

Legislative Analysis



STRATEGIC WATER QUALITY FUND: NONPOINT SOURCE WATER POLLUTION

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House Bill 6416

Sponsor: Rep. Martin Griffin

Committee: New Economy and Quality of Life

Complete to 9-22-10

A SUMMARY OF HOUSE BILL 6416 AS INTRODUCED 9-8-10

The bill would amend sections of the Natural Resources and Environmental Protection Act dealing with the Strategic Water Quality Initiatives Fund. Generally speaking, the bill does the following:

- Allows money in the Fund to be spent on response activities to address nonpoint source water pollution under Section 5204b and for grants and loans for brownfield sites under Section 5204c.

["Nonpoint source pollution" in the act means "water pollution from diffuse sources, including runoff from precipitation or snowmelt contaminated 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."]

- Authorizes the department to spend, upon appropriation, up to \$140 million of the money from the Fund for response activities to address nonpoint source water pollution, as follows: (1) not more than \$50 million for the 2010-2011 Fiscal Year; (2) not more than \$50 million for the 2011-2012 Fiscal Year; (3) the remainder could be spent after October 1, 2012, but only if certain performance objectives had been achieved.
- Requires the department, in order to be able to use the remainder of funds, to document that it had achieved the following performance objectives: (1) increasing the level of investment in sewage collection and treatment systems; (2) providing incentives for actions that not only improve water quality but result in pollution prevention; (3) optimizing the cost benefit ratio of alternative designs of sewage collection and treatment systems; and (4) demonstrating progress toward maximizing risk reduction and economic development objectives identified for projects funded under this section.
- Requires the DNRE to comply with the following in its expenditures:
 - Expenditures must be used to improve the quality of the waters of the state.

- Expenditures can be used only for facilities in which the department does not know the identity of the person or persons who are liable for the release resulting in water pollution or in cases where the person or persons who are liable do not have sufficient resources to fund the required response activities.
 - Facilities must include property located within the identified planning area boundaries of a publicly owned sanitary sewer system eligible for funding under the Water Pollution Control Revolving Fund.
 - Expenditures must be used for response activities necessary to address existing or imminent unacceptable risks arising from conditions that contribute to nonpoint source water pollution, including expenses for project management activities within the department.
- Requires the department, in using funds to address nonpoint source water pollution projects, to select projects that, to the extent practicable, provide maximum benefit to the state in protecting public health and the environment and contributing to economic development.
 - Requires the department to submit a report annually to the standing committees of the Senate and House of Representatives with primary jurisdiction over natural resources and environment issues and to the appropriate subcommittees of the Senate and House Appropriations committees. The report would have to describe the funded projects and include an evaluation of how the expenditures provide maximum benefit to the state in protecting public health and the environment and contributing to economic development.

For each project, the report must include: how the project met required criteria; the extent to which the project improved water quality or prevented a risk to water quality, as measured by the number of individuals who benefit from the project; the extent to which the project preserved infrastructure investments that protect public health or prevented risks to water quality, as measured by the risk posed or the public health protected; the extent to which the project enhanced economic development, as measured by such factors as net increase to property values, the creation of jobs, and the amount of private investment leveraged; and a breakdown of the money used to support the project management, if any.

- Includes a Legislative Finding that use of the Fund for response activities to address nonpoint water pollution at facilities is appropriate and necessary at this time. The bill says, "It is the intent of this Legislature that money from the Fund shall not be utilized for response activities to address nonpoint source water pollution at facilities when the \$150 million has been expended."
- Authorizes the department to spend \$10 million from the Fund to provide brownfield redevelopment grants and loans to municipalities and brownfield redevelopment authorities for response activities to address nonpoint source water pollution. Of this amount \$5 million would be for grants and \$5 million for loans.

If money for these purposes has not been appropriated by September 30, 2014, then the money could be used for other specified purposes.

- Alters provisions that determine transfers from the Great Lakes Water Quality Bond Fund. Currently, the act requires the State Treasurer to transfer not more than \$900 million of money in the Great Lakes Water Quality Bond Fund into the State Water Pollution Control Revolving Fund and not more than \$100 million into the Strategic Water Quality Initiatives Fund. The bill would instead allow not more than \$750 million to be deposited in the State Water Pollution Control Revolving Fund and not more than 250 million to be deposited in the Strategic Water Quality Initiatives Fund.
- Requires that whenever bonds are issued to support the purposes of the State Water Pollution Control Revolving Fund, at least an equivalent amount of bonds must be issued to support the purposes of the Strategic Water Quality Initiatives Fund.
- Requires the Auditor General, not later than two years after the bill takes effect, to conduct an audit of the Fund to assure that the money has been spent in compliance with law. Within two years after that, the initial audit must be updated.

MCL 324.5204 and 324.19708

FISCAL IMPACT:

House Bill 6416 would allow the Legislature to appropriate up to \$140 million from the Strategic Water Quality Initiative Fund (SWQIF) for response activities to address nonpoint source water pollution in the coming years. The bills allow up to \$50 million to be appropriated in FY 2010-11, up to \$50 million in FY 2011-12, and the remaining funding to be appropriated after October 1, 2012, under certain conditions.

Under current law, only \$100.0 million may be appropriated from the SWQIF, and this funding must be expended to provide low-interest loans to help municipalities fund wastewater treatment facility improvements and pay for administration costs. Under the provisions of the bill, however, the additional \$140.0 million funding may be used for cleanup activities related to nonpoint source water pollution. The bill also allows the DNRE to expend \$10 million of the SWQIF for brownfield redevelopment grant and loans to municipalities and Brownfield Redevelopment Authorities.

Background

In 2002, Michigan voters approved Proposal 2 which authorized the Great Lakes Water Quality Bond, a \$1.0 billion general obligation bond program intended to help finance sewage treatment works upgrades or expansions and storm water treatment projects. The

revenues generated by any bond issues under the program and interest earnings are deposited into the Great Lakes Quality Bond Fund within Treasury.

Under current law, up to \$900 million of the bond revenues within the fund shall be deposited into the State Water Pollution Control Revolving Fund, commonly known as the State Revolving Fund (SRF). This fund is used for loans to local governmental units to finance the construction of sewage and storm water treatment facilities. Because the SRF receives federal funding, it is limited to funding public facilities and properties.

Of the remaining \$1 billion potential bond revenues, up to \$100 million shall be deposited into the SWQIF. Because the SWQIF is funded entirely by state restricted funding, it does not have the limitations of use that the SRF has; the SWQIF can fund projects that concern both public and private sewer issues.

In December of 2003, the Michigan Municipal Bond Authority issued the first series of Great Lakes Water Quality Bonds totaling \$100 million. \$90 million of the revenues were deposited into the SRF and that funding has not been expended. The SRF currently has \$810 million bonding authorization available. The program is using other revenue sources, mainly federal, for program expenditures. In FY 2010, the SRF received 78 project requests which totaled an estimated \$500 million.

In FY 2010, the SWQIF received 6 applications for projects that totaled \$11.8 million. Since 2003, the SWQIF has had three bond issues totaling \$55.6 million. The program has \$44.4 million bonding authority remaining.

The bill would reduce the allocation of the Great Lakes Water Quality Bond program to the State Revolving Fund from up to \$900 million to \$750 million. The allocation to the SWQIF would be increased from \$100 million to \$250 million.

State Spending Implications

House Bill 6416 could increase the costs to the State by an indeterminate amount, depending upon the amount of any new bond issues that might take place. While the bill does not require additional state spending, it does authorize additional spending of SWQIF for cleanup activities. If the Legislature appropriates additional program spending, the State would be required to pay debt service payments for any new bonds that would be issued. By statute, the debt service on these bonds must be paid by General Fund dollars. In FY 2010, \$15.1 million was appropriated for the annual debt service to the Great Lakes Water Quality Bond Program.

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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.