

# HOUSE BILL No. 5406

January 11, 2018, Introduced by Rep. Victory and referred to the Committee on Transportation and Infrastructure.

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," (MCL 324.101 to 324.90106) by adding part 50.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

**PART 50 WATER ASSET MANAGEMENT COUNCIL**

**SEC. 5001. AS USED IN THIS SECTION:**

**(A) "ASSET MANAGEMENT" MEANS AN ONGOING PROCESS OF MAINTAINING, UPGRADING, AND OPERATING PHYSICAL ASSETS COST-EFFECTIVELY, BASED ON A CONTINUOUS PHYSICAL INVENTORY AND CONDITION ASSESSMENT AND INVESTMENT TO ACHIEVE PERFORMANCE GOALS.**

**(B) "ASSET MANAGEMENT PLAN" MEANS A SET OF PROCEDURES TO MANAGE ASSETS THROUGH THEIR LIFE CYCLES, BASED ON PRINCIPLES OF LIFE CYCLE COSTING.**

**(C) "ASSET OWNER" MEANS A PERSON THAT OWNS OR OPERATES AN**

1 ASSET.

2 (D) "CENTRAL STORAGE DATA AGENCY" MEANS THE ENTITY SELECTED BY  
3 THE COUNCIL WHERE THE DATA COLLECTED ARE STORED AND MAINTAINED.

4 (E) "COUNCIL" MEANS THE WATER ASSET MANAGEMENT COUNCIL CREATED  
5 IN SECTION 5002.

6 (F) "DEPARTMENT" MEANS THE DEPARTMENT OF ENVIRONMENTAL  
7 QUALITY.

8 (G) "DRINKING WATER ASSETS" MEANS A SYSTEM OF PIPES AND  
9 STRUCTURES THROUGH WHICH WATER IS OBTAINED AND DISTRIBUTED,  
10 INCLUDING, BUT NOT LIMITED TO, WELLS AND WELL STRUCTURES, WELLHEAD  
11 PROTECTION AREAS, GROUNDWATER PROTECTION AREAS, INTAKES AND CRIBS,  
12 PUMPING STATIONS, TREATMENT PLANTS, STORAGE TANKS, PIPELINES, AND  
13 APPURTENANCES, OR A COMBINATION OF THESE PIPES AND STRUCTURES THAT  
14 ARE USED OR INTENDED FOR USE FOR THE PURPOSE OF FURNISHING WATER  
15 FOR DRINKING OR HOUSEHOLD PURPOSES.

16 (H) "MICHIGAN INFRASTRUCTURE COUNCIL" MEANS THE MICHIGAN  
17 INFRASTRUCTURE COUNCIL CREATED IN THE MICHIGAN INFRASTRUCTURE  
18 COUNCIL ACT.

19 (I) "PERFORMANCE GOALS" MEANS STANDARDS OF SYSTEM PERFORMANCE  
20 THAT REFLECT ASSET MANAGEMENT PRINCIPLES FOR ASSET PRESERVATION AND  
21 SUSTAINABILITY, OPERATIONS, CAPACITY CONSISTENT WITH LOCAL NEEDS,  
22 AND IDENTIFIED LEVELS OF SERVICE.

23 (J) "REGION" MEANS THE GEOGRAPHIC JURISDICTION OF ANY OF THE  
24 FOLLOWING:

25 (i) A REGIONAL PLANNING COMMISSION CREATED PURSUANT TO 1945 PA  
26 281, MCL 125.11 TO 125.25.

27 (ii) A REGIONAL ECONOMIC DEVELOPMENT COMMISSION CREATED

1 PURSUANT TO 1966 PA 46, MCL 125.1231 TO 125.1237.

2 (iii) A METROPOLITAN AREA COUNCIL FORMED PURSUANT TO THE  
3 METROPOLITAN COUNCILS ACT, 1989 PA 292, MCL 124.651 TO 124.729.

4 (iv) A METROPOLITAN PLANNING ORGANIZATION ESTABLISHED PURSUANT  
5 TO FEDERAL LAW.

6 (v) AN AGENCY DIRECTED AND FUNDED BY SECTION 822F OF ARTICLE  
7 VIII OF 2016 PA 268 TO ENGAGE IN JOINT DECISION-MAKING PRACTICES  
8 RELATED BUT NOT LIMITED TO COMMUNITY DEVELOPMENT, ECONOMIC  
9 DEVELOPMENT, TALENT, AND INFRASTRUCTURE OPPORTUNITIES.

10 (K) "SEWER ASSETS" MEANS A SYSTEM OF PIPES AND STRUCTURES,  
11 INCLUDING PIPES, CHANNELS, CONDUITS, MANHOLES, PUMPING STATIONS,  
12 SEWAGE OR WASTEWATER TREATMENT FIXED ASSETS, DIVERSION AND  
13 REGULATORY DEVICES, OUTFALL STRUCTURES, AND APPURTENANCES, USED TO  
14 COLLECT, CONVEY, TRANSPORT, TREAT, OR OTHERWISE HANDLE SANITARY  
15 SEWAGE.

16 (l) "STORMWATER ASSETS" MEANS GREEN OR GRAY FEATURES THAT ARE  
17 LOCATED WITHIN THE GEOGRAPHIC LIMITS OF AN ASSET SERVICE AREA AND  
18 ARE DESIGNED OR ACTIVELY MANAGED BY A LOCAL UNIT OF GOVERNMENT FOR  
19 COLLECTING, STORING, TREATING, CONVEYING, OR ATTENUATING  
20 STORMWATER, SUCH AS CATCH BASINS, CURBS, GUTTERS, DITCHES AND  
21 CHANNELS SOLELY CONVEYING STORMWATER, PIPES, CONDUITS, SWALES,  
22 BIOSWALES, STORM DRAINS, GULCHES, GULLIES, FLUMES, CULVERTS,  
23 BRIDGES, SIPHONS, RETENTION, DETENTION, OR INFILTRATION AREAS,  
24 FLOODWALLS, LEVEES, PUMPING STATIONS, AND OTHER SIMILAR FACILITIES.

25 SEC. 5002. (1) THE WATER ASSET MANAGEMENT COUNCIL IS CREATED  
26 WITHIN THE DEPARTMENT.

27 (2) THE COUNCIL SHALL CONSIST OF 9 VOTING MEMBERS APPOINTED BY

1 THE MICHIGAN INFRASTRUCTURE COUNCIL, WHO SHALL SERVE AT THE  
2 PLEASURE OF THE MICHIGAN INFRASTRUCTURE COUNCIL. THE MEMBERS SHALL  
3 REPRESENT THE NONPROFIT, PUBLIC, AND PRIVATE SECTORS AND ACADEMIA,  
4 INCLUDING INDIVIDUALS REPRESENTING INTERESTS SUCH AS WATER, SEWER,  
5 AND STORMWATER AGENCIES, THIS STATE, REGIONAL GOVERNMENT, LOCAL  
6 UNITS OF GOVERNMENT, AND ENVIRONMENTAL ORGANIZATIONS. THE COUNCIL  
7 MAY APPOINT THE CENTRAL DATA STORAGE AGENCY AS AN EX OFFICIO,  
8 NONVOTING MEMBER.

9 (3) COUNCIL MEMBERS SHALL SERVE FOR A TERM OF 3 YEARS.  
10 HOWEVER, OF THE INITIAL APPOINTMENTS TO THE COUNCIL, 3 SHALL SERVE  
11 FOR 1 YEAR, 3 SHALL SERVE FOR 2 YEARS, AND 3 SHALL SERVE FOR 3  
12 YEARS. A VACANCY ON THE COUNCIL SHALL BE FILLED IN THE SAME MANNER  
13 AS THE ORIGINAL APPOINTMENT.

14 (4) AT THE FIRST MEETING OF THE COUNCIL, THE COUNCIL SHALL  
15 SELECT A CHAIRPERSON FROM AMONG ITS MEMBERS.

16 (5) THE COUNCIL MAY APPOINT SUBCOMMITTEES WHOSE MEMBERS SERVE  
17 AS NEEDED TO PROVIDE RESEARCH ON ISSUES AND PROJECTS AS DETERMINED  
18 BY THE COUNCIL.

19 (6) THE DEPARTMENT SHALL PROVIDE QUALIFIED ADMINISTRATIVE  
20 STAFF AND QUALIFIED TECHNICAL ASSISTANCE TO THE COUNCIL.

21 SEC. 5003. THE COUNCIL SHALL DO ALL OF THE FOLLOWING:

22 (A) ADVISE THE MICHIGAN INFRASTRUCTURE COUNCIL ON A STATEWIDE  
23 WATER ASSET MANAGEMENT STRATEGY AND THE PROCESSES AND TOOLS NEEDED  
24 TO IMPLEMENT A STRATEGY FOR ALL WATER, SEWER, AND STORMWATER  
25 AGENCIES AND ASSET OWNERS.

26 (B) PROMOTE AND OVERSEE THE IMPLEMENTATION OF THE  
27 RECOMMENDATIONS FROM THE REGIONAL INFRASTRUCTURE ASSET MANAGEMENT

1 PILOT PROGRAM CREATED UNDER EXECUTIVE DIRECTIVE 2017-1 AT A STATE  
2 LEVEL RELATED TO WATER, SEWER, AND STORMWATER INFRASTRUCTURE.

3 (C) DEVELOP A TEMPLATE FOR AN ASSET MANAGEMENT PLAN BY OCTOBER  
4 1, 2019 FOR USE UNDER SECTION 5004 BY LOCAL WATER, SEWER, AND  
5 STORMWATER AGENCIES AND ASSET OWNERS SUBMITTING ASSET MANAGEMENT  
6 PLANS TO THE COUNCIL FOR APPROVAL. AT A MINIMUM, THE TEMPLATE  
7 SHOULD ENSURE THAT LOCAL ASSET MANAGEMENT PLANS INCLUDE ALL OF THE  
8 FOLLOWING COMPONENTS:

9 (i) AN ASSET INVENTORY THAT INCLUDES THE LOCATION, MATERIAL,  
10 SIZE, AND CONDITION OF THE ASSETS IN A FORMAT THAT ALLOWS FOR  
11 DIGITAL MAPPING. ALL QUALITY CONTROL STANDARDS AND PROTOCOLS SHALL,  
12 AT A MINIMUM, BE CONSISTENT WITH EXISTING FEDERAL REQUIREMENTS AND  
13 REGULATIONS AND EXISTING GOVERNMENT ACCOUNTING STANDARDS.

14 (ii) A LEVEL OF SERVICE ANALYSIS THAT INCLUDES DESIRED LEVELS  
15 OF SERVICE AND PERFORMANCE GOALS OF THE ASSETS TO HELP THE SYSTEM  
16 ACHIEVE RELIABILITY, RESPONSIVENESS, SAFETY, CAPACITY,  
17 ENVIRONMENTAL IMPACTS, COST AND AFFORDABILITY, AND COMPLIANCE WITH  
18 LAW. LEVELS OF SERVICE MAY VARY AMONG ASSETS UNDER THE LOCAL  
19 AGENCY'S JURISDICTION.

20 (iii) A RISK OF FAILURE ANALYSIS THAT IDENTIFIES THE  
21 PROBABILITY AND CRITICALITY OF FAILURE OF THE MOST CRITICAL ASSETS  
22 AND ANY CONTINGENCY PLANS.

23 (iv) ANTICIPATED REVENUES AND EXPENSES, INCLUDING A  
24 DESCRIPTION OF ALL REVENUE SOURCES AND ANTICIPATED RECEIPTS FOR THE  
25 PERIOD OF THE ASSET MANAGEMENT PLAN, AND EXPECTED INFRASTRUCTURE  
26 REPAIR AND REPLACEMENT EXPENDITURES, INCLUDING PLANNED IMPROVEMENTS  
27 OR CAPITAL RECONSTRUCTION.

1           (v) A PERFORMANCE OUTCOMES ANALYSIS THAT DETERMINES HOW THE  
2 INVESTMENT STRATEGY ACHIEVES THE DESIRED LEVELS OF SERVICE AND  
3 PERFORMANCE GOALS. THE ASSET MANAGEMENT PLAN MUST INCLUDE STEPS  
4 NECESSARY TO ENSURE ASSET CONDITIONS MEET OR ACHIEVE STATED GOALS,  
5 INCLUDING A DESCRIPTION AND EXPLANATION FOR ANY GAP BETWEEN  
6 ACHIEVABLE CONDITION AND PERFORMANCE THROUGH THE INVESTMENT  
7 STRATEGY AND DESIRED GOALS.

8           (vi) A DESCRIPTION OF HOW THE AGENCY PLANS TO COORDINATE WITH  
9 OTHER ASSET OWNERS, INCLUDING NEIGHBORING JURISDICTIONS, TO  
10 MINIMIZE DUPLICATION OF EFFORT WITH REGARD TO INFRASTRUCTURE  
11 PRESERVATION AND MAINTENANCE.

12           (vii) PROOF OF ACCEPTANCE, CERTIFICATION, OR ADOPTION BY THE  
13 JURISDICTION'S GOVERNING BODY.

14           SEC. 5004. BY OCTOBER 1, 2019, THE COUNCIL SHALL ESTABLISH A  
15 SCHEDULE FOR SUBMISSION OF ASSET MANAGEMENT PLANS FOR WATER, SEWER,  
16 AND STORMWATER AGENCIES AND ASSET OWNERS THAT INCLUDES ALL OF THE  
17 FOLLOWING:

18           (A) BEGINNING OCTOBER 1, 2020, EACH WATER, SEWER, AND  
19 STORMWATER AGENCY AND ASSET OWNER SHALL SUBMIT AN ASSET MANAGEMENT  
20 PLAN TO THE COUNCIL.

21           (B) THE ASSET MANAGEMENT PLANS SUBMITTED UNDER SUBDIVISION (A)  
22 SHALL COVER AND BE VALID FOR A MINIMUM OF 3 YEARS AND SHALL BE  
23 CONSISTENT WITH THE TEMPLATE PROVIDED BY THE COUNCIL.

24           (C) THE ASSET MANAGEMENT PLANS SUBMITTED UNDER SUBDIVISION (A)  
25 SHALL BE REVIEWED BY THE COUNCIL WITHIN 6 MONTHS OF RECEIPT. THE  
26 COUNCIL SHALL COMPARE SUBMITTED ASSET MANAGEMENT PLANS TO THE  
27 MINIMUM COMPONENTS REQUIRED BY THIS ACT AND THE TEMPLATE PROVIDED

1 BY THE COUNCIL AND SHALL DETERMINE IF THE ASSET MANAGEMENT PLANS  
2 ARE IN COMPLIANCE WITH THOSE STANDARDS. IF THE COUNCIL DETERMINES  
3 THAT AN ASSET MANAGEMENT PLAN DOES NOT MEET ESTABLISHED STANDARDS,  
4 THE COUNCIL SHALL SEEK CONCURRENCE FROM THE DEPARTMENT. IF THE  
5 DEPARTMENT CONCURS, THE COUNCIL SHALL REQUIRE THAT THE ENTITY  
6 SUBMITTING THE ASSET MANAGEMENT PLAN MEET ACCEPTABLE STANDARDS  
7 WITHIN 6 MONTHS OF THE SUBMITTAL.

8 (D) A WATER, SEWER, OR STORMWATER AGENCY OR ASSET OWNER THAT  
9 IS REQUIRED UNDER THIS PART TO HAVE AN APPROVED ASSET MANAGEMENT  
10 PLAN MUST IMPLEMENT THE APPROVED ASSET MANAGEMENT PLAN BY OCTOBER  
11 1, 2024.

12 SEC. 5005. THE COUNCIL SHALL ANNUALLY SUBMIT TO THE MICHIGAN  
13 INFRASTRUCTURE COUNCIL A REPORT ON ASSET CONDITION AND INVESTMENT  
14 THAT INCLUDES A SUMMARY ANALYSIS OF THE ASSET MANAGEMENT PLANS  
15 RECEIVED FROM DRINKING WATER, SEWER, AND STORMWATER ENTITIES. THE  
16 REPORT SHALL ALSO INCLUDE RECOMMENDATIONS ON WATER, SEWER, AND  
17 STORMWATER CONDITION GOALS AND ANALYSIS OF HOW THE UTILITIES ARE  
18 MEETING THOSE GOALS. THE WATER INFRASTRUCTURE ASSET MANAGEMENT  
19 ANALYSES CONTAINED IN THE REPORT SHALL BE CONSISTENT WITH THE  
20 MICHIGAN INFRASTRUCTURE COUNCIL'S ASSET MANAGEMENT PROCESS AND  
21 SHALL BE REPORTED CONSISTENT WITH CATEGORIES ESTABLISHED BY THE  
22 MICHIGAN INFRASTRUCTURE COUNCIL.

23 SEC. 5006. (1) STATE FUNDING MAY BE PROVIDED TO WATER, SEWER,  
24 AND STORMWATER AGENCIES AND ASSET OWNERS TO IMPLEMENT THIS PART AT  
25 A COST-SHARE DETERMINED BY THE COUNCIL. FUNDING NECESSARY FOR THE  
26 DEPARTMENT TO SUPPORT THE ACTIVITIES DESCRIBED IN THIS SECTION  
27 SHALL BE PROVIDED BY AN ANNUAL APPROPRIATION.

1           (2) EACH WATER, SEWER, AND STORMWATER AGENCY AND ASSET OWNER  
2 SHALL ANNUALLY REPORT TO THE COUNCIL, CONSISTENT WITH CURRENT  
3 ACCOUNTING PROCEDURES, HOW ITS CAPITAL IMPROVEMENT PLANS ARE  
4 MEETING ITS INVESTMENT GOALS, TO ENSURE CONSISTENCY WITH ITS ASSET  
5 MANAGEMENT PLANS.

6           (3) THE DEPARTMENT AND EACH DRINKING WATER, SEWER, AND  
7 STORMWATER AGENCY AND ASSET OWNER SHALL KEEP ACCURATE AND UNIFORM  
8 RECORDS ON ALL WORK PERFORMED AND FUNDS EXPENDED FOR THE PURPOSES  
9 OF THIS SECTION, ACCORDING TO THE PROCEDURES DEVELOPED BY THE  
10 MICHIGAN INFRASTRUCTURE COUNCIL.

11           (4) THE COUNCIL SHALL ANNUALLY PREPARE A REPORT ON THE  
12 ACTIVITIES CONDUCTED DURING THE PRECEDING YEAR AND THE EXPENDITURE  
13 OF FUNDS RELATED TO THE PROCESSES AND ACTIVITIES IDENTIFIED BY THE  
14 COUNCIL. THE REPORT SHALL ALSO INCLUDE AN OVERVIEW OF THE  
15 ACTIVITIES IDENTIFIED FOR THE SUCCEEDING YEAR. THE COUNCIL SHALL  
16 SUBMIT THIS REPORT TO THE MICHIGAN INFRASTRUCTURE COUNCIL AND THE  
17 LEGISLATURE BY MAY 2 OF EACH YEAR.

18           SEC. 5007. (1) THE COUNCIL SHALL IDENTIFY TRAINING NEEDS TO  
19 DEVELOP PROFICIENCY IN USING A MULTI-ASSET MANAGEMENT SYSTEM FOR  
20 WATER, SEWER, AND STORMWATER AGENCIES AND ASSET OWNERS, AND  
21 TRAINING TO IDENTIFY ASSET SYSTEM CONDITIONS BASED ON A STATEWIDE  
22 ASSET CONDITION MEASURE.

23           (2) THE COUNCIL SHALL COORDINATE AND COLLABORATE WITH THE  
24 TRANSPORTATION ASSET MANAGEMENT COUNCIL ON PLANNING, REPORTING, AND  
25 TRAINING.

26           Enacting section 1. This amendatory act does not take effect  
27 unless Senate Bill No.\_\_\_\_ or House Bill No.\_\_\_\_ (request no.



1 04467'17) of the 99th Legislature is enacted into law.