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**SFA****BILL ANALYSIS**

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House Bill 4625 (Substitute H-3 as passed by the House)  
House Bill 5892 (Substitute H-3 as passed by the House)  
House Bill 5893 (Substitute H-5 as passed by the House)  
Sponsor: Representative Bruce Patterson (H.B. 4625)  
Representative Tom Meyer (H.B. 5892)  
Representative David Mead (H.B. 5893)  
House Committee: Commerce  
Senate Committee: Natural Resources and Environmental Affairs

Date Completed: 5-7-02

## **CONTENT**

**House Bill 4625 (H-3) would create the "Great Lakes Water Quality Bond Authorization Act" to require the State, subject to voter approval, to borrow up to \$1 billion and issue general obligation bonds to finance water pollution control projects that prevented discharges of untreated or improperly treated sewage or other wastewater into waters of the State.**

**House Bill 5892 (H-3) would add Part 52 to the Natural Resources and Environmental Protection Act to create the Strategic Water Quality Initiatives Program and Fund, which would make low-interest loans to municipalities for sewer improvement projects. The bill also would add Part 197 to the Act, to establish criteria for the issuance of the bonds; create the "Great Lakes Water Quality Bond Fund", which would receive the bond proceeds; and require 90% of the Bond Fund to be deposited into the State Water Pollution Control Revolving Fund and 10% into the Strategic Water Quality Initiatives Fund.**

**House Bill 5893 (H-5) would amend Part 53 (Clean Water Assistance) of the Natural Resources and Environmental Protection Act, regarding assistance from the State Water Pollution Control Revolving Fund, to add priority points for sewage or stormwater treatment projects to the extent that a project planning process considered natural resource impacts and attempted to reduce the**

**project's scope through volume reduction. The bill also would require additional points for projects that addressed on-site septic systems.**

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

### **House Bill 4625 (H-3)**

#### **General Obligation Bond**

The State would be required to borrow up to \$1 billion 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 water pollution control projects that prevented discharges of untreated or improperly treated sewage or other wastewater into waters of the State. The bonds would have to be issued in accordance with conditions and procedures established by law.

#### **Bond Proceeds**

The proceeds of the sale of the bonds, premium and accrued interest received on the delivery of the bonds, and any interest earned on the bonds' proceeds would have to be deposited in the State Treasury and credited to the "Great Lakes Water Quality Bond Fund" (pursuant to House Bill 5892). The proceeds and interest could be disbursed only for the purposes for which the bonds had been authorized, including the expense of issuing the bonds, and could be spent only for the purposes set forth in the proposed Act.

## Vote

The question of borrowing up to \$1 billion and issuing general obligation bonds would have to be submitted to a vote of the State's qualified electors. The Secretary of State would have to perform all acts necessary to submit the question properly to the qualified electors to vote on at the next general election. The proposed bonds could not be issued unless a majority of the qualified electors voting approved the question.

## Appropriation

The bill would require that, after the bonds were issued, a sufficient amount 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 would have to include the appropriation in his or her annual executive budget recommendation to the Legislature.

### **House Bill 5892 (H-3)**

#### Part 52 (Strategic Water Quality Initiatives)

Strategic Water Quality Initiatives Loan Program. The bill would require the Department of Environmental Quality (DEQ) to establish a Strategic Water Quality Initiatives Loan Program to provide low interest loans to municipalities to provide assistance for one or more of the following: improvements to reduce or eliminate the amount of groundwater or storm water entering a sanitary sewer lead or a combined sewer system; upgrades or replacements of failing on-site disposal systems that were adversely affecting public health and/or the environment; improvements to a sewer system to allow for septage waste acceptance; and other improvements to a sewer system that would result in improvements to water quality. ("On-site disposal system" would mean a natural system or mechanical device used to collect, treat, and discharge or reclaim wastewater from one or more dwelling units without the use of communitywide sewers or a centralized treatment facility.)

In implementing the loan program, the DEQ would have to establish periodically the interest rate that would be charged for loans.

Application Process. A municipality wishing to apply for a loan would have to submit a loan application to the DEQ in a form containing information required. The DEQ would have to review complete applications and prioritize loan applications based on the water quality benefit that would be achieved by the project for which an application was submitted. To the extent money was available for the loan program, the DEQ would have to issue loans in the order that they appeared on the priority list. A municipality could not receive more than one loan in any State fiscal year.

Loan & Fund. Before releasing a loan, the DEQ would have to enter into a loan agreement with the loan recipient. The loan agreement would have to contain terms that detailed the loan amount, the interest rate being charged, the length of the loan, the loan repayment schedule, and any other terms or conditions that the DEQ considered appropriate. All money that was received by the DEQ for the repayment of a loan would have to be forwarded to the State Treasurer for deposit into the proposed "Strategic Water Quality Initiatives Fund".

The Fund would be created in the State Treasury. The State Treasurer could receive money or other assets from any source 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 investments. Money in the Fund at the close of the fiscal year would remain in the Fund and not lapse to the General Fund. If the State Treasurer, however, determined that the Fund contained more money than was needed to operate the loan program based upon the loan applications received, the State Treasurer could transfer excess money to the State Water Pollution Control Revolving Fund (created in Section 16a of the Shared Credit Rating Act). The Department could spend money from the proposed Fund, upon appropriation, only for the loan program.

#### Part 197 (Great Lakes Water Quality Bond Implementation)

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 in which bonds would have to be issued under the proposed Great Lakes Water Quality Bond Authorization Act. The State Administrative Board would have to rotate legal counsel services when issuing bonds.

The State Administrative Board could refund the bonds issued by issuing new bonds, whether or not the bonds to be refunded had matured or were subject to prior redemption. The Board could issue bonds partly to refund bonds issued, and partly for any other purpose provided. The principal amount of any refunding bonds could not be counted against the limitation on principal amount provided in the proposed Act.

The State Administrative Board could 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 under Part 197.

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, if any, would be refunded by new bonds; buy issued bonds at up to their face value; approve interest rates or methods for fixing interest rates, prices, redemption rights, and other matters 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 issued under Part 197.

The bonds would have to be approved by the Department of Treasury before issuance, but would not otherwise be subject to the Revised Municipal Finance Act. The bonds would be sold at a price and at a publicly advertised sale as determined by the State Administrative Board. Up to 10% of the bonds could be sold in any year.

Bonds issued under the proposed Act 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 total proceeds of all bonds issued under the proposed Act would have to be deposited into the "Great Lakes Water Quality Bond Fund", which would be created in the State Treasury. The Fund 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 those proceeds; and any Federal or other funds received. The Department of Treasury could establish restricted subaccounts within the Fund as necessary to administer it.

The State Treasurer would have to direct the Fund's investment. The unencumbered balance in the Fund at the close of the fiscal year would have to remain in the Fund and not lapse into the General Fund.

Use of Funds. The State Treasurer would have to transfer money in the proposed Fund as follows: 90% would have to be deposited into the State Water Pollution Control Revolving Fund and 10% would have to be deposited into the proposed Strategic Water Quality Initiatives Fund. Also, the Department of Treasury could use money in the Great Lakes Water Quality Bond Fund to pay the cost of issuing bonds.

The bill would require the DEQ to provide an annual accounting of bond proceeds spending on a cash basis to the Department of Treasury in order for the State to comply with the requirements set forth for issuing tax-exempt bonds, including arbitrage rebate calculations. This accounting would have to be submitted to the Governor, the House and Senate standing committees that address natural resources and the environment, and the House and Senate Appropriations Committees.

The bond proceeds would have to be spent in an appropriate manner that maintained the tax-exempt status of the bonds.

## Vote

The bill would not take effect unless a majority of the registered electors voting on the question approved the Great Lakes Water Quality Bond Authorization Act, proposed by House Bill 4625 (H-3).

### **House Bill 5893 (H-5)**

The bill provides that if a project requiring assistance from the State Water Pollution Control Revolving Fund were a sewage treatment works project or a stormwater treatment project, the DEQ's priority list criteria for project plans submitted by municipalities would have to add up to 100 priority points based on the extent to which the project planning process considered the natural resource impacts of the project and attempted to reduce the overall scope of the project through volume reduction practices. In addition, if the project were a sewage treatment works project, 100 priority points would be awarded if the project addressed on-site septic systems that were adversely affecting the water quality of a water body and soil and hydrologic conditions were not suitable sites for the replacement of those septic systems.

The bill would not take effect unless a majority of the registered electors voting on the question approved the Great Lakes Water Quality Bond Authorization Act, proposed by House Bill 4625 (H-3).

(The State Water Pollution Control Revolving Fund provides low-interest loans to assist municipalities in funding wastewater treatment improvements. The projects may include wastewater treatment plant upgrades or expansions, combined sewer overflow abatement, new sewers designed to reduce existing sources of pollution, nonpoint source pollution management measures, and other related wastewater treatment efforts. Qualified municipalities must meet Federal and State program requirements, and demonstrate environmentally sound water pollution control project plans.

Each year the DEQ must develop priority lists for these projects, based on project plans submitted by municipalities. If a project is a sewage treatment works project or a stormwater treatment project, the priority lists

must be based on the following criteria: the severity of the water pollution problem; the population to be served by the project; the dilution ratio existing between the discharge volume and the receiving stream; and a determination of whether a project is or was necessary to comply with an order, permit, or other document with an enforceable schedule for addressing a municipality's sewage-related water pollution problems that was issued by the DEQ or entered as part of an action brought by the State against the municipality.

Proposed MCL 324.5201 et al. (H.B. 5892)  
MCL 324.5303 (H.B. 5893)

Legislative Analyst: Nobuko Nagata

### **FISCAL IMPACT**

The debt service on the bonds that would be authorized by the voters, assuming 20-year bonds issued over a 10-year period at a constant interest rate of 5%, would be approximately \$8 million in the first year. The debt service would increase by \$8 million per year until the 10th year, when the entire amount of the bond issue had been distributed, and the debt service amount would be \$80.2 million. The debt service amount would remain \$80.2 million for 11 years, after which it would decrease gradually until the bonds were paid off. The bonds would all be paid off in 30 years. The interest costs would be \$605 million, bringing the total cost of the bonds to \$1.605 billion GF/GP.

The bills would result in an increase in the amounts deposited to the State Water Pollution Control Revolving Fund, known as the State Revolving Fund or SRF, by approximately \$90 million per year for 10 years. This increase to the SRF would translate initially into an increase in the amounts available for loans to local units of government for wastewater projects of approximately \$180 million per year, given current investment and interest conditions.

The bills also would create a new Strategic Water Quality Initiatives Fund. Approximately \$10 million per year for 10 years would be deposited to this Fund from the proceeds of the sale of general obligation bonds that would be authorized by the voters. The money in the Fund would be used to provide low interest loans to local units of government for

specific types of sewer improvement projects. The loan repayment amounts would be returned to the Fund. The Fund, therefore, would grow, at a minimum, at a rate equivalent to the interest rate charged for the local loans.

The bills would result in an indeterminate increase in the administrative costs of the Departments of Environmental Quality and Treasury. The bills would allow the Department of Treasury to recover the cost of issuing bonds from the proceeds of the bonds. The bills would not provide a mechanism for the Department of Environmental Quality to recover its administrative costs.

Fiscal Analyst: Pam Graham

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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.