

HOUSE BILL No. 5751

January 19, 2010, Introduced by Reps. Donigan, Roberts, Tlaib, Scripps, Bauer, LeBlanc and Leland and referred to the Committee on Great Lakes and Environment.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending sections 5301 and 5303 (MCL 324.5301 and 324.5303),
section 5301 as amended by 2005 PA 255 and section 5303 as amended
by 2002 PA 398.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 5301. As used in this part:

2 (a) "Assistance" means 1 or more of the following activities
3 to the extent authorized by the federal water pollution control
4 act:

5 (i) Provision of loans to municipalities for construction of
6 sewage treatment works projects, stormwater treatment projects, or

1 nonpoint source projects.

2 (ii) Project refinancing assistance.

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

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

10 (v) Provision of loan guarantees for similar revolving funds
11 established by municipalities.

12 (vi) The use of deposited funds to earn interest on fund
13 accounts.

14 (vii) Provision for reasonable costs of administering and
15 conducting activities under title VI of the federal water pollution
16 control act, 33 USC 1381 to 1387.

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

20 (c) "Capitalization grant" means the federal grant made to
21 this state by the United States environmental protection agency for
22 the purpose of establishing a state water pollution control
23 revolving fund, as provided in title VI of the federal water
24 pollution control act, 33 USC 1381 to 1387.

25 (d) "Construction activities" means any actions undertaken in
26 the planning, designing, or building of sewage treatment works
27 projects, stormwater treatment projects, or nonpoint source

1 projects. Construction activities include, but are not limited to,
2 all of the following:

3 (i) Project planning services.

4 (ii) Engineering services.

5 (iii) Legal services.

6 (iv) Financial services.

7 (v) Design of plans and specifications.

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

9 (vii) Building, erection, alteration, remodeling, or extension
10 of a sewage treatment works.

11 (viii) Building, erection, alteration, remodeling, or extension
12 of projects designed to control nonpoint source pollution,
13 consistent with ~~section 319 of title III of the federal water~~
14 ~~pollution control act,~~ 33 USC 1329.

15 (ix) Building, erection, alteration, or remodeling of a
16 stormwater treatment project.

17 (x) Municipal supervision of the project activities described
18 in subparagraphs (i) to (ix).

19 (e) "Federal water pollution control act" means 33 USC 1251 to
20 1387.

21 (f) "Fund" means the state water pollution control revolving
22 fund established under the shared credit rating act, 1985 PA 227,
23 MCL 141.1051 to 141.1076, established pursuant to title VI of the
24 federal water pollution control act.

25 (g) "Fundable range" means those projects, taken in descending
26 order on the priority lists, for which sufficient funds are
27 estimated by the department to exist to provide assistance at the

1 beginning of each annual funding cycle.

2 (H) "LOW-IMPACT DEVELOPMENT" MEANS LAND DEVELOPMENT DESIGNED
3 TO MIMIC A SITE'S PRESETTLEMENT HYDROLOGY WITHOUT EXACERBATING
4 DOWNSTREAM FLOODING BY USING SPATIALLY DISTRIBUTED, DECENTRALIZED,
5 SMALL SCALE CONTROLS THAT INFILTRATE, FILTER, STORE, EVAPORATE, AND
6 DETAIN STORMWATER CLOSE TO ITS SOURCE.

7 (I) ~~(h)~~ "Municipality" means a city, village, county,
8 township, authority, or other public body, including an
9 intermunicipal agency of 2 or more municipalities, authorized or
10 created under state law; or an Indian tribe that has jurisdiction
11 over construction and operation of sewage treatment works or other
12 projects qualifying under ~~section 319 of title III of the federal~~
13 ~~water pollution control act,~~ 33 USC 1329.

14 (J) ~~(i)~~ "Nonpoint source project" means construction
15 activities designed to reduce nonpoint source pollution consistent
16 with the state nonpoint source management plan pursuant to ~~section~~
17 ~~319 of title III of the federal water pollution control act,~~ 33 USC
18 1329.

19 (K) ~~(j)~~ "Priority list" means the annual ranked listing of
20 projects developed by the department in section 5303 or used by the
21 department pursuant to section 5315.

22 (L) ~~(k)~~ "Project" means a sewage treatment works project, a
23 stormwater treatment project, or a nonpoint source project, or a
24 combination of these.

25 (M) ~~(l)~~ "Project refinancing assistance" means buying or
26 refinancing the debt obligations of municipalities within the state
27 if construction activities commenced after March 7, 1985 and the

1 debt obligation was incurred after March 7, 1985.

2 (N) ~~(m)~~—"Sewage treatment works project" means construction
3 activities on any device or system for the treatment, storage,
4 collection, conveyance, recycling, or reclamation of the sewage of
5 a municipality, including combined sewer overflow correction and
6 major rehabilitation of sewers.

7 (O) ~~(n)~~—"Stormwater treatment project" means construction
8 activities of a municipality on any device or system for the
9 treatment, storage, recycling, or reclamation of ~~storm water~~
10 **STORMWATER** that is conveyed by a storm sewer that is separate from
11 a sanitary sewer.

12 (P) ~~(o)~~—"Tier I project" means a project for which assistance
13 is sought or provided from funds made directly available from the
14 federal capitalization grant or from the Great Lakes water quality
15 bond fund pursuant to section 19708(1)(a).

16 (Q) ~~(p)~~—"Tier II project" means a project for which assistance
17 is sought or provided from funds other than those made directly
18 available from the federal capitalization grant or from the Great
19 Lakes water quality bond fund pursuant to section 19708(1)(a).

20 Sec. 5303. (1) Municipalities shall consider and utilize,
21 where possible, cooperative regional or intermunicipal projects in
22 satisfying sewerage needs in the development of project plans.

23 (2) A municipality may submit a project plan for use by the
24 department in developing a priority list.

25 (3) The project plan for a tier I project shall include
26 documentation that demonstrates that the project is needed to
27 assure maintenance of, or to progress toward, compliance with the

1 federal water pollution control act or part 31, and to meet the
2 minimum requirements of the national environmental policy act of
3 1969, ~~Public Law 91-190, 42 U.S.C. USC 4321 , 4331 to 4335, and~~
4 ~~4341 to 4347~~. The documentation shall demonstrate all of the
5 following:

6 (a) The need for the project.

7 (b) That feasible alternatives to the project were evaluated
8 taking into consideration volume reduction opportunities and the
9 demographic, topographic, hydrologic, and institutional
10 characteristics of the area.

11 (c) That the project is cost effective and implementable from
12 a legal, institutional, financial, and management standpoint.

13 (d) Other information as required by the department.

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

20 (a) Information to demonstrate the need for the project.

21 (b) A showing that the cost of the project is or was
22 justified, taking into account available alternatives. Those costs
23 determined by the department to be in excess of those costs
24 justified ~~will~~**ARE** not ~~be~~ eligible for assistance under this part.

25 (5) After notice and an opportunity for public comment, the
26 department shall annually develop separate priority lists for
27 sewage treatment works projects and stormwater treatment projects,

for nonpoint source projects, and for projects funded under the strategic water quality initiatives fund created in section 5204. Projects not funded during the time that a priority list developed under this section is in effect shall be automatically prioritized on the next annual list using the same criteria, unless the municipality submits an amendment to its plan that introduces new information to be used as the basis for prioritization. These priority lists shall be based upon project plans submitted by municipalities, and the following criteria:

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

(b) An application for a segment of a project that received funds under the ~~title II~~ construction grant program **UNDER TITLE II OF THE FEDERAL WATER POLLUTION CONTROL ACT** or ~~title VI~~ state revolving loan funds **UNDER TITLE VI** of the federal water pollution control act or **REVENUE FROM** the strategic water quality initiatives fund created in section 5204 shall be first priority on its respective priority list for funding for a period of not more than 3 years after funds were first committed under those programs.

(C) SUBJECT TO SUBDIVISION (B), IF THE PROJECT IS A STORMWATER TREATMENT PROJECT, THE FIRST PRIORITY ON THE PRIORITY LIST SHALL BE THOSE PROJECTS THAT DO EITHER OR BOTH OF THE FOLLOWING:

(i) UTILIZE LOW-IMPACT DEVELOPMENT.

(ii) RESTORE OR CREATE NATIVE HABITAT.

(D) ~~(e)~~ If the project is a sewage treatment works project or a stormwater treatment project, **A CONSIDERATION OF** all of the following criteria:

1 (i) The severity of the water pollution problem to be
2 addressed, maximizing progress towards restoring beneficial uses
3 and meeting water quality standards.

4 (ii) A determination of whether a project is or was necessary
5 to comply with an order, permit, or other document with an
6 enforceable schedule for addressing a municipality's sewage-related
7 water pollution problems that was issued by the department or
8 entered as part of an action brought by the state against the
9 municipality or any component of the municipality. A municipality
10 may voluntarily agree to an order, permit, or other document with
11 an enforceable schedule as described in this subparagraph.

12 (iii) The population to be served by the project. However, the
13 criterion provided in this subparagraph shall not be applied to
14 projects funded by the strategic water quality initiatives fund
15 created in section 5204.

16 (iv) The dilution ratio existing between the discharge volume
17 and the receiving stream.

18 **(E)** ~~(d)~~—If the project is a sewage treatment works project,
19 100 priority points shall be awarded pursuant to R 323.958 of the
20 Michigan administrative code for each of the following that apply
21 to the project:

22 (i) The project addresses on-site septic systems that are
23 adversely affecting the water quality of a water body or represent
24 a threat to public health, provided that soil and hydrologic
25 conditions are not suitable for the replacement of those on-site
26 septic systems.

27 (ii) The project includes the construction of facilities for

1 the acceptance or treatment of septage collected from on-site
2 septic systems.

3 (F) ~~(e)~~—Rankings for nonpoint source projects shall be
4 consistent with the state nonpoint source management plan developed
5 pursuant to section 319 of title III of the federal water pollution
6 control act, chapter 758, 101 Stat. 52, 33 ~~U.S.C.~~ **USC** 1329.

7 (G) ~~(f)~~—Any other criteria established by the department by
8 rule.

9 (6) The priority list shall be submitted annually to the chair
10 of the senate and house of representatives standing committees that
11 primarily consider legislation pertaining to the protection of
12 natural resources and the environment.

13 (7) For purposes of providing assistance, the priority list
14 shall take effect on the first day of each fiscal year.

15 (8) This section does not limit other actions undertaken to
16 enforce part 31, the federal water pollution control act, or any
17 other act.

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