

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 4358

A bill to make appropriations for the department of environmental quality for the fiscal year ending September 30, 2008; to provide for the expenditure of those appropriations; to create certain funds and accounts; to require certain reports; to prescribe the powers and duties of certain state agencies and officials; to authorize certain transfers by certain state agencies; and to provide for the disposition of fees and other income received by the various state agencies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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PART 1

LINE-ITEM APPROPRIATIONS

Sec. 101. Subject to the conditions set forth in this act, the

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amounts listed in this part are appropriated for the department of environmental quality for the fiscal year ending September 30, 2008, from the funds indicated in this part. The following is a summary of the appropriations in this part:

APPROPRIATION SUMMARY:

GROSS APPROPRIATION.....	\$	<<(100)>>
Interdepartmental grant revenues:		
Total interdepartmental grants and intradepartmental transfers		0
ADJUSTED GROSS APPROPRIATION.....	\$	<<(100)>>
Federal revenues:		
Total federal revenues.....		0
Special revenue funds:		
Total local revenues.....		0
Total private revenues.....		0
Total other state restricted revenues.....		0
State general fund/general purpose.....	\$	<<(100)>>
Sec. 102. BUDGETARY SAVINGS		
Budgetary savings.....	\$	(100)
GROSS APPROPRIATION.....	\$	(100)
Appropriated from:		
State general fund/general purpose.....	\$	(100)

PART 2

PROVISIONS CONCERNING APPROPRIATIONS

GENERAL SECTIONS

Sec. 201. Pursuant to section 30 of article IX of the state constitution of 1963, total state spending under part 1 for fiscal year 2005-2006 is <<(\$100.00)>>. State payments to local units of government under part 1 are \$0.00.

1 TOTAL..... \$ 0

2 Sec. 202. The appropriations made and the expenditures
3 authorized under this part and the departments, agencies,
4 commissions, boards, offices, and programs for which an
5 appropriation is made under part 1 are subject to the management
6 and budget act, 1984 PA 431, MCL 18.1101 to 18.1594.

7 Sec. 210. The department shall notify the legislature and
8 shall provide a public meeting and public comment opportunity with
9 respect to any request received by the state of Michigan to divert
10 water from the Great Lakes pursuant to the water resources
11 development act of 1986, Public Law 99-662, 100 Stat. 4082.

12 Sec. 219. The department shall not take disciplinary action
13 against an employee for communicating with a member of the
14 legislature or his or her staff.

15 Sec. 220. The department shall annually report by December 31
16 to the state budget director, the senate and house appropriations
17 committees, and the senate and house fiscal agencies an accounting
18 of all civil and criminal fine revenue collected during the
19 previous fiscal year.

20 Sec. 223. It is the intent of the legislature that, on or
21 before January 1, 2008, the department renew the joint agreement,
22 which was initially signed in January 2002, of the United States
23 environmental protection agency and the state to pursue regulatory
24 innovation. It is the intent that the agreement be renewed in a
25 substantially similar form to uphold the principal tenets of the
26 agreement, including, but not limited to, helping farms and farm
27 operations voluntarily prevent or minimize agricultural pollution

1 risks.

2 Sec. 224. From the funds appropriated in part 1, the
3 department shall implement continuous improvement efficiency
4 mechanisms in the air quality renewable operating permit program,
5 the groundwater discharge program, land and water management
6 programs, and the hazardous waste management program. On March 31,
7 2008 and September 30, 2008, the department shall report to the
8 state budget director, the senate and house appropriations
9 subcommittees on environmental quality, the senate and house
10 standing committees on issues primarily related to environmental
11 quality, and the senate and house fiscal agencies on the progress
12 made toward efficiencies in these programs. Individual reports
13 shall be submitted for each of the 4 identified programs. At a
14 minimum, each report shall include information on the program
15 review process, the type of improvement mechanisms applied, the
16 amount of actual and potential budget savings resulting from
17 efficiencies, and a plan for continued increased program
18 efficiency.

19 Sec. 225. From the funds appropriated in part 1, the
20 department shall collaborate with the legislative service bureau to
21 complete a benchmarking study on the air quality renewable
22 operating permit program, the groundwater discharge program, land
23 and water management programs, and the hazardous waste management
24 program. The study shall include a calculation of the department's
25 per-permit cost to process the permits, a listing of the timeliness
26 of the process from receipt of permit application to award or
27 denial of permit, the cost of administering permits including

1 compliance reviews, and a comparison of Michigan's performance and
2 practices to those of our competitor states, including, but not
3 limited to, Alabama, South Carolina, North Carolina, Kentucky,
4 Tennessee, Georgia, and the other Great Lakes states. The study
5 shall be submitted to the state budget director, the senate and
6 house appropriations subcommittees on environmental quality, the
7 senate and house standing committees on issues primarily related to
8 environmental quality, and the senate and house fiscal agencies by
9 September 30, 2008.

10 Sec. 226. (1) The department shall report no later than April
11 1, 2008 on each specific policy change made to implement enacted
12 legislation to the senate and house appropriations subcommittees on
13 the department budget, the senate and house standing committees on
14 the department budget, the chairperson of the joint committee on
15 administrative rules, and the senate and house fiscal agencies and
16 policy offices.

17 (2) Funds appropriated in part 1 shall not be used to prepare
18 regulatory plans or promulgate rules that fail to reduce the
19 disproportionate economic impact on small businesses pursuant to
20 section 40 of the administrative procedures act of 1969, 1969 PA
21 306, MCL 24.240.

22 Sec. 227. Funds appropriated in part 1 shall not be used by a
23 principal executive department, state agency, or authority to hire
24 a person to provide legal services that are the responsibility of
25 the attorney general.

26 ENVIRONMENTAL SCIENCE AND SERVICES

1 Sec. 501. By July 1, 2008, the department shall prepare and
2 submit a report to the state budget director, the legislature, the
3 chairs of the standing committees of the senate and house of
4 representatives with primary responsibility for issues related to
5 natural resources and the environment, and the chairs of the
6 subcommittees of the senate and house appropriations committees
7 with primary responsibility for appropriations for the department
8 of environmental quality, outlining the implementation of the Great
9 Lakes water quality bond provided for in part 197 of the natural
10 resources and environmental protection act, 1994 PA 451, MCL
11 324.19701 to 324.19708, including, but not limited to, the amount
12 of bonds issued and the date they were issued, the number of
13 applications received for loans from the state water pollution
14 control revolving fund created in section 16a of the shared credit
15 rating act, 1985 PA 227, MCL 141.1066a, the total amount of loans
16 requested, a listing of the applicants receiving loans and the
17 total amount of loans provided to those applicants, a listing of
18 applicants whose loan applications were not approved and the
19 reasons why those applications were not approved, the amount of the
20 loans granted that were leveraged from bond proceeds, and the
21 remaining bond proceeds and bond authorization.

22 Sec. 503. From the funds appropriated in part 1, the
23 department, in cooperation with associations of small business,
24 shall publish at least 2 compliance guides annually to assist small
25 businesses in complying with environmental requirements. Each guide
26 shall cover a group or class of similarly affected small
27 businesses, explain the actions a small business in that group or

1 class is required to take to comply with environmental
2 requirements, and use plain language likely to be understood by
3 affected small businesses. It is the intent of the legislature that
4 each compliance guide be reevaluated and revised every 5 years.

5 **OFFICE OF GEOLOGICAL SURVEY**

6 Sec. 550. From the funds appropriated in part 1, the office of
7 geological survey is encouraged to continue its work with Western
8 Michigan University's department of geosciences to maintain core
9 samples at the Michigan basin core research laboratory as part of
10 the Michigan geological repository for research and education at
11 Western Michigan University and it is encouraged to explore new
12 opportunities for mutually beneficial research and collaboration
13 between the department and the university

14 **LAND AND WATER MANAGEMENT**

15 Sec. 602. (1) The department shall not spend funds provided in
16 part 1 on the implementation of part 303 of the natural resources
17 and environmental protection act, 1994 PA 451, MCL 324.30301 to
18 324.30323, as it relates to wetlands described in section
19 30301(d)(ii) of the natural resources and environmental protection
20 act, 1994 PA 451, MCL 324.30301, in a county with a population of
21 less than 100,000 until the department has developed and
22 implemented a wetland inventory map for that county to a level of
23 detail such that a person can determine from the map with a
24 reasonable amount of certainty whether or not a parcel or
25 substantial portion of a parcel in question is in fact a wetland

1 subject to regulation by the department.

2 (2) Before commencing wetlands protection in counties with
3 populations of less than 100,000, the department shall notify in
4 writing the senate and house appropriations subcommittees on
5 environmental quality, the senate and house fiscal agencies, and
6 the state budget director that the wetland inventory maps meet the
7 criteria of subsection (1) and the date the program will begin.

8 **REMEDIATION AND REDEVELOPMENT**

9 Sec. 702. From funds appropriated in part 1 for activities
10 related to cleanup sites under part 201 of the natural resources
11 and environmental protection act, 1994 PA 451, MCL 324.20101 to
12 324.20142, the department shall incorporate into remedial action
13 plans area-wide or site-specific cleanup criteria derived from
14 peer-reviewed risk assessment based on bioavailability studies,
15 site-specific human exposure data, and any other scientifically
16 based risk assessment studies that are available and relevant. The
17 department shall submit a report listing efforts made by the
18 department to comply with this section. This report shall be
19 provided to the house and senate appropriations subcommittees on
20 environmental quality on or before January 1, 2008.

21 Sec. 704. The funds appropriated in part 1 for the
22 environmental cleanup and redevelopment program shall be used to
23 fund cleanup activities on a list to be provided to the legislature
24 within 30 days of enactment of this section.

25 Sec. 705. It is the intent of the legislature to repay the
26 refined petroleum fund for the \$70,000,000.00 that was transferred

1 to the environmental protection fund as part of the resolution for
2 the fiscal year 2006-2007 budget.

3 Sec. 706. It is the intent of the legislature that the office
4 of the auditor general conduct a performance audit of the leaking
5 underground storage tank program. The performance audit shall
6 include an investigation of the use of operational memoranda, draft
7 memoranda, and selective enforcement of regulations. The department
8 shall fully cooperate with the auditor general during the
9 performance audit.

10 Sec. 707. The department shall not expend funds appropriated
11 in part 1 if using operational memoranda or other similar documents
12 that are in draft form to impose regulations on individuals or
13 businesses conducting environmental cleanup projects. Upon request,
14 the department shall provide written proof that a regulation being
15 applied or enforced with respect to an environmental cleanup
16 project is established in statute or administrative rule.

<<Sec.708. From the funds appropriated in part 1, the
department shall not expend any funds for the promulgation of proposed
rule 336.1640.

WASTE AND HAZARDOUS MATERIALS

Sec. 803. As defined in part 625 of the natural resources and
environmental protection act, 1994 PA 451, (MCL 324.6501 to 324.6539),
the department shall annually provide a report to the city of Romulus,
city of Taylor, and Wayne County with respect to multisource commercial
hazardous waste disposal well activities in Wayne County containing all
of the following:

(a) Information concerning the release or discharge of any
hazardous waste or hazardous waste constituent that may endanger public
drinking water supplies or the environment.

(b) Information concerning the fire, explosion, or other release or
discharge of any hazardous waste or hazardous waste constituent that
could threaten human health or the environment or a spill that has
reached surface water or groundwater.

(c) A summary of groundwater quality data, data graphs, data
tables, statistical analyses to date, and identification of any
statistically significant increases.

(d) With respect to the information described in subdivisions (a)
to (c), a description of any noncompliance and its cause; the periods of

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noncompliance, including exact dates and times; whether the noncompliance has been corrected and, if not, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance and when those activities occurred or will occur.>>

17 **WATER**

18 Sec. 902. Of the funds appropriated in part 1 for safe
19 drinking water assistance activities under part 54 of the natural
20 resources and environmental protection act, 1994 PA 451, MCL
21 324.5401 to 324.5418, the department shall allocate the full 2%
22 available for technical assistance under 42 USC 300j-12.

23 Sec. 903. From the funds appropriated in part 1, the
24 department shall conduct a comparative analysis of the NPDES permit
25 program for large confined animal feeding operations with the
26 Michigan agriculture environmental assurance program (MAEAP). The

1 analysis shall include a comparison of standards in effect at the
2 time of MAEAP verification of a farm. The collection of data,
3 evaluation, and final report shall be conducted in collaboration
4 with the department of agriculture. The analysis shall be submitted
5 to the state budget director, the senate and house appropriations
6 subcommittees on environmental quality and agriculture, the senate
7 and house standing committees on issues primarily related to
8 environmental quality and agriculture, and the senate and house
9 fiscal agencies by February 1, 2008.

10 Sec. 904. The department shall not expend funds appropriated
11 in part 1 to enforce administrative rules, policies, guidelines, or
12 procedures that are more stringent than 40 CFR part 9, 122, 123, or
13 412, as finally promulgated. The department shall not expend funds
14 appropriated in part 1 to implement or enforce administrative
15 rules, policies, guidelines, or procedures that do 1 or more of the
16 following:

17 (a) Require a farm to obtain a national pollution discharge
18 elimination system permit under part 31 of the natural resources
19 and environmental protection act, 1994 PA 451, MCL 324.3101 to
20 324.3133, if the farm has not been found by the department to have
21 a regulated discharge of pollutants into waters of this state.

22 (b) Require submission of field specific information beyond
23 providing on-site access to the department.

24 (c) Exceed the agricultural stormwater exemption as defined in
25 the clean water act, 33 USC 1251 to 1387.

26 Sec. 905. From the funds appropriated in part 1, the
27 department shall assess storm water permit fees only on the owners

1 or operators of municipal storm sewer systems.