



Senate Fiscal Agency  
P. O. Box 30036  
Lansing, Michigan 48909-7536



BILL ANALYSIS

Telephone: (517) 373-5383  
Fax: (517) 373-1986  
TDD: (517) 373-0543

House Bill 6359 (Substitute H-1 as passed by the House)  
House Bills 6360 and 6363 (as passed by the House)  
House Bill 6416 (Substitute H-1 as passed by the House)  
Sponsor: Representative Ed Clemente (H.B. 6359)  
Representative Woodrow Stanly (H.B. 6360)  
Representative Marty Knollenberg (H.B. 6363)  
Representative Martin Griffin (H.B. 6416)  
House Committee: New Economy and Quality of Life

### **CONTENT**

House Bill 6359 (H-1) would amend Part 201 (Environmental Remediation) of the Natural Resources and Environmental Protection Act (NREPA) to do the following:

- Require the Director of the Department of Natural Resources and Environment (DNRE) to establish a Response Activity Review Panel to advise him or her on technical or scientific disputes concerning response activity plans or "no further action" reports.
- Allow a person to petition the Panel for review of a DNRE determination, and prescribe a \$3,500 petition fee.
- Exempt from liability the holder of a license, easement, or lease for a purpose related to a wind energy system or component, unless the person were responsible for an activity causing a release.
- Exempt a person from liability for environmental contamination if the DNRE approved his or her no further action report.
- Delete provisions allowing a lender that is not responsible for an activity causing a release at a facility to transfer the property to the State under certain circumstances.
- Prohibit the DNRE from enforcing specific administrative rules pertaining to baseline environmental assessments (BEAs), beginning on the bill's effective date.

House Bill 6360 would amend Part 201 to do the following:

- Expand the responsibilities of the owner or operator of a facility where hazardous substances are present.
- Require the State or a local unit of government to take certain actions regarding hazardous substances if it invited the public onto its property.
- Authorize the DNRE to renegotiate the terms of an outstanding loan from the Revitalization Revolving Loan Fund.

The expanded responsibilities of a facility owner or operator would include the following:

- Providing reasonable cooperation, assistance, and access to the people authorized to conduct response activities at the facility.
- Complying with any land or resource use restrictions established or relied on in conjunction with the response activities at the facility.
- Not impeding the effectiveness or integrity of any land or resource use restriction employed at the facility in connection with response activities.

House Bill 6363 would amend Part 201 to do the following:

- Require the owner or operator of a facility from which a hazardous substance emanated to notify the DNRE and the owners of property to which the substance migrated.
- Require the DNRE to create inventories of residential closures and other known facilities.
- Require the DNRE to compile data on and notify the Legislature of requests for approval of response activity plans and no further action reports and BEAs the Department received.

House Bill 6416 (H-1) would amend NREPA to allow the Strategic Water Quality Initiatives Fund (SWQIF) to be used for grants for wastewater treatment facility infrastructure improvement projects, response activities that would address nonpoint source water pollution at contaminated facilities, and brownfield redevelopment grants and loans. Specifically, the bill would do the following:

- Authorize the DNRE to spend up to \$140.0 million for response activities (as described below).
- Authorize the DNRE to spend up to \$10.0 million to provide brownfield redevelopment grants and loans to municipalities and brownfield redevelopment authorities.
- Specify a legislative intent that SWQIF money not be used for response activities to address nonpoint source water pollution at facilities once the combined \$150.0 million was spent.
- Allow the State to establish a grant program within SWQIF for specific wastewater treatment facility infrastructure improvement projects designed to prevent chronic discharges and projected to have significant regional benefits to Great Lakes water quality and recreational opportunities.
- Revise the allocation of money from the Great Lakes Water Quality Bond Fund, increasing the amount deposited in SWQIF from \$100.0 million to \$290.0 million and decreasing the allocation to the State Water Pollution Control Revolving Fund (SRF) from \$900.0 million to \$710.0 million.

Upon appropriation, the DNRE could spend up to \$140.0 million from SWQIF to address nonpoint source water pollution at facilities. For fiscal years 2010-11 and 2011-12, up to \$50.0 million could be authorized for expenditure each year. Beginning October 1, 2012, any money not previously authorized for expenditure could be spent only if the DNRE documented that it had achieved specific performance objectives.

For fiscal year (FY) 2010-11, bonds could not be issued or spent for response activities to address nonpoint source water pollution unless the DNRE established a fundable range of at least \$210.0 million to fund projects under the SRF. For FY 2011-12, bonds could not be issued or spent for those response activities unless the DNRE established a fundable range of at least \$259.0 million to fund projects under the SRF, to the extent administratively possible and as long as sufficient applications were submitted to the Department. If the DNRE were not able to establish that minimum fundable range in FY 2011-12, it would have to submit to the Legislature a report detailing the reasons why.

"Fundable range" would mean those projects, taken in descending order on the priority lists, for which sufficient funds are estimated by the DNRE to exist to provide assistance at the beginning of each annual funding cycle.

For each fiscal year beginning with FY 2012-13, the DNRE, in conjunction with the Department of Treasury, would have to seek to fully fund all eligible projects applying for assistance under Part 53 (Clean Water Assistance), to the extent administratively possible, using the proceeds from Great Lakes Water Quality Bonds as necessary to achieve this goal, considering the recommendations of the SRF Advisory Committee (proposed by Senate Bill 1443 (H-1)).

House Bills 6359 (H-1), 6360, and 6363 are tie-barred to each other and to Senate Bills 1345, 1346, and 1348 (which would make other amendments regarding environmental remediation under Part 201). House Bill 6416 (H-1) is tie-barred to those House and Senate bills, as well as Senate Bills 1267 and 1443. Senate Bill 1267 (S-1) would delay from December 31, 2010, until December 31, 2012, a sunset on an environmental protection regulatory fee imposed on the sale of refined petroleum products. Senate Bill 1443 (H-1) would amend the Strategic Water Quality Initiatives Grant Program and create the SRF Advisory Committee.

MCL 324.20126 et al. (H.B. 6359)  
324.20107a & 324.20108b (H.B. 6360)  
324.20112a et al. (H.B. 6363)  
324.5204 et al. (H.B. 6416)

Legislative Analyst: Julie Cassidy

## **FISCAL IMPACT**

House Bill 6359 (H-1) would establish a Response Activity Review Panel to advise the DNRE Director on technical or scientific disputes, including those regarding assessment of risk, response activity plans, and no further action plans. While the members of the Panel would serve uncompensated, they would still be eligible to receive reimbursement for costs associated with their service. This could result in some moderate costs to the Department.

House Bill 6360 would change the Revitalization Revolving Loan Program to allow the DNRE to renegotiate a loan made through the Program in cases in which the recipient of the loan demonstrated financial hardship. These changes could include revising the length, interest rate, and repayment terms. The bill does not indicate what would constitute financial hardship, and therefore it is impossible to know how many of these loans would qualify to be renegotiated. It is reasonable to assume, however, that the overall fiscal impact of the bill would benefit local governments, as they would have no reason to renegotiate terms of a loan that would be unfavorable relative to the terms they already have. If the Department renegotiated many of these loans, the stream of payments received under the Program could shrink as lower interest rates and longer loan terms were negotiated.

House Bill 6363 would require the DNRE to create and update an inventory of residential closures and other known facilities that fall under the provisions of Part 201. The bill would require that the inventory contain certain detailed information for each site. To the extent that this information is already collected by the Department, compiling the information would likely result in few new costs.

House Bill 6416 (H-1) would allow the Legislature to appropriate funds from the Strategic Water Quality Initiatives Fund to address certain nonpoint source water pollution issues, if certain fundable range benchmarks were met. The Legislature could appropriate up to \$50.0 million in FY 2010-11 and \$50.0 million in FY 2011-12 for these purposes. A total of \$40.0 million would be available for appropriation in subsequent fiscal years if the DNRE met performance standards outlined in the bill.

The bill would require the Department to establish a fundable range of at least \$201.0 million in FY 2010-11 for projects under the State Water Pollution Control Revolving Fund in order to spend or issue bonds for response activities to address nonpoint source water pollution at facilities. These projects are undertaken by municipalities to make water and sewer upgrades, and the DNRE provides low-interest loans to the municipalities from the SRF for those purposes. The fundable range in a given fiscal year would be the amount of money that the Department dedicated to be used to help fund these municipal water and sewer projects, in order of priority. The requirement would be raised to \$259.0 million in FY 2011-12, and the DNRE would have to fund all eligible projects to receive these funds in FY 2012-13.

Sufficient bond authorization remains for the Department to fulfill these guidelines as well as use bond revenue for cleanups that would address nonpoint source water pollution at facilities and brownfields.

The SWQIF was created as a part of (although not directly by) Proposal 2 of 2002, which authorized the issuance of up to \$1.0 billion in general obligation bonds for the purpose of financing sewage treatment works projects, storm water projects, and nonpoint source projects. House Bill 6416 (H-1) would increase the portion of this authorization for SWQIF from \$100.0 million to \$290.0 million and reduce the authorization of the State Water Pollution Control Revolving Fund from \$900.0 million to \$710.0 million. Currently, SWQIF has \$44.4 million in remaining authorization; the bill would increase this authorization to \$194.4 million. The SRF has an available authorization of \$810.0, million which would be reduced to \$620.0 million under the bill.

House Bill 6416 (H-1) also would allow the Legislature to appropriate, and the DNRE to spend, up to \$10.0 million from SWQIF on brownfield redevelopment grants and loans. The bill specifies that up to \$5.0 million could be spent on grants and \$5.0 million on loans.

While the bill would not require additional spending, the appropriation/spending authorized by the bill, if acted upon, would come from new bond issuances under Proposal 2. The table below shows a breakdown of the additional annual debt service that would result from spending under the authorizations contained in the bill assuming full amortization, 4.5% coupon rate, and a 20-year maturity on bonds issued.

(dollar amounts in millions)

<b>Program</b>	<b>Authorized Amount</b>	<b>Annual Debt Service</b>
SWQIF – Nonpoint source pollution, initial amount	\$100.0	\$7.6
SWQIF – Nonpoint source pollution, potential additional amount	\$40.0	\$3.0
Brownfield Redevelopment Program - Grants	\$5.0	\$0.4
Brownfield Redevelopment Program - Loans	\$5.0	\$0.4
<b>Total</b>	<b>\$150.0</b>	<b>\$11.4</b>

Date Completed: 12-1-10

Fiscal Analyst: Josh Sefton

Floor\hb6359

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.