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## RAISE FEES FOR DNR BUDGET

Senate Bills 238, 239, and 243-246 as  
passed by the Senate

Senate Bill 241 (Substitute H-1)  
Sponsor: Sen. Vern Ehlers

Senate Bill 719 as passed by the Senate  
Sponsor: Sen. Philip Hoffman

First Analysis (7-22-93)

Senate Committee: Natural Resources &  
Environmental Affairs  
House Committee: Appropriations

### ***THE APPARENT PROBLEM:***

The Department of Natural Resources (DNR) is currently authorized under a number of different acts to review permit applications submitted by persons for various purposes that relate to the use of land and water (i.e., operating marinas, performing construction work in certain areas near water, using chemicals to control "aquatic nuisances," and the like). The acts allow the department to charge various fees for permit applications required to be submitted, and the fees are used to help the department defray its costs in processing permit applications, responding to unauthorized activities that occur by persons regulated under the acts, providing information to the public, and performing various other administrative tasks required under the acts. Due to budget cutbacks in recent years, however, the department has been unable to process permits on a timely basis and carry out its other functions efficiently. The 1992-93 fiscal year budget for the department includes an appropriation of \$1.27 million to fund 17 FTEs that would enable the department to reduce the current backlog in the permitting process, and similar amounts have been proposed annually for each fiscal year until 1994-95. It has been suggested that the fees imposed under various acts that regulate land and water use be raised to generate enough money to cover amounts budgeted for the DNR through fiscal year 1994-95.

### ***THE CONTENT OF THE BILLS:***

Senate Bill 238 would amend the Inland Lakes and Streams Act (MCL 281.952 et al.) to establish, until October 1, 1995, a fee schedule for various permits involving marina projects and, until October 1, 1995, to increase the service fee for establishing a high water mark on a person's property. The bill also would create the Land and Water Management Permit Fee Fund and require that various annual fees be deposited in it. The Department of Natural Resources (DNR) would be required to report annually to the legislature on the fund's use and the processing of permit applications.

The bill also would establish a misdemeanor penalty for violations; authorize law enforcement officers to serve appearance tickets; and, permit the DNR, when work had been done in violation of a permit requirement and restoration had not been ordered, to accept an application for a permit if it were accompanied by a fee equal to twice the required permit fee.

The bill is tie-barred to Senate Bills 239-246, which would amend various natural resources laws to establish an application fee system to cover the administrative costs of reviewing and processing application permits.

Senate Bill 239 would amend the Subdivision Control Act (MCL 560.117) to require, until

Senate Bill 238 et al. (7-22-93)

October 1, 1995, that the submission to the DNR of a preliminary plat, which the act requires of a proprietor whose subdivision lies within the floodplain of a river, stream, creek or lake, be accompanied by a \$500 fee to cover the administrative cost of the department's preliminary plat review. If the department determined that engineering computations were required to establish the limits of the floodplain on a preliminary plat, the department would have to assess an additional fee of \$1,500 to cover its costs of establishing those limits. These fees would have to be credited to the fund that Senate Bill 238 would create. The bill is tie-barred to Senate Bill 238.

Senate Bill 241 would amend the Great Lakes Submerged Lands Act (MCL 322.703 et al.), which allows the DNR to enter into agreements pertaining to waters over and the filling in of submerged patented lands, to establish until October 1, 1995, a fee schedule for minor projects involving construction or expansion of marinas and major construction, dredging or filling projects. Permit fees, as well as money received by the DNR from the sale, lease or other disposition of land and water areas, would have to be credited to the fund proposed in Senate Bill 238.

The bill also would establish a misdemeanor penalty for violations; authorize law enforcement officers to serve an appearance ticket; and allow the DNR, when work had been done in violation of a permit requirement and restoration had not been ordered, to accept an application for a permit if it were accompanied by a fee equal to twice the required permit fee. The bill is tie-barred to Senate Bill 238.

Senate Bill 243 would amend the Dam Safety Act (MCL 281.1319) to require the DNR to forward permit fees to the state treasurer for deposit in the fund proposed in Senate Bill 238.

Currently, the act requires that permit fees be deposited in the state treasury to the credit of the general fund and be available for appropriation to the DNR to be used to defray the cost of reviewing plans and specifications and field inspections to determine compliance with permits issued under the act. The bill would delete these provisions, and is tie-barred to Senate Bill 238.

Senate Bill 244 would amend the Sand Dune Protection and Management Act (MCL 281.671) to require the DNR to forward permit fees to the state

treasurer for deposit in the fund proposed by Senate Bill 238.

Currently, the act requires that fees collected by the DNR be deposited in the state treasury and credited to the general fund to be used to defray the cost of administering the act's provisions on critical dune use procedures and model zoning plans. The bill would delete this provision, and is tie-barred to Senate Bill 238.

Senate Bill 245 would amend the Public Health Code (MCL 333.12562) to require, until October 1, 1995, that fees established by the bill accompany applications for permits to apply in the state's waters certain chemicals to control aquatic nuisances. The DNR would be required to forward the fees to the state treasurer for deposit in the fund that would be created by Senate Bill 238.

The act currently permits the control work to be conducted after a permit has been obtained from the DNR at no charge to the applicant. Senate Bill 245 would delete the provision concerning the issuance of a permit at no charge. The bill is tie-barred to Senate Bill 238.

Senate Bill 246 would amend the Shorelands Protection and Management Act (MCL 281.641) to establish, until October 1, 1995, permit fees for certain projects if permits were required under rules promulgated by the Water Resources Commission. The DNR would be required to forward the fees to the state treasurer for deposit in the fund proposed by Senate Bill 238. The bill is tie-barred to Senate Bill 238.

Senate Bill 719 would amend Public Act 245 of 1929 (MCL 323.2a et al.), which provides for the regulation, protection and conservation of the state's water resources, to require a person to apply to the DNR for a permit to alter a floodplain, and to include information the DNR could require to assess the proposed alteration's impact on the floodplain. A permit application would have to be accompanied by a \$500 fee. If the DNR determined that engineering computations were required to assess the impact of a proposed alteration on flood stage or discharge characteristics, the department could assess the applicant an additional \$1,500. In addition, a permit application for a minor project category, which would be established by administrative rule, would have to be accompanied by a \$100 fee. These fees

would be effective until October 1, 1995, and would have to be credited to the fund proposed in Senate Bill 238.

In addition, the bill would establish a misdemeanor penalty for violations, including willfully or recklessly violating a condition of a floodplain permit; authorize law enforcement officers to serve an appearance ticket; and allow the DNR, when work had been done in violation of a permit requirement and restoration had not been ordered, to accept an application for a permit if it were accompanied by a fee equal to twice the required permit fee. The bill is tie-barred to Senate Bill 238.

#### **HOUSE COMMITTEE ACTION:**

The House Appropriations Committee adopted a substitute for Senate Bill 241 to remove language from it that was included in the Senate-passed version of the bill. This language, which would impose a \$50 fee to renew a marina operating permit, is identical to language currently being

proposed in Senate Bill 238; thus, the amendments are merely technical in nature.

#### **FISCAL IMPLICATIONS:**

According to the House Fiscal Agency, the bills as reported by the House Appropriations Committee would generate approximately \$2.064 million in revenue to the state on an annual basis until October 1995. The fiscal year 1992-93 DNR budget appropriated \$1.27 million in revenue from these proposed fees to fund 17.0 FTEs. The proposed fiscal year 1993-94 and 1994-95 budgets include \$1.3 million, respectively. Further, the House Fiscal Agency reports that the bill would result in costs for local government in the amount of \$350,000. (7-21-93)

The following chart shows the amount of revenue that would be generated by each bill within the package.

	Estimated # Applications	Current Fee	Proposed Fee	Current Revenue	Proposed Revenue	Change in Revenue
S.B. 238	3,880	\$25	\$50 - \$2,000	\$77,500	\$1,079,500	\$1,002,000
S.B. 239	250	0	\$500 - \$2,000	0	170,000	170,000
S.B. 241	650	0	\$50 - 2,000	0	224,500	224,500
S.B. 243	132	\$100 - \$3,000	\$100 - \$3,000	32,000	32,000	0
S.B. 244	250	\$50 - \$600	\$50 - \$600	15,000	15,000	0
S.B. 245	700	0	\$50 - \$150	0	66,000	66,000
S.B. 246	85	0	\$100 - \$500	0	9,000	9,000
S.B. 719	560	0	\$100 - \$2,000	0	468,000	468,000
<b>Total</b>	<b>6,507</b>			<b>\$124,500</b>	<b>\$2,064,000</b>	<b>\$1,939,500</b>

**ARGUMENTS:*****For:***

Because general fund support for the Department of Natural Resources, as well as other state departments, apparently will not be adequate to help it fulfill its many duties required under the acts regulating the use of land and water, additional revenue is needed. The bills would both establish new fees and raise others currently imposed under the acts, most of which have not been raised since 1972, to levels that reflect current costs to the department so that it would be able to fulfill its required tasks under the acts. It seems reasonable to impose on those who benefit financially and otherwise by using land and water in a variety of ways--many of which dramatically affect the environment--fees high enough to generate the kind of revenue the DNR needs to hire staff and acquire resources necessary to process permit applications, regulate those governed under the acts, and carry out its other duties required by these acts in a more timely and efficient manner.

***Against:***

Although the higher fees proposed in the bills generally would be paid by businesses, especially builders and others in the construction industry, many of these higher costs most likely would be passed on to consumers. In effect, the bills exemplify a recent movement within the state toward "back-door" taxation of its citizens.

***Against:***

One of the bills to which Senate Bill 248 is tie-barred (Senate Bill 242) did not pass the Senate, while another bill (Senate Bill 240) to which it is tie-barred has been replaced by Senate Bill 719. The tie-bars in Senate Bill 248 should be revised or removed to reflect the current status of the package.

**POSITIONS:**

The Department of Natural Resources supports the bills. (7-21-93)

The Michigan United Conservation Clubs supports the bills. (7-20-93)