

HOUSE BILL NO. 5000

June 15, 2021, Introduced by Rep. Weiss and referred to the Committee on Appropriations.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending section 3118 (MCL 324.3118), as amended by 2019 PA 84.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3118. (1) Except as otherwise provided in this section,
2 ~~until October 1, 2023,~~ the department shall collect the following
3 stormwater discharge fees from ~~persons~~ **a person** that ~~apply~~ **applies**
4 for or ~~have~~ **has** been issued **a** stormwater discharge ~~permits~~ **permit**:
5 (a) A 1-time fee of ~~\$400.00~~ **\$510.00** for a permit related

1 solely to a site of construction activity for each permitted site.
2 The fee ~~shall~~**must** be submitted with the application for an
3 individual permit or for a certificate of coverage under a general
4 permit. For a permit by rule, the fee ~~shall~~**must** be submitted by
5 the construction site permittee with the notice of coverage. A
6 person ~~needing~~**that needs** more than 1 permit may submit a single
7 payment for more than 1 permit and receive appropriate credit.
8 Payment of the fee under this subdivision or verification of
9 prepayment is a necessary part of a valid permit application or
10 notice of coverage under a permit by rule.

11 (b) An annual fee of ~~\$260.00~~**\$330.00** for a permit related
12 solely to a stormwater discharge associated with industrial
13 activity or from a commercial site for which the department
14 determines a permit is needed.

15 (c) Except as provided in subdivision (d), (e), or (f), an
16 annual fee of ~~\$500.00~~**\$635.00** for a permit for a municipal separate
17 storm sewer system.

18 (d) For a permit for a municipal separate storm sewer system
19 issued to a city, village, or township, an annual fee determined by
20 its population in an urbanized area as defined by the United States
21 ~~Bureau of the Census~~ **Bureau** and, except as provided in subsection
22 (11), based on the latest available decennial census, as follows:

23 (i) For a population of 1,000 people or fewer, ~~\$500.00~~**\$635.00**.

24 (ii) For a population of more than 1,000 people, but fewer than
25 3,001 people, ~~\$1,000.00~~**\$1,270.00**.

26 (iii) For a population of more than 3,000 people, but fewer than
27 10,001 people, ~~\$2,000.00~~**\$2,540.00**.

28 (iv) For a population of more than 10,000 people, but fewer
29 than 30,001 people, ~~\$3,000.00~~**\$3,810.00**.

1 (v) For a population of more than 30,000 people, but fewer
2 than 50,001 people, ~~\$4,000.00~~ **\$5,080.00**.

3 (vi) For a population of more than 50,000 people, but fewer
4 than 75,001 people, ~~\$5,000.00~~ **\$6,350.00**.

5 (vii) For a population of more than 75,000 people, but fewer
6 than 100,001 people, ~~\$6,000.00~~ **\$7,620.00**.

7 (viii) For a population of more than 100,000 people,
8 ~~\$7,000.00~~ **\$8,890.00**.

9 (e) An annual fee of ~~\$3,000.00~~ **\$3,810.00** for a permit for a
10 municipal separate storm sewer system issued to a county.

11 (f) For a single municipal separate storm sewer systems permit
12 authorizing a state or federal agency to operate municipal separate
13 storm sewer systems in multiple locations statewide, an annual fee
14 determined ~~pursuant to~~ **under** a memorandum of understanding between
15 that state or federal agency and the department and based on the
16 projected costs of the department to administer the permit.

17 (2) A stormwater discharge permit is not required for a
18 municipality that does not own or operate a separate storm sewer
19 system. The department shall not collect stormwater discharge fees
20 under this section from a municipality that does not own or operate
21 a separate storm sewer system.

22 (3) Permit fees required under this section are nonrefundable.

23 (4) A person ~~possessing~~ **that possesses** a permit not related
24 solely to a site of construction activity as of January 1 shall be
25 assessed a fee. The department shall notify ~~those persons~~ **the**
26 **person** of ~~their~~ **the** fee assessments ~~assessment~~ by February 1.
27 Payment ~~shall~~ **must** be postmarked no later than March 15. Failure by
28 the department to send a person a fee assessment notification by
29 the deadline, or failure of a person to receive a fee assessment

1 notification, does not relieve that person of the obligation to pay
2 the fee. If the department does not meet the February deadline for
3 sending the fee assessment, the fee assessment is due not later
4 than 45 days after the permittee receives a fee notification.

5 (5) If a stormwater permit is issued for a drainage district,
6 the drainage district is responsible for the applicable fee under
7 this section.

8 (6) The department shall assess interest on all fee payments
9 submitted under this section after the due date. The permittee
10 shall pay an additional amount equal to 0.75% of the payment due
11 for each month or portion of a month the payment remains past due.

12 (7) The department shall forward fees and interest payments
13 collected under this section to the state treasurer for deposit
14 into the fund.

15 (8) The department shall require the payment of the fee
16 assessed under this section as a condition of issuance or
17 reissuance of a permit not related solely to a site of construction
18 activity.

19 (9) In addition to any other penalty provided in this part, if
20 a person fails to pay the fee required under this section by its
21 due date, the person is in violation of this part and the
22 department may undertake enforcement actions as authorized under
23 this part.

24 (10) The attorney general may bring an action to collect
25 overdue fees and interest payments imposed under this section.

26 (11) If the permit is for a municipal separate storm sewer
27 system and the population served by that system is different than
28 that determined by the latest decennial census, the permittee may
29 appeal the annual fee determination and submit written verification

1 of actual population served by the municipal separate storm sewer
2 system.

3 (12) A person ~~who~~**that** wishes to appeal either a fee or a
4 penalty assessed under this section is limited to an administrative
5 appeal under section 631 of the revised judicature act of 1961,
6 1961 PA 236, MCL 600.631. The appeal ~~shall~~**must** be filed within 30
7 days after the department's fee notification under subsection (4).

8 **(13) The fees specified under subsection (1) are effective 6**
9 **months after the effective date of the amendatory act that amended**
10 **this section. Beginning January 1, 2022 and by January 1 every year**
11 **after 2022, the department shall adjust the fees specified under**
12 **subsection (1) by an amount determined by the state treasurer at**
13 **the end of the preceding fiscal year to reflect the cumulative**
14 **percentage change in the Detroit Consumer Price Index from the most**
15 **recent 3-year period for which data is available for the Detroit**
16 **area from the United States Department of Labor, Bureau of Labor**
17 **Statistics.**

18 **(14)** ~~(13)~~As used in this section and section 3119:

19 (a) "Certificate of coverage" means a document issued by the
20 department that authorizes a discharge under a general permit.

21 (b) "Clean water act" means the federal water pollution
22 control act, 33 USC 1251 to 1388.

23 (c) "Construction activity" means a human-made earth change or
24 disturbance in the existing cover or topography of land that is 5
25 acres or more in size, for which a national permit is required
26 ~~pursuant to~~**under** 40 CFR 122.26(a), and which is described as a
27 construction activity in 40 CFR 122.26(b)(14)(x). Construction
28 activity includes clearing, grading, and excavating activities.
29 Construction activity does not include the practice of clearing,

1 plowing, tilling soil, and harvesting for the purpose of crop
2 production.

3 (d) "Fee" means a stormwater discharge fee authorized under
4 this section.

5 (e) "Fund" means the stormwater fund created in section 3119.

6 (f) "General permit" means a permit issued authorizing a
7 category of similar discharges.

8 (g) "Individual permit" means a site-specific permit.

9 (h) "Municipal separate storm sewer system" means all separate
10 storm sewers that are owned or operated by the United States or a
11 state, city, village, township, county, district, association, or
12 other public body created by or ~~pursuant to~~**under** state law, having
13 jurisdiction over disposal of sewage, industrial wastes,
14 stormwater, or other wastes, including special districts under
15 state law, such as a sewer district, flood control district, or
16 drainage district or similar entity, or a designated or approved
17 management agency under section 208 of the clean water act, 33 USC
18 1288, that discharges to waters of the state. Municipal separate
19 storm sewer system includes systems similar to separate storm sewer
20 systems in municipalities, such as systems at military bases, large
21 hospital or prison complexes, and highways and other thoroughfares.
22 Municipal separate storm sewer system does not include separate
23 storm sewers in very discrete areas, such as individual buildings.

24 (i) "Notice of coverage" means a notice that a person engaging
25 in construction activity agrees to comply with a permit by rule for
26 that activity. A notice of coverage is not required to include a
27 copy of an individual permit issued under part 91 if the notice of
28 coverage includes a copy of a permit for the construction activity
29 issued under part 615, 625, 631, 632, or 634, along with any forms

1 or diagrams pertaining to soil erosion and sedimentation control
2 that were part of the application for that permit.

3 (j) "Permit", unless the context implies otherwise, or
4 "stormwater discharge permit" means a permit authorizing the
5 discharge of wastewater or any other substance to surface waters of
6 the state under the national pollutant discharge elimination
7 system, ~~pursuant to~~**under** the clean water act or this part and the
8 regulations or rules promulgated under that act or this part.

9 (k) "Public body" means the United States, this state, a city,
10 village, township, county, school district, public college or
11 university, or single purpose governmental agency, or any other
12 body that is created by federal or state law.

13 (l) "Separate storm sewer system" means a system of drainage,
14 including, but not limited to, roads, catch basins, curbs, gutters,
15 parking lots, ditches, conduits, pumping devices, or man-made
16 channels, that has the following characteristics:

17 (i) The system is not a combined sewer where stormwater mixes
18 with sanitary wastes.

19 (ii) The system is not part of a publicly owned treatment
20 works.

21 (m) "Stormwater" means stormwater runoff, snowmelt runoff, and
22 surface runoff and drainage.

23 (n) "Stormwater discharge associated with industrial activity"
24 means a point source discharge of stormwater from a facility that
25 is considered to be engaging in industrial activity under 40 CFR
26 122.26(b)(14)(i) to (ix) and (xi).