

HOUSE BILL No. 6416

September 8, 2010, Introduced by Rep. Griffin and referred to the Committee on New Economy and Quality of Life.

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 5204 and 19708 (MCL 324.5204 and 324.19708), section 5204 as amended by 2005 PA 253 and section 19708 as amended by 2005 PA 256, and by adding sections 5204b, 5204c, and 19703a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

3 (2) The state treasurer may receive money or other assets from
4 any source for deposit into the fund. The state treasurer shall
5 direct the investment of the fund. The state treasurer shall credit
6 to the fund interest and earnings from fund investments. The
7 authority shall act as fiscal agent for the fund in accordance with

1 the shared credit rating act, 1985 PA 227, MCL 141.1051 to
2 141.1076.

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

5 (4) The authority in consultation with the department shall
6 expend money from the fund, upon appropriation, only for the
7 following:

8 (a) Loans under section 5202.

9 (b) Grants under section 5204a.

10 (C) **RESPONSE ACTIVITIES TO ADDRESS NONPOINT SOURCE WATER**
11 **POLLUTION UNDER SECTION 5204B.**

12 (D) **GRANTS AND LOANS FOR BROWNFIELD SITES UNDER SECTION 5204C.**

13 (E) ~~(e)~~—The costs of the authority and the department in
14 administering the fund.

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

18 **SEC. 5204B. (1) SUBJECT TO SECTION 5204C, THE DEPARTMENT MAY**
19 **EXPEND, UPON APPROPRIATION, NOT MORE THAN \$140,000,000.00 OF THE**
20 **MONEY FROM THE FUND FOR RESPONSE ACTIVITIES TO ADDRESS NONPOINT**
21 **SOURCE WATER POLLUTION AT FACILITIES AS FOLLOWS:**

22 (A) **FOR THE STATE FISCAL YEAR ENDING SEPTEMBER 30, 2011, NOT**
23 **MORE THAN \$50,000,000.00 MAY BE AUTHORIZED FOR EXPENDITURE UNDER**
24 **THIS SECTION.**

25 (B) **FOR THE STATE FISCAL YEAR ENDING SEPTEMBER 30, 2012, NOT**
26 **MORE THAN \$50,000,000.00 MAY BE AUTHORIZED FOR EXPENDITURE UNDER**
27 **THIS SECTION.**

1 (C) BEGINNING OCTOBER 1, 2012, ANY MONEY NOT PREVIOUSLY
2 AUTHORIZED FOR EXPENDITURE UNDER THIS SECTION MAY BE EXPENDED UNDER
3 THIS SECTION ONLY IF THE DEPARTMENT DOCUMENTS THAT IT HAS ACHIEVED
4 THE FOLLOWING PERFORMANCE OBJECTIVES:

5 (i) INCREASING THE LEVEL OF INVESTMENT IN SEWAGE COLLECTION AND
6 TREATMENT SYSTEMS.

7 (ii) PROVIDING INCENTIVES FOR ACTIONS THAT NOT ONLY IMPROVE
8 WATER QUALITY BUT RESULT IN POLLUTION PREVENTION.

9 (iii) OPTIMIZING THE COST BENEFIT RATIO OF ALTERNATIVE DESIGNS
10 OF SEWAGE COLLECTION AND TREATMENT SYSTEMS.

11 (iv) DEMONSTRATING PROGRESS TOWARD MAXIMIZING RISK REDUCTION
12 AND ECONOMIC DEVELOPMENT OBJECTIVES IDENTIFIED FOR PROJECTS FUNDED
13 UNDER THIS SECTION.

14 (2) THE DEPARTMENT SHALL EXPEND MONEY UNDER THIS SECTION IN
15 COMPLIANCE WITH ALL OF THE FOLLOWING:

16 (A) THE EXPENDITURE IS USED TO IMPROVE THE QUALITY OF THE
17 WATERS OF THE STATE.

18 (B) THE EXPENDITURE IS USED ONLY FOR FACILITIES IN WHICH THE
19 DEPARTMENT DOES NOT KNOW THE IDENTITY OF THE PERSON OR PERSONS WHO
20 ARE LIABLE UNDER PART 201 FOR THE RELEASE RESULTING IN THE WATER
21 POLLUTION OR THE PERSON OR PERSONS WHO ARE LIABLE DO NOT HAVE
22 SUFFICIENT RESOURCES TO FUND THE REQUIRED RESPONSE ACTIVITIES.

23 (C) THE FACILITIES INCLUDE PROPERTY THAT IS LOCATED WITHIN THE
24 IDENTIFIED PLANNING AREA BOUNDARIES OF A PUBLICLY OWNED SANITARY
25 SEWER SYSTEM ELIGIBLE FOR FUNDING UNDER THE STATE WATER POLLUTION
26 CONTROL REVOLVING FUND ESTABLISHED IN SECTION 16A OF THE SHARED
27 CREDIT RATING ACT, 1985 PA 227, MCL 141.1066A.

1 (D) THE EXPENDITURE IS USED FOR RESPONSE ACTIVITIES NECESSARY
2 TO ADDRESS EXISTING OR IMMINENT UNACCEPTABLE RISKS ARISING FROM
3 CONDITIONS THAT CONTRIBUTE TO NONPOINT SOURCE WATER POLLUTION,
4 INCLUDING EXPENSES FOR PROJECT MANAGEMENT ACTIVITIES WITHIN THE
5 DEPARTMENT.

6 (3) IN USING FUNDS TO ADDRESS NONPOINT SOURCE WATER POLLUTION
7 PROJECTS UNDER THIS SECTION, THE DEPARTMENT SHALL SELECT PROJECTS
8 THAT, TO THE EXTENT PRACTICABLE, PROVIDE MAXIMUM BENEFIT TO THE
9 STATE IN PROTECTING PUBLIC HEALTH AND THE ENVIRONMENT AND
10 CONTRIBUTING TO ECONOMIC DEVELOPMENT.

11 (4) MONEY EXPENDED TO SUPPORT PROJECT MANAGEMENT WITHIN THE
12 DEPARTMENT TO MANAGE RESPONSE ACTIVITIES AT THE FACILITY SHALL BE
13 EXPENDED PURSUANT TO GENERALLY ACCEPTED ACCOUNTING PRINCIPLES.

14 (5) THE DEPARTMENT SHALL ANNUALLY SUBMIT A REPORT TO THE
15 STANDING COMMITTEES OF THE SENATE AND HOUSE OF REPRESENTATIVES WITH
16 JURISDICTION OVER ISSUES PRIMARILY PERTAINING TO NATURAL RESOURCES
17 AND THE ENVIRONMENT AND TO THE SENATE AND HOUSE OF REPRESENTATIVES
18 APPROPRIATIONS SUBCOMMITTEES ON NATURAL RESOURCES AND THE
19 ENVIRONMENT THAT DESCRIBES THE PROJECTS FUNDED UNDER THIS SECTION
20 AND INCLUDES AN EVALUATION OF HOW THE EXPENDITURES, TO THE EXTENT
21 PRACTICABLE, PROVIDE MAXIMUM BENEFIT TO THE STATE IN PROTECTING
22 PUBLIC HEALTH AND THE ENVIRONMENT AND CONTRIBUTING TO ECONOMIC
23 DEVELOPMENT. FOR EACH PROJECT FUNDED UNDER THIS SECTION, THE REPORT
24 SHALL INCLUDE ALL OF THE FOLLOWING:

25 (A) HOW THE PROJECT MET THE CRITERIA DESCRIBED IN THIS
26 SECTION.

27 (B) THE EXTENT TO WHICH THE PROJECT IMPROVED WATER QUALITY OR

1 PREVENTED A RISK TO WATER QUALITY AS MEASURED BY THE NUMBER OF
2 INDIVIDUALS WHO BENEFIT FROM THE PROJECT.

3 (C) THE EXTENT TO WHICH THE PROJECT PRESERVED INFRASTRUCTURE
4 INVESTMENTS THAT PROTECT PUBLIC HEALTH OR PREVENTED RISKS TO WATER
5 QUALITY AS MEASURED BY THE RISK POSED OR THE PUBLIC HEALTH
6 PROTECTED.

7 (D) THE EXTENT TO WHICH THE PROJECT ENHANCED ECONOMIC
8 DEVELOPMENT AS MEASURED BY SUCH FACTORS INCLUDING, BUT NOT LIMITED
9 TO, ALL OF THE FOLLOWING:

10 (i) A NET INCREASE TO THE VALUE OF THE PROPERTIES IN THE
11 VICINITY OF THE PROJECT.

12 (ii) THE CREATION OF JOBS.

13 (iii) THE EXTENT TO WHICH THE PROJECT CONTRIBUTED TO LEVERAGING
14 PRIVATE INVESTMENT IN THE VICINITY OF THE PROJECT.

15 (E) IF THE PROJECT INCLUDED FUNDING FOR PROJECT MANAGEMENT
16 WITHIN THE DEPARTMENT, A BREAKDOWN OF THE AMOUNT OF MONEY USED TO
17 SUPPORT THE PROJECT MANAGEMENT AS JUSTIFIED USING GENERALLY
18 ACCEPTED ACCOUNTING PRINCIPLES.

19 (6) THE LEGISLATURE FINDS THAT USE OF THE FUND FOR RESPONSE
20 ACTIVITIES TO ADDRESS NONPOINT SOURCE WATER POLLUTION AT FACILITIES
21 IS APPROPRIATE AND NECESSARY AT THIS TIME. IT IS THE INTENT OF THIS
22 LEGISLATURE THAT MONEY FROM THE FUND SHALL NOT BE UTILIZED FOR
23 RESPONSE ACTIVITIES TO ADDRESS NONPOINT SOURCE WATER POLLUTION AT
24 FACILITIES WHEN THE \$150,000,000.00 HAS BEEN EXPENDED UNDER THIS
25 SECTION AND SECTION 5204C.

26 (7) AS USED IN THIS SECTION, "FACILITY", "RELEASE", AND
27 "RESPONSE ACTIVITY" MEAN THOSE TERMS AS THEY ARE DEFINED IN PART

1 201.

2 SEC. 5204C. (1) THE DEPARTMENT MAY EXPEND \$10,000,000.00 OF
3 MONEY FROM THE FUND TO PROVIDE BROWNFIELD REDEVELOPMENT GRANTS AND
4 LOANS TO MUNICIPALITIES AND BROWNFIELD REDEVELOPMENT AUTHORITIES
5 CREATED UNDER THE BROWNFIELD REDEVELOPMENT FINANCING ACT, 1996 PA
6 381, MCL 125.2651 TO 125.2672, FOR RESPONSE ACTIVITIES TO ADDRESS
7 NONPOINT SOURCE WATER POLLUTION AT FACILITIES. OF THE MONEY
8 EXPENDED UNDER THIS SECTION, \$5,000,000.00 SHALL BE USED FOR GRANTS
9 AND \$5,000,000.00 SHALL BE USED FOR LOANS. HOWEVER, ON SEPTEMBER
10 30, 2014, IF ANY MONEY DESCRIBED IN THIS SECTION HAS NOT BEEN
11 APPROPRIATED FOR THE PURPOSES OF THIS SECTION, THAT MONEY MAY BE
12 USED FOR THE PURPOSES OF SECTION 5204B.

13 (2) THE DEPARTMENT SHALL DEVELOP GRANT AND LOAN APPLICATION
14 MATERIALS TO IMPLEMENT THIS SECTION AND SHALL ACCEPT APPLICATIONS
15 AT ANY TIME THROUGHOUT THE YEAR.

16 SEC. 19703A. WHENEVER BONDS ARE ISSUED UNDER THIS PART TO
17 SUPPORT THE PURPOSES OF SECTION 19708(1)(B), AT LEAST AN EQUIVALENT
18 AMOUNT OF BONDS SHALL BE ISSUED UNDER THIS PART TO SUPPORT PURPOSES
19 OF SECTION 19708(1)(A).

20 Sec. 19708. (1) Subject to subsections (2), (3), and (4), the
21 state treasurer shall transfer money in the fund as follows:

22 (a) In aggregate, not more than ~~\$900,000,000.00~~
23 \$750,000,000.00 of the money in the fund shall be deposited into
24 the state water pollution control revolving fund created in section
25 16a of the shared credit rating act, 1985 PA 227, MCL 141.1066a.

26 (b) In aggregate, not more than ~~\$100,000,000.00~~
27 \$250,000,000.00 of the money in the fund shall be deposited into

1 the strategic water quality initiatives fund created in section
2 5204.

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

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

13 (3) ~~(4)~~ Bonds that are directly deposited into the state water
14 pollution control revolving fund or strategic water quality
15 initiatives fund as authorized by section 19703 shall be taken into
16 account for the purpose of determining the allocation and transfer
17 of money set forth in subsection (1).

18 (4) NOT LATER THAN 2 YEARS AFTER THE EFFECTIVE DATE OF THE
19 AMENDATORY ACT THAT ADDED THIS SUBSECTION, THE AUDITOR GENERAL
20 SHALL CONDUCT AN AUDIT OF THE FUND TO ASSURE THAT THE MONEY IN THE
21 FUND HAS BEEN EXPENDED IN COMPLIANCE WITH LAW. NOT LATER THAN 4
22 YEARS AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED
23 THIS SUBSECTION, THE AUDITOR GENERAL SHALL UPDATE ITS INITIAL AUDIT
24 TO ASSURE THAT MONEY IN THE FUND HAS BEEN EXPENDED IN COMPLIANCE
25 WITH LAW.

26 Enacting section 1. This amendatory act does not take effect
27 unless all of the following bills of the 95th Legislature are

1 enacted into law:

2 (a) Senate Bill No. 1345.

3 (b) Senate Bill No. 1346.

4 (c) Senate Bill No. 1348.

5 (d) Senate Bill No. 1443.

6 (e) House Bill No. 6359.

7 (f) House Bill No. 6360.

8 (g) House Bill No. 6363.