

HOUSE BILL No. 5715

February 16, 2006, Introduced by Reps. Nitz, Baxter, Proos, Booher, Hansen, Pavlov, Emmons, Huizenga, Newell, Garfield, Mortimer, Casperson, Hune, Meyer, Ball, Vander Veen and Stahl and referred to the Committee on Agriculture.

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 8801, 8802, 8803, 8807, 19608, and 19616 (MCL 324.8801, 324.8802, 324.8803, 324.8807, 324.19608, and 324.19616), sections 8801, 8802, 8803, and 8807 as added by 1998 PA 287, section 19608 as amended by 2003 PA 252, and section 19616 as added by 1998 PA 288; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 8801. As used in this part:

2 (a) "Department" means the department of environmental
3 quality. **HOWEVER, WITH RESPECT TO ANY PROVISION OF THIS PART**
4 **APPLICABLE TO AN AGRICULTURAL NONPOINT SOURCE PROJECT, DEPARTMENT**

1 **MEANS THE DEPARTMENT OF AGRICULTURE.**

2 ~~—— (b) "Director" means the director of the department.~~

3 (B) ~~—(e)—~~ "Fund" means the clean water fund created in section
4 8807.

5 (C) ~~—(d)—~~ "Grant" means a nonpoint source pollution prevention
6 and control grant or a wellhead protection grant under this part.

7 (D) ~~—(e)—~~ "Local unit of government" means a county, city,
8 village, or township, or an agency of a county, city, village, or
9 township; the office of a county drain commissioner; a soil
10 conservation district established under part 93; a watershed
11 council; a local health department as defined in section 1105 of
12 the public health code, 1978 PA 368, MCL 333.1105; or an authority
13 or any other public body created by or pursuant to state law.

14 (E) ~~—(f)—~~ "Nonpoint source pollution" means water pollution
15 from diffuse sources, including runoff from precipitation or
16 snowmelt contaminated through contact with pollutants in the soil
17 or on other surfaces and either infiltrating into the groundwater
18 or being discharged to surface waters, or runoff or wind causing
19 erosion of soil into surface waters.

20 Sec. 8802. (1) The department **OF ENVIRONMENTAL QUALITY**, in
21 consultation with the department of agriculture, shall establish a
22 grants program to provide grants for nonpoint source pollution
23 prevention and control projects and wellhead protection projects.
24 **HOWEVER, THAT PORTION OF THE GRANTS PROGRAM INTENDED TO PROVIDE**
25 **GRANTS FOR AGRICULTURAL NONPOINT SOURCE POLLUTION PREVENTION AND**
26 **CONTROL PROJECTS SHALL BE ESTABLISHED BY THE DEPARTMENT OF**
27 **AGRICULTURE, IN CONSULTATION WITH THE DEPARTMENT OF ENVIRONMENTAL**

1 **QUALITY.** The grants program shall provide grants to local units of
2 government or entities that are exempt from taxation under section
3 501(c)(3) of the internal revenue code.

4 (2) The nonpoint source pollution prevention and control
5 grants issued under this part shall be provided for projects that
6 do either or both of the following:

7 (a) Implement the physical improvement portion of watershed
8 plans that are approved by the department.

9 (b) Reduce specific nonpoint source pollution as identified by
10 the department.

11 (3) The wellhead protection grants issued under this part
12 shall be provided for projects that are consistent with a wellhead
13 protection plan approved by the department and that do any of the
14 following:

15 (a) Plug abandoned wells.

16 (b) Provide for the purchase of land or the purchase of rights
17 in land to protect aquifer recharge areas.

18 (c) Implement the physical improvement portion of the wellhead
19 protection plan.

20 (4) For any grant issued under this part, a local unit of
21 government shall contribute at least 25% of the project's total
22 cost from other public or private funding sources. The department
23 may approve in-kind services to meet all or a portion of the match
24 requirement under this subsection. In addition, the department may
25 accept as the match requirement under this subsection a contract
26 between the grant applicant and the department that provides for
27 maintenance of the project or practices that are funded under terms

1 acceptable to the department. The contract shall require
2 maintenance of the project or practices throughout the period of
3 time in which the state is paying off the bonds that were issued
4 pursuant to the clean Michigan initiative act, **1998 PA 284, MCL**
5 **324.95101 TO 324.95108**, to implement this part.

6 Sec. 8803. In selecting projects for a grant award, the
7 department shall consider the following as they relate to a
8 project:

9 (a) The expectation for long-term water quality improvement.

10 (b) The expectation for long-term protection of high quality
11 waters.

12 (c) The consistency of the project with remedial action plans
13 and other regional water quality or watershed management plans
14 approved by the department **OF ENVIRONMENTAL QUALITY**.

15 (d) The placement of the watershed on the list of impaired
16 waters pursuant to ~~section 303(d) of title III of the federal~~
17 ~~water pollution control act, chapter 758, 86 Stat. 846, 33 U.S.C.~~
18 **33 USC 1313**.

19 (e) Commitments for financial and technical assistance from
20 the partners in the project.

21 (f) Financial and other resource contributions, including in-
22 kind services, by project participants in excess of that required
23 in section 8802(4).

24 (g) The length of time the applicant has committed to maintain
25 the physical improvements.

26 (h) The commitment to provide monitoring to document
27 improvement in water quality or the reduction of pollutant loads.

1 (i) Whether the project provides benefits to sources of
2 drinking water.

3 (j) Other information the department considers relevant.

4 Sec. 8807. (1) The clean water fund is created within the
5 state treasury.

6 (2) The state treasurer may receive money or other assets from
7 any source for deposit into the fund. The state treasurer shall
8 direct the investment of the fund. The state treasurer shall credit
9 to the fund interest and earnings from fund investments.

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

12 (4) Except as otherwise provided in this section, the
13 department shall expend money in the fund, upon appropriation, for
14 any of the following:

15 (a) To implement the programs described in the ~~department's~~
16 **DEPARTMENT OF ENVIRONMENTAL QUALITY'S** document entitled "A
17 strategic environmental quality monitoring program for Michigan's
18 surface waters", dated January 1997. In implementing these
19 programs, the department may contract with any person.

20 (b) Water pollution control activities.

21 (c) Wellhead protection activities.

22 (d) Storm water treatment projects and activities.

23 (5) Money in the fund shall not be expended for combined sewer
24 overflow corrections.

25 (6) The first priority for expenditure of money in the fund
26 shall be for the programs described in subsection (4)(a).

27 (7) Money in the fund shall not be expended until rules are

1 promulgated under section 8808.

2 Sec. 19608. (1) Money in the fund that is allocated under
3 section 19607 shall be used for the following purposes:

4 (a) Money allocated under section 19607(1)(a) shall be used by
5 the department to fund all of the following:

6 (i) Corrective actions undertaken by the department to address
7 releases from leaking underground storage tanks pursuant to part
8 213.

9 (ii) Response activities undertaken by the department at
10 facilities pursuant to part 201 to address public health and
11 environmental problems or to promote redevelopment.

12 (iii) Assessment activities undertaken by the department to
13 determine whether a property is a facility.

14 (iv) \$75,000,000.00 shall be used to provide grants and loans
15 to local units of government and brownfield redevelopment
16 authorities created under the brownfield redevelopment financing
17 act, 1996 PA 381, MCL 125.2651 to 125.2672, for response activities
18 at known or suspected facilities with redevelopment potential. Of
19 the money provided for in this subparagraph, not more than
20 \$37,500,000.00 shall be used to provide grants and not more than
21 \$37,500,000.00 shall be used to provide loans pursuant to the clean
22 Michigan initiative revolving loan program created in section
23 19608a. However, grants or loans provided for in this subparagraph
24 shall not be made to a local unit of government or a brownfield
25 redevelopment authority that is responsible for causing a release
26 or threat of release under part 201 at the site proposed for grant
27 or loan funding.

1 (v) Not more than \$12,000,000.00 shall be used for grants
2 pursuant to the municipal landfill **COST-SHARE** grant program under
3 section 20109a.

4 (b) Money allocated under section 19607(1)(b) shall be used
5 for waterfront redevelopment grants pursuant to part 795.

6 (c) Money allocated under section 19607(1)(c) shall be used
7 for response activities for the remediation of contaminated lake
8 and river sediments pursuant to part 201.

9 (d) Money allocated under section 19607(1)(d) shall be used
10 for nonpoint source pollution prevention and control grants or
11 wellhead protection grants pursuant to part 88. **AGRICULTURAL**
12 **NONPOINT SOURCE POLLUTION PREVENTION AND CONTROL GRANTS SHALL BE**
13 **ADMINISTERED BY THE DEPARTMENT OF AGRICULTURE. OTHER GRANTS UNDER**
14 **THIS SUBDIVISION SHALL BE ADMINISTERED BY THE DEPARTMENT.**

15 (e) Money allocated under section 19607(1)(e) shall be
16 deposited into the clean water fund created in section 8807.

17 (f) Money allocated under section 19607(1)(f) shall be
18 expended as follows:

19 (i) \$10,000,000.00 shall be deposited into the retired
20 engineers technical assistance program fund created in section
21 14512.

22 (ii) \$5,000,000.00 shall be deposited into the small business
23 pollution prevention assistance revolving loan fund created in
24 section 14513.

25 (iii) \$5,000,000.00 shall be used by the department to implement
26 pollution prevention activities other than those funded under
27 subparagraphs (i) and (ii).

1 (g) Money that is allocated under section 19607(1)(g) shall be
2 used by the department of community health for remediation and
3 physical improvements to structures to abate or minimize exposure
4 of persons to lead hazards.

5 (h) Money allocated under section 19607(1)(h) shall be used
6 for infrastructure improvements at Michigan state parks as
7 determined by the department of natural resources. The installation
8 or upgrade of drinking water systems or rest room facilities shall
9 be the first priority.

10 (i) Money allocated under section 19607(1)(i) shall be used to
11 provide grants to local units of government for local recreation
12 projects pursuant to part 716.

13 (2) Of the money allocated under section 19607(1)(a),
14 \$93,000,000.00 shall be used for facilities that pose an imminent
15 or substantial endangerment to the public health, safety, or
16 welfare, or to the environment. For purposes of this subsection,
17 facilities that pose an imminent or substantial endangerment ~~shall~~
18 include, but are not limited to, those where public access poses
19 hazards because of potential exposure to chemicals or safety risks
20 and where drinking water supplies are threatened by contamination.

21 (3) Before expending any funds allocated under subsection
22 (1)(c) at a site that is an area of concern as designated by the
23 parties to the Great Lakes water quality agreement, the department
24 shall notify the public advisory council established to oversee
25 that area of concern regarding the development, implementation, and
26 evaluation of response activities to be conducted with money in the
27 fund at that area of concern.

1 (4) Money in the fund shall not be used to develop a municipal
2 or commercial marina.

3 (5) Money provided in the fund may be used by the department
4 of treasury to pay for the cost of issuing bonds and by the
5 department, **THE DEPARTMENT OF AGRICULTURE**, and the department of
6 natural resources to pay department costs as provided in this
7 subsection. Not more than 3% of the total amount specified in
8 section 19607(1)(a) to (f) shall be available for appropriation to
9 the department **OR THE DEPARTMENT OF AGRICULTURE** to pay its costs
10 directly associated with the completion of a project authorized by
11 section 19607(1)(a) to (f). Not more than 3% of the total amount
12 specified in section 19607(1)(h) and (i) shall be available for
13 appropriation to the department of natural resources to pay its
14 costs directly associated with the completion of a project
15 authorized by section 19607(1)(h) and (i). It is the intent of the
16 legislature that general fund appropriations to the department, **TO**
17 **THE DEPARTMENT OF AGRICULTURE**, and to the department of natural
18 resources shall not be reduced as a result of costs funded pursuant
19 to this subsection.

20 (6) A grant shall not be provided under this part for a
21 project that is located at any of the following:

22 (a) Land sited for use as a gaming facility or as a stadium or
23 arena for use by a professional sports team.

24 (b) Land or other facilities owned or operated by a gaming
25 facility or by a stadium or arena for use by a professional sports
26 team.

27 (c) Land within a project area described in a project plan

1 pursuant to the economic development corporations act, 1974 PA 338,
2 MCL 125.1601 to 125.1636, for a gaming facility.

3 (7) The department, **THE DEPARTMENT OF AGRICULTURE**, the
4 department of natural resources, and the department of community
5 health shall each submit annually a list of all projects that will
6 be undertaken by ~~that~~ **THE ADMINISTERING STATE** department that are
7 recommended to be funded under this part. The list shall be
8 submitted to the governor, the standing committees of the house of
9 representatives and the senate that primarily address issues
10 pertaining to the protection of natural resources and the
11 environment, and the appropriations committees in the house of
12 representatives and the senate. The list shall be submitted to the
13 legislative committees not later than February 15 of each year.
14 This list shall also be submitted before any request for
15 supplemental appropriation of bond funds. For each eligible
16 project, the list shall include the nature of the eligible project;
17 the county in which the eligible project is located; an estimate of
18 the total cost of the eligible project; and other information
19 considered pertinent by the administering state department. A
20 project that is funded by a grant or loan with money from the fund
21 does not need to be included on the list submitted under this
22 subsection. However, money in the fund that is appropriated for
23 grants and loans shall not be encumbered or expended until the
24 administering state department has reported those projects that
25 have been approved for a grant or a loan to the standing committees
26 of the house of representatives and the senate that primarily
27 address issues pertaining to the protection of natural resources

1 and the environment and to the appropriations subcommittees in the
2 house of representatives and the senate on natural resources and
3 environmental quality. Before submitting the first cycle of
4 recommended projects under subsection (1)(a), the department shall
5 publish and disseminate the criteria it will use in evaluating and
6 recommending these projects for funding.

7 (8) The legislature shall appropriate prospective or actual
8 bond proceeds for projects proposed to be funded. Appropriations
9 shall be carried over to succeeding fiscal years until the project
10 for which the funds are appropriated is completed.

11 (9) Not later than December 31 of each year, the department,
12 **THE DEPARTMENT OF AGRICULTURE**, the department of natural resources,
13 and the department of community health shall each submit a list of
14 the projects financed under this part by that **ADMINISTERING STATE**
15 department to the governor, the standing committees of the house of
16 representatives and the senate that primarily address issues
17 pertaining to the protection of natural resources and the
18 environment, and the subcommittees of the house of representatives
19 and the senate on appropriations on natural resources and
20 environmental quality. Each list shall include the name, address,
21 and telephone number of the recipient or participant, if
22 appropriate; the name and location of the project; the nature of
23 the project; the amount of money allocated to the project; the
24 county in which the project is located; a brief summary of what has
25 been accomplished by the project; and other information considered
26 pertinent by the administering state department.

27 Sec. 19616. The department **AND THE DEPARTMENT OF AGRICULTURE**

1 may **EACH** promulgate rules as are necessary to implement this part.

2 Enacting section 1. Section 5315 of the natural resources and
3 environmental protection act, 1994 PA 451, MCL 324.5315, is
4 repealed.

5 Enacting section 2. This amendatory act does not take effect
6 unless all of the following bills of the 93rd Legislature are
7 enacted into law:

8 (a) Senate Bill No.____ or House Bill No. 5712(request no.
9 04881'05 *).

10 (b) Senate Bill No.____ or House Bill No. 5711(request no.
11 05471'05 *).

12 (c) Senate Bill No.____ or House Bill No. 5713(request no.
13 05472'05).

14 (d) Senate Bill No.____ or House Bill No. 5714(request no.
15 05473'05 *).

16 (e) Senate Bill No.____ or House Bill No. 5716(request no.
17 05814'06).