

HOUSE BILL No. 6472

November 7, 2018, Introduced by Rep. Cole and referred to the Committee on Natural Resources.

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending section 3104 (MCL 324.3104), as amended by 2015 PA 82.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3104. (1) The department is designated the state agency
2 to cooperate and negotiate with other governments, governmental
3 units, and governmental agencies in matters concerning the water
4 resources of the state, including, but not limited to, flood
5 control, beach erosion control, water quality control planning,
6 development, and management, and the control of aquatic nuisance
7 species. The department shall have control over the alterations of
8 natural or present watercourses of all rivers and streams in this
9 state to ~~assure~~**ENSURE** that the channels and the portions of the
10 floodplains that are the floodways are not inhabited and are kept

1 free and clear of interference or obstruction that will cause any
2 undue restriction of the capacity of the floodway. The department
3 may take steps as may be necessary to take advantage of any act of
4 congress that may be of assistance in carrying out the purposes of
5 this part, including the water resources planning act, 42 USC 1962
6 to 1962d-3, and the federal water pollution control act, 33 USC
7 1251 to ~~1387~~-1388.

8 (2) To address discharges of aquatic nuisance species from
9 oceangoing vessels that damage water quality, aquatic habitat, or
10 fish or wildlife, the department shall facilitate the formation of
11 a Great Lakes aquatic nuisance species coalition. The Great Lakes
12 aquatic nuisance species coalition shall be formed through an
13 agreement entered into with other states in the Great Lakes basin
14 to implement on a basin-wide basis water pollution laws that
15 prohibit the discharge of aquatic nuisance species into the Great
16 Lakes from oceangoing vessels. ~~The department shall seek to enter~~
17 ~~into an agreement that will become effective not later than January~~
18 ~~1, 2007. The department shall consult with the department of~~
19 ~~natural resources prior to entering into this agreement.~~ Upon
20 entering into the agreement, the department shall notify the
21 Canadian Great Lakes provinces of the terms of the agreement. The
22 department shall seek funding from the Great Lakes protection fund
23 authorized under part 331 to implement the Great Lakes aquatic
24 nuisance species coalition.

25 (3) The department shall report to the governor and to the
26 legislature at least annually on any plans or projects being
27 implemented or considered for implementation. The report shall

1 include requests for any legislation needed to implement any
2 proposed projects or agreements made necessary as a result of a
3 plan or project, together with any requests for appropriations. The
4 department may make recommendations to the governor on the
5 designation of areawide water quality planning regions and
6 organizations relative to the governor's responsibilities under the
7 federal water pollution control act, 33 USC 1251 to ~~1387-1388~~.

8 (4) A person shall not alter a floodplain except as authorized
9 by a floodplain permit issued by the department pursuant to part
10 13. An application for a **FLOODPLAIN** permit ~~shall~~**MUST** include
11 information ~~that may be~~ required by the department to assess the
12 proposed alteration's impact on the floodplain. If an alteration
13 includes activities at multiple locations in a floodplain, 1
14 application may be filed for combined activities.

15 (5) Except as **OTHERWISE** provided in ~~subsections (6), (7), and~~
16 ~~(9), THIS SECTION~~, until October 1, ~~2019, 2024~~, an application for
17 a floodplain permit ~~shall~~**MUST** be accompanied by a fee of \$500.00.
18 Until October 1, ~~2019, 2024~~, if the department determines that
19 engineering computations are required to assess the impact of a
20 proposed floodplain alteration on flood stage or discharge
21 characteristics, the department shall assess the applicant an
22 additional \$1,500.00 to cover the department's cost of review.

23 (6) **AFTER PROVIDING NOTICE AND AN OPPORTUNITY FOR A PUBLIC**
24 **HEARING, THE DEPARTMENT SHALL ESTABLISH MINOR PROJECT CATEGORIES OF**
25 **ACTIVITIES WITHIN FLOODPLAINS AND FLOODPLAIN PROJECTS THAT ARE**
26 **SIMILAR IN NATURE, HAVE MINIMAL POTENTIAL FOR CAUSING HARMFUL**
27 **INTERFERENCE WHEN PERFORMED SEPARATELY, AND WILL HAVE ONLY MINIMAL**

1 CUMULATIVE ADVERSE EFFECTS ON THE ENVIRONMENT. ALL OTHER PROVISIONS
2 OF THIS PART, EXCEPT PROVISIONS APPLICABLE ONLY TO FLOODPLAIN
3 GENERAL PERMITS, ARE APPLICABLE TO A MINOR PROJECT. A MINOR PROJECT
4 CATEGORY SHALL NOT BE VALID FOR MORE THAN 5 YEARS, BUT MAY BE RE-
5 ESTABLISHED. Until October 1, 2019, 2024, an application for a
6 floodplain permit for a minor project category shall ~~MUST~~ be
7 accompanied by a fee of \$100.00. ~~Minor project categories shall be~~
8 ~~established by rule and shall include activities and projects that~~
9 ~~are similar in nature and have minimal potential for causing~~
10 ~~harmful interference.~~

11 (7) THE DEPARTMENT, AFTER NOTICE AND AN OPPORTUNITY FOR A
12 PUBLIC HEARING, SHALL ISSUE GENERAL PERMITS ON A STATEWIDE BASIS OR
13 WITHIN A LOCAL UNIT OF GOVERNMENT FOR FLOODPLAIN PROJECTS THAT ARE
14 SIMILAR IN NATURE, HAVE MINIMAL POTENTIAL FOR CAUSING HARMFUL
15 INTERFERENCE WHEN PERFORMED SEPARATELY, AND WILL HAVE ONLY MINIMAL
16 CUMULATIVE ADVERSE EFFECTS ON THE ENVIRONMENT. A GENERAL PERMIT
17 CATEGORY SHALL NOT BE VALID FOR MORE THAN 5 YEARS, BUT MAY BE RE-
18 ESTABLISHED. UNTIL OCTOBER 1, 2024, AN APPLICATION FOR A FLOODPLAIN
19 PERMIT FOR A GENERAL PERMIT CATEGORY MUST BE ACCOMPANIED BY A FEE
20 OF \$50.00.

21 (8) BY DECEMBER 31, 2024, THE DEPARTMENT SHALL PROPOSE NEW
22 MINOR PROJECT AND GENERAL PROJECT CATEGORIES AS AUTHORIZED UNDER
23 SUBSECTIONS (6) AND (7).

24 (9) THE DEPARTMENT MAY ISSUE, DENY, OR IMPOSE CONDITIONS ON
25 PROJECT ACTIVITIES AUTHORIZED UNDER A FLOODPLAIN PERMIT FOR A MINOR
26 PROJECT CATEGORY OR A GENERAL PERMIT CATEGORY IF THE CONDITIONS ARE
27 DESIGNED TO REMOVE AN IMPAIRMENT TO A RIVER AND ITS FLOODPLAIN, OR

1 TO MITIGATE THE EFFECTS OF THE PROJECT. THE DEPARTMENT MAY ALSO
2 ESTABLISH A REASONABLE TIME WHEN THE PROPOSED PROJECT IS TO BE
3 COMPLETED OR TERMINATED.

4 (10) IF THE DEPARTMENT DETERMINES THAT ACTIVITY IN A PROPOSED
5 PROJECT, ALTHOUGH WITHIN A FLOODPLAIN MINOR PROJECT CATEGORY OR A
6 FLOODPLAIN GENERAL PERMIT CATEGORY, IS LIKELY TO CAUSE MORE THAN
7 MINIMAL ADVERSE ENVIRONMENTAL EFFECTS, THE DEPARTMENT MAY REQUIRE
8 THAT THE APPLICATION BE PROCESSED ACCORDING TO SUBSECTION (5).

9 (11) ~~(7)~~—If work has been done in violation of a permit
10 requirement under this part and restoration is not ordered by the
11 department, the department may accept an application for a permit
12 for that work if the application is accompanied by a fee equal to 2
13 times the permit fee **OTHERWISE** required under ~~subsection (5) or~~
14 ~~(6)~~. **THIS SECTION.**

15 (12) ~~(8)~~—The department shall forward fees collected under
16 this section to the state treasurer for deposit in the land and
17 water management permit fee fund created in section 30113.

18 (13) ~~(9)~~—A project that requires review and approval under
19 this part and 1 or more of the following is subject to only the
20 single highest permit fee required under this part or the
21 following:

22 (a) Part 301.

23 (b) Part 303.

24 (c) Part 323.

25 (d) Part 325.

26 (e) Section 117 of the land division act, 1967 PA 288, MCL
27 560.117.

1 Enacting section 1. This amendatory act takes effect 90 days
2 after the date it is enacted into law.