



HOUSE BILL No. 4967

July 21, 1993, Introduced by Rep. Dolan and referred to the Committee on Appropriations.

A bill to amend sections 7, 8, 14, 15, and 19 of Act No. 203 of the Public Acts of 1979, entitled "Goemaere-Anderson wetland protection act," sections 8 and 15 as amended by Act No. 295 of the Public Acts of 1992, being sections 281.707, 281.708, 281.714, 281.715, and 281.719 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 7, 8, 14, 15, and 19 of Act No. 203 of
2 the Public Acts of 1979, sections 8 and 15 as amended by Act
3 No. 295 of the Public Acts of 1992, being sections 281.707,
4 281.708, 281.714, 281.715, and 281.719 of the Michigan Compiled
5 Laws, are amended to read as follows:

6 Sec. 7. (1) Except as provided in section 8(4), ~~to obtain~~
7 A PERSON DESIRING a permit for a use or development listed in
8 section 5 ~~, the person desiring the permit~~ shall file an

1 application with the department on a form provided by the
2 department. ~~accompanied by a fee of \$25.00. A person who has a~~
3 ~~permit for the particular activity under Act No. 346 of the~~
4 ~~Public Acts of 1972, or Act No. 61 of the Public Acts of 1939, as~~
5 ~~amended, being sections 319.1 to 319.27 of the Michigan Compiled~~
6 ~~Laws, does not need to pay the fee prescribed by this~~
7 ~~subsection.~~ The application shall include ALL OF THE FOLLOWING:

8 (a) The person's name and address.

9 (b) The location of the wetland.

10 (c) A description of the wetland on which the use or devel-
11 opment is to be made.

12 (d) A statement describing the proposed use or development.

13 (e) The wetland owner's name and address.

14 (f) An environmental assessment on a form supplied by the
15 department, of the proposed use or development if requested by
16 the department which shall include effects upon wetland benefits
17 and the effects upon the water quality, flow, and levels, and the
18 wildlife, fish, and vegetation within a contiguous lake, river,
19 or stream.

20 (2) For the purposes of subsection (1), a proposed use or
21 development of a wetland shall be considered as a single permit
22 application under this act if the scope, extent, and purpose of a
23 use or development are made known at the time of the application
24 for the permit.

25 (3) EXCEPT AS PROVIDED IN SUBSECTIONS (4) AND (5), AN APPLI-
26 CATION FOR A PERMIT SUBMITTED UNDER SUBSECTION (1) SHALL BE
27 ACCOMPANIED BY THE FOLLOWING FEE:

1 (A) UNTIL OCTOBER 1, 1995:

2 (i) FOR A PROJECT UNDER THE GENERAL PERMIT CATEGORY OF
3 ACTIVITIES AUTHORIZED UNDER SECTION 10, A FEE OF \$50.00.

4 (ii) FOR A MAJOR PROJECT, INCLUDING ANY OF THE FOLLOWING, A
5 FEE OF \$2,000.00:

6 (A) FILLING OR DRAINING OF 1 ACRE OR MORE OF COASTAL OR
7 INLAND WETLAND.

8 (B) 10,000 CUBIC YARDS OR MORE OF WETLAND FILL.

9 (C) NEW GOLF COURSES IMPACTING WETLAND.

10 (D) SUBDIVISIONS IMPACTING WETLAND.

11 (E) CONDOMINIUMS IMPACTING WETLAND.

12 (iii) FOR ALL OTHER PROJECTS, A FEE OF \$500.00.

13 (B) BEGINNING OCTOBER 1, 1995, A FEE OF \$25.00 FOR ANY
14 PROJECT LISTED IN SUBDIVISION (A).

15 (4) A PROJECT THAT REQUIRES REVIEW AND APPROVAL UNDER THIS
16 ACT AND 1 OR MORE OF THE FOLLOWING ACTS IS SUBJECT TO ONLY THE
17 SINGLE HIGHEST PERMIT FEE REQUIRED UNDER THIS ACT OR THE FOLLOW-
18 ING ACTS:

19 (A) THE INLAND LAKES AND STREAMS ACT OF 1972, ACT NO. 346 OF
20 THE PUBLIC ACTS OF 1972, BEING SECTIONS 281.951 TO 281.966 OF THE
21 MICHIGAN COMPILED LAWS.

22 (B) SECTION 2A OF ACT NO. 245 OF THE PUBLIC ACTS OF 1929,
23 BEING SECTION 323.2A OF THE MICHIGAN COMPILED LAWS.

24 (C) THE GREAT LAKES SUBMERGED LANDS ACT, ACT NO. 247 OF THE
25 PUBLIC ACTS OF 1955, BEING SECTIONS 322.701 TO 322.715 OF THE
26 MICHIGAN COMPILED LAWS.

1 (D) THE SHORELANDS PROTECTION AND MANAGEMENT ACT OF 1970,
2 ACT NO. 245 OF THE PUBLIC ACTS OF 1970, BEING SECTIONS 281.631 TO
3 281.644 OF THE MICHIGAN COMPILED LAWS.

4 (E) SECTION 117 OF THE SUBDIVISION CONTROL ACT OF 1967, ACT
5 NO. 288 OF THE PUBLIC ACTS OF 1967, BEING SECTION 560.117 OF THE
6 MICHIGAN COMPILED LAWS.

7 (5) IF WORK HAS BEEN DONE IN VIOLATION OF A PERMIT REQUIRE-
8 MENT UNDER THIS ACT AND RESTORATION IS NOT ORDERED BY THE DEPART-
9 MENT, THE DEPARTMENT MAY ACCEPT AN APPLICATION FOR A PERMIT IF
10 THE APPLICATION IS ACCOMPANIED BY A FEE EQUAL TO 2 TIMES THE
11 PERMIT FEE REQUIRED UNDER THIS SECTION.

12 Sec. 8. (1) Within 60 days after receipt of the completed
13 application and fee PURSUANT TO SECTION 7, the department may
14 hold a hearing. If a hearing is held, it shall be held in the
15 county ~~where~~ WITHIN WHICH the wetland ~~on which~~ THAT IS THE
16 SUBJECT OF the permit APPLICATION is ~~to apply is~~ located.
17 Notice of the hearing shall be made in the same manner as for the
18 promulgation of rules under the administrative procedures act of
19 1969, Act No. 306 of the Public Acts of 1969, as amended, being
20 sections 24.201 to 24.328 of the Michigan Compiled Laws. The
21 department may approve or disapprove a permit application without
22 a public hearing unless a person requests a hearing in writing
23 within 20 days after the mailing of notification of the permit
24 application as required by subsection (3), or the department
25 determines that the permit application is of significant impact
26 to warrant a public hearing.

1 (2) If a hearing is not held, the department shall approve
2 or disapprove the permit application within 90 days after the
3 completed permit application is filed with the department. If a
4 hearing is held, the department shall approve or disapprove the
5 permit application within 90 days after the conclusion of the
6 hearing. The department may approve a permit application,
7 request modifications in the application, or deny the permit
8 application. If the department approves the permit application,
9 the department shall prepare and send the permit to the
10 applicant. If the department denies ~~—~~ or requests a modifica-
11 tion of ~~—~~ the permit application, the department shall send
12 notice of the denial or modification request, and the reasons for
13 the denial or the modifications requested to the applicant.
14 Department approval may include the issuance of a permit contain-
15 ing conditions necessary for compliance with this act. If the
16 department does not approve or disapprove the permit application
17 within the time provided by this subsection, the permit applica-
18 tion shall be considered approved, and the department shall be
19 considered to have made the determinations required by section
20 9. The action taken by the department may be appealed pursuant
21 to Act No. 306 of the Public Acts of 1969, as amended. A prop-
22 erty owner may, after exhaustion of administrative remedies,
23 bring appropriate legal action in a court of competent
24 jurisdiction.

25 (3) ~~—A~~ UNTIL OCTOBER 1, 1995, A person who desires notifi-
26 cation of pending permit applications may make a written request
27 to the department accompanied by an annual fee of \$25.00. ~~—which~~

1 ~~shall be credited to the general fund of the state.~~ The
2 department shall prepare a biweekly list of the applications made
3 during the previous 2 weeks and shall promptly mail copies of the
4 list for the remainder of the calendar year to the persons who
5 requested notice. The biweekly list shall state the name and
6 address of each applicant, the location of the wetland in the
7 proposed use or development including the size of both the pro-
8 posed use or development and of the wetland affected, and a sum-
9 mary statement of the purpose of the use or development.

10 (4) A municipality may regulate wetland within its bounda-
11 ries, by ordinance, only as provided under this act. This sub-
12 section is supplemental to the existing authority of a
13 municipality. An ordinance adopted by a municipality pursuant to
14 this subsection shall comply with all of the following:

15 (a) The ordinance shall not provide a different definition
16 of wetland than is provided in this act, except that a wetland
17 ordinance may regulate wetland of less than 5 acres in size.

18 (b) If the ordinance regulates wetland that is smaller than
19 2 acres in size, the ordinance shall comply with section 8b.

20 (c) The ordinance shall comply with sections 8a and 8c.

21 (d) The ordinance shall not require a permit for uses that
22 are authorized without a permit under section 6, and shall other-
23 wise comply with this act.

24 (5) Each municipality that adopts an ordinance regulating
25 wetlands under subsection (4) shall notify the department.

26 (6) A municipality that adopts an ordinance regulating
27 wetlands shall use an application form supplied by the

1 department, and each person applying for a permit shall make
2 application directly with the municipality. Upon receipt, the
3 municipality shall forward a copy of each application to the
4 department. The department shall begin reviewing the application
5 as provided in this act. The municipality shall review the
6 application pursuant to its ordinance and shall modify, approve,
7 or deny the application within 90 days after receipt. The denial
8 of a permit shall be accompanied by a written reason for denial.
9 The failure to supply complete information with a permit applica-
10 tion may be reason for denial of a permit. The department shall
11 inform any interested person whether a municipality has an ordi-
12 nance regulating wetlands. If the department receives an appli-
13 cation with respect to a wetland which is located in a municipal-
14 ity which has an ordinance regulating wetlands, the department
15 immediately shall forward the application to the municipality,
16 which shall modify, deny, or approve the application under this
17 subsection. The municipality shall notify the department of its
18 decision. The department shall proceed as provided in this act.

19 (7) If a municipality does not have an ordinance regulating
20 wetlands, the department shall promptly send a copy of the permit
21 application to the municipality where the wetland is located.
22 The municipality may review the application; may hold a hearing
23 on the application; and may recommend approval, modification, or
24 denial of the application to the department. The recommendations
25 of the municipality shall be made and returned to the department
26 within 45 days after the municipality's receipt of the permit

1 application. The department shall approve, modify, or deny the
2 application as provided in this act.

3 Sec. 14. (1) The attorney general may commence a civil
4 action for appropriate relief, including injunctive relief upon
5 request of the department under section 13(1). An action under
6 this subsection may be brought in the circuit court for the
7 county of Ingham or for a county in which the defendant is
8 located, resides, or is doing business. The court has jurisdic-
9 tion to restrain the violation and to require compliance with
10 this act. In addition to any other relief granted under this
11 section, the court may impose a civil fine of not more than
12 \$10,000.00 per day of violation. A person who violates an order
13 of the court ~~shall be~~ IS subject to a civil fine not to exceed
14 \$10,000.00 for each day of violation.

15 (2) ~~A~~ EXCEPT AS PROVIDED IN SUBSECTION (3), A person who
16 violates this act is guilty of a misdemeanor, punishable by a
17 fine of not more than \$2,500.00.

18 (3) A PERSON WHO COMMITS A MINOR OFFENSE IS GUILTY OF A MIS-
19 DEMEANOR, PUNISHABLE BY A FINE OF NOT MORE THAN \$500.00 FOR EACH
20 VIOLATION. A LAW ENFORCEMENT OFFICER MAY ISSUE AND SERVE AN
21 APPEARANCE TICKET UPON A PERSON FOR A MINOR OFFENSE PURSUANT TO
22 SECTIONS 9A TO 9G OF CHAPTER IV OF THE CODE OF CRIMINAL PROCE-
23 DURE, ACT NO. 175 OF THE PUBLIC ACTS OF 1927, BEING
24 SECTIONS 764.9A TO 764.9G OF THE MICHIGAN COMPILED LAWS. AS USED
25 IN THIS SECTION, "MINOR OFFENSE" MEANS EITHER OF THE FOLLOWING
26 VIOLATIONS OF THIS ACT IF THE DEPARTMENT DETERMINES THAT
27 RESTORATION OF THE AFFECTED WETLAND IS NOT REQUIRED:

1 (A) THE FAILURE TO OBTAIN A PERMIT UNDER THIS ACT.

2 (B) A VIOLATION OF A PERMIT ISSUED UNDER THIS ACT.

3 (4) ~~(3)~~ A person who ~~wilfully~~ WILLFULLY or recklessly
4 violates a condition or limitation in a permit issued by the
5 department under this act, or a corporate officer who has knowl-
6 edge of or is responsible for a violation, is guilty of a misde-
7 meanor, punishable by a fine of not less than \$2,500.00 nor more
8 than \$25,000.00 per day of violation, or by imprisonment for not
9 more than 1 year, or both. A person who violates this section a
10 second or subsequent time is guilty of a felony, punishable by a
11 fine of not more than \$50,000.00 for each day of violation, or by
12 imprisonment for not more than 2 years, or both.

13 (5) ~~(4)~~ In addition to the penalties provided under sub-
14 sections (1), (2), and ~~(3)~~ (4), the court may order a person
15 who violates this act to restore as nearly as possible the wet-
16 land which was affected by the violation, to its original condi-
17 tion immediately before the violation. The restoration may
18 include the removal of fill material deposited in the wetland or
19 the replacement of soil, sand, or minerals.

20 Sec. 15. (1) The ~~fees and~~ civil fines collected under
21 this act shall be ~~deposited~~ FORWARDED TO THE STATE TREASURER
22 FOR DEPOSIT in the general fund of the state.

23 (2) THE FEES COLLECTED UNDER THIS ACT SHALL BE FORWARDED TO
24 THE STATE TREASURER FOR DEPOSIT IN THE LAND AND WATER MANAGEMENT
25 PERMIT FEE FUND CREATED IN SECTION 16 OF THE INLAND LAKES AND
26 STREAMS ACT OF 1972, ACT NO. 346 OF THE PUBLIC ACTS OF 1972,
27 BEING SECTION 281.966 OF THE MICHIGAN COMPILED LAWS.

1 (3) Other than criminal fines, funds collected by a
2 municipality under an ordinance authorized under section 8(4) ~~T~~
3 shall be deposited in the general fund of the municipality.

4 Sec. 19. (1) The department shall make or cause to be made
5 a preliminary inventory of all wetland in this state on a county
6 by county basis and file the inventory with the agricultural
7 extension office, register of deeds, and county clerk.

8 (2) At least 2 hearings shall be held in each state planning
9 and development region created by Executive Directive No.
10 1973-1. The hearing shall be held by the department after publi-
11 cation and due notice so that interested parties may comment on
12 the inventory. After the hearings the department shall issue a
13 final inventory which shall be sent and kept by the agricultural
14 extension office, register of deeds, and county clerk.
15 Legislators shall receive an inventory of a county or regional
16 classification for their districts including both preliminary and
17 final inventories unless the legislators request not to receive
18 the materials.

19 (3) Before an inventory is made of a county, interested per-
20 sons may request the department to inspect property and the
21 department shall make a written wetland determination. The
22 determination shall be made within a reasonable time after the
23 request. Completion of the inventory shall not delay implementa-
24 tion of this act. UNTIL OCTOBER 1, 1995, THE REQUEST FOR A WET-
25 LAND DETERMINATION SHALL BE ACCOMPANIED BY A FEE OF \$50.00 FOR A
26 PARCEL OF LAND 5 ACRES OR LESS IN SIZE AND \$10.00 PER ACRE FOR
27 PARCELS GREATER THAN 5 ACRES.

1 Section 2. This amendatory act shall not take effect unless
2 Senate Bill No. 238 of the 87th Legislature is enacted into law.