

HOUSE BILL No. 6245

June 12, 2018, Introduced by Reps. Cambensy, Sabo, Rabhi, Green, Chang, Geiss, Lasinski, Elder, Hertel, Sowerby, Yancey, Yanez, Moss, LaGrand, Sneller, Zemke, Cochran, Singh, Durhal, Greig, Neeley, Faris, Brinks, Wittenberg, Chirkun, Phelps, Hammoud, Gay-Dagnogo and Jones and referred to the Committee on Natural Resources.

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," (MCL 324.101 to 324.90106) by adding sections 5207, 5208, 19808, 19809, 19810, 19811, 19812, 19813, 19814, and 19815.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 **SEC. 5207. (1) THE ONSITE WASTEWATER TREATMENT SYSTEM FUND IS**
2 **CREATED WITHIN THE STATE TREASURY.**

3 **(2) THE STATE TREASURER MAY RECEIVE MONEY OR OTHER ASSETS FROM**
4 **ANY SOURCE FOR DEPOSIT INTO THE ONSITE WASTEWATER TREATMENT SYSTEM**
5 **FUND. THE STATE TREASURER SHALL DIRECT THE INVESTMENT OF THE ONSITE**
6 **WASTEWATER TREATMENT SYSTEM FUND. THE STATE TREASURER SHALL CREDIT**
7 **TO THE ONSITE WASTEWATER TREATMENT SYSTEM FUND INTEREST AND**
8 **EARNINGS FROM FUND INVESTMENTS.**

9 **(3) MONEY IN THE ONSITE WASTEWATER TREATMENT SYSTEM FUND AT**

1 THE CLOSE OF THE FISCAL YEAR SHALL REMAIN IN THE FUND AND SHALL NOT
2 LAPSE TO THE GENERAL FUND.

3 (4) THE DEPARTMENT SHALL BE THE ADMINISTRATOR OF THE ONSITE
4 WASTEWATER TREATMENT SYSTEM FUND FOR AUDITING PURPOSES.

5 (5) THE DEPARTMENT SHALL EXPEND MONEY FROM THE ONSITE
6 WASTEWATER TREATMENT SYSTEM FUND, UPON APPROPRIATION, ONLY TO
7 PROVIDE GRANTS TO FINANCIALLY DISTRESSED HOMEOWNERS TO REPAIR OR
8 REPLACE FAILING ONSITE WASTEWATER TREATMENT SYSTEMS.

9 SEC. 5208. (1) THE WATER AND SEWER INFRASTRUCTURE FUND IS
10 CREATED WITHIN THE STATE TREASURY.

11 (2) THE STATE TREASURER MAY RECEIVE MONEY OR OTHER ASSETS FROM
12 ANY SOURCE FOR DEPOSIT INTO THE WATER AND SEWER INFRASTRUCTURE
13 FUND. THE STATE TREASURER SHALL DIRECT THE INVESTMENT OF THE WATER
14 AND SEWER INFRASTRUCTURE FUND. THE STATE TREASURER SHALL CREDIT TO
15 THE WATER AND SEWER INFRASTRUCTURE FUND INTEREST AND EARNINGS FROM
16 FUND INVESTMENTS.

17 (3) MONEY IN THE WATER AND SEWER INFRASTRUCTURE FUND AT THE
18 CLOSE OF THE FISCAL YEAR SHALL REMAIN IN THE WATER AND SEWER
19 INFRASTRUCTURE FUND AND SHALL NOT LAPSE TO THE GENERAL FUND.

20 (4) THE DEPARTMENT SHALL BE THE ADMINISTRATOR OF THE WATER AND
21 SEWER INFRASTRUCTURE FUND FOR AUDITING PURPOSES.

22 (5) THE DEPARTMENT SHALL EXPEND MONEY FROM THE WATER AND SEWER
23 INFRASTRUCTURE FUND, UPON APPROPRIATION, ONLY FOR 1 OR MORE OF THE
24 FOLLOWING PURPOSES:

25 (A) A GRANT PROGRAM FOR LOCAL UNITS OF GOVERNMENT FOR THE
26 REPAIR, REPLACEMENT, AND DEVELOPMENT OF SEWAGE INFRASTRUCTURE.

27 (B) A GRANT PROGRAM FOR LOCAL UNITS OF GOVERNMENT FOR THE

1 REPAIR, REPLACEMENT, AND DEVELOPMENT OF DRINKING WATER
2 INFRASTRUCTURE.

3 SEC. 19808. (1) MONEY IN THE FUND THAT IS ALLOCATED UNDER
4 SECTION 19807 SHALL BE USED FOR THE FOLLOWING PURPOSES:

5 (A) MONEY ALLOCATED UNDER SECTION 19807(1) (A) SHALL BE USED
6 FOR THE FOLLOWING:

7 (i) \$100,000,000.00 SHALL BE DEPOSITED INTO THE STATE WATER
8 POLLUTION CONTROL REVOLVING FUND ESTABLISHED UNDER SECTION 16A OF
9 THE SHARED CREDIT RATING ACT, 1985 PA 227, MCL 141.1066A.

10 (ii) \$100,000,000.00 SHALL BE DEPOSITED INTO THE STATE
11 DRINKING WATER REVOLVING FUND ESTABLISHED UNDER SECTION 16B OF THE
12 SHARED CREDIT RATING ACT, 1985 PA 227, MCL 141.1066B.

13 (iii) \$300,000,000.00 SHALL BE DEPOSITED INTO THE WATER AND
14 SEWER INFRASTRUCTURE FUND CREATED IN SECTION 5208.

15 (B) MONEY ALLOCATED UNDER SECTION 19807(1) (B) SHALL BE
16 DEPOSITED INTO THE CLEAN WATER FUND CREATED IN SECTION 8807.

17 (C) MONEY ALLOCATED UNDER SECTION 19807(1) (C) SHALL BE USED
18 FOR NONPOINT SOURCE POLLUTION PREVENTION AND CONTROL GRANTS OR
19 WELLHEAD PROTECTION GRANTS PURSUANT TO PART 88.

20 (D) MONEY ALLOCATED UNDER SECTION 19807(1) (D) SHALL BE
21 DEPOSITED INTO THE ONSITE WASTEWATER TREATMENT SYSTEM FUND CREATED
22 IN SECTION 5207.

23 (E) MONEY ALLOCATED UNDER SECTION 19807(1) (E) SHALL BE USED BY
24 THE DEPARTMENT TO FUND ALL OF THE FOLLOWING:

25 (i) CORRECTIVE ACTIONS UNDERTAKEN BY THE DEPARTMENT TO ADDRESS
26 RELEASES FROM LEAKING UNDERGROUND STORAGE TANKS PURSUANT TO PART
27 213.

1 (ii) RESPONSE ACTIVITIES UNDERTAKEN BY THE DEPARTMENT AT
2 FACILITIES PURSUANT TO PART 201 TO ADDRESS PUBLIC HEALTH AND
3 ENVIRONMENTAL PROBLEMS INCLUDING THE REMEDIATION OF PERFLUOROALKYL
4 AND POLYFLUOROALKYL SUBSTANCES (PFAS) .

5 (iii) ASSESSMENT ACTIVITIES UNDERTAKEN BY THE DEPARTMENT TO
6 DETERMINE WHETHER A PROPERTY IS A FACILITY.

7 (F) MONEY ALLOCATED UNDER SECTION 19807(1) (F) SHALL BE USED
8 FOR RESPONSE ACTIVITIES FOR THE REMEDIATION OF CONTAMINATED LAKE
9 AND RIVER SEDIMENTS PURSUANT TO PART 201.

10 (G) MONEY ALLOCATED UNDER SECTION 19807(1) (G) SHALL BE
11 DISTRIBUTED AS FOLLOWS:

12 (i) \$125,000,000.00 SHALL BE DEPOSITED INTO THE LEAD ABATEMENT
13 FUND CREATED IN SECTION 11E OF THE SAFE DRINKING WATER ACT, 1976 PA
14 399, MCL 325.1011E.

15 (ii) \$125,000,000.00 SHALL BE DEPOSITED INTO THE LEAD-SAFE
16 HOMES FUND CREATED IN SECTION 5474D.

17 (H) MONEY ALLOCATED UNDER SECTION 19807(1) (H) 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) \$10,000,000.00 SHALL BE USED BY THE DEPARTMENT TO
26 IMPLEMENT POLLUTION PREVENTION ACTIVITIES OTHER THAN THOSE FUNDED
27 UNDER SUBPARAGRAPHS (i) AND (ii) .

1 (I) MONEY ALLOCATED UNDER SECTION 19807(1)(I) SHALL BE USED
2 FOR WATERFRONT REDEVELOPMENT GRANTS PURSUANT TO PART 795.

3 (2) THE MONEY ALLOCATED UNDER SECTION 19807(1)(E) SHALL BE
4 USED FOR FACILITIES THAT POSE AN IMMINENT OR SUBSTANTIAL
5 ENDANGERMENT TO THE PUBLIC HEALTH, SAFETY, OR WELFARE, OR TO THE
6 ENVIRONMENT. FOR PURPOSES OF THIS SUBSECTION, FACILITIES THAT POSE
7 AN IMMINENT OR SUBSTANTIAL ENDANGERMENT INCLUDE, BUT ARE NOT
8 LIMITED TO, THOSE WHERE PUBLIC ACCESS POSES HAZARDS BECAUSE OF
9 POTENTIAL EXPOSURE TO CHEMICALS OR SAFETY RISKS AND WHERE
10 CONTAMINATION THREATENS DRINKING WATER SUPPLIES.

11 (3) BEFORE EXPENDING ANY FUNDS ALLOCATED UNDER SUBSECTION
12 (1)(F) AT A SITE THAT IS AN AREA OF CONCERN AS DESIGNATED BY THE
13 PARTIES TO THE GREAT LAKES WATER QUALITY AGREEMENT, THE DEPARTMENT
14 SHALL NOTIFY THE PUBLIC ADVISORY COUNCIL ESTABLISHED TO OVERSEE
15 THAT AREA OF CONCERN REGARDING THE DEVELOPMENT, IMPLEMENTATION, AND
16 EVALUATION OF RESPONSE ACTIVITIES TO BE CONDUCTED WITH MONEY IN THE
17 FUND AT THAT AREA OF CONCERN.

18 (4) MONEY IN THE FUND SHALL NOT BE USED TO DEVELOP A MUNICIPAL
19 OR COMMERCIAL MARINA.

20 (5) MONEY FROM THE FUND MAY BE USED BY THE DEPARTMENT OF
21 TREASURY TO PAY FOR THE COST OF ISSUING BONDS AND NOT MORE THAN 3%
22 OF THE TOTAL AMOUNT SPECIFIED IN SECTION 19807(1) SHALL BE
23 AVAILABLE FOR APPROPRIATION TO THE ADMINISTERING STATE DEPARTMENTS
24 TO PAY THEIR COSTS DIRECTLY ASSOCIATED WITH THE COMPLETION OF A
25 PROJECT AUTHORIZED BY SECTION 19807(1). IT IS THE INTENT OF THE
26 LEGISLATURE THAT GENERAL FUND APPROPRIATIONS TO THE DEPARTMENT
27 SHALL NOT BE REDUCED AS A RESULT OF COSTS FUNDED PURSUANT TO THIS

1 SUBSECTION.

2 (6) EACH ADMINISTERING STATE DEPARTMENT SHALL SUBMIT ANNUALLY
3 A LIST OF ALL PROJECTS THAT THE DEPARTMENT PROPOSES WILL BE
4 UNDERTAKEN BY THAT DEPARTMENT WITH MONEY FROM THE FUND. THE LIST
5 SHALL BE SUBMITTED TO THE GOVERNOR, THE STANDING COMMITTEES OF THE
6 HOUSE OF REPRESENTATIVES AND THE SENATE THAT PRIMARILY ADDRESS
7 ISSUES PERTAINING TO THE PROTECTION OF NATURAL RESOURCES AND THE
8 ENVIRONMENT, AND THE APPROPRIATIONS COMMITTEES IN THE HOUSE OF
9 REPRESENTATIVES AND THE SENATE. THE LIST SHALL BE SUBMITTED TO THE
10 LEGISLATIVE COMMITTEES NOT LATER THAN FEBRUARY 15 OF EACH YEAR.
11 THIS LIST SHALL ALSO BE SUBMITTED BEFORE ANY REQUEST FOR
12 SUPPLEMENTAL APPROPRIATION OF BOND FUNDS. FOR EACH ELIGIBLE
13 PROJECT, THE LIST SHALL INCLUDE THE NATURE OF THE ELIGIBLE PROJECT;
14 THE COUNTY IN WHICH THE ELIGIBLE PROJECT IS LOCATED; AN ESTIMATE OF
15 THE TOTAL COST OF THE ELIGIBLE PROJECT; AND OTHER INFORMATION
16 CONSIDERED PERTINENT BY THE ADMINISTERING STATE DEPARTMENT. A
17 PROJECT THAT IS FUNDED BY A GRANT OR LOAN WITH MONEY FROM THE FUND
18 DOES NOT NEED TO BE INCLUDED ON THE LIST SUBMITTED UNDER THIS
19 SUBSECTION. HOWEVER, MONEY IN THE FUND THAT IS APPROPRIATED FOR
20 GRANTS AND LOANS SHALL NOT BE ENCUMBERED OR EXPENDED UNTIL THE
21 ADMINISTERING STATE DEPARTMENT HAS REPORTED THOSE PROJECTS THAT
22 HAVE BEEN APPROVED FOR A GRANT OR A LOAN TO THE STANDING COMMITTEES
23 OF THE HOUSE OF REPRESENTATIVES AND THE SENATE THAT PRIMARILY
24 ADDRESS ISSUES PERTAINING TO THE PROTECTION OF NATURAL RESOURCES
25 AND THE ENVIRONMENT AND TO THE APPROPRIATIONS SUBCOMMITTEES IN THE
26 HOUSE OF REPRESENTATIVES AND THE SENATE ON NATURAL RESOURCES AND
27 ENVIRONMENTAL QUALITY. BEFORE SUBMITTING THE FIRST CYCLE OF

1 RECOMMENDED PROJECTS UNDER SUBSECTION (1) (E), THE DEPARTMENT SHALL
2 PUBLISH AND DISSEMINATE THE CRITERIA IT WILL USE IN EVALUATING AND
3 RECOMMENDING PROJECTS FOR FUNDING.

4 (7) THE LEGISLATURE SHALL APPROPRIATE PROSPECTIVE OR ACTUAL
5 BOND PROCEEDS FOR PROJECTS PROPOSED TO BE FUNDED. APPROPRIATIONS
6 SHALL BE CARRIED OVER TO SUCCEEDING FISCAL YEARS UNTIL THE PROJECT
7 FOR WHICH THE FUNDS ARE APPROPRIATED IS COMPLETED.

8 (8) NOT LATER THAN DECEMBER 31 OF EACH YEAR, EACH
9 ADMINISTERING STATE DEPARTMENT SHALL SUBMIT A LIST OF THE PROJECTS
10 FINANCED UNDER THIS PART BY THAT DEPARTMENT TO THE GOVERNOR, THE
11 STANDING COMMITTEES OF THE HOUSE OF REPRESENTATIVES AND THE SENATE
12 THAT PRIMARILY ADDRESS ISSUES PERTAINING TO THE PROTECTION OF
13 NATURAL RESOURCES AND THE ENVIRONMENT, AND THE SUBCOMMITTEES OF THE
14 HOUSE OF REPRESENTATIVES AND THE SENATE ON APPROPRIATIONS ON
15 NATURAL RESOURCES AND ENVIRONMENTAL QUALITY. EACH LIST SHALL
16 INCLUDE THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE RECIPIENT OR
17 PARTICIPANT, IF APPROPRIATE; THE NAME AND LOCATION OF THE PROJECT;
18 THE NATURE OF THE PROJECT; THE AMOUNT OF MONEY ALLOCATED TO THE
19 PROJECT; THE COUNTY IN WHICH THE PROJECT IS LOCATED; A BRIEF
20 SUMMARY OF WHAT HAS BEEN ACCOMPLISHED BY THE PROJECT; AND OTHER
21 INFORMATION CONSIDERED PERTINENT BY THE ADMINISTERING STATE
22 DEPARTMENT.

23 SEC. 19809. AN APPLICATION FOR A GRANT FROM THE FUND SHALL BE
24 MADE ON A FORM OR IN A FORMAT PRESCRIBED BY THE ADMINISTERING STATE
25 DEPARTMENT. THE ADMINISTERING STATE DEPARTMENT MAY REQUIRE THE
26 APPLICANT TO PROVIDE ANY INFORMATION REASONABLY NECESSARY TO ALLOW
27 THE ADMINISTERING STATE DEPARTMENT TO MAKE A DETERMINATION REQUIRED

1 BY THIS PART.

2 SEC. 19810. THE ADMINISTERING STATE DEPARTMENT SHALL NOT MAKE
3 A GRANT WITH MONEY FROM THE FUND UNLESS ALL OF THE FOLLOWING
4 CONDITIONS ARE MET:

5 (A) THE APPLICANT DEMONSTRATES THAT THE PROPOSED PROJECT IS IN
6 COMPLIANCE WITH ALL APPLICABLE STATE LAWS AND RULES OR WILL RESULT
7 IN COMPLIANCE WITH STATE LAWS AND RULES.

8 (B) THE APPLICANT DEMONSTRATES TO THE ADMINISTERING STATE
9 DEPARTMENT THE CAPABILITY TO CARRY OUT THE PROPOSED PROJECT.

10 (C) THE APPLICANT DEMONSTRATES TO THE ADMINISTERING STATE
11 DEPARTMENT THAT THERE IS AN IDENTIFIABLE SOURCE OF FUNDS FOR THE
12 FUTURE MAINTENANCE AND OPERATION OF THE PROPOSED PROJECT, IF
13 APPROPRIATE.

14 (D) WITHIN THE LAST 24 MONTHS, THE APPLICANT HAS SUCCESSFULLY
15 UNDERGONE AN AUDIT CONDUCTED IN ACCORDANCE WITH GENERALLY ACCEPTED
16 AUDITING STANDARDS.

17 (E) WITHIN THE LAST 24 MONTHS, THE APPLICANT HAS NOT HAD A
18 GRANT FROM THE ADMINISTERING STATE DEPARTMENT REVOKED OR TERMINATED
19 OR HAD THE ADMINISTERING STATE DEPARTMENT DETERMINE THAT THE
20 APPLICANT DEMONSTRATED AN INABILITY TO MANAGE A GRANT.

21 SEC. 19811. PRIOR TO MAKING A GRANT WITH MONEY FROM THE FUND,
22 THE ADMINISTERING STATE DEPARTMENT SHALL CONSIDER THE EXTENT TO
23 WHICH THE GRANT WILL CONTRIBUTE TO THE ACHIEVEMENT OF A BALANCED
24 DISTRIBUTION OF GRANTS THROUGHOUT THE STATE.

25 SEC. 19812. (1) A RECIPIENT OF A GRANT MADE WITH MONEY FROM
26 THE FUND SHALL DO BOTH OF THE FOLLOWING:

27 (A) KEEP AN ACCOUNTING OF THE MONEY SPENT ON THE PROJECT OR

1 FACILITY IN A GENERALLY ACCEPTED MANNER. THE ACCOUNTING SHALL BE
2 SUBJECT TO A POSTAUDIT.

3 (B) OBTAIN AUTHORIZATION FROM THE ADMINISTERING STATE
4 DEPARTMENT BEFORE IMPLEMENTING A CHANGE THAT SIGNIFICANTLY ALTERS
5 THE PROPOSED PROJECT.

6 (2) THE ADMINISTERING STATE DEPARTMENT MAY REVOKE A GRANT MADE
7 WITH MONEY FROM THE FUND OR WITHHOLD PAYMENT IF THE RECIPIENT FAILS
8 TO COMPLY WITH THE TERMS AND CONDITIONS OF THE GRANT AGREEMENT OR
9 WITH THE REQUIREMENTS OF THIS PART OR THE RULES PROMULGATED UNDER
10 THIS PART, OR WITH OTHER APPLICABLE LAW OR RULES. IF A GRANT IS
11 REVOKED, THE ADMINISTERING STATE DEPARTMENT MAY RECOVER ALL FUNDS
12 AWARDED.

13 (3) THE ADMINISTERING STATE DEPARTMENT MAY WITHHOLD A GRANT
14 UNTIL THE ADMINISTERING STATE DEPARTMENT DETERMINES THAT THE
15 RECIPIENT IS ABLE TO PROCEED WITH THE PROPOSED PROJECT.

16 (4) TO ENSURE TIMELY COMPLETION OF A PROJECT, THE
17 ADMINISTERING STATE DEPARTMENT MAY WITHHOLD 10% OF THE GRANT AMOUNT
18 UNTIL THE PROJECT IS COMPLETE.

19 (5) IF AN APPROVED APPLICANT FAILS TO SIGN A GRANT AGREEMENT
20 WITHIN 90 DAYS AFTER RECEIPT OF A WRITTEN GRANT OFFER BY THE
21 ADMINISTERING STATE DEPARTMENT, THE ADMINISTERING STATE DEPARTMENT
22 MAY CANCEL THE GRANT OFFER. THE APPLICANT MAY NOT APPEAL OR CONTEST
23 A CANCELLATION PURSUANT TO THIS SUBSECTION.

24 (6) THE ADMINISTERING STATE DEPARTMENT MAY TERMINATE A GRANT
25 AGREEMENT AND REQUIRE IMMEDIATE REPAYMENT OF THE GRANT IF THE
26 RECIPIENT USES GRANT FUNDS FOR ANY PURPOSE OTHER THAN FOR THE
27 APPROVED ACTIVITIES SPECIFIED IN THE GRANT AGREEMENT. THE

1 ADMINISTERING STATE DEPARTMENT SHALL PROVIDE THE RECIPIENT WRITTEN
2 NOTICE OF THE TERMINATION 30 DAYS PRIOR TO THE TERMINATION.

3 SEC. 19813. THE DEPARTMENT AND THE DEPARTMENT OF THE ATTORNEY
4 GENERAL MAY RECOVER COSTS EXPENDED PURSUANT TO SECTION 19808(1)(E)
5 FOR CORRECTIVE ACTIONS, RESPONSE ACTIVITIES, SITE ASSESSMENTS, AND
6 ALL OTHER RECOVERABLE COSTS UNDER PART 201 FROM PERSONS WHO ARE
7 LIABLE UNDER PART 201. ACTIONS TO RECOVER COSTS SHALL BE UNDERTAKEN
8 IN THE MANNER PROVIDED IN PART 201.

9 SEC. 19814. EVERY 2 YEARS THAT STATE PROGRAMS FUNDED WITH
10 MONEY FROM THE FUND CONTINUE TO BE ADMINISTERED, THE AUDITOR
11 GENERAL SHALL CONDUCT A PERFORMANCE AUDIT OF THESE PROGRAMS. UPON
12 COMPLETION OF A PERFORMANCE AUDIT UNDER THIS SECTION, THE AUDITOR
13 GENERAL SHALL SUBMIT A COPY OF THE PERFORMANCE AUDIT TO THE AUDITED
14 DEPARTMENT AND TO THE LEGISLATURE.

15 SEC. 19815. THE DEPARTMENT MAY PROMULGATE RULES AS ARE
16 NECESSARY TO IMPLEMENT THIS PART.

17 Enacting section 1. This amendatory act does not take effect
18 unless all of the following bills of the 99th Legislature are
19 enacted into law:

20 (a) Senate Bill No. ____ or House Bill No. 6243 (request no.
21 06187'18).

22 (b) Senate Bill No. ____ or House Bill No. 6244 (request no.
23 06530'18).

24 Enacting section 2. This amendatory act does not take effect
25 unless the question provided for in the clean Michigan initiative
26 reauthorization act is approved by a majority of the registered
27 electors voting on the question at the next general election.