

# HOUSE BILL No. 4465

March 6, 1997, Introduced by Reps. Jellema, Middaugh, Middleton, DeVuyst, LaForge, Anthony, Hammerstrom, Martinez, Brater, Byl, McBryde, Voorhees, Ciaramitaro, Baade, Bodem, Raczkowski, Birkholz, Sikkema, Walberg, Jansen, Dalman, Wetters, McNutt, London, Fitzgerald, Kelly, McManus and Perricone and referred to the Committee on Conservation, Environment and Recreation.

A bill to amend 1994 PA 451, entitled  
"Natural resources and environmental protection act,"  
(MCL 324.101 to 324.90106) by adding part 54.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

- 1                   PART 54 (SAFE DRINKING WATER ASSISTANCE)
- 2           SEC. 5401. AS USED IN THIS PART:
- 3           (A) "ACT 399" MEANS THE SAFE DRINKING WATER ACT, 1976 PA
- 4 399, MCL 325.101 TO 325.1023.
- 5           (B) "ANNUAL USER COSTS" MEANS AN ANNUAL CHARGE LEVIED BY A
- 6 WATER SUPPLIER ON USERS OF THE WATERWORKS SYSTEM TO PAY FOR EACH
- 7 USER'S SHARE OF THE COST FOR OPERATION, MAINTENANCE, AND REPLACE-
- 8 MENT OF THE WATERWORKS SYSTEM. THESE COSTS MAY ALSO INCLUDE A
- 9 CHARGE TO PAY FOR THE DEBT OBLIGATION.
- 10           (C) "ASSISTANCE" MEANS 1 OR MORE OF THE FOLLOWING ACTIVITIES
- 11 TO THE EXTENT AUTHORIZED BY THE FEDERAL SAFE DRINKING WATER ACT:

1 (i) PROVISION OF LOANS FOR THE PLANNING, DESIGN, AND  
2 CONSTRUCTION OR ALTERATION OF WATERWORKS SYSTEMS.

3 (ii) PROJECT REFINANCING ASSISTANCE.

4 (iii) THE GUARANTEE OR PURCHASE OF INSURANCE FOR LOCAL OBLI-  
5 GATIONS, IF THE GUARANTEE OR PURCHASE ACTION WOULD IMPROVE CREDIT  
6 MARKET ACCESS OR REDUCE INTEREST RATES.

7 (iv) USE OF THE PROCEEDS OF THE FUND AS A SOURCE OF REVENUE  
8 OR SECURITY FOR THE PAYMENT OF PRINCIPAL AND INTEREST ON REVENUE  
9 OR GENERAL OBLIGATION BONDS ISSUED BY THIS STATE, IF THE PROCEEDS  
10 OF THE SALE OF THE BONDS WILL BE DEPOSITED INTO THE FUND.

11 (v) PROVISION OF LOAN GUARANTEES FOR SUB-STATE REVOLVING  
12 FUNDS ESTABLISHED BY WATER SUPPLIERS THAT ARE MUNICIPALITIES.

13 (vi) THE USE OF DEPOSITED FUNDS TO EARN INTEREST ON FUND  
14 ACCOUNTS.

15 (vii) PROVISION FOR REASONABLE COSTS OF ADMINISTERING AND  
16 CONDUCTING ACTIVITIES UNDER THIS PART.

17 (viii) PROVISION OF TECHNICAL ASSISTANCE UNDER THIS PART.

18 (ix) PROVISION OF LOAN FORGIVENESS FOR CERTAIN PLANNING  
19 COSTS INCURRED BY DISADVANTAGED COMMUNITIES.

20 (D) "AUTHORITY" MEANS THE MICHIGAN MUNICIPAL BOND AUTHORITY  
21 CREATED IN THE SHARED CREDIT RATING ACT, 1985 PA 227, MCL  
22 141.1051 TO 141.1077.

23 (E) "CAPITALIZATION GRANT" MEANS THE FEDERAL GRANT MADE TO  
24 THIS STATE BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY,  
25 AS PROVIDED IN THE FEDERAL SAFE DRINKING WATER ACT.

26 (F) "COMMUNITY WATER SUPPLY" MEANS A PUBLIC WATER SUPPLY  
27 THAT PROVIDES YEAR-ROUND SERVICE TO NOT LESS THAN 15 LIVING UNITS

1 OR WHICH REGULARLY PROVIDES YEAR-ROUND SERVICE TO NOT LESS THAN  
2 25 RESIDENTS.

3 (G) "CONSTRUCTION ACTIVITIES" MEANS ANY ACTIONS UNDERTAKEN  
4 IN THE PLANNING, DESIGNING, OR BUILDING OF A WATERWORKS SYSTEM.  
5 CONSTRUCTION ACTIVITIES INCLUDE, BUT ARE NOT LIMITED TO, ALL OF  
6 THE FOLLOWING:

7 (i) ENGINEERING SERVICES.

8 (ii) LEGAL SERVICES.

9 (iii) FINANCIAL SERVICES.

10 (iv) PREPARATION OF PLANS AND SPECIFICATIONS.

11 (v) ACQUISITION OF LAND OR STRUCTURAL COMPONENTS, OR BOTH,  
12 IF THE ACQUISITION IS INTEGRAL TO A PROJECT AUTHORIZED BY THIS  
13 PART AND THE PURCHASE IS FROM A WILLING SELLER AT FAIR MARKET  
14 VALUE.

15 (vi) BUILDING, ERECTION, ALTERATION, REMODELING, OR EXTEN-  
16 SION OF WATERWORKS SYSTEMS, PROVIDING THE EXTENSION IS NOT PRI-  
17 MARILY FOR THE ANTICIPATION OF FUTURE POPULATION GROWTH.

18 (vii) REASONABLE EXPENSES OF SUPERVISION OF THE PROJECT  
19 ACTIVITIES DESCRIBED IN SUBPARAGRAPHS (i) TO (vi).

20 SEC. 5402. AS USED IN THIS PART:

21 (A) "DEPARTMENT" MEANS THE DEPARTMENT OF ENVIRONMENTAL QUAL-  
22 ITY OR ITS AUTHORIZED AGENT OR REPRESENTATIVE.

23 (B) "DIRECTOR" MEANS THE DIRECTOR OF THE DEPARTMENT OF ENVI-  
24 RONMENTAL QUALITY OR HIS OR HER DESIGNATED REPRESENTATIVE.

25 (C) "DISADVANTAGED COMMUNITY" MEANS A MUNICIPALITY IN WHICH  
26 ALL OF THE FOLLOWING CONDITIONS ARE MET:

1 (i) USERS WITHIN THE AREA SERVED BY A PROPOSED PUBLIC WATER  
2 SUPPLY PROJECT ARE DIRECTLY ASSESSED FOR THE COSTS OF  
3 CONSTRUCTION.

4 (ii) THE AREA SERVED BY A PROPOSED PUBLIC WATER SUPPLY  
5 PROJECT DOES NOT EXCEED 120% OF THE STATEWIDE MEDIAN ANNUAL  
6 HOUSEHOLD INCOME FOR MICHIGAN.

7 (iii) THE MUNICIPALITY DEMONSTRATES AT LEAST 1 OF THE  
8 FOLLOWING:

9 (A) MORE THAN 50% OF THE AREA SERVED BY A PROPOSED PUBLIC  
10 WATER SUPPLY PROJECT IS IDENTIFIED AS A POVERTY AREA BY THE  
11 UNITED STATES BUREAU OF THE CENSUS.

12 (B) THE MEDIAN ANNUAL HOUSEHOLD INCOME OF THE AREA SERVED BY  
13 A PROPOSED PUBLIC WATER SUPPLY PROJECT IS LESS THAN THE MOST  
14 RECENTLY PUBLISHED FEDERAL POVERTY GUIDELINES FOR A FAMILY OF 4  
15 IN THE 48 CONTIGUOUS UNITED STATES. IN DETERMINING THE MEDIAN  
16 ANNUAL HOUSEHOLD INCOME OF THE AREA SERVED BY THE PROPOSED PUBLIC  
17 WATER SUPPLY PROJECT UNDER THIS SUBPARAGRAPH, THE MUNICIPALITY  
18 SHALL UTILIZE THE MOST RECENTLY PUBLISHED STATISTICS FROM THE  
19 UNITED STATES BUREAU OF THE CENSUS, UPDATED TO REFLECT CURRENT  
20 DOLLARS, FOR THE COMMUNITY WHICH MOST CLOSELY APPROXIMATES THE  
21 AREA BEING SERVED. IF THESE FIGURES ARE NOT AVAILABLE FOR THE  
22 AREA SERVED BY THE PROPOSED PUBLIC WATER SUPPLY PROJECT, THE  
23 MUNICIPALITY MAY HAVE A SURVEY CONDUCTED TO DOCUMENT THE MEDIAN  
24 ANNUAL HOUSEHOLD INCOME OF THE AREA SERVED BY THE PROJECT.

25 (C) THE MEDIAN ANNUAL HOUSEHOLD INCOME OF THE AREA SERVED BY  
26 A PROPOSED PUBLIC WATER SUPPLY PROJECT IS LESS THAN THE MOST  
27 RECENTLY PUBLISHED STATEWIDE MEDIAN ANNUAL HOUSEHOLD INCOME FOR

1 MICHIGAN, AND ANNUAL USER COSTS FOR WATER SUPPLY EXCEED 1.5% OF  
2 THE MEDIAN ANNUAL HOUSEHOLD INCOME OF THE AREA SERVED BY THE PRO-  
3 POSED PUBLIC WATER SUPPLY PROJECT.

4 (D) THE MEDIAN ANNUAL HOUSEHOLD INCOME OF THE AREA SERVED BY  
5 A PROPOSED PUBLIC WATER SUPPLY PROJECT IS NOT GREATER THAN 120%  
6 OF THE STATEWIDE MEDIAN ANNUAL HOUSEHOLD INCOME FOR MICHIGAN, AND  
7 ANNUAL USER COSTS FOR WATER SUPPLY EXCEED 3% OF THE MEDIAN ANNUAL  
8 HOUSEHOLD INCOME OF THE AREA SERVED BY THE PROPOSED PROJECT.

9 (D) "FEDERAL SAFE DRINKING WATER ACT" MEANS TITLE XIV OF THE  
10 PUBLIC HEALTH SERVICE ACT, CHAPTER 373, 88 STAT. 1660, AND THE  
11 RULES PROMULGATED UNDER THAT ACT.

12 (E) "FUND" MEANS THE SAFE DRINKING WATER REVOLVING FUND CRE-  
13 ATED IN SECTION 16B OF THE SHARED CREDIT RATING ACT, 1985 PA 227,  
14 MCL 141.1066B.

15 (F) "FUNDABLE RANGE" MEANS THOSE PROJECTS, TAKEN IN DESCEND-  
16 ING ORDER ON THE PRIORITY LIST, FOR WHICH THE DEPARTMENT ESTI-  
17 MATES SUFFICIENT FUNDS EXIST TO PROVIDE ASSISTANCE DURING EACH  
18 ANNUAL FUNDING CYCLE.

19 (G) "MUNICIPALITY" MEANS A CITY, VILLAGE, COUNTY, TOWNSHIP,  
20 AUTHORITY, PUBLIC SCHOOL DISTRICT, OR OTHER PUBLIC BODY WITH  
21 TAXING AUTHORITY, INCLUDING AN INTERMUNICIPAL AGENCY OF 2 OR MORE  
22 MUNICIPALITIES, AUTHORIZED OR CREATED UNDER STATE LAW.

23 (H) "NONCOMMUNITY WATER SUPPLY" MEANS A PUBLIC WATER SUPPLY  
24 THAT IS NOT A COMMUNITY WATER SUPPLY, BUT THAT HAS NOT LESS THAN  
25 15 SERVICE CONNECTIONS OR THAT SERVES NOT LESS THAN 25 INDIVIDU-  
26 ALS ON AN AVERAGE DAILY BASIS FOR NOT LESS THAN 60 DAYS PER  
27 YEAR.

1 SEC. 5403. AS USED IN THIS PART:

2 (A) "PRIORITY LIST" MEANS THE ANNUAL RANKED LISTING OF  
3 PROJECTS DEVELOPED BY THE DEPARTMENT IN SECTION 5406.

4 (B) "PROJECT" MEANS A PROJECT RELATED TO THE PLANNING,  
5 DESIGN, AND CONSTRUCTION OR ALTERATION OF A WATERWORKS SYSTEM.

6 (C) "PROJECT REFINANCING ASSISTANCE" MEANS BUYING OR REFI-  
7 NANCING THE DEBT OBLIGATIONS OF WATER SUPPLIERS IF CONSTRUCTION  
8 ACTIVITIES COMMENCED, AND THE DEBT OBLIGATION WAS INCURRED, AFTER  
9 THE EFFECTIVE DATE OF THIS PART.

10 (D) "PUBLIC WATER SUPPLY" MEANS A WATERWORKS SYSTEM THAT  
11 PROVIDES WATER FOR DRINKING OR HOUSEHOLD PURPOSES TO PERSONS  
12 OTHER THAN THE SUPPLIER OF THE WATER, EXCEPT FOR THOSE WATERWORKS  
13 SYSTEMS THAT SUPPLY WATER TO ONLY 1 HOUSE, APARTMENT, OR OTHER  
14 DOMICILE OCCUPIED OR INTENDED TO BE OCCUPIED ON A DAY-TO-DAY  
15 BASIS BY AN INDIVIDUAL, FAMILY GROUP, OR EQUIVALENT.

16 (E) "STATE DRINKING WATER STANDARDS" MEANS RULES PROMULGATED  
17 UNDER ACT 399 THAT ESTABLISH WATER QUALITY STANDARDS NECESSARY TO  
18 PROTECT PUBLIC HEALTH OR THAT ESTABLISH TREATMENT TECHNIQUES TO  
19 MEET THESE WATER QUALITY STANDARDS.

20 (F) "WATER SUPPLIER" OR "SUPPLIER" MEANS A MUNICIPALITY OR  
21 ITS DESIGNATED REPRESENTATIVE ACCEPTED BY THE DIRECTOR, A LEGAL  
22 BUSINESS ENTITY, OR ANY OTHER PERSON WHO OWNS A PUBLIC WATER  
23 SUPPLY. HOWEVER, WATER SUPPLIER DOES NOT INCLUDE A WATER  
24 HAULER.

25 (G) "WATERWORKS SYSTEM" OR "SYSTEM" MEANS A SYSTEM OF PIPES  
26 AND STRUCTURES THROUGH WHICH WATER IS OBTAINED OR DISTRIBUTED AND  
27 INCLUDES ANY OF THE FOLLOWING THAT ARE ACTUALLY USED OR INTENDED

1 TO BE USED FOR THE PURPOSE OF FURNISHING WATER FOR DRINKING OR  
2 HOUSEHOLD PURPOSES:

3 (i) WELLS AND WELL STRUCTURES.

4 (ii) INTAKES AND CRIBS.

5 (iii) PUMPING STATIONS.

6 (iv) TREATMENT PLANTS.

7 (v) STORAGE TANKS.

8 (vi) PIPELINES AND APPURTENANCES.

9 (vii) A COMBINATION OF ANY OF THE ITEMS SPECIFIED IN THIS  
10 SUBDIVISION.

11 SEC. 5404. (1) WATER SUPPLIERS OWNING THE FOLLOWING TYPES  
12 OF PUBLIC WATER SUPPLIES QUALIFY TO RECEIVE ASSISTANCE UNDER THIS  
13 PART:

14 (A) A COMMUNITY WATERSUPPLY.

15 (B) A NONCOMMUNITY WATERSUPPLY THAT OPERATES AS A NONPROFIT  
16 ENTITY.

17 (2) WATER SUPPLIERS IDENTIFIED IN SUBSECTION (1) THAT SERVE  
18 10,000 PEOPLE OR LESS MAY QUALIFY FOR ASSISTANCE FROM FUNDS PRE-  
19 SCRIBED IN SECTION 1452(A)(2) OF PART 6 OF THE FEDERAL SAFE  
20 DRINKING WATER ACT, 42 U.S.C. 300j-12.

21 (3) PROJECT PLANNING COSTS ARE ELIGIBLE FOR FUNDING UNDER  
22 THIS PART AND WILL BE REIMBURSED BY THE DEPARTMENT AS FOLLOWS:

23 (A) FOR A MUNICIPALITY SERVING GREATER THAN 10,000 PEOPLE,  
24 INCURRED PLANNING COSTS RELATED TO THE PROPOSED PROJECT MAY BE  
25 REIMBURSED AS PART OF THE CONSTRUCTION LOAN APPROVED BY THE  
26 MICHIGAN MUNICIPAL BOND AUTHORITY. THESE COSTS SHALL BE REPAYED

1 AS PART OF THE OUTSTANDING CONSTRUCTION LOAN PROCEEDS ACCORDING  
2 TO A SCHEDULE ESTABLISHED BY THE AUTHORITY.

3 (B) FOR A MUNICIPALITY SERVING LESS THAN 10,000 PEOPLE,  
4 INCURRED PLANNING COSTS RELATED TO THE PROPOSED PROJECT WILL BE  
5 DIRECTLY REIMBURSED BY THE DEPARTMENT UPON COMPLETION AND SUBMIT-  
6 TAL OF AN APPROVABLE PROJECT PLAN BY THE MUNICIPALITY TO THE  
7 DEPARTMENT. THESE COSTS SHALL BE REPAID AS PART OF THE OUTSTAND-  
8 ING PLANNING LOAN PROCEEDS ACCORDING TO A SCHEDULE ESTABLISHED BY  
9 THE AUTHORITY.

10 (C) FOR DISADVANTAGED COMMUNITIES, INCURRED PLANNING COSTS  
11 RELATED TO THE PROPOSED PROJECT SHALL BE DIRECTLY REIMBURSED TO  
12 THE EXTENT FUNDS ARE AVAILABLE BY THE DEPARTMENT UPON COMPLETION  
13 AND SUBMITTAL OF AN APPROVABLE PROJECT PLAN BY THE MUNICIPALITY  
14 TO THE DEPARTMENT. TECHNICAL ASSISTANCE FUNDS IDENTIFIED IN SEC-  
15 TION 1452(G)(2)(D) OR SECTION 1452(D)(1) OF PART E OF THE FEDERAL  
16 SAFE DRINKING WATER ACT, 42 U.S.C. 300j-12, SHALL BE USED TO THE  
17 EXTENT AVAILABLE, TO FORGIVE REPAYMENT OF THE PLANNING LOAN.

18 (4) ONLY WATER SUPPLIERS THAT HAVE NO OUTSTANDING PRIOR YEAR  
19 FEES AS PRESCRIBED IN ACT 399 MAY RECEIVE ASSISTANCE UNDER THIS  
20 PART.

21 (5) A FEDERAL, STATE, OR OTHER WATER SUPPLIER THAT IS NOT  
22 REGULATED BY THE DEPARTMENT SHALL NOT RECEIVE ASSISTANCE UNDER  
23 THIS PART.

24 SEC. 5405. (1) A WATER SUPPLIER WHO IS INTERESTED IN APPLY-  
25 ING FOR ASSISTANCE UNDER THIS PART SHALL PREPARE AND SUBMIT TO  
26 THE DEPARTMENT A PROJECT PLAN AS PROVIDED IN THIS SECTION. THE  
27 DEPARTMENT SHALL USE PROJECT PLANS SUBMITTED UNDER THIS SECTION



1 TO DEVELOP A PRIORITY LIST FOR ASSISTANCE AS PROVIDED UNDER THIS  
2 PART.

3 (2) DURING THE DEVELOPMENT OF A PROJECT PLAN, A WATER SUP-  
4 PLIER THAT IS A MUNICIPALITY SHALL CONSIDER AND UTILIZE, WHERE  
5 PRACTICABLE, COOPERATIVE REGIONAL OR INTERMUNICIPAL PROJECTS, AND  
6 A WATER SUPPLIER THAT IS NOT A MUNICIPALITY SHALL CONSIDER AND  
7 UTILIZE, WHERE PRACTICABLE, CONNECTION TO, OR OWNERSHIP BY, A  
8 WATER SUPPLIER THAT IS A MUNICIPALITY.

9 (3) THE PROJECT PLAN FOR A PROJECT SHALL INCLUDE DOCUMEN-  
10 TATION THAT DEMONSTRATES THAT THE PROJECT IS NEEDED TO ASSURE  
11 MAINTENANCE OF, OR PROGRESS TOWARD, COMPLIANCE WITH THE FEDERAL  
12 SAFE DRINKING WATER ACT. A COMPLETE PROJECT PLAN SHALL INCLUDE  
13 ALL OF THE FOLLOWING AS BACKGROUND:

14 (A) IDENTIFICATION OF PLANNING AREA BOUNDARIES AND  
15 CHARACTERISTICS.

16 (B) A DESCRIPTION OF THE EXISTING WATERWORKS SYSTEMS.

17 (C) A DESCRIPTION OF THE EXISTING WATERWORKS PROBLEMS AND  
18 NEEDS, INCLUDING THE SEVERITY AND EXTENT OF WATER SUPPLY PROBLEMS  
19 OR PUBLIC HEALTH PROBLEMS.

20 (D) AN EXAMINATION OF PROJECTED NEEDS FOR THE NEXT 20  
21 YEARS.

22 (E) POPULATION PROJECTIONS AND THE SOURCE AND BASIS FOR THE  
23 POPULATION PROJECTIONS.

24 (4) A PROJECT PLAN SHALL INCLUDE AN ANALYSIS OF ALTERNA-  
25 TIVES, WHICH SHALL CONSIST OF A SYSTEMATIC IDENTIFICATION,  
26 SCREENING, STUDY, EVALUATION, AND COST-EFFECTIVENESS COMPARISON  
27 OF FEASIBLE TECHNOLOGIES, PROCESSES, AND TECHNIQUES. THE

1 ALTERNATIVES SHALL BE CAPABLE OF MEETING THE APPLICABLE STATE  
2 DRINKING WATER STANDARDS OVER THE DESIGN LIFE OF THE FACILITY,  
3 WHILE RECOGNIZING ENVIRONMENTAL AND OTHER NONMONETARY  
4 CONSIDERATIONS. THE ANALYSIS SHALL INCLUDE, BUT NOT BE LIMITED  
5 TO, ALL OF THE FOLLOWING:

6 (A) A PLANNING PERIOD FOR THE COST-EFFECTIVENESS ANALYSIS OF  
7 20 YEARS OR OTHER SUCH PLANNING PERIOD AS IS JUSTIFIED BY THE  
8 UNIQUE CHARACTERISTICS OF THE PROJECT.

9 (B) MONETARY COSTS THAT CONSIDER THE PRESENT WORTH OR EQUIV-  
10 ALENT ANNUAL VALUE OF ALL CAPITAL COSTS AND OPERATION AND MAINTENANCE COSTS.

12 (C) PROVISIONS FOR THE ULTIMATE DISPOSAL OF RESIDUALS AND  
13 SLUDGE RESULTING FROM DRINKING WATER TREATMENT PROCESSES.

14 (D) A SYNOPSIS OF THE ENVIRONMENTAL SETTING OF THE PROJECT  
15 AND AN ANALYSIS OF THE POTENTIAL ENVIRONMENTAL AND PUBLIC HEALTH  
16 IMPACTS OF THE VARIOUS ALTERNATIVES, AS WELL AS THE IDENTIFICATION  
17 OF ANY SIGNIFICANT ENVIRONMENTAL OR PUBLIC HEALTH BENEFITS  
18 PRECLUDED BY REJECTION OF AN ALTERNATIVE.

19 (E) CONSIDERATION OF OPPORTUNITIES TO MAKE MORE EFFICIENT  
20 USE OF ENERGY AND RESOURCES.

21 (F) A DESCRIPTION OF THE RELATIONSHIP BETWEEN THE SERVICE  
22 CAPACITY OF EACH WATERWORKS SYSTEMS ALTERNATIVE AND THE ESTIMATED  
23 FUTURE NEEDS USING POPULATION PROJECTIONS UNDER  
24 SUBSECTION (3)(E).

25 (5) A PROJECT PLAN SHALL INCLUDE A DESCRIPTION OF THE  
26 SELECTED ALTERNATIVE, INCLUDING ALL OF THE FOLLOWING:

1 (A) RELEVANT DESIGN PARAMETERS.

2 (B) ESTIMATED CAPITAL CONSTRUCTION COSTS, OPERATION AND  
3 MAINTENANCE COSTS, AND A DESCRIPTION OF THE MANNER IN WHICH  
4 PROJECT COSTS WILL BE FINANCED.

5 (C) A DEMONSTRATION OF THE WATER SUPPLIER'S ABILITY TO REPAY  
6 THE INCURRED DEBT, INCLUDING AN ANALYSIS OF THE IMPACTS OF THE  
7 ANNUAL USER COSTS FOR WATER SUPPLY ON ITS USERS.

8 (D) A DEMONSTRATION THAT THE SELECTED ALTERNATIVE IS IMPLE-  
9 MENTABLE CONSIDERING THE LEGAL, INSTITUTIONAL, TECHNICAL, FINAN-  
10 CIAL, AND MANAGERIAL RESOURCES OF THE WATER SUPPLIER.

11 (E) ASSURANCE THAT THERE IS SUFFICIENT WATERWORKS SYSTEM  
12 SERVICE CAPACITY FOR THE SERVICE AREA BASED ON PROJECTED NEEDS  
13 IDENTIFIED IN SUBDIVISION (D) WHILE AVOIDING THE USE OF FUNDS  
14 AVAILABLE UNDER THIS PART TO FINANCE THE EXPANSION OF ANY PUBLIC  
15 WATER SYSTEM PROPOSED PRIMARILY IN ANTICIPATION OF FUTURE POPULA-  
16 TION GROWTH.

17 (F) DOCUMENTATION OF THE PROJECT'S CONSISTENCY WITH THE  
18 APPROVED GENERAL PLAN PREPARED PURSUANT TO SECTION 4 OF ACT 399,  
19 MCL 325.1004.

20 (G) AN ANALYSIS OF THE ENVIRONMENTAL AND PUBLIC HEALTH  
21 IMPACTS OF THE SELECTED ALTERNATIVE.

22 (H) CONSIDERATION OF STRUCTURAL AND NONSTRUCTURAL MEASURES  
23 THAT COULD BE TAKEN TO MITIGATE OR ELIMINATE ADVERSE EFFECTS ON  
24 THE ENVIRONMENT.

25 (6) A PROJECT PLAN SHALL DESCRIBE THE PUBLIC PARTICIPATION  
26 ACTIVITIES CONDUCTED DURING PLANNING AND SHALL INCLUDE ALL OF THE  
27 FOLLOWING:

1 (A) SIGNIFICANT ISSUES RAISED BY THE PUBLIC AND ANY CHANGES  
2 TO THE PROJECT THAT WERE MADE AS A RESULT OF THE PUBLIC PARTICI-  
3 PATION PROCESS.

4 (B) A DEMONSTRATION THAT THERE WERE ADEQUATE OPPORTUNITIES  
5 FOR PUBLIC CONSULTATION, PARTICIPATION, AND INPUT IN THE  
6 DECISION-MAKING PROCESS DURING ALTERNATIVE SELECTION.

7 (C) A DEMONSTRATION THAT BEFORE THE ADOPTION OF THE PROJECT  
8 PLAN, THE WATER SUPPLIER HELD A PUBLIC HEARING ON THE PROPOSED  
9 PROJECT NOT LESS THAN 30 DAYS AFTER ADVERTISING IN LOCAL MEDIA OF  
10 GENERAL CIRCULATION AND AT A TIME AND PLACE CONDUCIVE TO MAXIMIZ-  
11 ING PUBLIC INPUT.

12 (D) A DEMONSTRATION THAT, CONCURRENT WITH ADVERTISEMENT OF  
13 THE HEARING, A NOTICE OF PUBLIC HEARING WAS SENT TO ALL AFFECTED  
14 LOCAL, STATE, AND FEDERAL AGENCIES AND TO ANY PUBLIC OR PRIVATE  
15 PARTIES THAT HAVE EXPRESSED AN INTEREST IN THE PROPOSED PROJECT.

16 (E) A TRANSCRIPT OR RECORDING OF THE HEARING, A LIST OF ALL  
17 ATTENDEES, ANY WRITTEN TESTIMONY RECEIVED, AND THE WATER  
18 SUPPLIER'S RESPONSES TO THE ISSUES RAISED.

19 (7) A PROJECT PLAN SHALL INCLUDE EITHER OF THE FOLLOWING, AS  
20 APPROPRIATE:

21 (A) FOR A WATER SUPPLIER THAT IS A MUNICIPALITY, A RESOLU-  
22 TION ADOPTED BY THE GOVERNING BOARD OF THE MUNICIPALITY APPROVING  
23 THE PROJECT PLAN.

24 (B) FOR A WATER SUPPLIER THAT IS NOT A MUNICIPALITY, A  
25 STATEMENT OF INTENT TO IMPLEMENT THE PROJECT PLAN.

26 SEC. 5406. (1) THE DEPARTMENT SHALL ANNUALLY DEVELOP A  
27 PRIORITY LIST OF PROJECTS ELIGIBLE FOR ASSISTANCE UNDER THIS

1 PART. PROJECTS THAT ARE NOT FUNDED DURING THE YEAR THAT A  
2 PRIORITY LIST DEVELOPED UNDER THIS SECTION IS IN EFFECT SHALL BE  
3 AUTOMATICALLY PRIORITIZED ON THE NEXT ANNUAL LIST USING THE SAME  
4 CRITERIA, UNLESS THE WATER SUPPLIER SUBMITS AN AMENDMENT TO ITS  
5 PROJECT PLAN THAT INTRODUCES NEW INFORMATION TO BE USED AS THE  
6 BASIS FOR PRIORITIZATION. THE PRIORITY LIST SHALL BE BASED ON  
7 PROJECT PLANS SUBMITTED BY WATER SUPPLIERS UNDER SECTION 5405 AND  
8 THE CRITERIA LISTED IN SUBDIVISIONS (A) THROUGH (F). EACH  
9 PROJECT SHALL BE ASSIGNED POINTS UP TO A MAXIMUM OF 1,000. THE  
10 POINT VALUES ARE MAXIMUM VALUES AVAILABLE FOR EACH CATEGORY OR  
11 SUBCATEGORY LISTED IN THIS SECTION AND SHALL ONLY BE AWARDED IF  
12 THE PROJECT SUBSTANTIALLY ADDRESSES THE PROBLEM FOR WHICH THE  
13 POINT AWARD IS GIVEN. IF A PROJECT IS PRIMARILY DESIGNED TO  
14 REPLACE INDIVIDUAL WELLS AT PRIVATE HOMES, 50% OR MORE OF THE  
15 HOMES IN THE AFFECTED AREA SHALL MEET EQUIVALENT WATER QUALITY OR  
16 INFRASTRUCTURE DEFICIENCY CRITERIA LISTED IN SUBDIVISIONS (A)  
17 THROUGH (F) IN ORDER TO RECEIVE THE MAXIMUM AVAILABLE POINTS. IF  
18 LESS THAN 50% OF THE HOMES IN THE AFFECTED AREA CAN DEMONSTRATE  
19 DEFICIENCIES, 1/2 OF THE TOTAL POINTS AVAILABLE SHALL BE  
20 AWARDED. POINTS SHALL BE AWARDED AS FOLLOWS:

21 (A) A MAXIMUM OF 450 POINTS MAY BE AWARDED TO A PROJECT THAT  
22 ADDRESSES DRINKING WATER QUALITY AS OUTLINED IN ACT 399, IF THE  
23 PROJECT:

24 (i) IS DESIGNED TO ELIMINATE AN ACUTE VIOLATION OF A DRINK-  
25 ING WATER STANDARD AS DEFINED IN PART 4 OF THE ADMINISTRATIVE  
26 RULES FOR ACT 399. A VIOLATION OF A SURFACE WATER TREATMENT

1 TECHNIQUE, OR IF A WATERBORNE DISEASE OUTBREAK HAS BEEN  
2 DOCUMENTED, 250 POINTS SHALL BE AWARDED FOR EACH VIOLATION.

3 (ii) IS DESIGNED TO ELIMINATE A VIOLATION OF A DRINKING  
4 WATER STANDARD OTHER THAN THOSE OUTLINED IN SUBPARAGRAPH (i), 200  
5 POINTS SHALL BE AWARDED FOR EACH VIOLATION.

6 (iii) IS DESIGNED TO UPGRADE A FACILITY TO MAINTAIN COMPLI-  
7 ANCE WITH DRINKING WATER STANDARDS OR SYSTEM CAPACITY REQUIRE-  
8 MENTS, 150 POINTS SHALL BE AWARDED.

9 (iv) IS DESIGNED TO ELIMINATE AN EXCEEDANCE OF A SECONDARY  
10 MAXIMUM CONTAMINANT LEVEL FOR AESTHETIC WATER QUALITY, 25 POINTS  
11 SHALL BE AWARDED.

12 (B) A MAXIMUM OF 350 POINTS MAY BE AWARDED TO A PROJECT THAT  
13 ADDRESSES INFRASTRUCTURE IMPROVEMENTS, AS FOLLOWS:

14 (i) IF SOURCE OR TREATMENT FACILITIES ARE UPGRADED, INCLUD-  
15 ING THE WATERMAINS TO CONNECT TO THE DISTRIBUTION SYSTEM, A MAXI-  
16 MUM OF 125 POINTS SHALL BE AWARDED, IF THE IMPROVEMENT IS:

17 (A) TO MEET MINIMUM CAPACITY REQUIREMENTS, 100 POINTS SHALL  
18 BE AWARDED.

19 (B) FOR RELIABILITY, 75 POINTS SHALL BE AWARDED.

20 (C) FOR OTHER SOURCE OR TREATMENT FACILITY UPGRADES NOT  
21 INCLUDED IN SUBPARAGRAPH (i)(A) OR (B), 25 POINTS SHALL BE  
22 AWARDED.

23 (D) TO SATISFY THE CONDITIONS OF A FORMAL ENFORCEMENT  
24 ACTION, 25 POINTS SHALL BE AWARDED.

25 (E) FOR SOURCE WATER PROTECTION, 50 POINTS SHALL BE  
26 AWARDED.

1           (ii) IF TRANSMISSION OR DISTRIBUTION WATERMAINS ARE  
2 UPGRADED, A MAXIMUM OF 125 POINTS SHALL BE AWARDED, IF THE  
3 IMPROVEMENT IS:

4           (A) TO MEET MINIMUM CAPACITY WHERE FLOW OR RESIDUAL PRESSURE  
5 IS LESS THAN ACCEPTABLE, 100 POINTS SHALL BE AWARDED.

6           (B) FOR RELIABILITY, INCLUDING LOOPING OR REDUNDANT FEEDS,  
7 75 POINTS SHALL BE AWARDED.

8           (C) OTHER TRANSMISSION OR DISTRIBUTION SYSTEM UPGRADES NOT  
9 INCLUDED IN SUBPARAGRAPH (ii)(A) OR (B), 25 POINTS SHALL BE  
10 AWARDED.

11           (D) TO SATISFY THE CONDITIONS OF A FORMAL ENFORCEMENT  
12 ACTION, 25 POINTS SHALL BE AWARDED.

13           (iii) IF WATER STORAGE FACILITIES OR PUMPING STATIONS ARE  
14 UPGRADED, A MAXIMUM OF 125 POINTS SHALL BE AWARDED, IF THE  
15 IMPROVEMENT IS:

16           (A) TO MEET MINIMUM CAPACITY WHERE STORAGE OR PUMPING CAPAC-  
17 ITY IS LESS THAN MINIMUM REQUIREMENTS, 100 POINTS SHALL BE  
18 AWARDED.

19           (B) FOR RELIABILITY, 75 POINTS SHALL BE AWARDED.

20           (C) OTHER STORAGE FACILITY OR PUMPING STATION UPGRADES NOT  
21 INCLUDED IN SUBPARAGRAPH (iii)(A) OR (B), 25 POINTS SHALL BE  
22 AWARDED.

23           (D) TO SATISFY THE CONDITIONS OF A FORMAL ENFORCEMENT  
24 ACTION, 25 POINTS SHALL BE AWARDED.

25           (C) A MAXIMUM OF 50 POINTS SHALL BE AWARDED BASED ON THE  
26 POPULATION SERVED BY THE WATER SYSTEM ACCORDING TO THE FOLLOWING  
27 TABLE. HOWEVER, A TRANSIENT NONCOMMUNITY WATER SUPPLY AS DEFINED

1 IN SECTION 2 OF ACT 399 IS ELIGIBLE FOR 1/2 OF THE POINT VALUE  
 2 LISTED IN THE FOLLOWING TABLE:

3	POPULATION	POINTS
4	>50,000	50
5	10,001 - 50,000	40
6	3,301 - 10,000	30
7	501 - 3,300	20
8	0 - 500	10

9 (D) A MAXIMUM OF 50 POINTS SHALL BE AWARDED TO A COMMUNITY  
 10 WATER SUPPLY THAT IS A DISADVANTAGED COMMUNITY.

11 (E) A MAXIMUM OF 100 POINTS SHALL BE AWARDED FOR PROJECTS  
 12 THAT INCLUDE CONSOLIDATION AS FOLLOWS:

13 (i) IF 1 OR MORE PUBLIC WATER SUPPLIES ARE BROUGHT INTO COM-  
 14 PLIANCE WITH STATE DRINKING WATER STANDARDS AS A RESULT OF CON-  
 15 SOLIDATION, 100 POINTS SHALL BE AWARDED.

16 (ii) IF DEFICIENCIES, WHICH ARE DOCUMENTED IN WRITING BY THE  
 17 DEPARTMENT, AT 1 OR MORE PUBLIC WATER SUPPLIES ARE CORRECTED AS A  
 18 RESULT OF CONSOLIDATION, 60 POINTS SHALL BE AWARDED.

19 (iii) OTHER CONSOLIDATIONS, NOT INCLUDED UNDER  
 20 SUBPARAGRAPH (i) OR (ii), SHALL BE AWARDED 40 POINTS.



1 (F) AFTER SCORING, USING THE CRITERIA IN SUBDIVISIONS (A)  
2 THROUGH (E), IF 2 OR MORE PROJECTS HAVE THE SAME SCORE, THE  
3 FOLLOWING TIE-BREAKER SHALL BE APPLIED:

4 (i) IF THE SYSTEM HAS FEWER THAN 2 VIOLATIONS OF THE MONI-  
5 TORING, RECORD-KEEPING, AND REPORTING REQUIREMENTS OF ACT 399 IN  
6 THE PREVIOUS 2-YEAR REPORTING PERIOD, OR NO VIOLATIONS IF OWNER-  
7 SHIP OF THE SYSTEM HAS CHANGED IN THE PREVIOUS 2 YEARS, IT SHALL  
8 RANK ABOVE SYSTEMS HAVING MORE VIOLATIONS.

9 (ii) AFTER APPLYING THE TIE-BREAKER IN SUBPARAGRAPH (i), IF  
10 2 OR MORE PROJECTS SCORE EXACTLY THE SAME, A CALCULATION OF THE  
11 COST PER POPULATION SERVED BY THE WATER SYSTEM SHALL BE MADE.  
12 THE AFFECTED PROJECTS SHALL BE RANKED WITH THE LOWEST RATIO OF  
13 COST TO POPULATION RANKED HIGHER.

14 (2) THE PRIORITY LIST SHALL BE SUBMITTED ANNUALLY TO THE  
15 CHAIRPERSONS OF THE SENATE AND HOUSE OF REPRESENTATIVES STANDING  
16 COMMITTEES THAT PRIMARILY CONSIDER LEGISLATION PERTAINING TO THE  
17 PROTECTION OF PUBLIC HEALTH AND THE ENVIRONMENT.

18 (3) IN PREPARING THE PRIORITY LIST, TO ENSURE THAT A DISPRO-  
19 PORTIONATE SHARE OF AVAILABLE FUNDS FOR A GIVEN FISCAL YEAR IS  
20 NOT COMMITTED TO A SINGLE WATER SUPPLY PROJECT, THE DEPARTMENT  
21 MAY SEGMENT A PROJECT IF EITHER OF THE FOLLOWING CRITERIA IS  
22 PRESENT:

23 (A) THE COST OF THE PROPOSED PROJECT IS MORE THAN 30% OF THE  
24 TOTAL AMOUNT AVAILABLE IN THE FUND DURING THE FISCAL YEAR.

25 (B) THE DEPARTMENT HAS APPROVED A WATER SUPPLIER'S APPLICA-  
26 TION FOR SEGMENTING A PROJECT.

1 (4) SEGMENTS OF A PROJECT THAT HAS BEEN SEGMENTED UNDER  
2 SUBSECTION (3) SHALL BE ASSIGNED PRIORITY POINTS BASED ON THE  
3 PROJECT AS IDENTIFIED IN THE PROJECT PLAN. AFTER FUNDING ASSIST-  
4 ANCE FOR THE FIRST SEGMENT IS ACCEPTED, THE REMAINING SEGMENTS  
5 WILL RETAIN FIRST PRIORITY FOR FUNDING ASSISTANCE ON THE NEXT 3  
6 FISCAL YEAR PRIORITY LISTS. ALL PROJECTS WITH PREVIOUSLY FUNDED  
7 SEGMENTS WILL BE DESIGNATED WITH FIRST PRIORITY. RANKING ORDER  
8 FOR THESE PROJECTS TO RECEIVE FUNDING ASSISTANCE WILL BE SUBJECT  
9 TO THE RELATIVE RANKING OF ALL FIRST SEGMENT PROJECTS.

10 (5) IN PREPARING THE INTENDED USE PLAN, THE DEPARTMENT SHALL  
11 MAKE EVERY EFFORT TO ASSURE THAT FUNDING FOR ASSISTANCE IS EQUI-  
12 TABLY DISTRIBUTED AMONG PUBLIC WATER SUPPLIES OF VARYING SIZES.

13 (6) FOR PURPOSES OF PROVIDING ASSISTANCE, THE PRIORITY LIST  
14 SHALL TAKE EFFECT ON THE FIRST DAY OF EACH FISCAL YEAR.

15 SEC. 5407. THE DEPARTMENT SHALL ANNUALLY IDENTIFY THOSE  
16 PROJECTS IN THE FUNDABLE RANGE OF THE PRIORITY LIST. FOLLOWING  
17 THE IDENTIFICATION OF PROJECTS IN THE FUNDABLE RANGE, THE DEPART-  
18 MENT SHALL REVIEW, GENERALLY IN PRIORITY ORDER, THE PROJECT PLANS  
19 FOR THESE PROJECTS AND, FOLLOWING COMPLETION OF THE ENVIRONMENTAL  
20 REVIEW PROCESS DESCRIBED IN SECTION 5408, EITHER APPROVE OR DIS-  
21 APPROVE THE PROJECT PLANS.

22 SEC. 5408. (1) THE DEPARTMENT SHALL CONDUCT AN ENVIRONMEN-  
23 TAL REVIEW OF THE PROJECT PLAN OF EACH PROJECT IN THE FUNDABLE  
24 RANGE OF THE PRIORITY LIST TO DETERMINE WHETHER ANY SIGNIFICANT  
25 IMPACTS ARE ANTICIPATED AND WHETHER ANY CHANGES CAN BE MADE IN  
26 THE PROJECT TO ELIMINATE SIGNIFICANT ADVERSE IMPACTS. AS PART OF  
27 THIS REVIEW, THE DEPARTMENT MAY REQUIRE THE SUBMITTAL OF

1 ADDITIONAL INFORMATION OR ADDITIONAL PUBLIC PARTICIPATION AND  
2 COORDINATION TO JUSTIFY THE ENVIRONMENTAL DETERMINATION.

3 (2) BASED ON THE ENVIRONMENTAL REVIEW UNDER SUBSECTION (1),  
4 THE DEPARTMENT MAY ISSUE A CATEGORICAL EXCLUSION FOR CATEGORIES  
5 OF ACTIONS THAT DO NOT INDIVIDUALLY, CUMULATIVELY OVER TIME OR IN  
6 CONJUNCTION WITH OTHER FEDERAL, STATE, LOCAL, OR PRIVATE ACTIONS  
7 HAVE A SIGNIFICANT ADVERSE EFFECT ON THE QUALITY OF THE HUMAN  
8 ENVIRONMENT OR PUBLIC HEALTH. ADDITIONAL ENVIRONMENTAL INFORMA-  
9 TION DOCUMENTATION, ENVIRONMENTAL ASSESSMENTS, AND ENVIRONMENTAL  
10 IMPACT STATEMENTS WILL NOT BE REQUIRED FOR EXCLUDED ACTIONS.

11 (3) FOLLOWING RECEIPT OF THE PROJECT PLAN, THE DIRECTOR  
12 SHALL DETERMINE IF THE PROPOSED PUBLIC WATER SUPPLY PROJECT QUAL-  
13 IFIES FOR A CATEGORICAL EXCLUSION AND DOCUMENT THE DECISION.

14 (4) THE DIRECTOR MAY REVOKE A CATEGORICAL EXCLUSION AND  
15 REQUIRE A COMPLETE ENVIRONMENTAL REVIEW IF, SUBSEQUENT TO THE  
16 DETERMINATION, THE DIRECTOR FINDS ANY OF THE FOLLOWING:

17 (A) THE PROPOSED PUBLIC WATER SUPPLY PROJECT NO LONGER QUAL-  
18 IFIES FOR A CATEGORICAL EXCLUSION DUE TO CHANGES IN THE PROPOSED  
19 PLAN.

20 (B) NEW EVIDENCE EXISTS DOCUMENTING A SERIOUS HEALTH OR  
21 ENVIRONMENTAL ISSUE.

22 (C) FEDERAL, STATE, LOCAL, OR TRIBAL LAWS WILL BE VIOLATED  
23 BY THE PROPOSED PUBLIC WATER SUPPLY PROJECT.

24 (5) THE PROPOSED PROJECT SHALL NOT QUALIFY FOR A CATEGORICAL  
25 EXCLUSION IF THE DIRECTOR DETERMINES ANY OF THE FOLLOWING CRI-  
26 TERIA ARE APPLICABLE:

1 (A) THE PROPOSED FACILITIES RESULT IN AN INCREASE IN  
2 RESIDUALS AND SLUDGE GENERATED BY DRINKING WATER PROCESSES,  
3 EITHER VOLUME OR TYPE, WHICH WOULD NEGATIVELY IMPACT THE PER-  
4 FORMANCE OF THE WATERWORKS SYSTEM OR THE DISPOSAL METHODS, OR  
5 WOULD THREATEN AN AQUIFER RECHARGE ZONE.

6 (B) THE PROPOSED FACILITIES WOULD PROVIDE SERVICE TO A POPU-  
7 LATION GREATER THAN 30% OF THE EXISTING POPULATION, UNLESS POPU-  
8 LATION PROJECTIONS REQUIRED IN SECTION 5405(3)(E) SUPPORT  
9 PROJECTED NEEDS.

10 (C) THE PROPOSED PUBLIC WATER SUPPLY PROJECT IS KNOWN, OR  
11 EXPECTED, TO DIRECTLY OR INDIRECTLY AFFECT CULTURAL AREAS, FAUNA  
12 OR FLORA HABITATS, ENDANGERED OR THREATENED SPECIES, OR ENVIRON-  
13 MENTALLY IMPORTANT NATURAL RESOURCE AREAS.

14 (D) THE PROPOSED PUBLIC WATER SUPPLY PROJECT DIRECTLY OR  
15 INDIRECTLY INVOLVES THE EXTENSION OF TRANSMISSION SYSTEMS TO NEW  
16 SERVICE AREAS.

17 (E) THE PROPOSED PUBLIC WATER SUPPLY PROJECT HAS BEEN SHOWN  
18 NOT TO BE THE COST-EFFECTIVE ALTERNATIVE.

19 (F) THE PROPOSED PUBLIC WATER SUPPLY PROJECT WILL CAUSE SIG-  
20 NIFICANT PUBLIC CONTROVERSY.

21 (6) IF, BASED ON THE ENVIRONMENTAL REVIEW UNDER SUBSECTION  
22 (1), THE DEPARTMENT DETERMINES THAT AN ENVIRONMENTAL ASSESSMENT  
23 IS NECESSARY, THE DEPARTMENT MAY DESCRIBE THE FOLLOWING:

24 (A) THE PURPOSE AND NEED FOR THE PROJECT.

25 (B) THE PROJECT, INCLUDING ITS COSTS.

26 (C) THE ALTERNATIVES CONSIDERED AND THE REASONS FOR THEIR  
27 ACCEPTANCE OR REJECTION.

1 (D) THE EXISTING ENVIRONMENT.

2 (E) ANY POTENTIAL ADVERSE IMPACTS AND MITIGATIVE MEASURES.

3 (F) HOW MITIGATIVE MEASURES WILL BE INCORPORATED INTO THE  
4 PROJECT, AS WELL AS ANY PROPOSED CONDITIONS OF FINANCIAL ASSIST-  
5 ANCE AND THE MEANS FOR MONITORING COMPLIANCE WITH THE  
6 CONDITIONS.

7 (7) THE DEPARTMENT MAY ISSUE A FINDING OF NO SIGNIFICANT  
8 IMPACT, BASED UPON AN ENVIRONMENTAL ASSESSMENT WHICH DOCUMENTS  
9 THAT POTENTIAL ENVIRONMENTAL IMPACTS WILL NOT BE SIGNIFICANT OR  
10 THAT THEY MAY BE MITIGATED WITHOUT EXTRAORDINARY MEASURES.

11 (8) AN ENVIRONMENTAL IMPACT STATEMENT MAY BE REQUIRED WHEN  
12 THE DEPARTMENT DETERMINES ANY OF THE FOLLOWING:

13 (A) THE PROJECT WILL HAVE A SIGNIFICANT IMPACT ON THE PAT-  
14 TERN AND TYPE OF LAND USE OR THE GROWTH AND DISTRIBUTION OF THE  
15 POPULATION.

16 (B) THE EFFECTS OF THE PROJECT'S CONSTRUCTION OR OPERATION  
17 WILL CONFLICT WITH LOCAL OR STATE LAWS OR POLICIES.

18 (C) THE PROJECT WILL HAVE SIGNIFICANT ADVERSE IMPACTS ON ANY  
19 OF THE FOLLOWING:

20 (i) WETLANDS.

21 (ii) FLOOD PLAINS.

22 (iii) THREATENED OR ENDANGERED SPECIES OR HABITATS.

23 (iv) CULTURAL RESOURCES, INCLUDING ANY OF THE FOLLOWING:

24 (A) PARK LANDS.

25 (B) PRESERVES.

26 (C) OTHER PUBLIC LANDS.

1 (D) AREAS OF RECOGNIZED SCENIC, RECREATIONAL, AGRICULTURAL,  
2 ARCHEOLOGICAL, OR HISTORICAL VALUE.

3 (D) THE PROJECT WILL CAUSE SIGNIFICANT DISPLACEMENT OF  
4 POPULATION.

5 (E) THE PROJECT WILL DIRECTLY OR INDIRECTLY, SUCH AS THROUGH  
6 INDUCED DEVELOPMENT, HAVE SIGNIFICANT ADVERSE EFFECT UPON ANY OF  
7 THE FOLLOWING:

8 (i) LOCAL AMBIENT AIR QUALITY.

9 (ii) LOCAL NOISE LEVELS.

10 (iii) SURFACE WATER AND GROUNDWATER QUANTITY OR QUALITY.

11 (iv) SHELLFISH.

12 (v) FISH.

13 (vi) WILDLIFE.

14 (vii) WILDLIFE NATURAL HABITATS.

15 (F) THE PROJECT WILL GENERATE SIGNIFICANT PUBLIC  
16 CONTROVERSY.

17 (9) BASED ON THE ENVIRONMENTAL IMPACT STATEMENT, A RECORD OF  
18 DECISION SUMMARIZING THE FINDINGS OF THE ENVIRONMENTAL IMPACT  
19 STATEMENT SHALL BE ISSUED IDENTIFYING THOSE CONDITIONS UNDER  
20 WHICH THE PROJECT CAN PROCEED AND MAINTAIN COMPLIANCE WITH THE  
21 NATIONAL ENVIRONMENTAL POLICY ACT OF 1969, PUBLIC LAW 91-190, 42  
22 U.S.C. 4321, 4331 TO 4335, AND 4341 TO 4347.

23 (10) IF 5 OR MORE YEARS HAVE ELAPSED SINCE A DETERMINATION  
24 OF COMPLIANCE WITH NATIONAL ENVIRONMENTAL POLICY ACT, OR IF SIG-  
25 NIFICANT CHANGES IN THE PROJECT HAVE TAKEN PLACE, THE DEPARTMENT  
26 SHALL REEVALUATE THE PROJECT FOR COMPLIANCE WITH THE NATIONAL

1 ENVIRONMENTAL POLICY ACT REQUIREMENTS. THE DEPARTMENT MAY DO ANY  
2 OF THE FOLLOWING:

3 (A) REAFFIRM THE ORIGINAL FINDING OF NO SIGNIFICANT IMPACT  
4 OR THE RECORD OF DECISION THROUGH THE ISSUANCE OF A PUBLIC NOTICE  
5 OR STATEMENT OF FINDING.

6 (B) ISSUE AN AMENDMENT TO A FINDING OF NO SIGNIFICANT IMPACT  
7 OR REVOKE A FINDING OF NO SIGNIFICANT IMPACT AND ISSUE A PUBLIC  
8 NOTICE THAT THE PREPARATION OF AN ENVIRONMENTAL IMPACT STATEMENT  
9 IS REQUIRED.

10 (C) ISSUE A SUPPLEMENT TO A RECORD OF DECISION OR REVOKE A  
11 RECORD OF DECISION AND ISSUE A PUBLIC NOTICE THAT FINANCIAL  
12 ASSISTANCE WILL NOT BE PROVIDED.

13 (11) ACTION REGARDING APPROVAL OF A PROJECT PLAN OR PROVI-  
14 SION OF FINANCIAL ASSISTANCE SHALL NOT BE TAKEN DURING A 30-DAY  
15 PUBLIC COMMENT PERIOD AFTER THE ISSUANCE OF A FINDING OF NO SIG-  
16 NIFICANT IMPACT OR RECORD OF DECISION.

17 SEC. 5409. (1) A WATER SUPPLIER WHOSE PROJECT PLAN IS  
18 APPROVED OR UNDER REVIEW BY THE DEPARTMENT UNDER SECTION 5407 MAY  
19 APPLY FOR ASSISTANCE FROM THE FUND BY SUBMITTING AN APPLICATION  
20 TO THE DEPARTMENT. A COMPLETE APPLICATION SHALL INCLUDE ALL OF  
21 THE FOLLOWING, IF APPLICABLE, AS DETERMINED BY THE DEPARTMENT:

22 (A) IF ASSISTANCE IS IN THE FORM OF A LOAN, FINANCIAL DOCU-  
23 MENTATION THAT A DEDICATED SOURCE OF REVENUE IS ESTABLISHED, CON-  
24 SISTENT WITH OBLIGATIONS OF DEBT INSTRUMENTS EXISTING AT THE TIME  
25 ASSISTANCE IS REQUESTED, AND PLEDGED TO BOTH OF THE FOLLOWING  
26 PURPOSES:

1 (i) THE TIMELY REPAYMENT OF PRINCIPAL AND INTEREST.

2 (ii) ADEQUATE REVENUES TO FUND THE OPERATION AND MAINTENANCE  
3 OF THE PROJECT.

4 (B) EVIDENCE OF AN APPROVED PROJECT PLAN.

5 (C) A CERTIFIED RESOLUTION FROM A WATER SUPPLIER THAT IS A  
6 MUNICIPALITY, OR A LETTER OF APPOINTMENT FROM A WATER SUPPLIER  
7 THAT IS NOT A MUNICIPALITY, DESIGNATING AN AUTHORIZED REPRESENTA-  
8 TIVE FOR THE PROJECT.

9 (D) A CERTIFICATION BY AN AUTHORIZED REPRESENTATIVE OF THE  
10 WATER SUPPLIER AFFIRMING THAT THE SUPPLIER HAS THE LEGAL, INSTI-  
11 TUTIONAL, TECHNICAL, FINANCIAL, AND MANAGERIAL CAPABILITY TO  
12 BUILD, OPERATE, AND MAINTAIN THE PROJECT.

13 (E) A LETTER OF CREDIT, INSURANCE, OR OTHER CREDIT ENHANCE-  
14 MENT TO SUPPORT THE CREDIT POSITION OF THE WATER SUPPLIER, AS  
15 REQUIRED BY THE DEPARTMENT.

16 (F) A SET OF PLANS AND SPECIFICATIONS, DEVELOPED IN ACCORD-  
17 ANCE WITH ACT 399, WHICH IS SUITABLE FOR BIDDING.

18 (G) A CERTIFICATION FROM AN AUTHORIZED REPRESENTATIVE OF THE  
19 WATER SUPPLIER THAT IT HAS, OR WILL HAVE BEFORE THE START OF CON-  
20 STRUCTION, ALL APPLICABLE STATE AND FEDERAL PERMITS REQUIRED FOR  
21 CONSTRUCTION OF THE PROJECT.

22 (H) A CERTIFICATION FROM AN AUTHORIZED REPRESENTATIVE OF THE  
23 WATER SUPPLIER THAT AN UNDISCLOSED FACT OR EVENT, OR PENDING  
24 LITIGATION, WILL NOT MATERIALLY OR ADVERSELY AFFECT THE PROJECT,  
25 THE PROSPECTS FOR ITS COMPLETION, OR THE WATER SUPPLIER'S ABILITY  
26 TO MAKE TIMELY LOAN REPAYMENTS, IF APPLICABLE.



1 (I) IF APPLICABLE, ALL EXECUTED SERVICE CONTRACTS OR  
2 AGREEMENTS.

3 (J) AN AGREEMENT THAT THE WATER SUPPLIER WILL OPERATE THE  
4 WATERWORKS SYSTEM IN COMPLIANCE WITH APPLICABLE STATE AND FEDERAL  
5 LAWS.

6 (K) AN AGREEMENT THAT THE WATER SUPPLIER WILL NOT SELL,  
7 LEASE, ABANDON, OR OTHERWISE DISPOSE OF THE WATERWORKS SYSTEM  
8 WITHOUT AN EFFECTIVE ASSIGNMENT OF OBLIGATIONS AND THE PRIOR  
9 WRITTEN APPROVAL OF THE DEPARTMENT AND THE AUTHORITY.

10 (L) AN AGREEMENT THAT:

11 (i) FOR WATER SUPPLIERS THAT ARE MUNICIPALITIES, ALL  
12 ACCOUNTS WILL BE MAINTAINED IN ACCORDANCE WITH GENERALLY ACCEPTED  
13 ACCOUNTING PRACTICES, GENERALLY ACCEPTED GOVERNMENT AUDITING  
14 STANDARDS, AND CHAPTER 75 OF TITLE 31 OF THE UNITED STATES CODE,  
15 31 U.S.C. 7501 TO 7507, AS REQUIRED BY THE FEDERAL SAFE DRINKING  
16 WATER ACT.

17 (ii) FOR WATER SUPPLIERS THAT ARE NOT MUNICIPALITIES, ALL  
18 ACCOUNTS WILL BE MAINTAINED IN ACCORDANCE WITH GENERALLY ACCEPTED  
19 ACCOUNTING PRACTICES AND GENERALLY ACCEPTED AUDITING STANDARDS.

20 (M) AN AGREEMENT THAT ALL WATER SUPPLIER CONTRACTS WITH CON-  
21 TRACTORS WILL REQUIRE THEM TO MAINTAIN PROJECT ACCOUNTS IN  
22 ACCORDANCE WITH THE REQUIREMENTS OF THIS SUBSECTION AND PROVIDE  
23 NOTICE THAT ANY SUBCONTRACTOR MAY BE SUBJECT TO A FINANCIAL AUDIT  
24 AS PART OF AN OVERALL PROJECT AUDIT.

25 (N) AN AGREEMENT THAT THE WATER SUPPLIER WILL PROVIDE WRIT-  
26 TEN AUTHORIZATIONS TO THE DEPARTMENT FOR THE PURPOSE OF EXAMINING  
27 THE PHYSICAL PLANT AND FOR EXAMINING, REVIEWING, OR AUDITING THE

1 OPERATIONAL OR FINANCIAL RECORDS OF THE PROJECT, AND THAT THE  
2 WATER SUPPLIER WILL REQUIRE SIMILAR AUTHORIZATIONS FROM ALL CON-  
3 TRACTORS, CONSULTANTS, OR AGENTS WITH WHICH IT NEGOTIATES AN  
4 AGREEMENT.

5 (O) AN AGREEMENT THAT ALL PERTINENT RECORDS SHALL BE  
6 RETAINED AND AVAILABLE TO THE DEPARTMENT FOR A MINIMUM OF 3 YEARS  
7 AFTER INITIATION OF THE OPERATION AND THAT IF LITIGATION, A  
8 CLAIM, AN APPEAL, OR AN AUDIT IS BEGUN BEFORE THE END OF THE  
9 3-YEAR PERIOD, RECORDS SHALL BE RETAINED AND AVAILABLE UNTIL THE  
10 3 YEARS HAVE PASSED OR UNTIL THE ACTION IS COMPLETED AND  
11 RESOLVED, WHICHEVER IS LONGER. AS USED IN THIS SUBDIVISION,  
12 "INITIATION OF THE OPERATION" MEANS THE DATE CERTAIN SET BY THE  
13 WATER SUPPLIER AND ACCEPTED BY THE DEPARTMENT, ON WHICH USE OF  
14 THE PROJECT BEGINS FOR THE PURPOSES FOR WHICH IT WAS  
15 CONSTRUCTED.

16 (P) IF THE PROJECT IS SEGMENTED, AS PROVIDED IN SECTION  
17 5406(3), A SCHEDULE FOR COMPLETION OF THE PROJECT AND ADEQUATE  
18 ASSURANCE THAT THE PROJECT WILL BE COMPLETED WITH OR WITHOUT  
19 ASSISTANCE FROM THE FUND OR THAT THE SEGMENTED PROJECT WILL BE  
20 OPERATIONAL WITHOUT COMPLETION OF THE ENTIRE PROJECT.

21 (Q) AN AGREEMENT THAT THE PROJECT WILL PROCEED IN A TIMELY  
22 FASHION IF THE APPLICATION FOR ASSISTANCE IS APPROVED.

23 (R) AN APPLICATION FEE, IF REQUIRED BY THE DEPARTMENT.

24 (2) A DEMONSTRATION THAT A DEDICATED SOURCE OF REVENUE WILL  
25 BE AVAILABLE FOR OPERATING AND MAINTAINING THE WATERWORKS SYSTEM  
26 AND REPAYING THE INCURRED DEBT.

1           (3) THE DEPARTMENT SHALL ACCEPT APPLICATIONS FOR ASSISTANCE  
2 FROM WATER SUPPLIERS IN THE FUNDABLE RANGE OF THE PRIORITY LIST  
3 AND SHALL DETERMINE WHETHER AN APPLICATION FOR ASSISTANCE IS  
4 COMPLETE.

5           (4) THE STATE IS NOT LIABLE TO A WATER SUPPLIER, OR ANY  
6 OTHER PERSON PERFORMING SERVICES FOR THE WATER SUPPLIER, FOR  
7 COSTS INCURRED IN DEVELOPING OR SUBMITTING AN APPLICATION FOR  
8 ASSISTANCE UNDER THIS PART.

9           SEC. 5410. (1) A WATER SUPPLIER WHO RECEIVES ASSISTANCE  
10 UNDER THIS PART IS RESPONSIBLE FOR OBTAINING ANY FEDERAL, STATE,  
11 OR LOCAL PERMITS OR CLEARANCES REQUIRED FOR THE PROJECT AND SHALL  
12 PERFORM ANY SURVEYS OR STUDIES THAT ARE REQUIRED IN CONJUNCTION  
13 WITH THE PERMITS OR CLEARANCES.

14           (2) A WATER SUPPLIER WHO RECEIVES ASSISTANCE UNDER THIS PART  
15 SHALL INCORPORATE ALL APPROPRIATE PROVISIONS, CONDITIONS, AND  
16 MITIGATIVE MEASURES INCLUDED IN THE APPLICABLE STUDIES, SURVEYS,  
17 PERMITS, CLEARANCES, AND LICENSES INTO THE CONSTRUCTION  
18 DOCUMENTS. THESE DOCUMENTS ARE SUBJECT TO REVIEW BY THE DEPART-  
19 MENT FOR CONFORMITY WITH ENVIRONMENTAL DETERMINATIONS AND COORDI-  
20 NATION REQUIREMENTS.

21           (3) ALL APPLICABLE AND APPROPRIATE CONDITIONS AND MITIGATIVE  
22 MEASURES SHALL BE ENFORCED BY THE WATER SUPPLIER OR ITS DESIG-  
23 NATED REPRESENTATIVE AND SHALL APPLY TO ALL CONSTRUCTION AND  
24 POST-CONSTRUCTION ACTIVITIES, INCLUDING DISPOSAL OF ALL LIQUID OR  
25 SOLID SPOILS, WASTE MATERIAL, AND RESIDUALS FROM CONSTRUCTION.

26           SEC. 5411. (1) THE DEPARTMENT SHALL REVIEW A COMPLETE  
27 APPLICATION FOR ASSISTANCE FOR A PROPOSED PROJECT SUBMITTED UNDER

1 SECTION 5409. IF THE DEPARTMENT APPROVES THE APPLICATION FOR  
2 ASSISTANCE, THE DEPARTMENT SHALL ISSUE AN ORDER OF APPROVAL TO  
3 ESTABLISH THE SPECIFIC TERMS OF THE ASSISTANCE. THE ORDER OF  
4 APPROVAL SHALL INCLUDE, BUT NEED NOT BE LIMITED TO, ALL OF THE  
5 FOLLOWING:

6 (A) THE TERM OF THE ASSISTANCE.

7 (B) THE MAXIMUM PRINCIPAL AMOUNT OF THE ASSISTANCE.

8 (C) THE MAXIMUM RATE OF INTEREST OR METHOD OF CALCULATION OF  
9 THE RATE OF INTEREST THAT WILL BE USED, OR THE PREMIUM CHARGED.

10 (2) THE ORDER OF APPROVAL UNDER SUBSECTION (1) SHALL INCOR-  
11 PORATE ALL REQUIREMENTS, PROVISIONS, OR INFORMATION INCLUDED IN  
12 THE APPLICATION AND OTHER DOCUMENTS SUBMITTED TO THE DEPARTMENT  
13 DURING THE APPLICATION PROCESS.

14 (3) AFTER ISSUANCE OF THE ORDER OF APPROVAL UNDER SUBSECTION  
15 (1), THE DEPARTMENT SHALL CERTIFY TO THE AUTHORITY THAT THE WATER  
16 SUPPLIER IS ELIGIBLE TO RECEIVE ASSISTANCE.

17 SEC. 5412. (1) THE DEPARTMENT MAY BYPASS PROJECTS THAT FAIL  
18 TO MEET THE SCHEDULE NEGOTIATED AND AGREED UPON BETWEEN THE WATER  
19 SUPPLIER AND THE DEPARTMENT, OR THAT DO NOT HAVE APPROVED PROJECT  
20 PLANS AND SPECIFICATIONS AND AN APPROVABLE APPLICATION 90 DAYS  
21 PRIOR TO THE LAST DAY OF THE STATE FISCAL YEAR, WHICHEVER COMES  
22 FIRST.

23 (2) A WATER SUPPLIER MAY SUBMIT A WRITTEN REQUEST TO THE  
24 DEPARTMENT TO EXTEND A PROJECT SCHEDULE FOR NOT MORE THAN 60  
25 DAYS. THE REQUEST SHALL PROVIDE THE REASON FOR THE NONCOMPLIANCE  
26 WITH THE SCHEDULE. A WATER SUPPLIER MAY FILE 1 ADDITIONAL 30-DAY  
27 EXTENSION REQUEST TO ITS SCHEDULE.

1 (3) A PROJECT BYPASSED UNDER THIS SECTION SHALL NOT BE  
2 CONSIDERED FOR AN ORDER OF APPROVAL UNTIL ALL OTHER PROJECTS HAVE  
3 EITHER BEEN FUNDED OR REJECTED. THIS SECTION DOES NOT PROHIBIT  
4 THE INCLUSION OF THE PROJECT IN THE PRIORITY LIST OF THE NEXT  
5 ANNUAL FUNDING CYCLE OR THE RESUBMISSION OF AN APPLICATION FOR  
6 ASSISTANCE IN THE NEXT ANNUAL FUNDING CYCLE.

7 (4) THE DEPARTMENT SHALL PROVIDE AFFECTED WATER SUPPLIERS  
8 WITH A WRITTEN NOTICE OF INTENT TO BYPASS NOT LESS THAN 30 DAYS  
9 BEFORE THE BYPASS ACTION.

10 (5) FOR PROJECTS BYPASSED UNDER THIS SECTION, THE DEPARTMENT  
11 SHALL TRANSMIT TO THE WATER SUPPLIER AN OFFICIAL NOTICE OF BYPASS  
12 FOR THE FUNDABLE PROJECT.

13 (6) A BYPASS ACTION UNDER THIS SECTION DOES NOT MODIFY ANY  
14 COMPLIANCE DATES ESTABLISHED PURSUANT TO A PERMIT, ORDER, OR  
15 OTHER DOCUMENT ISSUED BY THE DEPARTMENT OR ENTERED AS PART OF AN  
16 ACTION BROUGHT BY THE STATE OR A FEDERAL AGENCY.

17 (7) AFTER A PROJECT IS BYPASSED, THE DEPARTMENT MAY AWARD  
18 ASSISTANCE TO PROJECTS OUTSIDE THE FUNDABLE RANGE. ASSISTANCE  
19 SHALL BE MADE AVAILABLE TO PROJECTS OUTSIDE THE FUNDABLE RANGE IN  
20 PRIORITY ORDER CONTINGENT UPON THE SUPPLIER'S SATISFACTION OF ALL  
21 APPLICABLE REQUIREMENTS FOR ASSISTANCE WITHIN THE TIME PERIOD  
22 ESTABLISHED BY THE DEPARTMENT, BUT NOT TO EXCEED 60 DAYS FROM THE  
23 DATE OF NOTIFICATION. THE DEPARTMENT SHALL NOTIFY WATER SUPPLI-  
24 ERS WITH PROJECTS OUTSIDE THE FUNDABLE RANGE OF BYPASS ACTION, OF  
25 THE AMOUNT OF BYPASSED FUNDS AVAILABLE FOR OBLIGATION, AND OF THE  
26 DEADLINE FOR SUBMITTAL OF A COMPLETE, APPROVABLE APPLICATION.

1           SEC. 5413. (1) THE DEPARTMENT MAY MAKE A DETERMINATION THAT  
2 ASSISTANCE SHOULD BE TERMINATED AND MAY ISSUE AN ORDER  
3 RECOMMENDING THAT THE AUTHORITY TAKE APPROPRIATE ACTION TO TERMI-  
4 NATE ASSISTANCE.

5           (2) CAUSE FOR MAKING A DETERMINATION UNDER SUBSECTION (1)  
6 INCLUDES, BUT IS NOT LIMITED TO, 1 OR MORE OF THE FOLLOWING:

7           (A) SUBSTANTIAL FAILURE TO COMPLY WITH THE TERMS AND CONDI-  
8 TIONS OF THE AGREEMENT PROVIDING ASSISTANCE.

9           (B) A LEGAL FINDING OR DETERMINATION THAT THE ASSISTANCE WAS  
10 OBTAINED BY FRAUD.

11           (C) PRACTICES IN THE ADMINISTRATION OF THE PROJECT THAT ARE  
12 ILLEGAL OR THAT MAY IMPAIR THE SUCCESSFUL COMPLETION OR ORGANIZA-  
13 TION OF THE PROJECT.

14           (D) MISAPPROPRIATION OF ASSISTANCE FOR USES OTHER THAN THOSE  
15 SET FORTH IN THE AGREEMENT PROVIDING ASSISTANCE.

16           (E) FAILURE TO ACCEPT AN OFFER OF ASSISTANCE FROM THE FUND  
17 WITHIN A PERIOD OF 30 DAYS AFTER RECEIPT OF A PROPOSED LOAN  
18 AGREEMENT FROM THE AUTHORITY.

19           (3) THE DEPARTMENT SHALL GIVE WRITTEN NOTICE TO THE WATER  
20 SUPPLIER BY CERTIFIED LETTER OF THE INTENT TO ISSUE AN ORDER OF  
21 TERMINATION. THIS NOTIFICATION SHALL BE ISSUED NOT LESS THAN 30  
22 DAYS BEFORE THE DEPARTMENT FORWARDS THE ORDER RECOMMENDING THAT  
23 THE AUTHORITY TAKE APPROPRIATE ACTION TO TERMINATE ASSISTANCE.

24           (4) THE TERMINATION OF ASSISTANCE BY THE AUTHORITY SHALL NOT  
25 EXCUSE OR OTHERWISE AFFECT THE WATER SUPPLIER'S REQUIREMENT FOR  
26 REPAYMENT OF THE OUTSTANDING LOAN BALANCE TO THE FUND. THE WATER

1 SUPPLIER SHALL REPAY THE OUTSTANDING LOAN PROCEEDS ACCORDING TO A  
2 SCHEDULE ESTABLISHED BY THE AUTHORITY.

3 (5) TERMINATION OF ASSISTANCE UNDER THIS SECTION DOES NOT  
4 RELIEVE THE WATER SUPPLIER OF ANY REQUIREMENTS THAT MAY EXIST  
5 UNDER STATE OR FEDERAL LAW TO CONSTRUCT THE PROJECT.

6 (6) ANY SETTLEMENT COSTS INCURRED IN THE TERMINATION OF  
7 PROJECT ASSISTANCE ARE THE RESPONSIBILITY OF THE WATER SUPPLIER.

8 SEC. 5414. (1) A WATER SUPPLIER MAY PETITION THE DEPARTMENT  
9 TO MAKE A DETERMINATION THAT ASSISTANCE TO THAT WATER SUPPLIER  
10 SHOULD BE TERMINATED.

11 (2) UPON RECEIPT OF A PETITION UNDER SUBSECTION (1), THE  
12 DEPARTMENT MAY ISSUE AN ORDER RECOMMENDING THE AUTHORITY TO TAKE  
13 APPROPRIATE ACTION TO TERMINATE THE ASSISTANCE FOR A PROJECT FOR  
14 CAUSE. THE ORDER IS EFFECTIVE ON THE DATE THE PROJECT CEASES  
15 ACTIVITIES.

16 (3) SUBJECT TO THE TERMINATION OF ASSISTANCE BY THE AUTHOR-  
17 ITY AND PAYMENT OF ANY APPROPRIATE TERMINATION SETTLEMENT COSTS,  
18 THE DEPARTMENT SHALL ISSUE AN ORDER OF TERMINATION TO THE AUTHOR-  
19 ITY RECOMMENDING APPROPRIATE ACTION.

20 (4) THE TERMINATION OF ASSISTANCE BY THE AUTHORITY DOES NOT  
21 EXCUSE OR OTHERWISE AFFECT THE WATER SUPPLIER'S REQUIREMENT FOR  
22 REPAYMENT OF THE OUTSTANDING LOAN BALANCE TO THE FUND. THE WATER  
23 SUPPLIER SHALL REPAY THE OUTSTANDING LOAN PROCEEDS ACCORDING TO A  
24 SCHEDULE ESTABLISHED BY THE AUTHORITY.

25 (5) TERMINATION OF ASSISTANCE UNDER THIS SECTION DOES NOT  
26 RELIEVE THE WATER SUPPLIER OF ANY REQUIREMENTS THAT MAY EXIST  
27 UNDER STATE OR FEDERAL LAW TO CONSTRUCT THE PROJECT.

1 (6) ANY SETTLEMENT COSTS INCURRED IN THE TERMINATION OF  
2 PROJECT ASSISTANCE ARE THE RESPONSIBILITY OF THE WATER SUPPLIER.  
3 SEC. 5415. (1) THE DEPARTMENT SHALL ANNUALLY ESTABLISH THE  
4 INTEREST RATES TO BE ASSESSED FOR PROJECTS RECEIVING ASSISTANCE  
5 UNDER THIS PART. THESE RATES OF INTEREST SHALL BE IN EFFECT FOR  
6 LOANS MADE DURING THE NEXT STATE FISCAL YEAR.

7 (2) IN ESTABLISHING THE INTEREST RATES UNDER SUBSECTION (1),  
8 ALL OF THE FOLLOWING CRITERIA SHALL BE CONSIDERED:

9 (A) FUTURE DEMANDS.

10 (B) PRESENT DEMANDS.

11 (C) MARKET CONDITIONS.

12 (D) COST OF COMPLIANCE WITH PROGRAM ELEMENTS.

13 SEC. 5416. THE COSTS OF ADMINISTERING AND IMPLEMENTING THIS  
14 PART BY THE DEPARTMENT, THE DESIGNATED AGENTS OF THE DEPARTMENT,  
15 AND THE AUTHORITY MAY BE PAID FROM FUNDS ANNUALLY APPROPRIATED BY  
16 THE LEGISLATURE FROM 1 OR MORE OF THE FOLLOWING SOURCES:

17 (A) AN AMOUNT TAKEN FROM THE FEDERAL CAPITALIZATION GRANT,  
18 SUBJECT TO THE LIMITATIONS PRESCRIBED IN THE FEDERAL SAFE DRINK-  
19 ING WATER ACT.

20 (B) A LOCAL MATCH PROVIDED BY THE WATER SUPPLIER RECEIVING  
21 ASSISTANCE NOT TO EXCEED THE DEPARTMENT'S ADMINISTRATIVE COSTS  
22 ASSOCIATED WITH PROVIDING THE ASSISTANCE.

23 (C) INTEREST OR EARNINGS REALIZED ON LOAN REPAYMENTS TO THE  
24 FUND, UNLESS THE EARNINGS ARE PLEDGED TO SECURE OR REPAY ANY  
25 INDEBTEDNESS OF THE AUTHORITY.

26 (D) PROCEEDS OF BONDS OR NOTES ISSUED PURSUANT TO THE FUND  
27 AND SOLD BY THE AUTHORITY.



1 (E) ANY OTHER MONEY APPROPRIATED BY THE LEGISLATURE.

2 SEC. 5417. IN IMPLEMENTING THIS PART, THE DEPARTMENT MAY DO  
3 1 OR MORE OF THE FOLLOWING:

4 (A) MAKE, EXECUTE, AND DELIVER CONTRACTS, CONVEYANCES, AND  
5 OTHER INSTRUMENTS NECESSARY OR CONVENIENT FOR THE IMPLEMENTATION  
6 OF THIS PART.

7 (B) SOLICIT AND ACCEPT GIFTS, GRANTS, LOANS, ALLOCATIONS,  
8 APPROPRIATIONS, AND OTHER AID, INCLUDING CAPITALIZATION GRANT  
9 AWARDS, FROM ANY PERSON OR THE FEDERAL, STATE, OR A LOCAL GOVERN-  
10 MENT OR ANY AGENCY OF THE FEDERAL, STATE, OR LOCAL GOVERNMENT,  
11 ENTER INTO AGREEMENTS WITH ANY PERSON OR THE FEDERAL, STATE, OR A  
12 LOCAL GOVERNMENT, OR PARTICIPATE IN ANY OTHER WAY IN ANY FEDERAL,  
13 STATE, OR LOCAL GOVERNMENT PROGRAM CONSISTENT WITH THIS PART AND  
14 THE PURPOSES OF THIS PART.

15 (C) EXPEND FEDERAL AND STATE MONEY ALLOCATED UNDER THE FED-  
16 ERAL SAFE DRINKING WATER ACT FOR ANY OF THE FOLLOWING PURPOSES,  
17 IN ACCORDANCE WITH THAT ACT:

18 (i) FUND ACTIVITIES AUTHORIZED UNDER SECTION 1452(g)(2) OF  
19 THE FEDERAL SAFE DRINKING WATER ACT, WHICH MAY INCLUDE FUND  
20 ADMINISTRATION AND THE PROVISION OF SET-ASIDES ANNUALLY IDENTI-  
21 FIED AS PART OF AN INTENDED USE PLAN.

22 (ii) FUND IMPLEMENTATION OF A TECHNICAL ASSISTANCE PROGRAM  
23 CREATED IN ACT 399 AND USED BY THE STATE TO PROVIDE TECHNICAL  
24 ASSISTANCE TO PUBLIC WATER SYSTEMS SERVING NOT MORE THAN 10,000  
25 PERSONS.

26 (iii) FUND ACTIVITIES AUTHORIZED UNDER SECTION 1452(k) OF  
27 THE FEDERAL SAFE DRINKING WATER ACT, WHICH MAY INCLUDE THE

1 LENDING OF MONEY FOR CERTAIN SOURCE WATER PROTECTION EFFORTS,  
2 ASSISTING IN THE IMPLEMENTATION OF CAPACITY DEVELOPMENT STRATE-  
3 GIES, CONDUCTING SOURCE WATER ASSESSMENTS, AND IMPLEMENTING WELL-  
4 HEAD PROTECTION PROGRAMS.

5 (D) NEGOTIATE AND ENTER INTO AGREEMENTS AND AMENDMENTS TO  
6 AGREEMENTS WITH THE FEDERAL GOVERNMENT TO IMPLEMENT ESTABLISHMENT  
7 AND OPERATION OF THE FUND, INCLUDING CAPITALIZATION GRANT AGREE-  
8 MENTS AND SCHEDULES OF PAYMENTS.

9 (E) EMPLOY PERSONNEL AS IS NECESSARY, AND CONTRACT FOR THE  
10 SERVICES OF PRIVATE CONSULTANTS, MANAGERS, COUNSEL, AUDITORS,  
11 ENGINEERS, AND SCIENTISTS FOR RENDERING PROFESSIONAL MANAGEMENT  
12 AND TECHNICAL ASSISTANCE AND ADVICE.

13 (F) CHARGE, IMPOSE, AND COLLECT FEES AND CHARGES IN CONNec-  
14 TION WITH ANY TRANSACTION AUTHORIZED UNDER THIS PART AND PROVIDE  
15 FOR REASONABLE PENALTIES FOR DELINQUENT PAYMENT OF FEES OR  
16 CHARGES.

17 (G) REVIEW AND APPROVE ALL NECESSARY DOCUMENTS IN A WATER  
18 SUPPLIER'S APPLICATION FOR ASSISTANCE AND ISSUE AN ORDER AUTHO-  
19 RIZING ASSISTANCE TO THE AUTHORITY.

20 (H) PROMULGATE RULES NECESSARY TO CARRY OUT THE PURPOSES OF  
21 THIS PART AND TO EXERCISE THE POWERS EXPRESSLY GRANTED IN THIS  
22 PART.

23 (I) ADMINISTER, MANAGE, AND DO ALL OTHER THINGS NECESSARY OR  
24 CONVENIENT TO ACHIEVE THE OBJECTIVES AND PURPOSES OF THE FUND,  
25 THE AUTHORITY, THIS PART, OR OTHER STATE AND FEDERAL LAWS THAT  
26 RELATE TO THE PURPOSES AND RESPONSIBILITIES OF THE FUND.

1 (J) APPLY FOR A CAPITALIZATION GRANT AND PREPARE, SUBMIT,  
2 AND CERTIFY ANY REQUIRED OR APPROPRIATE INFORMATION WITH THAT  
3 APPLICATION.

4 (K) ESTABLISH PRIORITY LISTS AND FUNDABLE RANGES FOR  
5 PROJECTS AND THE CRITERIA AND METHODS USED TO DETERMINE THE DIS-  
6 TRIBUTION OF THE FUNDS AVAILABLE TO THE FUND AMONG THE VARIOUS  
7 TYPES OF ASSISTANCE TO BE OFFERED AND SELECT PROJECTS TO BE  
8 FUNDED.

9 (L) PREPARE AND SUBMIT AN ANNUAL REPORT AND INTENDED USE  
10 PLAN REQUIRED BY THE FEDERAL SAFE DRINKING WATER ACT.

11 (M) PERFORM OTHER FUNCTIONS NECESSARY OR CONVENIENT FOR THE  
12 IMPLEMENTATION OF THIS PART.

13 SEC. 5418. DETERMINATIONS MADE BY THE DEPARTMENT MAY BE  
14 APPEALED IN WRITING TO THE DIRECTOR. DETERMINATIONS MADE BY THE  
15 DIRECTOR ARE FINAL. JUDICIAL REVIEW MAY BE SOUGHT UNDER SECTION  
16 631 OF THE REVISED JUDICATURE ACT OF 1961, 1961 PA 236, MCL  
17 600.631.

18 Enacting section 1. This amendatory act does not take  
19 effect unless Senate Bill No. \_\_\_\_\_ or House Bill No. \_\_\_\_\_  
20 (request no. 00214'97 a) of the 89th Legislature is enacted into  
21 law.