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SFA



BILL ANALYSIS

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Senate Bill 902 (as enrolled)
Senate Bill 904 (as enrolled)
House Bill 5620 (as enrolled)
House Bill 5622 (as enrolled)
House Bill 5719 (as enrolled)

Sponsor: Senator Don Koivisto (S.B. 902)
Senator Loren Bennett (S.B. 904)
Representative James M. Middaugh (H.B. 5620)
Representative Tom Alley (H.B. 5622)
Representative Gloria Schermesser (H.B. 5719)

Senate Committee: Natural Resources and Environmental Affairs
House Committee: Conservation, Environment and Recreation

Date Completed: 9-4-98

RATIONALE

The Governor's 1998 State of the State message proposed the "Clean Michigan Initiative" (CMI), which would allow Michigan to borrow \$500 million to sell general obligation bonds for environmental improvement projects. The projects would do the following: clean up and redevelop contaminated sites, protect and improve water quality, reclaim and revitalize community waterfronts, enhance and increase recreational opportunities at State parks, and clean up contaminated sediments in Michigan waters. The Governor declared that the State has made tremendous progress and notable improvements in balancing solid economic growth and sound environmental management, but could use additional measures to continue addressing targeted environmental concerns.

The Governor's State of the State message stated that he believed "the time is right to take the next step", given the current level of interest rates and Michigan's credit rating of AA+, to borrow and issue general obligation bonds to create a comprehensive environmental protection program. The bond proposal would be subject to voter approval at the next general November election.

Many people feel that indebting the State's taxpayers with general obligation bonds is proper in instances in which a large sum of money is needed to deal with an immediate problem. Article 9, Section 15 of the State Constitution allows the State to borrow money for specific purposes in

amounts as provided by Public Acts. Approval by two-thirds of the Senate and House of Representatives, and by a majority of the electors voting in a general election, is required. The question submitted to the electors must state the amount to be borrowed, the specific purpose for which the funds are to be devoted, and the method of repayment.

Many people believe the proposed CMI bond would benefit the State's citizens, parks, water resources, communities, and families. The bond proposal would finance environmental and natural resources protection programs in targeted areas of environmental concern, such as brownfield redevelopment and environmental cleanups, waterfront improvement, river sediment cleanups, water quality programs, water resources protection and pollution control activities, pollution prevention programs, lead abatement programs, and State and local park improvements.

CONTENT

House Bill 5622 created the "Clean Michigan Initiative Act" to provide for the issuance of \$675 million in bonds for environmental and natural resources protection programs. **House Bill 5620** would add Part 795 to the Natural Resources and Environmental Protection Act (NREPA) to require the Department of Environmental Quality (DEQ) to establish a

waterfront redevelopment grants program, and House Bill 5719 would add Part 716 to the NREPA to require the Department of Natural Resources (DNR) to establish a local recreation grant program. Senate Bill 902 would add Part 88 to the NREPA to require the DEQ to establish nonpoint source pollution prevention and control projects and wellhead protection projects, and to create the Clean Water Fund. Senate Bill 904 would add Part 196 to the NREPA to provide implementation authority for the bonds issued under the CMI Act. Other than House Bill 5622 (which has taken effect), the bills will take effect December 1, 1998, if the ballot question provided for in the CMI Act is approved by the voters.

The bills are tie-barred to each other. The following is a detailed description of the bills.

House Bill 5622

General Obligation Bond

The bill requires the State to borrow up to \$675,000,000 and issue general obligation bonds, pledging the State's full faith and credit for the payment of principal and interest on the bonds, to finance environmental and natural resources protection programs that would do the following: clean up and redevelop contaminated sites, protect and improve water quality, prevent pollution, abate lead contamination, reclaim and revitalize community waterfronts, enhance recreational opportunities, and clean up contaminated sediments in lakes, rivers, and streams. The bonds must be issued in accordance with conditions and procedures established under the law.

The bonds may not be issued unless the ballot question is approved by a majority of the electors voting on the question.

Bond Proceeds

The proceeds of the sale of the bonds, premium and accrued interest on the delivery of the bonds, and any earned interest on the bonds' proceeds must be deposited in the State Treasury and credited to the Clean Michigan Initiative Bond Fund (proposed by Senate Bill 904). Money from the Fund may be disbursed only for authorized purposes.

Vote

The question of borrowing up to \$675,000,000 and

issuing general obligation bonds must be submitted to a vote of the State's qualified electors. The Secretary of State must perform necessary acts properly to submit the question to the qualified electors to vote on at the next general November election.

Appropriation

After the bonds are issued, a sufficient amount must be appropriated from the State's General Fund each fiscal year to pay promptly the principal of and interest on all outstanding bonds and costs incidental to their payment. The Governor must include the appropriation in his or her annual budget recommendation to the Legislature.

House Bill 5620

Waterfront Redevelopment Grants Program

The bill would require the DEQ to establish a waterfront redevelopment grants program. A local unit of government could apply for a grant to conduct a project that provided for the following: the response activities on waterfront property consistent with a waterfront redevelopment plan, the demolition of buildings and other facilities along a waterfront inconsistent with a plan, the acquisition or assembly of waterfront property consistent with a plan, or public infrastructure and public facility improvements to waterfront property consistent with a plan. A project would have to provide for waterfront access to the general public. ("Waterfront" would mean land that was contiguous to the Great Lakes or their connecting waterways, a river, or a lake or impoundment having a surface area of at least 50 acres.)

The DEQ would have to require that a local unit provide at least 25% of the total project's cost from other public or private funding sources for any grant issued under the bill. With the approval of the Michigan Jobs Commission, the DEQ would have to issue grants for projects that would contribute to the revitalization of waterfronts throughout the State that were not being used in a manner that maximized economic and public value. A grant could not be provided for a project located on land that was the site of, or owned or operated by, a gaming facility or a stadium or arena for use by a professional sports team; or an area described in a project plan under the Economic Development Corporations Act for a gaming facility.

Under the bill, a local unit of government that desired to apply for a grant would have to prepare

a waterfront redevelopment plan that would provide for the improvement of the waterfront. The plan would have to designate clearly the geographic area included within the waterfront planning area, and identify the economic impact on the improved area, the surrounding neighborhood, and the region containing the waterfront planning area.

Application Process

Under the bill, a local unit of government wishing to apply for a grant would have to submit a grant application to the DEQ in the prescribed manner and containing the required information. The grant application would have to include a detailed description of the project the grant would fund and how it would be used, including any private sector participation; a copy of the waterfront redevelopment plan and the area for the project; an explanation of how the project would significantly contribute to the local unit's economic and community redevelopment, or revitalization of adjacent neighborhoods; an explanation of how the project would provide for public access or recreational opportunities; the total cost of the project and the source of the local unit's contribution; an identification of the intended use of the property, if the project included the purchase of property, and a timeline for its redevelopment; a detailed description of the practices the local unit would implement and maintain to control nonpoint source pollution from the project site during construction and throughout the time the State was paying off the bonds; and other relevant information.

After receiving a grant application, the DEQ would have to forward a copy to the Michigan Jobs Commission. The DEQ and the Commission would have to review the applications jointly, and consider whether: the project was authorized by the bill; the submitted application complied with the bill; the project was consistent with the waterfront redevelopment plan for the area; the project provided significant public access or recreational opportunities; the project would significantly contribute to the local unit's economic and community redevelopment, or revitalization of adjacent neighborhoods; there was evidence of adverse economic and socio-economic conditions within the planning area; the plan was viable; and the project was innovative in comparison to other grant applications. The bill also would require the DEQ and the Commission to review the level of public and private commitment and other resources available for the project; the level of public and private commitment to other aspects of

the plan; the level of demonstrated commitment from other governmental agencies; the level of public and private commitment to improving abandoned real property within the planning area; the relation to a broader economic and community development plan for the local unit; and other relevant criteria.

The DEQ, with the Commission's approval, would have to issue grants for projects that met the bill's requirements and would contribute to the revitalization of waterfronts throughout the State that were not being used in a manner that maximized economic and public value. Further, grants made under the bill would have to comply with the applicable requirements of Senate Bill 904, including the reporting of the grants to the Legislature.

The DEQ and the Department of Attorney General could recover costs spent for response activities on waterfront property from persons considered liable under the NREPA. Actions to recover costs would have to proceed in the manner specified under the Act.

House Bill 5719

Local Recreation Grant Program

The bill would require the DNR to establish a local recreation grant program to provide grants to local units of government for local recreation projects involving public recreation infrastructure improvements, community public recreation facility construction, and/or public recreation improvements that would increase tourism.

A grant could not be provided for land acquisition; a commercial theme park; a project located on land sited for use as, or owned by, a gaming facility, stadium, or arena that would be used by a professional sports team; or a project located on land described in a project plan under the Economic Development Corporations Act for a gaming facility.

Subject to amounts appropriated to the DNR for local recreation projects under Senate Bill 904, the grants made to local units of government would have to be allocated in the following proportions: projects within Zone 1, 3.6%; projects within Zone 2, 14.4%; projects within Zone 3, 72%; and projects at regional parks, 10%. ("Zone 1" would include all of the counties of the Upper Peninsula. "Zone 2" would include Emmet, Charlevoix, Cheboygan, Presque Isle, Leelanau, Antrim, Otsego,

Montmorency, Alpena, Benzie, Grand Traverse, Kalkaska, Crawford, Oscoda, Alcona, Manistee, Wexford, Missaukee, Roscommon, Ogemaw, Iosco, Mason, Lake, Osceola, Clare, Gladwin, Arenac, Isabella, Midland, Bay, Huron, Saginaw, Tuscola, and Sanilac Counties. "Zone 3" would include Oceana, Newaygo, Mecosta, Muskegon, Montcalm, Gratiot, Ottawa, Kent, Ionia, Clinton, Shiawasee, Genesee, Lapeer, St. Clair, Allegan, Barry, Eaton, Ingham, Livingston, Oakland, Macomb, Van Buren, Kalamazoo, Calhoun, Jackson, Washtenaw, Wayne, Berrien, Cass, St. Joseph, Branch, Hillsdale, Lenawee, and Monroe Counties.)

A grant would require a 25% match by the local unit; up to 50% of the local unit's contribution could be in the form of goods and services and/or Federal funds. A local unit would have to establish to the DNR the cost or fair market value, as of the date of the notice of approval by the DNR, of any of the goods and services with which the local unit sought to meet the match requirement. In addition, a facility funded by a grant could not be sold, disposed of, or converted to a use that was not specified in the grant application without the DNR's express approval.

In addition, grants provided under the bill would be subject to the applicable requirements of Senate Bill 904. The DNR would have to implement House Bill 5719 in compliance with the Senate bill, including the reporting of the grants to the Legislature.

The bill would define "local recreation project" as capital improvement projects including the construction, expansion, development, or rehabilitation of recreational facilities, but not including the operation, maintenance, or administration of those facilities, wages, or administration of projects or purchase of facilities already dedicated to public recreational purposes. "Infrastructure improvement" would mean restoration of the natural environment or the renovation, repair, replacement, upgrading, or structural improvement of an existing facility that was at least 15 years old, including recreation centers, sports fields, beaches, trails, and playgrounds.

Grant Application

The DNR would have to consider a project application for funding if the form were completed and submitted by the deadline established by the DNR. The application would have to include a

project location map; a preliminary site development plan; floor plans and elevation drawings for any building construction; a certified resolution from the governing body of the local unit stating that the proposal would be undertaken if a grant were awarded; evidence and results of a preannounced public meeting; a description of the project proposal; the total cost of the project proposal and requested grant amount; sources of the local match; a breakdown of development items and projected costs; a narrative of why the proposal was needed; attestation that all statements were true, complete, and accurate; and other information as determined by the DNR.

Further, the DNR would have to consider a project application if the local unit had an approved community recreation plan on file with the DNR; the project were listed and justified in the recreation plan; the local unit had submitted notice to the regional planning agency for review; the local unit had fee title or a legal instrument that demonstrated property control for at least 15 years; the grant request were for \$15,000 to \$750,000; and the project addressed infrastructure improvement, community recreation, and/or tourist attraction.

The proposed project could not be for the purpose of meeting a school's physical education and athletic program requirements. In addition, projects that would create an unfairly competitive situation with private enterprises would not be eligible for funding.

Final Grant Awards

Rating. The Director of the DNR would have to determine the final grant awards using three factors to evaluate projects. Each factor would be rated exceptional, good, or fair, which would be equal to a score of 80, 60, and 10, respectively.

Determining Factors. The following factors would be considered to determine final grant awards:

- The need for the project.
- The capability of the local unit to complete, operate, and maintain the project.
- The quality of the site and project design.

The need for the project would be determined by an overall assessment of the merits relative to cost in addressing infrastructure improvement, community recreation, and/or tourism; and how well the project met the following priorities: proximity to urban areas, attention to the needs of

special populations, and impact on county and regional recreation opportunity deficiencies. The capability would be determined by an overall assessment of the local unit's demonstrated satisfactory performance in other DNR grant programs; demonstrated ability to operate and maintain existing recreation facilities; assurance of funds for the maintenance and operation of project; and demonstrated commitment to public recreation. The quality would be determined by an assessment of the appropriateness of the site; clarity and detail of the development plans; the quality of the project design; the quality of existing development; the adequacy of safety and health considerations; and evaluation of the impact of proposed development on the natural environment.

Priority. If the score on two or more projects were the same, the DNR would have to consider the following factors concerning the local unit to determine priority: the amount of local recreation grants previously received under Part 716, the need for financial assistance, the commitment to provide more than the required 25% match, and the amount of Michigan Natural Resources Trust Fund development grants and land and water conservation grants previously received.

In addition, if a project were determined to be eligible for a grant and the needs at the location of the project included the upgrade of drinking water systems or rest room facilities, the grant award for the project would have to be used first for the upgrades.

Senate Bill 902

Nonpoint Source Pollution Prevention and Control and Wellhead Protection Projects Program

The bill would require the DEQ, in consultation with the Department of Agriculture, to establish a grants program for nonpoint source pollution prevention and control projects and wellhead protection projects. The program would have to provide grants to local units of government or entities that were exempt from taxation under Section 501(c)(3) of the Internal Revenue Code. The grants would have to be for projects that would do either or both of the following: implement the physical improvement portion of watershed plans approved by the DEQ and/or reduce specific nonpoint source pollution as identified by the Department. The wellhead protection grants would have to be for wellhead protection projects that plugged abandoned wells, provided for the purchase of land or rights in land to protect aquifer recharge areas,

and implemented the physical improvement portion of the plan. ("Nonpoint source pollution" would mean water pollution from diffuse sources, including runoff from precipitation or snowmelt contamination through contact with pollutants in the soil or on other surfaces and either infiltrating into the groundwater or being discharged to surface waters, or runoff or wind causing erosion of soil into surface waters.)

For any grant issued under the bill, a local unit of government would have to contribute 25% of the total project's cost from other public or private funding sources. The DEQ could approve in-kind services to meet all or a portion of the match requirement. The Department also could accept as the match requirement a contract between the DEQ and the grant applicant providing for maintenance of the project or practices that were funded under terms acceptable to the DEQ. The contract would have to require maintenance of the project or practices throughout the period of time the State was paying off the CMI bonds issued to implement Part 88.

Grant Criteria

The DEQ would have to consider the following criteria in relation to a nonpoint source pollution prevention and control project or wellhead protection project in selecting projects for a grant award:

- The expectation for long-term water quality improvement.
- The expectation for long-term protection of high quality waters.
- The consistency of the project with remedial action plans and other regional water quality or watershed management plans approved by the DEQ.
- The placement of the watershed on the list of impaired waters pursuant to the Federal Water Pollution Control Act.
- Commitments for financial and technical assistance from the partners in the project.
- Financial and other resource contributions, including in-kind services, by project participants in excess of that required in the bill.
- The length of time the applicant had committed to maintain the physical improvements.
- The commitment to provide monitoring to document improvement in water quality or the reduction of pollutant loads.
- Whether the project provided benefits to sources of drinking water.
- Other information the DEQ considered relevant.

Application Process

Under the bill, a local unit of government wishing to apply for a grant would have to submit a grant application to the DEQ in the prescribed manner and containing the required information. The grant application would have to include a detailed description of the project the grant would fund; a discussion, if applicable, of how the project was consistent with an approved watershed plan; and a description of the total cost of the project and the source of the local government's contribution to it.

Upon receiving a grant application, the Director of the DEQ would have to consider the proposed projects for funding and the extent that money would be available for grants, and issue grants for projects that the Director determined would assist in the prevention or control of pollution from nonpoint sources or would provide for wellhead protection.

Clean Water Fund

The Clean Water Fund would be created in the State Treasury. The State Treasurer could receive money or other assets from any sources for deposit into the Fund. The State Treasurer would have to direct the investment of the Fund, and credit to it all interest and earnings from investment. Money in the Fund at the close of the fiscal year would remain in the Fund and not lapse to the General Fund.

The DEQ would have to spend money from the Fund, upon appropriation, to implement environmental quality monitoring programs as described in the DEQ's document entitled, "A Strategic Environmental Quality Monitoring Program for Michigan's Surface Waters". In addition, funds not spent for implementation could be used for water pollution control activities, wellhead protection activities, and stormwater treatment projects and activities.

The bill specifies that money in the Fund could not be spent for combined sewer overflow corrections.

Senate Bill 904

Legislative Finding

The bill states the following legislative finding and declaration: "...that the environmental and natural resources 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".

Bond Issuance

The bill describes the manner and form for issuance of the bonds authorized under the CMI Act. The bonds would have to be in a form and executed in a manner as determined by resolution adopted by the State Administrative Board.

The State Administrative Board could 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.

The State Administrative Board also could authorize the State Treasurer, within limitations contained in the Board's authorizing resolution, to do the following: sell, deliver, and receive payment for the bonds; deliver bonds to refund bonds; select

which outstanding bonds would be refunded by new bonds; buy issued bonds; approve interest rates or methods necessary to complete transactions; and execute, deliver, and pay the cost of any transaction to provide security to assure timely payments or purchase of any bond.

Bonds issued under the bill would be fully negotiable under the Uniform Commercial Code. The bonds and the interest on them would be exempt from all taxation by the State or any political subdivision of the State. The bonds would be securities in which banking businesses, insurance businesses, and fiduciaries could properly and legally invest funds, including capital, belonging to them or within their control.

Fund Allocation

The Clean Michigan Initiative Bond Fund would be created in the State Treasury, and would consist of the proceeds of sales of the bonds and any premium and accrued interest received on the delivery of the bonds; any interest or earnings generated by the proceeds; any repayment of principal and interest made under a loan program authorized in Part 196; and any Federal or other funds received.

The total proceeds of all bonds authorized under the CMI Act would have to be deposited into the proposed Fund and allocated as follows:

- Up to \$335,000,000 for response activities at facilities.
- Up to \$50,000,000 for waterfront improvements.
- Up to \$25,000,000 for remediation of contaminated lake and river sediments.
- Up to \$50,000,000 for nonpoint source pollution prevention and control projects or wellhead protection projects.
- Up to \$90,000,000 for water quality monitoring and water resources protection and pollution control activities.
- Up to \$20,000,000 for pollution prevention programs.
- Up to \$5,000,000 for lead hazard abatement.
- Up to \$50,000,000 for State park infrastructure improvements.
- Up to \$50,000,000 for local recreation projects.

("Facility" would be defined as it is in Part 201 of the NREPA, which refers to a place where a hazardous substance in excess of particular concentrations or

cleanup criteria has been released, deposited, or disposed of, or otherwise comes to be located.)

The money allocated for response activities at facilities would have to be used by the DEQ for corrective actions to address releases from leaking underground storage tanks; response and assessment activities at facilities; up to \$20,000,000 for grants and loans to local units and brownfield redevelopment authorities for response activities at known or suspected facilities; and up to \$12,000,000 for grants under the municipal landfill grant program. Of the money allocated, at least \$40,000,000 but not more than \$60,000,000 would have to be used for facilities that posed an imminent or substantial endangerment to the public health, safety, or welfare, or to the environment. These would include facilities where public access posed hazards because of potential exposure to chemicals or safety risks and where drinking water supplies were threatened by contamination.

The money allocated for water quality monitoring and water resources protection and pollution control activities would have to be deposited into the Clean Water Fund created in Senate Bill 902. Of the money allocated for pollution prevention programs, \$10,000,000 would have to be deposited into the Retired Engineers' Technical Assistance Program Fund; \$5,000,000 would have to be deposited into the Small Business Pollution Prevention Assistance Revolving Loan Fund; and \$5,000,000 would have to be used by the DEQ to implement other pollution prevention activities. The money allocated for lead hazard abatement would have to be used by the Department of Community Health for remediation and physical improvements to structures to abate or minimize exposure to lead hazards. The money allocated for State park infrastructure improvements would have to be used as determined by the DNR; the installation or upgrade of drinking water systems or rest room facilities would have to be the first priority. Before spending any funds allocated for remediation of contaminated lake and river sediments at a site that was an area of concern as designated by the parties to the Great Lakes water quality agreement, the DEQ would have to notify the public advisory council established to oversee that area of concern regarding the development, implementation, and evaluation of response activities to be conducted with Fund money.

In addition, the bill specifies that money in the CMI Bond Fund could not be used to develop a municipal or commercial marina.

The State Treasurer would have to direct the Fund's investment, and allocate interest and earnings from investment of the proceeds of any bond issue in the same proportion as earned on the investment of the proceeds of the bond issue.

Use of Funds

The Department of Treasury could use money in the CMI Bond Fund for the cost of issuing bonds. The DEQ and the DNR could use Fund money for their costs. Of the total amount of Fund allocations for response activities, waterfront improvements, contaminated lake and river sediment cleanup, nonpoint source pollution prevention and control, water quality monitoring and water resources protection, and pollution prevention programs, up to 3% would be available for appropriation to pay DEQ costs directly associated with the completion of those projects. In addition, of the total amount of Fund allocations for State park infrastructure improvements and local recreation projects, up to 3% would be available for appropriation to pay DNR costs directly associated with the completion of those projects. The bill specifies a legislative intent that General Fund appropriations to the DEQ and the DNR not be reduced as a result of costs funded under these provisions.

The bill further specifies that a grant could not be provided for a project located at any of the following:

- Land sited for use as a gaming facility (regulated under the Michigan Gaming Control and Revenue Act) or as a stadium or arena for use by a professional sports team.
- Land or other facilities owned or operated by a gaming facility or by a stadium or arena for use by a professional sports team.
- Land within a project area described in a project plan under the Economic Development Corporations Act for a gaming facility.

The bill would require the DEQ, the DNR, and the Department of Community Health to submit annually, by February 15, a list of all projects recommended to be funded under the bill that would be undertaken by the Department. The list would have to be submitted to the Governor, the House and Senate standing committees that primarily address natural resources and the environmental protection issues, and the House and Senate Appropriations Committees. The list would have to be submitted before any request for supplemental appropriation of bond funds. It would

have to include the nature of the project, the county, the estimated total cost, and other pertinent information. A project that was funded by a grant or loan with money from the Fund would not need to be included on the list. Money in the Fund that was appropriated for grants and loans, however, could not be encumbered or spent until the administering department had reported projects that had been approved for a grant or loan to the House and Senate committees that primarily address natural resources and environmental protection issues and to the Appropriations subcommittees on natural resources and environmental quality. Before submitting the first cycle of recommended response activity projects, the DEQ would have to publish and disseminate the criteria it would use in evaluating and recommending these projects for funding.

The Legislature would have to appropriate prospective or actual bond proceeds for projects proposed to be funded. Appropriations would have to be carried over to succeeding fiscal years until completion of the project for which the funds were appropriated.

By December 31 each year, the DEQ, the DNR, and the Department of Community Health would have to submit a list of projects financed under the bill to the Governor and the legislative committees and subcommittees described above. The list would have to include the name, address, and telephone number of the recipient or participant; the name, location, and nature of the project; the amount allocated; the county; a brief summary of what the project had accomplished; and other pertinent information.

Application

A grant or loan application would have to be made on a form or in a format prescribed by the administering State department, which could require the applicant to provide any necessary information. The administering department could not make a grant or a loan unless the applicant met the following conditions: demonstrated that the proposed project complied with all applicable State laws and rules or would result in compliance; demonstrated the capability to carry out the proposed project; demonstrated that there was an identifiable source of funds for the future maintenance and operation of the proposed project; had successfully undergone an audit within the last 24 months; and, within the last 24 months, had not had any previous grant from the department revoked or terminated or demonstrated

an inability to manage a grant.

Grant or Loan Conditions

The administering department would have to consider the extent to which a grant or loan would contribute to the achievement of a balanced distribution of grants and loans throughout the State before making a grant or loan with money from the CMI Bond Fund.

A grant or loan recipient would have to keep an accounting (subject to a postaudit) of the money spent on the project or facility in a generally accepted manner. A recipient also would have to obtain authorization from the administering department before implementing a significant change to the proposed project.

The following conditions would apply to the funds allocated for grants and loans to local units of government and brownfield redevelopment authorities for response activities at known or suspected facilities. A recipient of a grant or loan could receive a maximum of one grant or loan per year of up to \$1,000,000 per grant or loan. A grant could be awarded only if the property were a "facility" and the proposed redevelopment of the property would result in measurable economic benefit in excess of the requested grant amount. A loan could be awarded only if the property were a facility or were suspected to be a facility, and the property had economic development potential based on its planned use.

Revocation, Withholding, Cancellation, or Termination

The administering State department could revoke a grant or a loan made from the Fund, or withhold payment if the recipient failed to comply with the terms and conditions of the grant or loan agreement, the bill's requirements, or rules. The department could recover all funds awarded under a grant or loan that was revoked.

The administering department also could withhold a grant or a loan until it determined that the recipient was able to proceed with the proposed project. To assure timely completion of a project, the department could withhold 10% of the grant or loan until the project was complete.

The department could cancel a grant or loan offer if an approved applicant failed to sign a grant or loan agreement within 90 days after receiving a written grant or loan offer by the department. The

applicant could not appeal or contest a cancellation pursuant to this provision.

The department could terminate a grant or loan agreement and require immediate repayment of the grant or loan if the recipient used grant or loan funds for any purpose other than for the approved activities specified in the grant or loan agreement. The department would have to give the recipient written notice of the termination 30 days prior to the termination.

Loan Repayment

A loan that was made with money in the Fund would have to have a loan interest rate of up to 50% of the prime rate as of the date of the loan's approval. Loan recipients would have to repay loans in equal annual installments of principal and interest beginning within five years after execution of a loan agreement and concluding within 15 years after execution of a loan agreement. A loan recipient would have to enter into a loan agreement with the administering State department. The loan agreement would have to contain a commitment that the loan was secured by the applicant's full faith and credit pledge, or, if the recipient were a brownfield redevelopment authority, a commitment from the municipality that created the authority. Loan payments and interest would have to be deposited in the CMI Bond Fund.

Upon default of a loan, or upon the request of the loan recipient as a method to repay the loan, the Department of Treasury would have to withhold State payments from the loan recipient in amounts consistent with the repayment schedule in the loan agreement until the loan was repaid. The Department would have to deposit the funds that were withheld into the Fund until the loan was repaid.

Other Provisions

The DEQ and the Department of the Attorney General could recover costs spent for facilities' corrective actions, response activities and site assessments, and all other recoverable costs from persons liable under Part 201 (Environmental Remediation) of the NREPA. Actions to recover costs would have to be undertaken in the manner as prescribed under Part 201.

The bill further provides that the Auditor General would have to conduct a performance audit of State programs funded with money from the CMI Bond Fund, every two years. The Auditor General

would have to submit a copy of the performance audit to the audited department and the Legislature when the performance audit was completed.

MCL 324.95101-324.95108 (H.B. 5622)
Proposed MCL 324.79501-324.79508 (H.B. 5620)
Proposed MCL 324.71601-324.71607 (H.B. 5719)
Proposed MCL 324.8801-324.8808 (S.B. 902)
Proposed MCL 324.19601-324.19616 (S.B. 904)

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

The Clean Michigan Initiative package has several essential objectives: clean up toxic sites that threaten public health and stifle development; make critically needed improvements at State parks; protect and enhance the quality of drinking water; clean up lakes, rivers, and streams; revitalize local waterfronts; and establish various environmental, public health, and local recreation projects. The proposed legislation would enable Michigan to go a long way toward meeting these objectives. Beneficiaries of this proposal would include all Michigan citizens, including future generations; people who visit State parks; people who enjoy fishing, swimming, and boating; people who live, work, or play in Michigan's communities, whether large or small, or urban or rural; and Michigan's working families and farms. Potential benefits of the proposal would include protection of the public health and safety; cleaner waterways and drinking water; the creation of jobs and opportunities to revitalize the State's communities; an enhanced reputation for the State as an outstanding travel destination; improved recreational opportunities; and improved roads and electrical, water, and sewer systems in State parks.

The bills would allocate up to \$335 million for contaminated facilities, including \$40 million to \$60 million for sites presenting an imminent and substantial danger to the public health, safety, or welfare, or to the environment. These funds would finance the safe restoration of contaminated property to productive use. Facilities eligible for funding would include sites where public access posed hazards because of potential exposure to chemicals or safety risk and where drinking water supplies were threatened by contamination. In addition, the bills would provide for brownfield cleanups and redevelopment to enhance local

environments and promote effective land use by reducing urban sprawl and development pressures on open green spaces and farmland. The proposed bond, however, would retain the principle of "polluters pay" under which environmental polluters are held responsible for the restoration of the State's natural resources.

The proposed CMI bond also would address problems concerning waterfront redevelopment and contamination by providing funding to acquire property for residential or commercial use and to relocate existing industries. Waterfront property has not always been used effectively in terms of its economic value and the public enjoyment. Further, as the demands for waterfront property exceed the supply, pressure is put on environmentally sensitive areas that are not suitable for some types of development. The bills would enable local governments to reclaim and revitalize local waterfronts that are currently abandoned or underdeveloped and clean up contaminated waterfront property.

Under the bills, environmental improvement projects also would be designed to protect and enhance the State's river, lakes, and streams. Apparently, several rivers and lakes have contaminated sediments that cause harm to aquatic life and restrict fish and wildlife consumption. These contaminants include toxic substances such as PCBs, oils, metals, DDT, arsenic, and solvents. The targeted areas, which reportedly contain over 3,000,000 yards of extremely contaminated sediments, include the following: Deer Lake, Carp Creek River, Pine River, White Lake, Muskegon Lake, Black River, Clinton River, Detroit River, Rouge River, and River Raisin.

The bills also would help establish nonpoint source pollution prevention and control projects and wellhead protection projects for local governments or tax-exempt organizations and implement the physical improvement portion of watershed plans to protect and improve water quality. Nonpoint source pollution includes, among other things, soil and sediment, nutrients, paint and used motor oil, and fecal coliform, which contribute to the depreciation of Michigan's water quality standards.

Under the bills, funding would be provided for pollution prevention programs such as the Retired Engineers' Technical Assistance Program Fund, and the Small Business Pollution Prevention Assistance Revolving Loan Fund, as well as other pollution prevention activities to help prevent and remedy pollution by providing assistance to

businesses that are unable to establish or fund projects to cease or decrease their amount of pollution.

Funds allocated for lead hazard abatement would be used by the Department of Community Health for remediation and physical improvements to structures to abate or minimize exposure of persons to lead hazards. Funds could be provided to local health departments, cities, and qualified nonprofit organizations to clean up lead paint and to prevent lead poisoning in the children who live in these neighborhoods.

In addition, the proposed CMI bond would provide funding for State parks and local recreation projects. The funds would target State parks that needed the installation or upgrade of a drinking water system or rest room facilities. Revitalizing our State and local parks and recreational facilities not only would preserve and enhance environmental quality, but also would increase the State's tourism industry, since over 20 million persons reportedly visit State and local parks yearly.

Supporting Argument

According to the State Treasurer, this would be an excellent time for the State to borrow tax-exempt money to invest in projects that require long-term financing because of the current level of interest rates and Michigan's improved credit rating of AA+.

Opposing Argument

The CMI bond proposal would be inadequate because it would fail to address certain key environmental issues. The CMI bond proposal should include funding for combined sewer overflow (CSO) abatement projects, since CSO is an environmental contamination problem and the Revolving Loan Fund has not been adequate to assist local communities. Local communities have had bonds issued for the construction, improvement, or replacement of CSO abatement facilities, which separate sanitary sewers and storm sewers in order to reduce the contamination of lakes and rivers that results when combined sewers overflow in heavy rainstorms.

Response: The CSO problem in southeastern Michigan would reportedly cost \$2.2 billion. If this were added on to the CMI bond proposal, the voters might not approve such a large bond issue. If the issue were so large that it was rejected by the voters, the State would end up back where it started, which would jeopardize the other less costly environmental projects.

Legislative Analyst: N. Nagata

FISCAL IMPACT

The debt service on these bonds would cost an estimated \$11.7 million in FY 1999-2000, \$23.5 million in FY 2000-01, \$35.2 million in FY 2001-02, and \$46.9 million in FY 2002-03 through FY 2018-19, and would decrease in subsequent years as the bonds were gradually paid off. The bonds would be all paid off in FY 2021-22. The interest cost would total \$498 million, and therefore, the total cost of the bonds would be \$1.17 billion. Additional costs would be incurred when the bonds were issued for such items as underwriting fees, bond counsel, credit rating fees, and bond insurance. These costs would total an estimated \$6 million. These estimates assume that the bonds would be 25-year bonds and that they would be issued over a four-year period beginning in FY 1998-99 at an interest rate of 4.8%. The actual cost of issuing \$675 million in general obligation bonds would depend on the level of interest rates when the bonds were sold, the timing of the sale, and the term of the bonds.

Senate Bill 904 would direct the use of \$675 million in bond revenues. House Bill 5620, House Bill 5719, and Senate Bill 902 would provide further authorization and detail on the new grant programs to be established as part of the Clean Michigan Initiative.

The package of bills could provide for up to \$277 million for grants and loans to local units of government for recreation and environmental programs. The remaining \$398 million in funds would be allocated for State programs in the Department of Environmental Quality (\$348 million) and the Department of Natural Resources (\$50 million). The Department of Community Health would receive \$5 million, but it is anticipated that the funds would be provided as grants to local public health departments.

The \$277 million to local units of government would be allocated as follows:

- Up to \$20 million for brownfield redevelopment grants and loans.
- Up to \$12 million for municipal landfill grants.
- \$50 million for waterfront redevelopment grants (pursuant to House Bill 5620).
- \$50 million for nonpoint source pollution prevention and control or wellhead protection grants (pursuant to Senate Bill 902).
- \$90 million for water quality monitoring, water resources protection, and pollution control grants (pursuant to Senate Bill 902).

- \$50 million for local recreation bond projects (pursuant to House Bill 5719).
- \$5 million for lead abatement grants to local health departments.

The \$398 million provided to State programs would be allocated as follows:

- \$303 million for the cleanup of contaminated facilities (with no less than \$40 million and no more than \$60 million for facilities that pose acute public health risks).
- \$25 million for the cleanup of contaminated lake and river sediments.
- \$20 million for pollution prevention programs (with \$10 million for the Retired Engineers Technical Assistance Program, \$5 million for the Small Business Pollution Prevention Assistance Revolving Loan Fund, and \$5 million for other pollution prevention activities--all as outlined in House Bill 4849).
- \$50 million for State park infrastructure improvements (with priority to drinking water and restroom improvements).

The Department of Environmental Quality and the Department of Natural Resources would be authorized to receive not more than 3% of the total authorized bond amount to administer their respective programs. The total bond funding for the Department of Environmental Quality (including local grant programs to be administered by the DEQ) would be \$570 million, and of that amount, \$17.1 million could be used for administration. The Department of Natural Resources would receive \$100 million (including local recreation grants), and of that amount, \$3 million could be used for administration

Fiscal Analyst: J. Wortley
G. Cutler

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.