

SENATE BILL No. 510

May 21, 2003, Introduced by Senator LELAND and referred to the Committee on Natural Resources and Environmental Affairs.

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 3118 and 3119 (MCL 324.3118 and 324.3119), section 3118 as amended by 1999 PA 35 and section 3119 as amended by 1999 PA 106.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3118. (1) ~~Until October 1, 2003, the~~ **The** department
2 shall collect storm water discharge fees from persons who apply
3 for or have been issued storm water discharge permits as
4 follows:

5 (a) ~~The~~ **A 1-time fee of \$400.00 is required** for a permit
6 related solely to a site of construction activity ~~is a 1-time~~
7 ~~fee of \$125.00 per~~ **for each** permitted site. The fee shall be
8 submitted by the permit applicant with his or her application for
9 ~~a general or~~ **an individual permit or for a certificate of**

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1 coverage under a general permit. ~~If rules promulgated under~~
2 ~~this part provide for~~ For a permit by rule, the fee shall be
3 submitted by the construction **site** permittee along with his or
4 her notice of coverage. A person needing more than 1 permit may
5 submit a single payment for more than 1 permit and receive
6 appropriate credit. Payment of the fee under this subdivision or
7 verification of prepayment is a necessary part of a valid permit
8 application or notice of coverage under a permit by rule.

9 (b) ~~The fee for a permit not related solely to a site of~~
10 ~~construction activity is \$200.00. For each fiscal year, a person~~
11 ~~possessing a permit not related solely to a site of construction~~
12 ~~activity as of January 1 of that fiscal year shall be assessed~~
13 ~~the fee. The department shall notify those persons of their fee~~
14 ~~assessments by February 1 of that fiscal year. Payment shall be~~
15 ~~postmarked no later than March 15 of that fiscal year. An annual~~
16 **fee of \$260.00 is required for a permit related solely to a storm**
17 **water discharge associated with industrial activity or from a**
18 **commercial site for which the department determines a permit is**
19 **needed.**

20 (c) An annual fee of \$500.00 is required for a permit for a
21 municipal separate storm sewer system, unless the operator of the
22 system is a city, a village, a township, or a county or if the
23 operator has a single permit authorization for municipal separate
24 storm sewer systems in multiple locations statewide.

25 (d) An annual fee for a permit for a municipal separate storm
26 sewer system operated by a city, village, or township shall be
27 determined by its population in an urbanized area as defined by

1 the United States bureau of the census. The fee shall be based
2 on the latest available decennial census as follows:

3 (i) For a population of 1,000 people or fewer, the annual fee
4 is \$500.00.

5 (ii) For a population of more than 1,000 people, but fewer
6 than 3,001 people, the annual fee is \$1,000.00.

7 (iii) For a population of more than 3,000 people, but fewer
8 than 10,001 people, the annual fee is \$2,000.00.

9 (iv) For a population of more than 10,000 people, but fewer
10 than 30,001 people, the annual fee is \$3,000.00.

11 (v) For a population of more than 30,000 people, but fewer
12 than 50,001 people, the annual fee is \$4,000.00.

13 (vi) For a population of more than 50,000 people, but fewer
14 than 75,001 people, the annual fee is \$5,000.00.

15 (vii) For a population of more than 75,000 people, but fewer
16 than 100,001 people, the annual fee is \$6,000.00.

17 (viii) For a population of more than 100,000 people, the
18 annual fee is \$7,000.00.

19 (e) An annual fee of \$3,000.00 is required for a permit for a
20 municipal separate storm sewer system operated by a county.

21 (f) An annual fee for a single municipal separate storm sewer
22 systems permit authorizing a state or federal agency to operate
23 municipal separate storm sewer systems in multiple locations
24 statewide shall be determined in accordance with a memorandum of
25 understanding between that state or federal agency and the
26 department and shall be based on the projected needs by the
27 department to administer the permit.

1 (2) The permit fees identified in subsection (1) are
2 nonrefundable.

3 (3) A person possessing a permit not related solely to a site
4 of construction activity as of January 1 shall be assessed a
5 fee. The department shall notify those persons of their fee
6 assessments by February 1. Payment shall be postmarked no later
7 than March 15. Failure by the department to send a fee
8 assessment notification by the deadline, or failure of a person
9 to receive a fee assessment notification, does not relieve that
10 person of his or her obligation to pay the fee. If the
11 department does not meet the February deadline for sending the
12 fee assessment, the fee assessment is due not later than 45 days
13 after receiving a fee notification.

14 (4) ~~-(2)-~~ The department shall assess interest on all fee
15 payments submitted under this section after the due date. The
16 permittee shall pay an additional amount equal to 0.75% of the
17 payment due for each month or portion of a month the payment
18 remains past due.

19 (5) ~~-(3)-~~ The department shall forward all fees **and interest**
20 **payments** collected under this section to the state treasurer for
21 deposit into the fund.

22 (6) ~~-(4)-~~ The department shall make payment of the required
23 fee assessed under this section a condition of **issuance or**
24 **reissuance of** a permit not related solely to a site of
25 construction activity. ~~at the time of permit issuance or~~
26 ~~reissuance.~~

27 ~~(5) If a person fails to pay the fee required under this~~

~~1 section in full, plus any interest accrued, by October 1 of the
2 year following the date of notification of the fee assessment,
3 the department may revoke the permit held by that person. The
4 failure by a person to pay a fee imposed by this section is a
5 violation of this part and subjects that person to the penalty
6 provisions in section 3115.~~

~~7 (6) Within 1 year after the reauthorization of the clean
8 water act, the department shall convene a committee to review the
9 storm water discharge fee system provided in this section. The
10 committee shall be composed of a member of the department and
11 representatives of groups affected by the storm water discharge
12 fee. The committee shall make recommendations for changes in the
13 fee system to the department and to the chairpersons of the house
14 and senate appropriations committees.~~

15 (7) In addition to any other penalty provided in this part,
16 if a person fails to pay the fee required under this section by
17 its due date, the person is in violation of this part and the
18 department may undertake enforcement actions as authorized under
19 this part. Additionally, the department may immediately suspend
20 or revoke the person's permit in accordance with the
21 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
22 24.328.

23 (8) If a permit is revoked under subsection (7), the person
24 is not eligible for a new permit before 3 years from the
25 effective date of the revocation. The fee for obtaining a new
26 permit following the revocation period is \$500.00. This fee is
27 in addition to the annual fee assessment.

1 (9) If the permit is for a municipal separate storm sewer
2 system and the population served by that system is different than
3 the latest decennial census, the permittee may appeal the annual
4 fee determination and submit written verification of actual
5 population served by the municipal separate storm sewer system.

6 (10) A person who wishes to appeal either a fee or a penalty
7 assessed under this section is limited to an administrative
8 appeal, in accordance with section 631 of the revised judicature
9 act of 1961, 1961 PA 236, MCL 600.631.

10 (11) ~~-(7)-~~ As used in this section and section 3119:

11 (a) "Clean water act" means the federal water pollution
12 control act, chapter 758, 86 Stat. 816, 33 U.S.C. 1251 to 1252,
13 1253 to 1254, 1255 to 1257, 1258 to 1263, 1265 to 1270, **1273 to**
14 **1274**, 1281, 1282 to 1293, 1294 to ~~1299~~ **1301**, 1311 to 1313, 1314
15 to 1330, 1341 to ~~1345~~ **1346**, 1361 to **1375, 1376 to** 1377, and
16 1381 to 1387.

17 (b) "Construction activity" means a human-made earth change
18 or disturbance in the existing cover or topography of land that
19 is 5 acres or more in size, for which a ~~national~~ permit is
20 required pursuant to 40 C.F.R. 122.26(a), and which is described
21 as a construction activity in 40 C.F.R. 122.26(b)(14)(x).
22 Construction activity includes clearing, grading, and excavating
23 activities. Construction activity does not include the practice
24 of clearing, plowing, tilling soil, and harvesting for the
25 purpose of crop production.

26 (c) "Fee" means a storm water discharge fee authorized under
27 this section.

1 ~~(d) "Fiscal year" means the state fiscal year beginning~~
2 ~~October 1 and ending September 30.~~

3 (d) ~~—(e)—~~ "Fund" means the storm water fund created in
4 section 3119.

5 (e) "General permit" means a permit issued authorizing a
6 category of similar discharges.

7 (f) "Individual permit" means a site-specific permit.

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

24 (h) "Notice of coverage" means a notice that a person
25 engaging in construction activity agrees to comply with a permit
26 by rule for that activity.

27 (i) ~~—(f)—~~ "Permit" or "storm water discharge permit" means a

1 permit authorizing the discharge of wastewater or any other
2 substance to surface waters of the state under the national
3 pollutant discharge elimination system, pursuant to the clean
4 water act or this part and the rules and regulations promulgated
5 under that act or this part.

6 (j) "Public body" means the United States, the state of
7 Michigan, a city, village, township, county, school district,
8 public college or university, or single purpose governmental
9 agency, or any other body which is created by federal or state
10 statute or law.

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

15 (i) The system is not a combined sewer where storm water
16 mixes with sanitary wastes.

17 (ii) The system is not part of a publicly owned treatment
18 works.

19 (l) ~~(g)~~ "Storm water" means storm water runoff, snowmelt
20 runoff, and surface runoff and drainage.

21 (m) "Storm water discharge associated with industrial
22 activity" means a point source discharge of storm water from a
23 facility which is defined as an industrial activity under 40
24 C.F.R. 122.26(b)(14)(i-ix and xi).

25 Sec. 3119. (1) The storm water fund is created within the
26 state treasury.

27 (2) The state treasurer may receive money or other assets

1 from any source for deposit into the fund. The state treasurer
2 shall direct the investment of the fund. The state treasurer
3 shall credit to the fund interest and earnings from fund
4 investments.

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

7 (4) The department shall expend money from the fund, upon
8 appropriation, only for 1 or more of the following purposes:

9 (a) Review of storm water permit applications.

10 (b) Storm water permit development, issuance, reissuance,
11 modification, and termination.

12 (c) Surface water monitoring to support the storm water
13 permitting process.

14 (d) Assessment of compliance with storm water permit
15 conditions.

16 (e) Enforcement against storm water permit violations.

17 (f) Classification of storm water control facilities.

18 (g) Not more than 10% of the money in the fund for training
19 for certification of storm water operators and educational
20 material to assist persons regulated under this part.

21 **(h) Regional or statewide public education to enhance the**
22 **effectiveness of storm water permits.**

23 (5) Money in the fund shall not be used to support the direct
24 costs of litigation undertaken to enforce this part.

25 (6) Upon the expenditure or appropriation of money raised in
26 section 3118 for any other purpose than those specifically listed
27 in this section, authorization to collect fees under section 3118

1 shall be suspended until such time as the money expended or
2 appropriated for purposes other than those listed in this section
3 is returned to the fund.