



**House  
Legislative  
Analysis  
Section**

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**CLEAN WATER AMENDMENTS**

**Senate Bill 105 (Substitute H-1)**  
**Sponsor: Sen. Ken Sikkema**  
**House Committee: Land Use and  
Environment**  
**First Senate Committee: Natural  
Resources and Environmental Affairs**  
**Second Senate Committee:  
Appropriations**

**House Bill 4926 (Substitute H-1)**  
**Sponsor: Rep. Ruth Johnson**  
**Committee: Land Use and Environment**

**First Analysis (12-6-01)**

***THE APPARENT PROBLEM:***

The state water pollution control revolving fund, or state revolving fund (SRF), provides subsidized low-interest loans to municipalities for use in upgrading wastewater treatment systems. Eligible projects include treatment plant upgrades and expansions, combined sewer overflow abatement, new sewers designed to reduce existing sources of pollution, nonpoint source pollution management, and similar efforts to address the problems of the state's aging wastewater treatment infrastructure. A recent report by Public Sector Consultants for Clean Water Michigan, entitled *Managing the Cost of Clean Water: An Assessment of Michigan's Sewer Infrastructure Needs*, said in its executive summary, "Without a renewed commitment at the national level and concurrent support at the state level to increase appropriations for wastewater infrastructure, Michigan and many other states will face a severe funding crisis within the next decade. Local governments simply cannot afford to meet the projected needs without more financial assistance and an improved, cooperative management of infrastructure costs".

The report says, "The SRF loan program has been very successful, but the capitalization of this fund must be substantially increased in order to assist local governments with wastewater infrastructure projects. This report calls for at least a doubling of annual federal and state appropriations to capitalize Michigan SRF over the next five years and a realistic assessment of SRF needs beyond 2005". One proposal currently before the legislature would transfer dollars out of the budget stabilization fund or rainy day fund to the state revolving fund to be used

to leverage additional federal dollars. The proposal would transfer up to \$25 million, sufficient to match \$100 million in federal money and contingent upon the availability of federal money. Such a state commitment, say advocates, would demonstrate a commitment to wastewater treatment and water quality to federal budget officials.

The aim of the wastewater treatment systems, needless to say, is to prevent improperly treated (or untreated) sewage from getting into Michigan waters. This is an important public health issue and also an important economic issue, since Michigan's economy relies heavily on tourism and much of the state's tourism is inextricably linked to the Great Lakes and inland waters. Some people believe that the state needs a better assessment of the problem of water pollution resulting from the discharges of untreated and partially treated sewage and resulting from discharges from improperly functioning on-site disposal systems (such as private septic systems). They advocate a statewide monitoring program that will detect the sources and location of such discharges, assess their effect on water quality, and notify responsible officials and the public of the findings.

***THE CONTENT OF THE BILLS:***

Senate Bill 105 would amend the Management and Budget Act (MCL 18.1353f) to appropriate and transfer up to \$25 million from the budget stabilization fund (BSF or "rainy day fund") to the state water pollution control revolving fund for the

Senate Bill 105 and House Bill 4926 (12-6-01)

fiscal years 2001-02, 2002-03, 2003-04, 2004-05, and 2005-06.

However, the appropriation and transfer would not be made unless the state budget director certified to the legislature that the federal government had provided the state with additional funding for the fiscal year above the level of federal funds received during the fiscal year ending September 30, 2001 (that is, the 2000-01 fiscal year) for the purposes of the revolving fund. If the budget director made such a certification for a fiscal year, he or she would transfer from the BSF to the revolving fund only the amount necessary to provide for a required state match for the additional federal funds, not to exceed \$25 million in any fiscal year. The certification would have to be made no later than April 1 of each fiscal year, and would have to include a detailed report outlining the assumptions that the state budget director had used in making the transfer.

Further, the appropriation and transfer could not be made unless the BSF contained at least \$250 million and could not be made if the transfer would cause the BSF balance to fall below \$250 million.

House Bill 4926 would amend the Natural Resources and Environmental Protection Act or NREPA (MCL 324.3122d and 324.8807) to require the Department of Environmental Quality to develop and implement a statewide monitoring system to specifically identify the sources and locations of 1) discharges of untreated sewage or partially treated sewage from sewer systems onto land or into the waters of the state; and 2) discharges from on-site disposal systems that are not functioning properly. The bill also would specify that money in the Clean Water Fund would be used to implement the statewide monitoring program, up to \$15 million. (The bill as written would put the \$15 million limit on existing departmental monitoring programs, but the cap is more likely intended to apply to the new monitoring program.)

In implementing the monitoring program, the department would be required to:

- Assess the effect on water quality of the identified discharges;
- Contact the city, village, or township, and the county, in which an identified discharge occurred and provide the source and location of the discharge, along with an assessment of its effect on water quality;

- Post the findings of the monitoring program on the department's web site; and

- Annually provide the findings of the program to the Senate and House Appropriations Committee and to the standing committees of the legislature with jurisdiction over natural resources and the environment.

The DEQ would be required to review and evaluate the monitoring program at least every three years and to implement changes to improve the program's effectiveness.

The department would also be required to evaluate and update its document entitled "A Strategic Environmental Quality Monitoring Program for Michigan's Surface Waters" on the same schedule that it evaluated the statewide monitoring program created by the bill.

The bill also would specify that all civil fines collected as a result of the discharge of sewage or partially treated sewage into the waters of the state be forwarded to the state treasurer for deposit into the state water pollution control revolving fund.

#### ***HOUSE COMMITTEE ACTION:***

The House Committee on Land Use and Environment adopted a substitute for Senate Bill 105 that makes the transfer of money from the budget stabilization fund to the revolving loan fund contingent upon the BSF balance being at least \$250 million.

#### ***BACKGROUND INFORMATION:***

These bills are commonly identified as part of a series of bills, along with Senate Bills 106, 107, and 109. Senate Bill 106 was reported from the House Land Use and Environment Committee at the same time as House Bill 4926 and Senate Bill 105. For information about Senate Bill 106, consult the Senate Fiscal Agency bill analysis dated 3-20-01. That bill, in brief, would give municipalities that voluntarily agree to upgrade wastewater systems the same priority status for state loans as municipalities who are under enforcement action by the DEQ. Senate Bill 107, which would require inspection of on-site disposal systems (septic systems) upon the sale of property and the establishment of state standards for such systems, is still under discussion in the Senate. Senate Bill 109 addresses municipal liability for sanitary sewer overflows and is currently under consideration in the House Civil Law and the Judiciary Committee.

The full text of *Managing the Cost of Clean Water: An Assessment of Michigan's Sewer Infrastructure Needs* can be found at [www.publicsectorconsultants.com/underground/index](http://www.publicsectorconsultants.com/underground/index).

### **FISCAL IMPLICATIONS:**

The House Fiscal Agency notes that Senate Bill 105 has the potential to transfer \$125 million from the budget stabilization fund (\$25 million per year for five years). The state could, in addition, lose as much as \$18.75 million in interest revenue. (HFA fiscal note dated 6-8-01) There is no fiscal information at present on House Bill 4926, although the bill itself anticipates using up to \$15 million from the clean water fund.

### **ARGUMENTS:**

#### **For:**

These bills both intend to safeguard water quality in Michigan. In one case, Senate Bill 105, significant new dollars would be transferred into the state fund that provides low-interest loans to municipalities who are upgrading wastewater infrastructure. These funds would only be used for state match purposes to leverage up to \$100 million in federal dollars, should such federal money become available. While this is not a sufficient amount to fully address the state's staggering need to improve water treatment systems, many of which are said to be outdated or dilapidated, it is an important step. And it will signal to the federal government the high priority that the state places on protecting its water quality.

The second bill, House Bill 4926, would designate a source of funding for a statewide monitoring program to identify sources of pollution from the discharge of sewage into the state's waters. The current state monitoring program is targeted only at specific areas and is not comprehensive in scope. The program envisioned by this bill would let local units know where discharges are occurring and the effect of the discharges on water quality. The kind of monitoring program envisioned by this bill would be a valuable tool in protecting the Great Lakes ecosystem, safeguarding the public health, and preventing an erosion of the state's tourism industry.

#### **Response:**

It should be noted that the Michigan Environmental Council, while supporting the idea of statewide monitoring, does not support the use of Clean Michigan bond money for long-term water quality monitoring. The MEC believes such monitoring should be considered ongoing departmental expenses

and funded from other sources after the first few years.

#### **Against:**

State budget officials point out that the so-called rainy day fund has been tapped six times this year to address current budget difficulties. While the budget office opposed the transfer for wastewater infrastructure purposes even before the recent uses of BSF revenues, the condition of the state budget over the next few years makes such a transfer even less prudent.

#### **Against:**

State environmental officials argue that they already have an adequate program to monitor sewage discharges. Department staff collects samples at locations where sewage releases are suspected and in response to citizen complaints and works with municipalities and local health departments when the evidence shows untreated sewage has been discharged. State biologists conduct watershed surveys, following a schedule that allows every watershed in the state to be sampled every five years. Frequent road-crossing surveys are conducted in watersheds throughout the state by interns, volunteers, and departmental staff, in order to evaluate stream habitat conditions where roads cross a stream or river, and the procedure involves searching for pipes that release sewage. The state sampled eight waterbodies for E. coli in 2001 and 14 more will be sampled in 2002 in support of the development of pathogen total maximum daily loads, which will serve as a useful tool in identifying sanitary sewer overflows and other sources of bacteria. Local units and watershed groups received seven grants totaling over \$200,000 in fiscal year 2001 for water quality monitoring. Six of the seven projects involved analyzing water samples to identify potential sources of untreated sewage. The Department of Environmental Quality says its new monitoring program is making good use of the dollars available and should be given time to prove itself. The monitoring program proposed by the bill, say department officials, would not be cost effective. Water quality monitoring is a high priority for the state already, say state officials.

### **POSITIONS:**

Among those who have indicated support for both House Bill 4926 and Senate Bill 105 are the Michigan Environmental Council, Michigan United Conservation Clubs, and the Michigan Townships Association. (12-4-01)

A representative of the Michigan Municipal League testified that the organization supports Senate Bill 105 and is neutral on House Bill 4926. (12-4-01)

A representative of the Department of Management and Budget testified in opposition to Senate Bill 105. (12-4-01)

A representative of the Department of Environmental Quality testified in opposition to House Bill 4926. (12-4-01)

Analyst: C. Couch

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.