

# HOUSE BILL No. 5675

May 24, 2012, Introduced by Reps. MacGregor, Pscholka, Opsommer and Kowall and referred to the Committee on Natural Resources, Tourism, and Outdoor Recreation.

A bill to amend 1994 PA 451, entitled  
"Natural resources and environmental protection act,"  
by amending sections 5402 and 5406 (MCL 324.5402 and 324.5406),  
as added by 1997 PA 26.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 5402. As used in this part:

2       (a) "Department" means the department of environmental  
3       quality or its authorized agent or representative.

4       (b) "Director" means the director of the department of  
5       environmental quality or his or her designated representative.

6       (c) "Disadvantaged community" means a municipality in which  
7       all of the following conditions are met:

8       (i) Users within the area served by a proposed public water  
9       supply project are directly assessed for the costs of  
10      construction.

1           (ii) The **MEDIAN ANNUAL HOUSEHOLD INCOME OF THE** area served by  
2 a proposed public water supply project does not exceed 120% of  
3 the statewide median annual household income for Michigan.

4           (iii) The municipality demonstrates at least 1 of the  
5 following:

6           (A) More than 50% of the area served by a proposed public  
7 water supply project is identified as a poverty area by the  
8 United States bureau of the census **OR IS AN ENVIRONMENTAL JUSTICE**  
9 **AREA OF CONCERN AS DEFINED BY THE UNITED STATES ENVIRONMENTAL**  
10 **PROTECTION AGENCY.**

11           (B) The median annual household income of the area served by  
12 a proposed public water supply project is less than the most  
13 recently published federal poverty guidelines for a family of 4  
14 in the 48 contiguous United States. In determining the median  
15 annual household income of the area served by the proposed public  
16 water supply project under this subparagraph, the municipality  
17 shall utilize the most recently published statistics from the  
18 United States Bureau of the Census, updated to reflect current  
19 dollars, for the community which most closely approximates the  
20 area being served. If these figures are not available for the  
21 area served by the proposed public water supply project, the  
22 municipality may have a survey conducted to document the median  
23 annual household income of the area served by the project.

24           (C) The median annual household income of the area served by  
25 a proposed public water supply project is less than the most  
26 recently published statewide median annual household income for  
27 ~~Michigan,~~ **THIS STATE**, and annual user costs for water supply

1 exceed ~~1.5%~~ **1%** of the median annual household income of the area  
2 served by the proposed public water supply project.

3 (D) The median annual household income of the area served by  
4 a proposed public water supply project is not greater than 120%  
5 of the statewide median annual household income for ~~Michigan,~~  
6 **THIS STATE**, and annual user costs for water supply exceed 3% of  
7 the median annual household income of the area served by the  
8 proposed project.

9 (d) "Federal safe drinking water act" means ~~title XIV of the~~  
10 ~~public health service act, chapter 373, 88 Stat. 1660,~~ **THE SAFE**  
11 **DRINKING WATER ACT, 42 USC 300F TO 300J-26**, and the rules  
12 promulgated under that act.

13 (e) "Fund" means the safe drinking water revolving fund  
14 ~~created in~~ **ESTABLISHED UNDER** section 16b of the shared credit  
15 rating act, 1985 PA 227, MCL 141.1066b.

16 (f) "Fundable range" means those projects, taken in  
17 descending order on the priority list, for which the department  
18 estimates sufficient funds exist to provide assistance during  
19 each annual funding cycle.

20 (g) "Municipality" means a city, village, county, township,  
21 authority, public school district, or other public body with  
22 taxing authority, including an intermunicipal agency of 2 or more  
23 municipalities, authorized or created under state law.

24 (h) "Noncommunity water supply" means a public water supply  
25 that is not a community water supply, but that has not less than  
26 15 service connections or that serves not less than 25  
27 individuals on an average daily basis for not less than 60 days

1 per year.

2       Sec. 5406. (1) The department shall annually develop a  
3 priority list of projects eligible for assistance under this  
4 part. Projects that are not funded during the year that a  
5 priority list developed under this section is in effect shall be  
6 automatically prioritized on the next annual list using the same  
7 criteria, unless the water supplier submits an amendment to its  
8 project plan that introduces new information to be used as the  
9 basis for prioritization. The priority list shall be based on  
10 project plans submitted by water suppliers under section 5405 and  
11 the criteria listed in subdivisions (a) through (f). Each project  
12 shall be assigned points up to a maximum of 1,000. The point  
13 values are maximum values available for each category or  
14 subcategory listed in this section and shall only be awarded if  
15 the project substantially addresses the problem for which the  
16 point award is given. If a project is primarily designed to  
17 replace individual wells at private homes, 50% or more of the  
18 homes in the affected area shall meet equivalent water quality or  
19 infrastructure deficiency criteria listed in subdivisions (a)  
20 through (f) in order to receive the maximum available points. If  
21 less than 50% of the homes in the affected area can demonstrate  
22 deficiencies, 1/2 of the total points available shall be awarded.  
23 Points shall be awarded as follows:

24       (a) A maximum of 450 points may be awarded to a project that  
25 addresses drinking water quality as outlined in Act 399, if the  
26 project:

27       (i) Is designed to eliminate an acute violation of a drinking

1 water standard as ~~defined in part 4 of the administrative rules~~  
2 ~~for Act 399.~~ **DESCRIBED IN R 325.10401 TO R 325.10420 OF THE**

3 **MICHIGAN ADMINISTRATIVE CODE.** A violation of a surface water  
4 treatment technique, or if a waterborne disease outbreak has been  
5 documented, 250 points shall be awarded for each violation.

6 (ii) Is designed to eliminate a violation of a drinking water  
7 standard other than those outlined in subparagraph (i), 200 points  
8 shall be awarded for each violation.

9 (iii) Is designed to upgrade a facility to maintain compliance  
10 with drinking water standards or system capacity requirements,  
11 150 points shall be awarded.

12 (iv) Is designed to eliminate an exceedance of a secondary  
13 maximum contaminant level for aesthetic water quality, 25 points  
14 shall be awarded.

15 (b) A maximum of 350 points may be awarded to a project that  
16 addresses infrastructure improvements, as follows:

17 (i) If source or treatment facilities are upgraded, including  
18 the watermains to connect to the distribution system, a maximum  
19 of 125 points shall be awarded, if the improvement is:

20 (A) To meet minimum capacity requirements, 100 points shall  
21 be awarded.

22 (B) For reliability, 75 points shall be awarded.

23 (C) For other source or treatment facility upgrades not  
24 included in subparagraph (i) (A) or (B), 25 points shall be  
25 awarded.

26 (D) To satisfy the conditions of a formal enforcement  
27 action, 25 points shall be awarded. **POINTS AWARDED FOR FORMAL**

1 **ENFORCEMENT ACTIONS ARE IN ADDITION TO THE MAXIMUM POINTS**  
2 **ALLOWABLE IN ANY CATEGORY.**

3 (E) For source water protection, 50 points shall be awarded.

4 (ii) If transmission or distribution watermain are upgraded,  
5 a maximum of 125 points shall be awarded, if the improvement is:

6 (A) To meet minimum capacity where flow or residual pressure  
7 is less than acceptable, 100 points shall be awarded.

8 (B) For reliability, including looping or redundant feeds,  
9 75 points shall be awarded.

10 (C) Other transmission or distribution system upgrades not  
11 included in subparagraph (ii) (A) or (B), 25 points shall be  
12 awarded.

13 (D) To satisfy the conditions of a formal enforcement  
14 action, 25 points shall be awarded. **POINTS AWARDED FOR FORMAL**

15 **ENFORCEMENT ACTIONS ARE IN ADDITION TO THE MAXIMUM POINTS**  
16 **ALLOWABLE IN ANY CATEGORY.**

17 (iii) If water storage facilities or pumping stations are  
18 upgraded, a maximum of 125 points shall be awarded, if the  
19 improvement is:

20 (A) To meet minimum capacity where storage or pumping  
21 capacity is less than minimum requirements, 100 points shall be  
22 awarded.

23 (B) For reliability, 75 points shall be awarded.

24 (C) Other storage facility or pumping station upgrades not  
25 included in subparagraph (iii) (A) or (B), 25 points shall be  
26 awarded.

27 (D) To satisfy the conditions of a formal enforcement

1 action, 25 points shall be awarded. **POINTS AWARDED FOR FORMAL**  
 2 **ENFORCEMENT ACTIONS ARE IN ADDITION TO THE MAXIMUM POINTS**  
 3 **ALLOWABLE IN ANY CATEGORY.**

4 (c) A maximum of 50 points shall be awarded based on the  
 5 population served by the water system according to the following  
 6 table. However, a transient noncommunity water supply as defined  
 7 in section 2 of Act 399, **MCL 325.1002**, is eligible for 1/2 of the  
 8 point value listed in the following table:

| 9  | Population      | Points |
|----|-----------------|--------|
| 10 | >50,000         | 50     |
| 11 | 10,001 - 50,000 | 40     |
| 12 | 3,301 - 10,000  | 30     |
| 13 | 501 - 3,300     | 20     |
| 14 | 0 - 500         | 10     |

15 (d) A maximum of 50 points shall be awarded to a community  
 16 water supply that ~~is~~**SERVES** a disadvantaged community.

17 (e) A maximum of 100 points shall be awarded for projects  
 18 that include consolidation as follows:

19 (i) If 1 or more public water supplies are brought into  
 20 compliance with state drinking water standards as a result of  
 21 consolidation, 100 points shall be awarded.

22 (ii) If deficiencies, which are documented in writing by the  
 23 department, at 1 or more public water supplies are corrected as a  
 24 result of consolidation, 60 points shall be awarded.

25 (iii) Other consolidations, not included under subparagraph  
 26 (i) or (ii), shall be awarded 40 points.

(f) For communities that have completed ~~a wellhead protection plan or a~~ **AN APPROVED** source water protection plan, **PROGRAM**, 100 points shall be awarded.

(g) After scoring, using the criteria in subdivisions (a) through (f), if 2 or more projects have the same score, the following tie-breaker shall be applied:

(i) If the system has fewer than 2 violations of the monitoring, record-keeping, and reporting requirements of Act 399 in the previous 2-year reporting period, or no violations if ownership of the system has changed in the previous 2 years, it shall rank above systems having more violations.

(ii) After applying the tie-breaker in subparagraph (i), if 2 or more projects score exactly the same, a calculation of the cost per population served by the water system shall be made. The affected projects shall be ranked with the ~~lowest~~ **HIGHEST** ratio of cost to population ranked higher.

(2) The priority list shall be submitted annually to the chairpersons of the senate and house of representatives standing committees that primarily consider legislation pertaining to the protection of public health and the environment.

(3) In preparing the priority list, to ensure that a disproportionate share of available funds for a given fiscal year is not committed to a single water supply project, the department may segment a project if either of the following criteria is present:

(a) The cost of the proposed project is more than 30% of the total amount available in the fund during the fiscal year.



(b) The department has approved a water supplier's application for segmenting a project.

(4) Segments of a project that have been segmented under subsection (3) shall be assigned priority points based on the project as identified in the project plan. After funding assistance for the first segment is accepted, the remaining segments will retain first priority for funding assistance on the next 3 fiscal year priority lists. All projects with previously funded segments will be designated with first priority. Ranking order for these projects to receive funding assistance will be subject to the relative ranking of all first segment projects.

(5) In preparing the intended use plan, the department shall make every effort to assure that funding for assistance is equitably distributed among public water supplies of varying sizes.

(6) For purposes of providing assistance, the priority list shall take effect on the first day of each fiscal year.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 96th Legislature are enacted into law:

(a) Senate Bill No.\_\_\_\_ or House Bill No. 5673(request no. 05373'12 \*).

(b) Senate Bill No.\_\_\_\_ or House Bill No. 5674(request no. 05374'12 \*).

(c) Senate Bill No.\_\_\_\_ or House Bill No. 5676(request no. 05376'12 \*).