

Act No. 397  
Public Acts of 2002  
Approved by the Governor  
May 29, 2002  
Filed with the Secretary of State  
May 30, 2002

EFFECTIVE DATE: Pending  
(This amendatory act does not take effect unless the question provided in the Great Lakes Water Quality Bond Authorization Act (2002 PA 396) is approved by a majority of the registered electors voting thereon at the November 5, 2002 general election.)

**STATE OF MICHIGAN  
91ST LEGISLATURE  
REGULAR SESSION OF 2002**

Introduced by Rep. Meyer

# **ENROLLED HOUSE BILL No. 5892**

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," by amending sections 5301 and 5304 (MCL 324.5301 and 324.5304) and by adding parts 52 and 197.

*The People of the State of Michigan enact:*

## **PART 52 STRATEGIC WATER QUALITY INITIATIVES**

Sec. 5201. As used in this part:

- (a) "Authority" means the Michigan municipal bond authority created in section 4 of the shared credit rating act, 1985 PA 227, MCL 141.1054.
- (b) "Department" means the department of environmental quality.
- (c) "Fund" means the strategic water quality initiatives fund created in section 5204.
- (d) "Loan" means a loan from the loan program.
- (e) "Loan program" means the strategic water quality initiatives loan program established under section 5202.
- (f) "Municipality" means that term as it is defined in section 5301.
- (g) "On-site septic system" means a natural system or mechanical device used to store, treat, and dispose of sewage from 1 or more dwelling units that utilize a subsurface trench or bed that allows the effluent to be absorbed and treated by the surrounding soil, including a septic tank and tile field system.

Sec. 5202. (1) The authority in consultation with the department shall establish a strategic water quality initiatives loan program. This loan program shall provide low interest loans to municipalities to provide assistance for improvements to a sewage system for 1 or more of the following:

- (a) Improvements to reduce or eliminate the amount of groundwater or storm water entering a sanitary sewer lead or a combined sewer lead.
  - (b) Upgrades or replacements of failing on-site septic systems that are adversely affecting public health or the environment, or both.
- (2) In implementing the loan program, the department shall annually establish the interest rate that will be charged for loans.

Sec. 5203. (1) A municipality that wishes to apply for a loan shall submit a loan application to the department in accordance with the application requirements provided in part 53.

(2) The department shall process the loan applications submitted under this part and otherwise administer the fund in accordance with the procedures established pursuant to part 53.

(3) Prior to releasing a loan, the authority in consultation with the department shall enter into a loan agreement with the loan recipient in accordance with part 53.

(4) All money that is received for the repayment of a loan shall be forwarded to the state treasurer for deposit into the fund.

Sec. 5204. (1) The strategic water quality initiatives fund is created within the state treasury.

(2) The state treasurer may receive money or other assets from any source for deposit into the fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments. The authority shall act as fiscal agent for the fund in accordance with the shared credit rating act, 1985 PA 227, MCL 141.1051 to 141.1076.

(3) Money in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund.

(4) The authority in consultation with the department shall expend money from the fund, upon appropriation, only for loans and for the costs of the authority and the department in administering the fund.

(5) The fund may be pledged as security for bonds to be issued by the authority for the purpose of funding loans if authorized by the state administrative board.

Sec. 5205. The department may promulgate rules to implement this part.

Sec. 5206. The legislature finds and declares that the environmental, natural resources, and water quality 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.

Sec. 5301. As used in this part:

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

(i) Provision of loans to municipalities for construction of sewage treatment works projects, stormwater treatment projects, or nonpoint source projects.

(ii) Project refinancing assistance.

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

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

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

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

(vii) Provision for reasonable costs of administering and conducting activities under title VI of the federal water pollution control act, chapter 758, 101 Stat. 22, 33 U.S.C. 1381 to 1387.

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

(c) "Capitalization grant" means the federal grant made to this state by the United States environmental protection agency for the purpose of establishing a state water pollution control revolving fund, as provided in title VI of the federal water pollution control act, chapter 758, 101 Stat. 22, 33 U.S.C. 1381 to 1387.

(d) "Construction activities" means any actions undertaken in the designing or building of sewage treatment works projects, stormwater treatment projects, or nonpoint source projects. Construction activities include, but are not limited to, all of the following:

(i) Engineering services.

(ii) Legal services.

(iii) Financial services.

(iv) Design of plans and specifications.

(v) Acquisition of land or structural components, or both.

(vi) Building, erection, alteration, remodeling, or extension of a sewage treatment works.

(vii) Building, erection, alteration, remodeling, or extension of projects designed to control nonpoint source pollution, consistent with section 319 of title III of the federal water pollution control act, chapter 758, 101 Stat. 52, 33 U.S.C. 1329.

(viii) Building, erection, alteration, or remodeling of a stormwater treatment project.

(ix) Municipal supervision of the project activities described in subparagraphs (i) to (viii).

(e) “Federal water pollution control act” means chapter 758, 86 Stat. 816, 33 U.S.C. 1251 to 1252, 1253 to 1254, 1255 to 1257, 1258 to 1263, 1265 to 1270, 1273 to 1274, 1281, 1282 to 1293, 1294 to 1301, 1311 to 1313, 1314 to 1326, 1328 to 1330, 1341 to 1346, 1361 to 1375, 1376 to 1377, and 1381 to 1387.

(f) “Fund” means the state water pollution control revolving fund created in the shared credit rating act, 1985 PA 227, MCL 141.1051 to 141.1076, established pursuant to title VI of the federal water pollution control act.

(g) “Fundable range” means those projects, taken in descending order on the priority lists, for which sufficient funds are estimated by the department to exist to provide assistance at the beginning of each annual funding cycle.

(h) “Municipality” means a city, village, county, township, authority, or other public body, including an intermunicipal agency of 2 or more municipalities, authorized or created under state law; or an Indian tribe that has jurisdiction over construction and operation of sewage treatment works or other projects qualifying under section 319 of title III of the federal water pollution control act, chapter 758, 101 Stat. 52, 33 U.S.C. 1329.

(i) “Nonpoint source project” means construction activities designed to reduce nonpoint source pollution consistent with the state nonpoint source management plan pursuant to section 319 of title III of the federal water pollution control act, chapter 758, 101 Stat. 52, 33 U.S.C. 1329.

(j) “Priority list” means the annual ranked listing of projects developed by the department in section 5303 or used by the department pursuant to section 5315.

(k) “Project” means a sewage treatment works project, a stormwater treatment project, or a nonpoint source project, or a combination of these.

(l) “Project refinancing assistance” means buying or refinancing the debt obligations of municipalities within the state if construction activities commenced after March 7, 1985 and the debt obligation was incurred after March 7, 1985.

(m) “Sewage treatment works project” means construction activities on any device or system for the treatment, storage, collection, conveyance, recycling, or reclamation of the sewage of a municipality, including combined sewer overflow correction and major rehabilitation of sewers.

(n) “Stormwater treatment project” means construction activities of a municipality on any device or system for the treatment, storage, recycling, or reclamation of storm water that is conveyed by a storm sewer that is separate from a sanitary sewer.

(o) “Tier I project” means a project for which assistance is sought or provided from funds made directly available from the federal capitalization grant or from the Great Lakes water quality bond fund pursuant to section 19708(1)(a).

(p) “Tier II project” means a project for which assistance is sought or provided from funds other than those made directly available from the federal capitalization grant or from the Great Lakes water quality bond fund pursuant to section 19708(1)(a).

Sec. 5304. Subject to sections 5309 and 5310, assistance provided to municipalities to construct sewage treatment works projects, stormwater projects, and nonpoint source projects shall be in accordance with all of the following:

(a) Assistance for approved sewage treatment works projects and stormwater treatment projects shall be provided for projects in the fundable range of the priority list developed pursuant to 5303, and to other projects that may become fundable pursuant to section 5310.

(b) Assistance for approved qualified nonpoint source projects shall be provided for projects in the fundable range of the priority list developed pursuant to section 5303. The director shall annually allocate at least 2% of the available funds to the extent needed to provide assistance to projects on the nonpoint source priority list. If these funds are not awarded, the allocation shall revert to provide assistance to projects on the sewage treatment works priority list.

## PART 197 GREAT LAKES WATER QUALITY BOND IMPLEMENTATION

Sec. 19701. As used in this part:

(a) “Bonds” means the bonds authorized under the Great Lakes water quality bond authorization act.

(b) “Department” means the department of environmental quality.

(c) “Fund” means the Great Lakes water quality bond fund created in section 19706.

Sec. 19702. The legislature finds and declares that the environmental, natural resources, and water quality 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.

Sec. 19703. (1) Subject to subsection (2), the bonds shall be issued in 1 or more series, each series to be in a principal amount, to be dated, to have the maturities which may be either serial, term, or both, to bear interest at a rate or rates, to be subject or not subject to prior redemption, and if subject to prior redemption with or without call premiums, to be payable at a place or places, to have or not have provisions for registration as to principal only or as to both principal and interest, to be in a form and to be executed in a manner as shall be determined by resolution to be adopted by the state administrative board and subject to or granting those covenants, directions, restrictions, or rights specified by resolution to be adopted by the state administrative board as necessary to ensure the marketability, insurability, or tax exempt status of the bonds. The state administrative board shall rotate the services of legal counsel when issuing bonds.

(2) The state administrative board may refund bonds issued under this part by the issuance of new bonds, whether or not the bonds to be refunded have matured or are subject to prior redemption. The state administrative board may issue bonds partly to refund bonds issued under this part and partly for any other purpose provided by this part. The principal amount of any refunding bonds issued pursuant to this section shall not be counted against the limitation on principal amount provided in the Great Lakes water quality bond authorization act.

(3) The state administrative board may 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 under this part. The state administrative board may authorize and approve an interest rate exchange or swap, hedge, or similar agreement in connection with the issuance of bonds under this part, payable from the same source as the bonds.

(4) The state administrative board may authorize the state treasurer, but only within limitations contained in the authorizing resolution of the board, to do 1 or more of the following:

(a) Sell and deliver and receive payment for the bonds.

(b) Deliver bonds partly to refund bonds and partly for other authorized purposes.

(c) Select which outstanding bonds will be refunded, if any, by the new issue of bonds.

(d) Buy issued bonds.

(e) Approve interest rates or methods for determining interest rates, including fixed or variable rates, prices, discounts, maturities, principal amounts, purchase prices, purchase dates, remarketing dates, denominations, dates of issuance, interest payment dates, redemption rights at the option of the state or the owner, the place and time of delivery and payment, and other matters and procedures necessary to complete the authorized transactions.

(f) Execute, deliver, and pay the cost of remarketing agreements, insurance contracts, agreements for lines of credit, letters of credit, commitments to purchase bonds or notes, and any other transaction to provide security to assure timely payments or purchase of any bond issued under this part.

(g) Determine the details of, execute, deliver, and pay the cost of any interest rate exchange or swap, hedge, or similar agreement.

(h) Pledge all or any portion of the strategic water quality initiatives fund created in section 5204 to secure bonds issued or to be issued by the Michigan municipal bond authority created in section 4 of the shared credit rating act, 1985 PA 227, MCL 141.1054, for the purpose of funding loans under the strategic water quality initiatives loan program under part 52.

(5) The bonds shall not be subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. Issuance of the bonds shall be subject to the agency financing reporting act.

(6) The bonds or any series of the bonds shall be sold at public or private sale at such price or may be issued and deposited directly into the state water pollution control revolving fund created in section 16a of the shared credit rating act, 1985 PA 227, MCL 141.1066a, or the strategic water quality initiatives fund created in section 5204, as determined by or pursuant to a resolution of the state administrative board.

(7) Not more than 10% of the bonds shall be issued in any year. The first bond issuance shall be structured in such a manner that debt payments do not begin before October 1, 2003.

Sec. 19704. The bonds shall be fully negotiable under the uniform commercial code, 1962 PA 174, MCL 440.1101 to 440.11102. The bonds and the interest on the bonds shall be exempt from all taxation by the state or any political subdivision of the state.

Sec. 19705. The bonds are securities in which banks, savings and loan associations, state authorities, investment companies, credit unions, and other persons carrying on a banking business; all insurance companies, insurance associations, and other persons carrying on an insurance business; and all administrators, executors, guardians, trustees, and other fiduciaries may properly and legally invest funds, including capital, belonging to them or within their control.

Sec. 19706. (1) The Great Lakes water quality bond fund is created in the state treasury.

(2) The fund shall consist of all of the following:

(a) The proceeds of sales of the bonds sold at public or private sale and any premium and accrued interest received on the delivery of the bonds.

(b) Any interest or earnings generated by the proceeds described in subdivision (a).

(c) Any federal or other funds received.

(3) The department of treasury may establish restricted subaccounts within the fund as necessary to administer the fund.

Sec. 19707. (1) The total proceeds of all bonds sold at public or private sale shall be deposited into the fund.

(2) The state treasurer shall direct the investment of the fund.

(3) The bond proceeds shall be expended in an appropriate manner that maintains the tax exempt status of any bonds issued as tax exempt bonds.

(4) The unencumbered balance in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund.

(5) The department shall provide an annual accounting of bond proceeds spending on a cash basis to the department of treasury. This accounting shall be submitted to the governor, the standing committees of the house of representatives and the senate that primarily address issues pertaining to the protection of natural resources and the environment, and the appropriations committees in the house of representatives and the senate.

Sec. 19708. (1) Subject to subsections (2) and (3), the state treasurer shall transfer money in the fund as follows:

(a) Ninety percent of the money in the fund shall be deposited into the state water pollution control revolving fund created in section 16a of the shared credit rating act, 1985 PA 227, MCL 141.1066a.

(b) Ten percent of the money in the fund shall be deposited into the strategic water quality initiatives fund created in section 5204.

(2) Money in the fund may be used by the department of treasury to pay for the cost of issuing bonds and the costs incurred under section 19703(3).

(3) Money from the fund shall not be used as the state match for receipt of federal funds for purposes of the state water pollution control revolving fund created in section 16a of the shared credit rating act, 1985 PA 227, MCL 141.1066a, at 2002 state match levels. However, if federal revenues become available at higher levels than were provided in 2002, money from the fund may be used to match federal revenues in excess of 2002 levels.

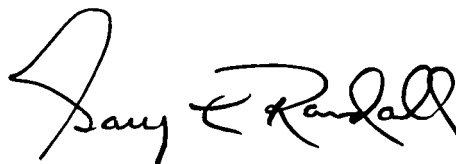
Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 91st Legislature are enacted into law:

(a) House Bill No. 4625.

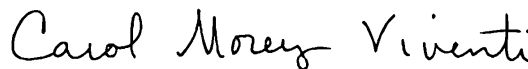
(b) House Bill No. 5893.

Enacting section 2. This amendatory act does not take effect unless the question provided for in the Great Lakes water quality bond authorization act is approved by a majority of the registered electors voting on the question at the November 2002 general election.

This act is ordered to take immediate effect.



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Clerk of the House of Representatives.



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Secretary of the Senate.

Approved .....

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Governor.