

Act No. 602  
Public Acts of 2006  
Approved by the Governor  
December 31, 2006  
Filed with the Secretary of State  
January 3, 2007  
EFFECTIVE DATE: January 3, 2007

**STATE OF MICHIGAN  
93RD LEGISLATURE  
REGULAR SESSION OF 2006**

Introduced by Rep. Pastor

# **ENROLLED HOUSE BILL No. 6668**

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, assessments, and donations; to provide certain appropriations; to prescribe penalties and provide remedies; and to repeal acts and parts of acts," by amending sections 4101, 4105, and 4110 (MCL 324.4101, 324.4105, and 324.4110), section 4105 as amended by 2004 PA 325, and by adding sections 4112 and 4113.

*The People of the State of Michigan enact:*

Sec. 4101. As used in this part:

- (a) "Conventional gravity sewer extension" means the installation of a new gravity sewer and connection to an existing collection system to provide sewer service to new areas previously not served by the public sewer system.
- (b) "Expedited review" means an expedited review of an application for a construction permit under section 4112.
- (c) "Fund" means the infrastructure construction fund created in section 4113.
- (d) "Governmental agencies" means local units of government, metropolitan districts, or other units of government or the officers of the units of government authorized to own, construct, or operate sewerage systems to serve the public.
- (e) "Licensed professional engineer" means a professional engineer licensed under article 20 of the occupational code, 1980 PA 299, MCL 339.2001 to 339.2014.
- (f) "Plans and specifications" means a true description or representation of the entire sewerage system and parts of a system as the sewerage system exists or is to be constructed, and also a full and fair statement of how the system is to be operated.
- (g) "Project" means a proposal to install within 1 general area a new wastewater collection system. Systems proposed for construction on separate land parcels shall be considered separate projects.
- (h) "Sewerage system" means a system of pipes and structures including pipes, channels, conduits, manholes, pumping stations, sewage or waste treatment works, diversion and regulatory devices, outfall structures, and appurtenances, collectively or severally, actually used or intended for use by the public for the purpose of collecting, conveying, transporting, treating, or otherwise handling sanitary sewage or other industrial liquid wastes that are capable of adversely affecting the public health.
- (i) "Simple pumping station and force main" means the installation of a duplex pumping station and a force main with only 1 high point and of length of no more than 2,000 feet that is to be connected to an existing gravity collection system to provide sewer service to new areas previously not served by the public sewer system.

(j) “Small diameter pressure sewer and grinder pumping station” means a single project that includes the installation of new pressure sewers totaling not more than 5,000 feet and not more than 25 grinder pumping stations with each grinder pumping station serving not more than 5 separate owners and that is to be connected to an existing gravity collection system to provide sewer service to new areas previously not served by the public sewer system.

Sec. 4105. (1) The mayor of each city, the president of each village, the township supervisor of each township, the responsible executive officer of a governmental agency, and all other persons operating sewerage systems in this state shall file with the department a true copy of the plans and specifications of the entire sewerage system owned or operated by that person, including any filtration or other purification plant or treatment works as may be operated in connection with the sewerage system, and also plans and specifications of all alterations, additions, or improvements to the systems that may be made. The plans and specifications shall, in addition to all other requirements, show all the sources through or from which water is or may be at any time pumped or otherwise permitted to enter into the sewerage system, and the drain, watercourse, river, or lake into which sewage is to be discharged. The plans and specifications shall be certified by the mayor of a city, the president of a village, a responsible member of a partnership, an individual owner, or the proper officer of any other person that operates the sewerage system, as well as by the engineer, if any are employed by any such operator. The department may promulgate and enforce rules regarding the preparation and submission of plans and specifications and for the issuance and period of validity of construction permits for the work.

(2) A person shall not construct a sewerage system or any filtration or other purification plant or treatment works in connection with a sewerage system except as authorized by a construction permit issued by the department pursuant to part 13. An application for a permit shall be submitted by the mayor of a city, the president of a village, a responsible member of a partnership, an individual owner, or the proper officer of any other person proposing the construction. If eligible, a person may request an expedited review of an application for a construction permit under section 4112. An application for a permit shall include plans and specifications as described in subsection (1). If considered appropriate by the department, the department may issue a permit with conditions to correct minor design problems.

(3) The department may verbally approve minor modifications of a construction permit issued by the department as a result of unforeseen site conditions that become apparent during construction. Minor modifications include, but are not limited to, a minor change of location of the sewer or location of manholes. The person making the request for a modification shall provide to the department all relevant information pursuant to R 299.2931 to R 299.2945 of the Michigan administrative code and the application form provided by the department related to the requested modification. Written approval from the department shall be obtained for all modifications except when the department provides verbal approval for a minor modification as provided for in this subsection. The person receiving a written or verbal approval from the department shall submit revised plans or specifications to the department within 10 days from the date of approval.

(4) If a person seeks confirmation of the department’s verbal approval of a minor modification under subsection (3), the person shall notify the department electronically, at an address specified by the department, with a detailed description of the request for the modification. The department shall make reasonable efforts to respond within 2 business days, confirming whether the request has been approved or not approved. If the department has not responded within 2 business days after the department receives the detailed description, the verbal approval shall be considered confirmed.

(5) A municipal officer or an officer or agent of a person who permits or allows construction to proceed on a sewerage works without a valid permit, or in a manner not in accordance with the plans and specifications approved by the department, is guilty of a misdemeanor punishable by a fine of not more than \$500.00 or imprisonment for not more than 90 days, or both.

Sec. 4110. (1) The department may request that the attorney general commence a civil action for appropriate relief, including a permanent or temporary injunction, for a violation of this part or a provision of a permit or order issued under this part or a rule promulgated under this part. An action under this subsection may be brought in the circuit court for the county of Ingham or for the county in which the defendant is located, resides, or is doing business. The court has jurisdiction to restrain the violation and to require compliance.

(2) In addition to any other relief granted under subsection (1), a person who violates this part is subject to the following:

(a) If the person fails to obtain a permit required under this part, the court shall impose a civil fine of not less than \$1,500.00 or greater than \$2,500.00 for the first violation, not less than \$2,500.00 or greater than \$10,000.00 for the second violation, and not less than \$10,000.00 or greater than \$25,000.00 for each subsequent violation.

(b) If the person violates this part or a provision of a permit or order issued under this part or rule promulgated under this part other than by failure to obtain a permit, the court shall impose a civil fine of not less than \$500.00 or greater than \$2,500.00 for the first violation, not less than \$1,000.00 or greater than \$5,000.00 for the second violation, and not less than \$2,500.00 or greater than \$10,000.00 for each subsequent violation. For the purposes of this subdivision, all violations of a specific construction permit are treated as a single violation.

(3) Subject to section 4105(5), a person who violates this part or a written order of the department is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$500.00, or both, and payment of the costs of prosecution.

(4) A law enforcement officer may issue and serve an appearance ticket upon a person for a minor offense pursuant to sections 9c to 9g of chapter IV of the code of criminal procedure, 1927 PA 175, MCL 764.9c to 764.9g.

(5) The attorney general shall enforce this part.

(6) As used in this section, "minor offense" means a violation of a permit issued under this part that does not functionally impair the operation or capacity of a sewerage system.

Sec. 4112. (1) Not later than October 1, 2007, the department shall establish an expedited review process for construction permit applications for projects described in subsection (2) that are located in a county with a population of between 750,000 and 1,000,000 and any contiguous county with a population greater than 160,000. The expedited review process shall be available through September 30, 2010. To be eligible for expedited review, an applicant shall submit all of the items under subsection (4) not later than September 30, 2010.

(2) Subject to subsection (3), the following projects are eligible for expedited review:

(a) A conventional gravity sewer extension of 10,000 feet or less of sewer line.

(b) A simple pumping station and force main.

(c) A small diameter pressure sewer and grinder pumping station.

(3) An expedited review shall not be conducted for a project that is being funded by the state water pollution control revolving fund created in section 16a of the shared credit rating act, 1985 PA 227, MCL 141.1066a.

(4) A person requesting an expedited review shall do all of the following:

(a) At least 10 business days prior to submitting an application under subdivision (b), notify the department electronically, in accordance with the instructions provided on the department's website, of his or her intent to request expedited review.

(b) Submit electronically a complete application for a construction permit including a request for expedited review and including, via credit card, the appropriate fee under subsection (5).

(c) Provide a written copy of the construction plans and specifications for the project that has been prepared, signed, and sealed by a licensed professional engineer to the department postmarked not later than the same date that the application is submitted electronically.

(d) For nongovernmental entities, provide certification to the department that all necessary contractual service agreements and financial plans are in place.

(5) Except as provided in subsection (7), the fee for an expedited review is as follows:

(a) For a conventional gravity sewer extension less than 2,000 feet, \$1,000.00.

(b) For a conventional gravity sewer extension equal to or greater than 2,000 feet but less than 4,000 feet of sewer line, \$1,500.00, and for each incremental increase of up to 2,000 feet of sewer line, an additional \$500.00.

(c) For a simple pumping station and force main, \$2,000.00.

(d) For a small diameter pressure sewer and grinder pumping station consisting of not more than 2,000 feet of sewer line and not more than 10 grinder pumping stations, \$2,000.00.

(e) For small diameter pressure sewer and grinder pumping station projects not covered by subdivision (d) and not more than 5,000 feet of sewer line and not more than 25 grinder pumping stations, \$4,000.00.

(6) Except as provided in subsection (8), if an applicant does not comply with subsection (4), the department shall not conduct an expedited review and any submitted fee shall not be refunded. Within 10 business days after receipt of the application, the department shall notify the applicant of the reasons why the department's review of the application will not be expedited. Upon receipt of this notification, a person may correct the deficiencies and resubmit an application and request for an expedited review with the appropriate fee specified under subsection (7). The department shall not reject a resubmitted application and request for expedited review solely because of deficiencies that the department failed to fully identify in the original application.

(7) For a second submission of an application that originally failed to meet the requirements specified in subsection (6), the applicant shall instead include a fee equal to 10% of the fee specified in subsection (5). However, if the deficiency included failure to pay the appropriate fee, the second submission shall include the balance of the appropriate fee plus 10% of the appropriate fee. If the applicant makes additional changes other than those items identified by the department as being deficient, the applicant shall instead include an additional fee equal to the fee specified in subsection (5). For the third and each subsequent submittal of an application that failed to meet the requirements specified in subsection (6), the applicant shall include an additional fee equal to the fee specified in subsection (5).

(8) If an applicant fails to sign the application, submits construction plans and specifications that have not been prepared, signed, and sealed by a licensed professional engineer, or submits an insufficient fee, the department shall notify the applicant within 5 business days of the deficiency. The application shall not be processed until the deficient items are addressed. If the applicant does not provide the deficient items within 5 business days after notification by the department, the application shall be handled as provided in subsection (6).

(9) The department shall review and make a decision on complete applications submitted with a request for expedited review pursuant to the following schedule:

(a) Until September 30, 2008, a permit decision shall be made within 20 business days of receipt by the department of the complete application.

(b) From October 1, 2008 through September 30, 2009, a permit decision shall be made within 15 business days of receipt by the department of the complete application.

(c) From October 1, 2009 through September 30, 2010, a permit decision shall be made within 10 business days of receipt by the department of the complete application.

(10) If the department fails to meet the deadlines specified in subsection (9), the department shall continue to expedite the application review process for an application submitted under this section. However, the fee for an expedited review required under this section shall be refunded if the department fails to meet the deadlines established in subsection (9).

(11) The department shall transmit fees collected under this section to the state treasurer for deposit into the fund.

(12) As used in this section, "complete application" means that a department-provided application form is completed, all requested information has been provided, and the application can be processed without additional information.

Sec. 4113. (1) The infrastructure construction 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.

(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 department shall expend money from the fund, upon appropriation, only to administer this part and the safe drinking water act, 1976 PA 399, MCL 325.1001 to 325.1023, including all of the following:

(a) Maintenance of program data.

(b) Development of program-related databases and software.

(c) Compliance assistance, education, and training directly related to this part and the safe drinking water act, 1976 PA 399, MCL 325.1001 to 325.1023.

(d) Program administration activities.

(5) By January 1, 2009 and by January 1 of each year thereafter until January 1, 2011, the department shall prepare and submit to the governor, the chairs of the standing committees of the senate and house of representatives with primary responsibility for issues related to natural resources and the environment, and the chairs of the subcommittees of the senate and house appropriations committees with primary responsibility for appropriations to the department a report that details the department's administration of the expedited review process under section 4112 and the expedited review process under section 4a of the safe drinking water act, 1976 PA 399, MCL 325.1004a, in the previous fiscal year. This report shall include, at a minimum, all of the following as itemized for each expedited review process:

(a) The number of requests for expedited review received by the department.

(b) The percentage and number of requests for expedited review that were properly submitted.

(c) The percentage and number of requests for expedited review that were reviewed for completeness within statutory time frames.

(d) The percentage and number of requests for expedited review for which a final action was taken by the department within statutory time frames. The type of final action shall be indicated.

(e) The amount of revenue in the fund at the end of the fiscal year.

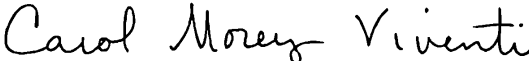
(6) For the first 3 years of the expedited review process, the department shall submit quarterly summary reports of items under subsection (5)(a) to (d) to the chairs of the standing committees of the senate and house of representatives with primary responsibility for issues related to natural resources and the environment and the chairs of the subcommittees of the senate and house appropriations committees with primary responsibility for appropriations to the department.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 6577 of the 93rd Legislature is enacted into law.

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