

HOUSE BILL 2614

By Mitchell

AN ACT to amend Tennessee Code Annotated, Title 68,  
Chapter 221 and Title 69, relative to clean water.

WHEREAS, the General Assembly enacted the "Wastewater Treatment Works Construction Grant Act of 1984," compiled in Tennessee Code Annotated, Title 68, Chapter 221, Part 8, to enable the State to loan municipalities funds to improve their sewage treatment facilities; and

WHEREAS, the State is required to comply with the Federal Water Pollution Control Act, Public Law 92-500, also referred to as the "Clean Water Act" or "CWA", and enacted the Water Quality Control Act of 1977, compiled in Tennessee Code Annotated, Title 69, Chapter 3, Part 1, to enable it to issue National Pollution Discharge Elimination System (NPDES) permits under the CWA; and

WHEREAS, when a water body is polluted enough to violate the water quality standards the State itself sets and is placed on the State's list of impaired waters under Section 303(d) of the CWA, 33 U.S.C. § 1313(d), the State is required to commence the process to prepare a Total Maximum Daily Load (TMDL) pollution reduction plan; and

WHEREAS, preparing a TMDL can take an extended period of time, currently estimated by the State to be eight to thirteen years; and

WHEREAS, the State has an obligation under the CWA to ensure that facilities that discharge into its waters comply with water quality standards during the preparation of a TMDL by establishing a water quality-based effluent limit (WQBEL) when the state water quality standards are not otherwise being met; and

WHEREAS, the State presently loans facilities significant amounts of money up to \$100,000,000 in some cases, without any accountability that the facility will use State money so as to cause it to comply with State or federal law and improve water quality; and

WHEREAS, the failure of the State to require WQBELs and cause facilities to meet State water quality standards could imperil the State's ability to receive additional federal support, to issue its own NPDES permits, to support future economic growth in the affected area, and endanger the health and well-being of the State's residents; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 69-3-108, is amended by adding the following as a new subsection:

(v)

(1) As used in this subsection (v), "303(d) list" means the list of impaired waters that this state submits to the United States environmental protection agency under the Federal Water Pollution Control Act, § 303(d), Public Law 92-500, 33 U.S.C. § 1313(d).

(2) Within one (1) year of the effective date of this act, the commissioner shall establish a water quality-based effluent limit for a facility, if:

(A) A municipally owned sewage treatment plant discharges into the river and the segment of the river that the plant discharges into does not meet water quality standards for certain parameters, including, but not limited to, total phosphorus and low dissolved oxygen, as referenced in the 303(d) list; and

(B) The municipally owned sewage treatment plant that makes discharges described in subdivision (v)(2)(A) has:

(i) Submitted plans to expand its capacity to exceed fifteen million (15,000,000) gallons per day; and

(ii) Applied for funding in total in excess of seventy-five million dollars (\$75,000,000) from the wastewater facility revolving loan fund under § 68-221-1004, or any other state-administered loan fund, but for which, as of the effective date of this act, substantial construction on pollution reduction facilities at the plant has not commenced.

(3) Any water quality-based effluent limit established under subdivision (v)(2) must:

(A) Limit discharges of phosphorus to a specific percentage, but not more than one hundred twenty percent (120%), calculated on a daily basis, of the arithmetic mean of the total pounds of total phosphorus discharged by the municipally owned sewage treatment plant into the river over the immediately preceding five (5) years; and

(B) Be designed to remove the river from the 303(d) list within ten (10) years of the effective date of this act. The commissioner shall initially impose in a national pollution discharge elimination system permit, or re-open a national pollution discharge elimination system permit to add, any monitoring and sampling requirements, implementation plans, and limits to the permit to cause the removal of the river from the 303(d) list within ten (10) years of the effective date of this act.

(4) No funds shall be disbursed from the wastewater facility revolving loan fund under § 68-221-1004, or any other state-administered loan fund, and no funds that have been disbursed from any such fund shall be expended, for an expansion project at any municipally owned sewage treatment plant that discharges into a river that is subject to a water quality-based effluent limit under

subdivision (v)(2) until the water quality-based effluent limit is established and any appeals of the water quality-based effluent limit have been finally resolved.

(5) The commissioner shall report to the legislature and shall make publicly available a list of facilities that are subject to this subsection (v) and the status of any such facilities' compliance with this part, including this act.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.