



# HOUSE BILL No. 4760

April 27, 1995, Introduced by Reps. Brater, Gire, LaForge, Hanley, Baird, Martinez, Tesanovich, Schroer, Profit, Yokich, Brewer, Kelly, Cherry, Palamara, Parks, Agee, Wetters, Ciaramitaro, Harder, Stallworth, DeHart, Leland, Murphy, Berman, Olshove, Griffin, Freeman, Wallace, Pitoniak, Gubow, Alley, Scott, Hertel, DeMars, Varga, Mathieu, Baade, Clack, Hammerstrom, Weeks, Jaye and Price and referred to the Committee on Conservation, Environment and Great Lakes.

A bill to amend Act No. 451 of the Public Acts of 1994,  
entitled  
"Natural resources and environmental protection act,"  
being sections 324.101 to 324.90101 of the Michigan Compiled  
Laws, by adding section 512.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Act No. 451 of the Public Acts of 1994, being  
2 sections 324.101 to 324.90101 of the Michigan Compiled Laws, is  
3 amended by adding section 512 to read as follows:

4 SEC. 512. (1) FOR THE PURPOSES OF ADMINISTERING AND IMPLE-  
5 MENTING PART 31 AND PART 55, THE AIR AND WATER RESOURCE COMMIS-  
6 SION IS CREATED WITHIN THE DEPARTMENT. THE DEPARTMENT SHALL PRO-  
7 VIDE STAFF ASSISTANCE TO THE AIR AND WATER RESOURCE COMMISSION  
8 AND PROVIDE THE COMMISSION WITH SUITABLE OFFICE FACILITIES. THE  
9 AIR AND WATER RESOURCE COMMISSION SHALL CONSIST OF THE DIRECTOR,

1 DIRECTOR OF PUBLIC HEALTH, DIRECTOR OF TRANSPORTATION, DIRECTOR  
2 OF THE DEPARTMENT OF AGRICULTURE, AND THE FOLLOWING CITIZENS  
3 APPOINTED BY THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE  
4 SENATE:

5 (A) TWO REPRESENTATIVES OF THE REGULATED COMMUNITY, 1 OF  
6 WHOM IS A REGISTERED PROFESSIONAL ENGINEER TRAINED AND  
7 EXPERIENCED IN MATTERS PERTAINING TO AIR AND WATER POLLUTION.

8 (B) TWO REPRESENTATIVES OF LOCAL GOVERNING BODIES.

9 (C) ONE FULL-TIME AIR POLLUTION OR WATER POLLUTION CONTROL  
10 OFFICER.

11 (D) ONE LICENSED DOCTOR OF MEDICINE WHO IS EXPERIENCED AND  
12 COMPETENT IN MATTERS RELATED TO THE TOXICOLOGY OF AIR AND WATER  
13 CONTAMINANTS.

14 (E) ONE REPRESENTATIVE OF ORGANIZED LABOR.

15 (F) TWO REPRESENTATIVES OF A STATEWIDE, PRIVATE, NONPROFIT  
16 CONSERVATION OR ENVIRONMENTAL GROUP.

17 (G) TWO REPRESENTATIVES OF THE GENERAL PUBLIC.

18 (2) MEMBERS OF THE AIR AND WATER RESOURCE COMMISSION SHALL  
19 SERVE FOR TERMS OF 3 YEARS, OR UNTIL A SUCCESSOR IS APPOINTED,  
20 WHICHEVER IS LATER, EXCEPT THAT OF THE MEMBERS FIRST APPOINTED, 3  
21 SHALL SERVE FOR 1 YEAR, 4 SHALL SERVE FOR 2 YEARS, AND 4 SHALL  
22 SERVE FOR 3 YEARS.

23 (3) IF A VACANCY OCCURS ON THE AIR AND WATER RESOURCE COM-  
24 MISSION, THE GOVERNOR SHALL MAKE AN APPOINTMENT FOR THE UNEXPIRED  
25 TERM IN THE SAME MANNER AS THE ORIGINAL APPOINTMENT.

1 (4) A MAJORITY OF THE MEMBERS OF THE AIR AND WATER RESOURCE  
2 COMMISSION CONSTITUTES A QUORUM FOR THE TRANSACTION OF BUSINESS  
3 AT A MEETING OF THE COMMISSION.

4 (5) THE BUSINESS WHICH THE AIR AND WATER RESOURCE COMMISSION  
5 MAY PERFORM SHALL BE CONDUCTED AT A PUBLIC MEETING OF THE COMMIS-  
6 SION HELD IN COMPLIANCE WITH THE OPEN MEETINGS ACT, ACT NO. 267  
7 OF THE PUBLIC ACTS OF 1976, BEING SECTIONS 15.261 TO 15.275 OF  
8 THE MICHIGAN COMPILED LAWS.

9 (6) A WRITING PREPARED, OWNED, USED, IN POSSESSION OF, OR  
10 RETAINED BY THE AIR AND WATER RESOURCE COMMISSION IN THE PER-  
11 FORMANCE OF AN OFFICIAL FUNCTION IS SUBJECT TO THE FREEDOM OF  
12 INFORMATION ACT, ACT NO. 442 OF THE PUBLIC ACTS OF 1976, BEING  
13 SECTIONS 15.231 TO 15.246 OF THE MICHIGAN COMPILED LAWS.

14 (7) MEMBERS OF THE AIR AND WATER RESOURCE COMMISSION SHALL  
15 SERVE WITHOUT COMPENSATION. HOWEVER, MEMBERS OF THE COMMISSION  
16 MAY BE REIMBURSED FOR THEIR ACTUAL AND NECESSARY EXPENSES  
17 INCURRED IN THE PERFORMANCE OF THEIR OFFICIAL DUTIES AS MEMBERS  
18 OF THE COMMISSION.

19 (8) NOTWITHSTANDING ANY CONTRARY PROVISION WITHIN PART 31 OR  
20 PART 55, THE AIR AND WATER RESOURCE COMMISSION SHALL EXERCISE THE  
21 POWERS HELD BY THE WATER RESOURCES COMMISSION UNDER FORMER ACT  
22 NO. 245 OF THE PUBLIC ACTS OF 1929 AND THE AIR POLLUTION CONTROL  
23 COMMISSION UNDER FORMER ACT NO. 348 OF THE PUBLIC ACTS OF 1965,  
24 INCLUDING BUT NOT LIMITED TO ALL OF THE FOLLOWING POWERS AND  
25 DUTIES:

26 (A) ESTABLISHING STANDARDS FOR AMBIENT AIR QUALITY AND FOR  
27 EMISSIONS.

1 (B) ISSUING PERMITS FOR THE CONSTRUCTION AND THE OPERATION  
2 OF AIR POLLUTION CONTROL FACILITIES AND SOURCE EMISSIONS AND  
3 REQUIRING REPORTS OF THE OPERATION OF THE AIR POLLUTION CONTROL  
4 FACILITIES.

5 (C) COMPELLING THE ATTENDANCE OF WITNESSES AT PROCEEDINGS OF  
6 THE COMMISSION UPON REASONABLE NOTICE.

7 (D) MAKING FINDINGS OF FACT AND DETERMINATIONS.

8 (E) MAKING, MODIFYING, OR CANCELING ORDERS WHICH REQUIRE, IN  
9 ACCORDANCE WITH THE PROVISIONS OF THIS ACT, THE CONTROL OF AIR  
10 POLLUTION.

11 (F) ACCEPTING AND CONSIDERING FOR APPROVAL PLANS FOR AIR  
12 CLEANING DEVICES AND INSPECTING THE INSTALLATION FOR COMPLIANCE  
13 WITH THE PLANS.

14 (G) PROMULGATING RULES FOR PURPOSES OF:

15 (i) CONTROLLING OR PROHIBITING AIR POLLUTION.

16 (ii) COMPLYING WITH FEDERAL LAWS APPLICABLE TO AIR QUALITY.

17 (iii) CONTROLLING ANY MODE OF TRANSPORTATION WHICH IS  
18 CAPABLE OF CAUSING OR CONTRIBUTING TO AIR POLLUTION.

19 (iv) REVIEWING PROPOSED LOCATIONS OF STATIONARY EMISSION  
20 SOURCES.

21 (v) REVIEWING MODIFICATIONS OF EXISTING EMISSION SOURCES.

22 (vi) PROHIBITING LOCATIONS OR MODIFICATIONS OF EMISSION  
23 SOURCES THAT IMPAIR THE STATE'S ABILITY TO MEET FEDERAL AMBIENT  
24 AIR STANDARDS.

25 (vii) ESTABLISHING SUITABLE EMISSION STANDARDS CONSISTENT  
26 WITH AMBIENT AIR QUALITY STANDARDS ESTABLISHED BY THE FEDERAL  
27 GOVERNMENT AND FACTORS INCLUDING, BUT NOT LIMITED TO, CONDITIONS

1 OF THE TERRAIN, WIND VELOCITIES AND DIRECTIONS, LAND USAGE OF THE  
2 REGION, AND THE ANTICIPATED CHARACTERISTICS AND QUANTITIES OF  
3 POTENTIAL AIR POLLUTION SOURCES. THIS SECTION DOES NOT PROHIBIT  
4 THE COMMISSION FROM DENYING OR REVOKING A PERMIT TO OPERATE A  
5 CONTROL FACILITY THAT WOULD ADVERSELY AFFECT HUMAN HEALTH OR  
6 OTHER CONDITIONS IMPORTANT TO THE LIFE OF THE COMMUNITY.

7 (H) HOLDING PUBLIC HEARINGS.

8 (I) PROTECTING AND CONSERVING THE WATER RESOURCES OF THE  
9 STATE; AND THE COMMISSION SHALL HAVE CONTROL OF THE POLLUTION OF  
10 SURFACE OR UNDERGROUND WATERS OF THE STATE AND THE GREAT LAKES,  
11 WHICH ARE OR MAY BE AFFECTED BY WASTE DISPOSAL.

12 (J) MAKING OR CAUSING TO BE MADE SURVEYS, STUDIES, AND  
13 INVESTIGATIONS OF THE USES OF WATERS OF THE STATE, BOTH SURFACE  
14 AND UNDERGROUND, AND COOPERATING WITH OTHER GOVERNMENTS AND GOV-  
15 ERNMENTAL UNITS AND AGENCIES IN MAKING THE SURVEYS, STUDIES, AND  
16 INVESTIGATIONS.

17 (K) ASSISTING IN AN ADVISORY CAPACITY A FLOOD CONTROL DIS-  
18 TRICT WHICH MAY BE AUTHORIZED BY THE LEGISLATURE AND APPEARING  
19 AND PRESENTING EVIDENCE, REPORTS, AND OTHER TESTIMONY DURING THE  
20 HEARINGS INVOLVING THE CREATION AND ORGANIZATION OF FLOOD CONTROL  
21 DISTRICTS.

22 (L) ADVISING AND CONSULTING WITH THE LEGISLATURE ON THE  
23 OBLIGATION OF THE STATE TO PARTICIPATE IN THE COSTS OF CONSTRUC-  
24 TION AND MAINTENANCE AS PROVIDED FOR IN THE OFFICIAL PLANS OF A  
25 FLOOD CONTROL DISTRICT OR INTERCOUNTY DRAINAGE DISTRICT.

1 (M) ESTABLISHING POLLUTION STANDARDS FOR LAKES, RIVERS,  
2 STREAMS, AND OTHER WATERS OF THE STATE IN RELATION TO THE PUBLIC  
3 USE TO WHICH THEY ARE OR MAY BE PUT, AS IT CONSIDERS NECESSARY.

4 (N) ISSUING PERMITS THAT WILL ASSURE COMPLIANCE WITH STATE  
5 STANDARDS TO REGULATE MUNICIPAL, INDUSTRIAL, AND COMMERCIAL DIS-  
6 CHARGES OR STORAGE OF ANY SUBSTANCE THAT MAY AFFECT THE QUALITY  
7 OF THE WATERS OF THE STATE.

8 (O) SETTING PERMIT RESTRICTIONS THAT WILL ASSURE COMPLIANCE  
9 WITH APPLICABLE FEDERAL LAW AND REGULATIONS.

10 (P) ASCERTAINING AND DETERMINING, FOR RECORD AND IN MAKING  
11 ITS ORDER, WHAT VOLUME OF WATER ACTUALLY FLOWS IN ALL STREAMS,  
12 AND THE HIGH- AND LOW-WATER MARKS OF LAKES AND OTHER WATERS OF  
13 THE STATE, AFFECTED BY THE WASTE DISPOSAL OR POLLUTION.

14 (Q) PROMULGATING RULES AND ISSUING ORDERS RESTRICTING THE  
15 POLLUTING CONTENT OF ANY WASTE MATERIAL OR POLLUTING SUBSTANCE  
16 DISCHARGED OR SOUGHT TO BE DISCHARGED INTO ANY LAKE, RIVER,  
17 STREAM, OR OTHER WATERS OF THE STATE.

18 (R) TAKING ALL APPROPRIATE STEPS TO PREVENT ANY POLLUTION  
19 WHICH IS CONSIDERED BY THE COMMISSION TO BE UNREASONABLE AND  
20 AGAINST PUBLIC INTEREST IN VIEW OF THE EXISTING CONDITIONS IN ANY  
21 LAKE, RIVER, STREAM, OR OTHER WATERS OF THE STATE.

22 (S) ISSUING PERMITS.

23 (9) A PERSON WHO IS AGGRIEVED BY A DECISION OF THE AIR AND  
24 WATER RESOURCE COMMISSION REGARDING A PERMITTING DECISION WHO HAS  
25 EXHAUSTED ALL AVAILABLE ADMINISTRATIVE REMEDIES MAY FILE AN  
26 APPEAL IN THE CIRCUIT COURT AND SHALL HAVE AN AUTOMATIC RIGHT OF  
27 APPEAL TO THE COURT OF APPEALS.

1       (10) AS USED IN THIS SECTION, "COMMISSION" MEANS THE AIR AND  
2 WATER RESOURCE COMMISSION.