

## CLEAN WATER AND SAFE DRINKING WATER ASSISTANCE

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House Bill 5762 as referred to second committee

Sponsor: Rep. Beth Griffin

1st Committee: Natural Resources and Outdoor Recreation

2nd Committee: Ways and Means

Complete to 9-23-20

Analysis available at  
<http://www.legislature.mi.gov>

**BRIEF SUMMARY:** House Bill 5762 would amend Part 53 (Clean Water Assistance) and Part 54 (Safe Drinking Water Assistance) of the Natural Resources and Environmental Protection Act to allow certain projects eligible for assistance under those parts to include energy and resource efficiencies described in the Cost-Effective Governmental Energy Use Act and to modify the criteria for developing the annual priority list of projects for safe drinking water assistance.

**FISCAL IMPACT:** House Bill 5762 is not likely to affect costs or revenues for EGLE or local governments.

### ***THE APPARENT PROBLEM:***

According to committee testimony, the funds available from the State Water Pollution Control Revolving Fund for clean water assistance and safe drinking water assistance loans are underutilized, with millions of dollars going unused for proposed projects across the state of Michigan. The bill seeks to expand use of the funds by expanding the kinds of activities that qualify for a loan.

### ***THE CONTENT OF THE BILL:***

#### **Clean water assistance**

Part 53 of NREPA provides a process under which the Department of Environment, Great Lakes, and Energy (EGLE) provides loans and other assistance to municipalities to construct sewage treatment works projects, stormwater projects, and nonpoint source projects.<sup>1</sup>

For purposes of the part, the word “project” is defined to mean a sewage treatment works project, a stormwater treatment project, or a nonpoint source project, or a combination of these.

House Bill 5762 would amend this definition to provide that, for a project that is a combination of the other kinds of projects, “project” could include utilization of more efficient energy and resources as described in the Cost-Effective Governmental Energy Use Act (see **Background**).

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<sup>1</sup> Nonpoint source projects are construction activities designed to reduce nonpoint source pollution—pollution that does not come from a clear and confined source of discharge, such as a pipe, ditch, container, well, vessel, etc. Nonpoint source pollution is more widespread and diffuse; in the words of the EPA, it “generally results from land runoff, precipitation, atmospheric deposition, drainage, seepage or hydrologic modification.”

<https://www.epa.gov/nps/basic-information-about-nonpoint-source-nps-pollution>

### **Safe drinking water assistance**

Part 54 provides a process under which EGLE provides loans and other assistance to public waterworks systems that provide water for drinking and household purposes.

For purposes of this part, the word “project” is defined to mean a project related to the planning, design, and construction or alteration of a waterworks system.

House Bill 5762 would amend this definition to provide that the waterworks system could include utilization of more efficient energy and resources as described in the Cost-Effective Governmental Energy Use Act (see **Background**).

The bill would also amend a provision that now requires a project plan analysis to compare alternative systems by considering their opportunities to make more efficient use of energy and resources to instead require consideration of opportunities to utilize more efficient energy and resources as described in the Cost-Effective Governmental Energy Use Act.

Finally, the bill would modify the criteria for developing EGLE’s priority list of projects that are eligible for safe drinking water assistance under Part 54.

Currently, EGLE must annually develop a priority list of projects eligible for assistance using a point system based on various criteria. One of the criteria awards a maximum of 450 points to a project that addresses drinking water quality based on whether the project is designed to meet four additional criteria, each with their own maximum points.

The bill would increase the total maximum points awarded to 500 and add one more criterion, under which 50 points could be scored if the project is designed to increase the utilization of more efficient energy and resources as described in the Cost-Effective Governmental Energy Use Act.

The bill would also update some state and federal citations, make editorial changes for clarity and consistency, and add a standard definition for “federal poverty guidelines.”

MCL 324.5301 et seq.

### ***BACKGROUND:***

The Cost-Effective Governmental Energy Use Act defines “cost-savings measure” as including a facility improvement, repair, or alteration, or any equipment, fixture, or furnishing to be added or used in a facility, that is cost-effective and that is designed to reduce energy consumption; reduce utility, capital avoidance, capital improvement, maintenance, and operating costs; or increase revenue or the operating efficiency of the facility for its appointed functions, such as:

- Replacement or modification of lighting components, fixtures, or systems.
- Renewable energy and alternate energy systems.
- Cogeneration systems that produce steam or forms of energy, such as heat or electricity, for use primarily within a building or complex of buildings.
- Devices that reduce water consumption or sewer charges, including all of the following:

- Water-conserving fixtures, appliances, and equipment, including water-conserving landscape irrigation equipment, or the substitution of non-water-using fixtures, appliances, and equipment.
- Landscaping measures that reduce watering demands and capture and hold applied water and rainfall, including landscape contouring, such as the use of berms, swales, and terraces, the use of soil amendments, such as compost, that increase the water-holding capacity of the soil, rainwater harvesting equipment, and equipment to make use of water collected as part of a storm water system installed for water quality control.
- Equipment for recycling or reuse of water originating on the premises or from other sources, including treated municipal effluent.
- Equipment to capture water from nonconventional, alternate sources, including air conditioning condensate or graywater, for nonpotable uses.
- Metering equipment to segregate water use in order to identify water conservation opportunities or verify water savings.
- Changes in operation and maintenance practices.
- Indoor air quality improvements that conform to applicable building code requirements.
- Daylighting systems.
- Insulating the building structure or systems in the building.
- Storm windows or doors, caulking or weather stripping, multiglazed windows or door systems, heat-absorbing or heat reflective glazed and coated window and door systems, additional glazing, reductions in glass area, or other window and door system modifications that reduce energy consumption.
- Automated or computerized energy control systems.
- Heating, ventilation, or air conditioning system modifications or replacements.
- Energy recovery systems.
- Steam trap improvement programs that reduce operating costs.
- Building operation programs that reduce utility and operating costs, including computerized energy management and consumption tracking programs, advanced metering, metering and sub-metering, staff and occupant training, and other similar activities.
- Any life safety measures that provide long-term operating cost reductions and are in compliance with state and local codes.
- Any life safety measures related to compliance with the Americans with Disabilities Act that provide long-term operating cost reductions and are in compliance with state and local codes.
- A program to reduce energy costs through rate adjustments and load shifting to reduce peak demand, including one or more of the following:
  - Changes to more favorable rate schedules.
  - Auditing of energy service billing and meters.
- Services to reduce utility costs by identifying utility errors and optimizing existing rate schedules under which service is provided.
- Any other installation, modification of installation, or remodeling of building infrastructure improvements that produce utility or operational cost savings for their appointed functions in compliance with applicable state and local building codes.
- Recommissioning.

- Retro-commissioning.
- Continuous commission.
- Behavior modification and energy policies.
- Measurement and verification.
- Reporting tools.
- Geothermal.
- Carbon footprint monitoring.

***ARGUMENTS:***

***For:***

Because Michigan residents rely heavily on the state’s infrastructure, it is imperative that projects for clean water and safe drinking water can affordably move forward. Loan opportunities are at the ready to help Michiganders, and expanding access to those opportunities helps ensure Michiganders can continue to safely rely on Michigan’s infrastructure.

***Against:***

While these loan programs are excellent for contracting work for much-needed infrastructure projects, the process only works if the details of the projects are clear and manageable. Many municipalities are nervous about being able to pay a loan, especially when many things can go awry during the course of completing a project that can ultimately increase the cost of the project. Critics of the bill argued that the bill should go further in ensuring that project details are clearly listed and understood before starting a project and that contractors hired to work on the projects are properly trained so that the projects have a higher success rate.

***POSITIONS:***

Representatives of Johnson Controls, Inc. testified in support of the bill. (9-15-20)

The following entities indicated support for the bill:

- Michigan Environmental Council (9-15-20)
- Michigan League of Conservation Voters (9-15-20)
- American Water Works Association, Michigan Section (9-23-20)
- Michigan Water Environment Association (9-23-20)
- Michigan Municipal League (9-23-20)
- Michigan Townships Association (9-23-20)

The Department of Environment, Great Lakes, and Energy testified with a neutral position on the bill. (9-15-20)

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.