



# HOUSE BILL No. 4994

August 31, 1993, Introduced by Rep. Bobier and referred to the Committee on Appropriations.

A bill to amend the title of Act No. 245 of the Public Acts of 1929, entitled as amended

"An act to regulate, protect, and conserve the water resources of the state, to provide for the control over the pollution of any waters of the state and the Great Lakes, to provide for the control over the alteration of the watercourses and the floodplains of all rivers and streams; to create a water resources commission; to prescribe the powers and duties of certain state agencies and officials; to require the registration of manufacturing products, production materials, and waste products where certain wastes are discharged; to require permits to regulate the discharge or storage of any substance which may affect the quality of the waters of the state and to establish restrictions to assure compliance with applicable state standards and to authorize the establishment of permit restrictions and programs to assure compliance with applicable federal law and regulations; to prohibit the pollution of any waters of the state and the Great Lakes; to prohibit the obstruction of the floodways of the rivers and streams of the state; to designate the department of natural resources as the state agency to cooperate and negotiate with other governments and agencies in matters concerning the water resources of the state; and to provide penalties and remedies for the violation of this act,"

as amended, being sections 323.1 to 323.12a of the Michigan Compiled Laws; and to add sections 13 and 13a.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. The title of Act No. 245 of the Public Acts of  
2 1929, as amended, being sections 323.1 to 323.12a of the Michigan  
3 Compiled Laws, is amended and sections 13 and 13a are added to  
4 read as follows:

## 5 TITLE

6 An act to regulate, protect, and conserve the water  
7 resources of the state, to provide for the control over the pol-  
8 lution of any waters of the state and the Great Lakes, to provide  
9 for the control over the alteration of the watercourses and the  
10 floodplains of all rivers and streams; to create a water  
11 resources commission; to prescribe the powers and duties of cer-  
12 tain state agencies and officials; to require the registration of  
13 manufacturing products, production materials, and waste products  
14 where certain wastes are discharged; TO PROVIDE FOR CERTAIN FEES  
15 AND THE DISPOSITION OF THOSE FEES; to require permits to regulate  
16 the discharge or storage of any substance which may affect the  
17 quality of the waters of the state and to establish restrictions  
18 to assure compliance with applicable state standards and to  
19 authorize the establishment of permit restrictions and programs  
20 to assure compliance with applicable federal law and regulations;  
21 to prohibit the pollution of any waters of the state and the  
22 Great Lakes; to prohibit the obstruction of the floodways of the  
23 rivers and streams of the state; to designate the department of  
24 natural resources as the state agency to cooperate and negotiate  
25 with other governments and agencies in matters concerning the

1 water resources of the state; and to provide penalties and  
2 remedies for the violation of this act.

3 SEC. 13. (1) THE DEPARTMENT SHALL COLLECT STORM WATER DIS-  
4 CHARGE FEES FROM PERSONS WHO APPLY FOR OR HAVE BEEN ISSUED STORM  
5 WATER DISCHARGE PERMITS AS FOLLOWS:

6 (A) THE FEE FOR A PERMIT RELATED SOLELY TO A SITE OF CON-  
7 STRUCTION ACTIVITY IS A 1-TIME FEE OF \$125.00 PER PERMITTED  
8 SITE. THE FEE SHALL BE SUBMITTED BY THE PERMIT APPLICANT WITH  
9 HIS OR HER APPLICATION FOR A GENERAL OR INDIVIDUAL PERMIT. IF  
10 RULES PROMULGATED UNDER THIS ACT PROVIDE FOR A PERMIT BY RULE,  
11 THE FEE SHALL BE SUBMITTED BY THE CONSTRUCTION PERMITTEE ALONG  
12 WITH HIS OR HER NOTICE OF COVERAGE. A PERSON NEEDING MORE THAN 1  
13 PERMIT MAY SUBMIT A SINGLE PAYMENT FOR MORE THAN 1 PERMIT AND  
14 RECEIVE APPROPRIATE CREDIT. PAYMENT OF THE FEE UNDER THIS SUBDI-  
15 VISION OR VERIFICATION OF PREPAYMENT IS A NECESSARY PART OF A  
16 VALID PERMIT APPLICATION OR NOTICE OF COVERAGE UNDER A PERMIT BY  
17 RULE.

18 (B) THE FEE FOR A PERMIT NOT RELATED SOLELY TO A SITE OF  
19 CONSTRUCTION ACTIVITY IS \$200.00 TO BE PAID AS FOLLOWS:

20 (i) A PERSON WHO, BEFORE MARCH 1, 1994, HAS APPLIED FOR OR  
21 BEEN ISSUED A PERMIT NOT RELATED SOLELY TO A SITE OF CONSTRUCTION  
22 ACTIVITY SHALL BE ASSESSED A FEE IN THE FISCAL YEAR ENDING  
23 SEPTEMBER 30, 1994. THE DEPARTMENT SHALL NOTIFY THOSE PERSONS OF  
24 THEIR FEE ASSESSMENTS BY MARCH 31, 1994 AND PAYMENT SHALL BE  
25 POSTMARKED NO LATER THAN MAY 15, 1994. THE DEPARTMENT SHALL NOT  
26 ASSESS A FEE FOR APPLICATIONS RECEIVED BEFORE OCTOBER 1, 1993 FOR

1 WHICH A PERMIT HAS BEEN DENIED OR FOR A PERMIT THAT HAS EXPIRED  
2 BEFORE OCTOBER 1, 1993 WITHOUT APPLICATION FOR REISSUANCE.

3 (ii) IN THE FISCAL YEAR BEGINNING OCTOBER 1, 1994 AND EACH  
4 FOLLOWING FISCAL YEAR, A PERSON POSSESSING A PERMIT NOT RELATED  
5 SOLELY TO A SITE OF CONSTRUCTION ACTIVITY AS OF JANUARY 1 OF THAT  
6 FISCAL YEAR SHALL BE ASSESSED A FEE. THE DEPARTMENT SHALL NOTIFY  
7 THOSE PERSONS OF THEIR FEE ASSESSMENTS BY FEBRUARY 1 OF THAT  
8 FISCAL YEAR. PAYMENT SHALL BE POSTMARKED NO LATER THAN MARCH 15  
9 OF THAT FISCAL YEAR.

10 (2) IF IN ANY FISCAL YEAR THE AMOUNT OF UNEXPENDED MONEY IN  
11 THE FUND CARRIED FORWARD FROM THE IMMEDIATELY PRECEDING FISCAL  
12 YEAR EXCEEDS 20% OF THE APPROPRIATED FEE REVENUE IN THE CURRENT  
13 FISCAL YEAR, FEES PROVIDED IN THIS SECTION FOR PERMITS NOT  
14 RELATED SOLELY TO SITES OF CONSTRUCTION ACTIVITY SHALL BE REDUCED  
15 FOR THAT YEAR ONLY. THE REDUCED FEE SHALL BE EQUAL TO 90% OF THE  
16 PREVIOUS FEE, EXCEPT THAT THE FEE SHALL BE INCREASED TO THE NEXT  
17 HIGHER INCREMENT OF \$5.00. IF IN ANY FISCAL YEAR THE UNEXPENDED  
18 MONEY IN THE FUND CARRIED FORWARD FROM THE IMMEDIATELY PRECEDING  
19 FISCAL YEAR PLUS REVENUE GENERATED BY FEES IS LESS THAN 95% OF  
20 THE APPROPRIATED FEE REVENUE FOR THAT FISCAL YEAR, THE FEES PRO-  
21 VIDED IN THIS SECTION FOR PERMITS NOT RELATED SOLELY TO SITES OF  
22 CONSTRUCTION ACTIVITY FOR SUCCEEDING FISCAL YEARS SHALL BE  
23 INCREASED. THE INCREASED FEE SHALL BE EQUAL TO 115% OF THE PRE-  
24 VIOUS FEE, EXCEPT THAT THE FEE SHALL BE INCREASED TO THE NEXT  
25 HIGHER INCREMENT OF \$5.00.

26 (3) THE DEPARTMENT SHALL ASSESS INTEREST ON ALL FEE PAYMENTS  
27 SUBMITTED UNDER THIS SECTION AFTER THE DUE DATE. THE PERMITTEE

1 SHALL PAY AN ADDITIONAL AMOUNT EQUAL TO 0.75% OF THE PAYMENT DUE  
2 FOR EACH MONTH OR PORTION OF A MONTH THE PAYMENT REMAINS PAST  
3 DUE.

4 (4) THE DEPARTMENT SHALL FORWARD ALL FEES COLLECTED UNDER  
5 THIS SECTION TO THE STATE TREASURER FOR DEPOSIT INTO THE FUND.

6 (5) THE DEPARTMENT SHALL MAKE PAYMENT OF THE REQUIRED FEE  
7 ASSESSED UNDER THIS SECTION A CONDITION OF A PERMIT NOT RELATED  
8 SOLELY TO A SITE OF CONSTRUCTION ACTIVITY AT THE TIME OF PERMIT  
9 ISSUANCE OR REISSUANCE.

10 (6) IF A PERSON FAILS TO PAY THE FEE REQUIRED UNDER THIS  
11 SECTION IN FULL, PLUS ANY INTEREST ACCRUED, BY OCTOBER 1 OF THE  
12 YEAR FOLLOWING THE DATE OF NOTIFICATION OF THE FEE ASSESSMENT,  
13 THE DEPARTMENT MAY REVOKE THE PERMIT HELD BY THAT PERSON. THE  
14 FAILURE BY A PERSON TO PAY A FEE IMPOSED BY THIS SECTION IS A  
15 VIOLATION OF THIS ACT AND SUBJECTS THAT PERSON TO THE PENALTY  
16 PROVISIONS IN SECTION 10.

17 (7) WITHIN 1 YEAR AFTER THE REAUTHORIZATION OF THE CLEAN  
18 WATER ACT, THE DEPARTMENT SHALL CONVENE A COMMITTEE TO REVIEW THE  
19 STORM WATER DISCHARGE FEE SYSTEM PROVIDED IN THIS SECTION. THE  
20 COMMITTEE SHALL BE COMPRISED OF A MEMBER OF THE DEPARTMENT AND  
21 REPRESENTATIVES OF GROUPS AFFECTED BY THE STORM WATER DISCHARGE  
22 FEE. THE COMMITTEE SHALL MAKE RECOMMENDATIONS FOR CHANGES IN THE  
23 FEE SYSTEM TO THE DEPARTMENT AND TO THE CHAIRPERSONS OF THE HOUSE  
24 AND SENATE APPROPRIATION COMMITTEES.

25 (8) AS USED IN THIS SECTION:

26 (A) "CLEAN WATER ACT" MEANS THE FEDERAL WATER POLLUTION  
27 CONTROL ACT, CHAPTER 758, 86 STAT. 816, 33 U.S.C. 1251 TO 1252,

1 1253 TO 1254, 1255 TO 1257, 1258 TO 1263, 1265 TO 1270, 1281,  
2 1282 TO 1293, 1294 TO 1299, 1311 TO 1313, 1314 TO 1326, 1328 TO  
3 1330, 1341 TO 1345, 1361 TO 1377, AND 1381 TO 1387.

4 (B) "CONSTRUCTION ACTIVITY" MEANS A HUMAN-MADE EARTH CHANGE  
5 OR DISTURBANCE IN THE EXISTING COVER OR TOPOGRAPHY OF LAND THAT  
6 IS 5 ACRES OR MORE IN SIZE FOR WHICH A NATIONAL PERMIT IS  
7 REQUIRED PURSUANT TO 40 C.F.R. 122.26(A) AND WHICH IS DESCRIBED  
8 AS A CONSTRUCTION ACTIVITY IN 40 C.F.R. 122.26(B)(14)(X).  
9 CONSTRUCTION ACTIVITY INCLUDES CLEARING, GRADING, AND EXCAVATING  
10 ACTIVITIES. CONSTRUCTION ACTIVITY DOES NOT INCLUDE THE PRACTICE  
11 OF CLEARING, PLOWING, TILLING SOIL, AND HARVESTING FOR THE PUR-  
12 POSE OF CROP PRODUCTION.

13 (C) "FEE" MEANS A STORM WATER DISCHARGE FEE AUTHORIZED UNDER  
14 THIS SECTION.

15 (D) "FISCAL YEAR" MEANS THE STATE FISCAL YEAR BEGINNING  
16 OCTOBER 1 AND ENDING SEPTEMBER 30.

17 (E) "FUND" MEANS THE STORM WATER FUND CREATED IN  
18 SECTION 13A.

19 (F) "PERMIT" OR "STORM WATER DISCHARGE PERMIT" MEANS A  
20 PERMIT AUTHORIZING THE DISCHARGE OF WASTEWATER OR ANY OTHER SUB-  
21 STANCE TO SURFACE WATERS OF THE STATE UNDER THE NATIONAL POLLUT-  
22 ANT DISCHARGE ELIMINATION SYSTEM PURSUANT TO THE CLEAN WATER ACT  
23 OR PURSUANT TO THIS ACT AND THE RULES AND REGULATIONS PROMULGATED  
24 UNDER THESE ACTS.

25 (G) "STORM WATER" MEANS STORM WATER RUNOFF, SNOWMELT RUNOFF,  
26 AND SURFACE RUNOFF AND DRAINAGE.

1        SEC. 13A. (1) THE STORM WATER FUND IS CREATED WITHIN THE  
2 STATE TREASURY.

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

8        (3) MONEY IN THE FUND AT THE CLOSE OF THE FISCAL YEAR SHALL  
9 REMAIN IN THE FUND AND SHALL NOT LAPSE TO THE GENERAL FUND.

10       (4) THE DEPARTMENT SHALL EXPEND MONEY FROM THE FUND, UPON  
11 APPROPRIATION, ONLY FOR 1 OR MORE OF THE FOLLOWING PURPOSES:

12       (A) REVIEW OF STORM WATER PERMIT APPLICATIONS.

13       (B) STORM WATER PERMIT DEVELOPMENT, ISSUANCE, REISSUANCE,  
14 AND MODIFICATION.

15       (C) SURFACE WATER MONITORING TO SUPPORT THE STORM WATER PER-  
16 MITTING PROCESS.

17       (D) ASSESSMENT OF COMPLIANCE WITH STORM WATER PERMIT  
18 CONDITIONS.

19       (E) ENFORCEMENT AGAINST STORM WATER PERMIT VIOLATIONS.

20       (F) CLASSIFICATION OF STORM WATER CONTROL FACILITIES.

21       (G) CERTIFICATION OF STORM WATER OPERATORS.

22       (5) MONEY IN THE FUND SHALL NOT BE USED TO SUPPORT THE  
23 DIRECT COSTS OF LITIGATION UNDERTAKEN TO ENFORCE THIS ACT.