

Act No. 511
Public Acts of 2012
Approved by the Governor
December 27, 2012
Filed with the Secretary of State
December 28, 2012
EFFECTIVE DATE: January 2, 2013

**STATE OF MICHIGAN
96TH LEGISLATURE
REGULAR SESSION OF 2012**

Introduced by Reps. Pscholka, Opsommer, MacGregor and Kowall

ENROLLED HOUSE BILL No. 5673

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 5201, 5202, 5203, and 5204 (MCL 324.5201, 324.5202, 324.5203, and 324.5204), section 5201 as amended by 2005 PA 257, sections 5202 and 5203 as added by 2002 PA 397, and section 5204 as amended by 2010 PA 232, and by adding section 5204e.

The People of the State of Michigan enact:

Sec. 5201. As used in this part:

(a) "Asset management program" means the program that identifies the desired level of service at the lowest life cycle cost for rehabilitating, repairing, or replacing the assets associated with a municipality's wastewater or storm water system.

(b) "Authority" means the Michigan municipal bond authority created in section 4 of the shared credit rating act, 1985 PA 227, MCL 141.1054.

(c) "Department" means the department of environmental quality.

(d) "Fund" means the strategic water quality initiatives fund created in section 5204.

(e) "Grant" means a grant from the grant program.

(f) "Grant program" means the strategic water quality initiatives grant program established under this part.

(g) "Loan" means a loan from the loan program.

(h) "Loan program" means the strategic water quality initiatives loan program established under section 5202.

(i) "Municipality" means that term as it is defined in section 5301.

(j) "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.

(k) "State water pollution control revolving fund" means the state water pollution control revolving fund established under section 16a of the shared credit rating act, 1985 PA 227, MCL 141.1066a.

(l) "Wetland mitigation bank" means a site where wetlands are restored, created, or preserved for the purpose of doing both of the following:

(i) To provide compensatory mitigation in accordance with the provisions of part 303, in advance of authorized, unavoidable impacts to wetlands.

(ii) To provide storm water control, nonpoint source pollution control, or pollution treatment that improves the quality of the waters of the state.

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 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.

(c) Project costs of the municipality related to testing, demonstration, and construction activities as defined in section 5301(d) for innovative wastewater and storm water technologies approved by the department.

(d) Assistance for construction activities as defined in section 5301(d) designed to protect water quality, including improvements that are water or energy efficient, where feasible, when identified through an asset management program or a project identified in an approved storm water management plan.

(2) The department shall develop criteria specifying the content of an asset management program.

(3) 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 as follows:

(a) In compliance with the application requirements provided in part 53, for activities described in section 5202(1)(a) or (b).

(b) On a form approved by the department, for activities described in section 5202(1)(c) or (d).

(2) The department shall process the loan applications submitted under this part.

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

(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 the following:

(a) Loans under section 5202.

(b) Grants under sections 5204a, 5204d, and 5204e.

(c) Response activities to address nonpoint source water pollution under section 5204b.

(d) Grants and loans for brownfield sites under section 5204c.

(e) Grants and loans for wetland mitigation banks under section 5204f.

(f) 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. 5204e. (1) In addition to other requirements of this part, the grant program shall provide grants to municipalities for sewage collection and treatment systems or storm water or nonpoint source pollution control as provided for in this section.

(2) The grant program is subject to all of the following:

(a) The grant program shall provide grants in accordance with the following:

(i) Subject to subparagraph (iii), for grants of up to \$1,000,000.00, not more than 90% of the costs incurred by the municipality.

(ii) Subject to subparagraph (iii), for grants of more than \$1,000,000.00 and less than \$2,000,000.00, not more than 90% of the costs incurred by the municipality up to \$1,000,000.00 and not more than 75% of the costs above \$1,000,000.00 incurred by the municipality.

(iii) If any of the following conditions are met, a grant may be issued to cover 100% of the costs incurred by the municipality:

(A) The municipality is a disadvantaged community as defined in part 53.

(B) The municipality is in receivership.

(C) The municipality is operating under an emergency manager or an emergency financial manager appointed under state law.

(D) The municipality is operating under a consent agreement as provided under the local government fiscal responsibility act, 1990 PA 72, MCL 141.1201 to 141.1291.

(b) A grant may be used for 1 or more of the following purposes:

(i) Development of an asset management program for a sewage collection and treatment system or a storm water system. For sewage collection and treatment systems, the program shall include the development of a funding structure and implementation schedule that provides sufficient resources to implement the program. The municipality shall coordinate, as feasible, with other infrastructure activities in the same geographic area. In addition, a disadvantaged community may expend not more than \$500,000.00 in grant funds to implement projects identified in the asset management program.

(ii) Development of management plans for the treatment of storm water.

(iii) Planning and design of a sewage treatment works project or stormwater treatment project as defined in section 5301(n) or (o) or planning and design of construction activities designed to reduce nonpoint source pollution.

(iv) Project costs of a municipality related to the testing and demonstration of innovative wastewater and storm water technologies approved by the department.

(c) The local match is not eligible for loan assistance from the state water pollution control revolving fund or the fund.

(d) Grant funds shall not be used for general local government administrative activities or activities performed by municipal employees that are unrelated to the project.

(e) A municipality shall not receive more than \$2,000,000.00 in total grant assistance under this section.

(3) The department shall establish an application and review process for considering grant applications under this section. The application shall contain the information required by the department and the authority. Within 60 days after receipt of an application, the department shall publish notice of the application on the department's calendar. Within 120 days after receipt of an administratively complete grant application, the department shall, in writing, notify the applicant whether the application is approved or rejected. If the department approves a grant under this section, the department and the authority shall enter into a grant agreement with the recipient prior to transferring funds. The grant agreement shall contain terms established by the department and the authority, including both of the following:

(a) A requirement that a grant recipient proceed with a project for which grant funding is provided within 3 years after the department approves the grant. For asset management programs related to sewage collection and treatment systems, this includes significant progress, as determined by the department, toward achieving the funding structure necessary to implement the program.

(b) A requirement that the grant recipient repay the grant, within 90 days of being informed to do so, with interest at a rate not to exceed 8% per year, to the authority for deposit into the fund if the applicant is unable to, or decides not to, proceed with a construction project or begin implementation of an asset management program for which grant funding is provided.

(4) For each year in which the department receives grant applications under this section, the department shall report by October 1 of that year to the standing committees of the senate and the house of representatives with primary jurisdiction over issues pertaining to natural resources and the environment and to the senate and house of representatives appropriations committees on the utilization of funds under this part that were received from the Great Lakes water quality bond fund created in section 19706. The report shall include, at a minimum, all of the following:

(a) The number of grant applications received under this section.

- (b) The name of each municipality applying for a grant.
- (c) The type of project being funded for each grant awarded.
- (d) The number of users potentially affected by each grant awarded.
- (e) The amount of the local match for each grant awarded.
- (f) The individual and annual cumulative amount of grant funds awarded, including an identification of whether each award was for the purpose of applying for assistance from the state water pollution control revolving fund or the fund.

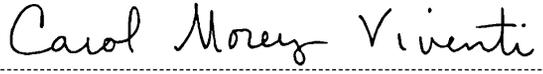
Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 96th Legislature are enacted into law:

- (a) Senate Bill No. 1155.
- (b) Senate Bill No. 1156.
- (c) Senate Bill No. 1157.
- (d) Senate Bill No. 1158.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor