, Eff. Nov. 5, 2002.

Compiler's note: Enacting section 2 of Act 397 of 2002 provides:

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Popular name: Act 451

Popular name: NREPA

324.19703 Bonds generally.

Sec. 19703. (1) Subject to subsection (2), the bonds shall be issued in 1 or more series, each series to be in a principal amount, to be dated, to have the maturities which may be either serial, term, or both, to bear interest at a rate or rates, to be subject or not subject to prior redemption, and if subject to prior redemption with or without call premiums, to be payable at a place or places, to have or not have provisions for registration as to principal only or as to both principal and interest, to be in a form and to be executed in a manner as shall be determined by resolution to be adopted by the state administrative board and subject to or granting those covenants, directions, restrictions, or rights specified by resolution to be adopted by the state administrative board as necessary to ensure the marketability, insurability, or tax exempt status of the bonds. The state administrative board shall rotate the services of legal counsel when issuing bonds.

(2) The state administrative board may refund bonds issued under this part by the issuance of new bonds, whether or not the bonds to be refunded have matured or are subject to prior redemption. The state administrative board may issue bonds partly to refund bonds issued under this part and partly for any other purpose provided by this part. The principal amount of any refunding bonds issued pursuant to this section shall not be counted against the limitation on principal amount provided in the Great Lakes water quality bond authorization act.

(3) The state administrative board may authorize and approve insurance contracts, agreements for lines of credit, letters of credit, commitments to purchase bonds, and any other transaction to provide security to assure timely payment or purchase of any bond issued under this part. The state administrative board may authorize and approve an interest rate exchange or swap, hedge, or similar agreement in connection with the

issuance of bonds under this part, payable from the same source as the bonds.

(4) The state administrative board may authorize the state treasurer, but only within limitations contained in the authorizing resolution of the board, to do 1 or more of the following:

(a) Sell and deliver and receive payment for the bonds.

(b) Deliver bonds partly to refund bonds and partly for other authorized purposes.

(c) Select which outstanding bonds will be refunded, if any, by the new issue of bonds.

(d) Buy issued bonds.

(e) Approve interest rates or methods for determining interest rates, including fixed or variable rates, prices, discounts, maturities, principal amounts, purchase prices, purchase dates, remarketing dates, denominations, dates of issuance, interest payment dates, redemption rights at the option of the state or the owner, the place and time of delivery and payment, and other matters and procedures necessary to complete the authorized transactions.

(f) Execute, deliver, and pay the cost of remarketing agreements, insurance contracts, agreements for lines of credit, letters of credit, commitments to purchase bonds or notes, and any other transaction to provide security to assure timely payments or purchase of any bond issued under this part.

(g) Determine the details of, execute, deliver, and pay the cost of any interest rate exchange or swap, hedge, or similar agreement.

(h) Pledge all or any portion of the strategic water quality initiatives fund created in section 5204 to secure bonds issued or to be issued by the Michigan municipal bond authority created in section 4 of the shared credit rating act, 1985 PA 227, MCL 141.1054, for the purpose of funding loans under the strategic water quality initiatives loan program under part 52.

(5) The bonds shall not be subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. Issuance of the bonds shall be subject to the agency financing reporting act, 2002 PA 470, MCL 129.171 to 129.177.

(6) The bonds or any series of the bonds shall be sold at public or private sale at such price or may be issued and deposited directly into the state water pollution control revolving fund created in section 16a of the shared credit rating act, 1985 PA 227, MCL 141.1066a, or the strategic water quality initiatives fund created in section 5204, as determined by or pursuant to a resolution of the state administrative board.

(7) Not more than 20% of the bonds shall be issued in any year. The first bond issuance shall be structured in such a manner that debt payments do not begin before October 1, 2003. In making the determination to issue these bonds, the department shall consider the availability of the workforce to conduct the activities authorized by this part, in order to ensure a competitive bidding process.

History: Add. 2002, Act 397, Eff. Nov. 5, 2002;—Am. 2003, Act 287, Imd. Eff. Jan. 8, 2004.

Compiler's note: Enacting section 2 of Act 397 of 2002 provides:

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Popular name: Act 451

Popular name: NREPA

324.19703a Issuance of bonds; conditions; report; "fundable range" defined.

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

(a) For the state fiscal year ending on September 30, 2011, bonds must not be issued or expended under this part for the purposes of section 5204b, unless the department of natural resources and environment has established a fundable range of at least \$210,000,000.00 for that state fiscal year to fund projects under the state water pollution control revolving fund created in section 16a of the shared credit rating act, 1985 PA 227, MCL 141.1066a.

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

(c) For each state fiscal year beginning with the state fiscal year ending September 30, 2013, the

department of natural resources and environment, in conjunction with the department of treasury, shall seek to fully fund all eligible projects applying for assistance under part 53, to the extent administratively possible, utilizing the bond proceeds under this part as necessary to achieve this goal.

(2) If the department of natural resources and environment is not able to establish a fundable range under subsection (1)(b) of at least \$259,000,000.00, the department of natural resources and environment shall submit to the standing committees of the senate and house of representatives with jurisdiction over issues primarily pertaining to natural resources and the environment a report detailing the reasons why the fundable range was not set at this level.

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

History: Add. 2010, Act 232, Imd. Eff. Dec. 14, 2010;—Am. Act 132, Imd. Eff. June 30, 2022.

Popular name: Act 451

Popular name: NREPA

324.19704 Bonds as negotiable.

Sec. 19704. The bonds shall be fully negotiable under the uniform commercial code, 1962 PA 174, MCL 440.1101 to 440.11102. The bonds and the interest on the bonds shall be exempt from all taxation by the state or any political subdivision of the state.

History: Add. 2002, Act 397, Eff. Nov. 5, 2002.

Compiler's note: Enacting section 2 of Act 397 of 2002 provides:

"Enacting section 2. This amendatory act does not take effect unless the question provided for in the Great Lakes water quality bond authorization act is approved by a majority of the registered electors voting on the question at the November 2002 general election."

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Popular name: Act 451

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324.19705 Bonds as securities.

Sec. 19705. The bonds are securities in which banks, savings and loan associations, state authorities, investment companies, credit unions, and other persons carrying on a banking business; all insurance companies, insurance associations, and other persons carrying on an insurance business; and all administrators, executors, guardians, trustees, and other fiduciaries may properly and legally invest funds, including capital, belonging to them or within their control.

History: Add. 2002, Act 397, Eff. Nov. 5, 2002.

Compiler's note: Enacting section 2 of Act 397 of 2002 provides:

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Popular name: Act 451

Popular name: NREPA

324.19706 Great Lakes water quality bond fund; creation; subaccounts.

Sec. 19706. (1) The Great Lakes water quality bond fund is created in the state treasury.

(2) The fund shall consist of all of the following:

(a) The proceeds of sales of the bonds sold at public or private sale and any premium and accrued interest received on the delivery of the bonds.

(b) Any interest or earnings generated by the proceeds described in subdivision (a).

(c) Any federal or other funds received.

(3) The department of treasury may establish restricted subaccounts within the fund as necessary to administer the fund.

History: Add. 2002, Act 397, Eff. Nov. 5, 2002.

Compiler's note: Enacting section 2 of Act 397 of 2002 provides:

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Popular name: Act 451

Popular name: NREPA

324.19707 Bond proceeds; disposition; investment; expenditure; tax exempt status; funds remaining at close of fiscal year; annual accounting.

Sec. 19707. (1) The total proceeds of all bonds sold at public or private sale shall be deposited into the fund.

(2) The state treasurer shall direct the investment of the fund.

(3) The bond proceeds shall be expended in an appropriate manner that maintains the tax exempt status of any bonds issued as tax exempt bonds.

(4) The unencumbered balance in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund.

(5) The department shall provide an annual accounting of bond proceeds spending on a cash basis to the department of treasury. This accounting shall be submitted to the governor, the standing committees of the house of representatives and the senate that primarily address issues pertaining to the protection of natural resources and the environment, and the appropriations committees in the house of representatives and the senate.

History: Add. 2002, Act 397, Eff. Nov. 5, 2002.

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Popular name: NREPA

324.19708 Funds; transfer; use; deposit of certain bonds in determination of allocation and transfer; audit.

Sec. 19708. (1) Subject to subsections (2), (3), and (4), the state treasurer shall transfer money in the fund as follows:

(a) In aggregate, not more than \$290,000,000.00 of the money in the fund shall be deposited into the state water pollution control revolving fund created in section 16a of the shared credit rating act, 1985 PA 227, MCL 141.1066a.

(b) In aggregate, not more than \$710,000,000.00 of the money in the fund shall be deposited into the strategic water quality initiatives fund created in section 5204.

(2) Money in the fund may be used by the department of treasury to pay for the cost of issuing bonds and the costs incurred under section 19703(3).

(3) Bonds that are directly deposited into the state water pollution control revolving fund or strategic water quality initiatives fund as authorized by section 19703 shall be taken into account for the purpose of determining the allocation and transfer of money set forth in subsection (1).

(4) Not later than December 14, 2012, the auditor general shall conduct an audit of the fund to assure that the money in the fund has been expended in compliance with law. Not later than December 14, 2014, the auditor general shall update its initial audit to assure that money in the fund has been expended in compliance with law.

History: Add. 2002, Act 397, Eff. Nov. 5, 2002;—Am. 2005, Act 256, Imd. Eff. Dec. 1, 2005;—Am. 2010, Act 232, Imd. Eff. Dec. 14, 2010;—Am. 2012, Act 562, Imd. Eff. Jan. 2, 2013.

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