



SENATE BILL No. 242

January 26, 1993, Introduced by Senator EHLERS and referred to the Committee on Natural Resources and Environmental Affairs.

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

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

5 (i) FILLING OR DRAINING OF 1 ACRE OR MORE OF COASTAL OR
6 INLAND WETLAND.

7 (ii) 10,000 CUBIC YARDS OR MORE OF WETLAND FILL.

8 (iii) NEW GOLF COURSES IMPACTING WETLAND.

9 (iv) SUBDIVISIONS IMPACTING WETLAND.

10 (v) CONDOMINIUMS IMPACTING WETLAND.

11 (C) FOR ALL OTHER PROJECTS, A FEE OF \$500.00.

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

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

19 (B) ACT NO. 245 OF THE PUBLIC ACTS OF 1929, BEING
20 SECTIONS 323.1 TO 323.12A OF THE MICHIGAN COMPILED LAWS.

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

24 (D) THE SHORELANDS PROTECTION AND MANAGEMENT ACT OF 1970,
25 ACT NO. 245 OF THE PUBLIC ACTS OF 1970, BEING SECTIONS 281.631 TO
26 281.644 OF THE MICHIGAN COMPILED LAWS.

1 (5) IF WORK HAS BEEN DONE IN VIOLATION OF A PERMIT
2 REQUIREMENT UNDER THIS ACT AND RESTORATION IS NOT ORDERED BY THE
3 DEPARTMENT, THE DEPARTMENT MAY ACCEPT AN APPLICATION FOR A PERMIT
4 IF THE APPLICATION IS ACCOMPANIED BY A FEE EQUAL TO 2 TIMES THE
5 PERMIT FEE REQUIRED UNDER THIS SECTION.

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

21 (2) If a hearing is not held, the department shall approve
22 or disapprove the permit application within 90 days after the
23 completed permit application is filed with the department. If a
24 hearing is held, the department shall approve or disapprove the
25 permit application within 90 days after the conclusion of the
26 hearing. The department may approve a permit application,
27 request modifications in the application, or deny the permit

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

18 (3) A person who desires notification of pending permit
19 applications may make a written request to the department accom-
20 panied by an annual fee of \$75.00. ~~—\$25.00 which shall be cred-~~
21 ~~ited to the general fund of the state.~~ The department shall pre-
22 pare a biweekly list of the applications made during the previous
23 2 weeks and shall promptly mail copies of the list for the
24 remainder of the calendar year to the persons who requested
25 notice. The biweekly list shall state the name and address of
26 each applicant, the location of the wetland in the proposed use
27 or development including the size of both the proposed use or

1 development and of the wetland affected, and a summary statement
2 of the purpose of the use or development.

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

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

11 (b) If the ordinance regulates wetland that is smaller than
12 2 acres in size, the ordinance shall comply with section 8b.

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

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

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

19 (6) A municipality that adopts an ordinance regulating wet-
20 lands shall use an application form supplied by the department,
21 and each person applying for a permit shall make application
22 directly with the municipality. Upon receipt, the municipality
23 shall forward a copy of each application to the department. The
24 department shall begin reviewing the application as provided in
25 this act. The municipality shall review the application pursuant
26 to its ordinance and shall modify, approve, or deny the
27 application within 90 days after receipt. The denial of a permit

1 shall be accompanied by a written reason for denial. The failure
2 to supply complete information with a permit application may be
3 reason for denial of a permit. The department shall inform any
4 interested person whether a municipality has an ordinance regu-
5 lating wetlands. If the department receives an application with
6 respect to a wetland which is located in a municipality which has
7 an ordinance regulating wetlands, the department immediately
8 shall forward the application to the municipality, which shall
9 modify, deny, or approve the application under this subsection.
10 The municipality shall notify the department of its decision.
11 The department shall proceed as provided in this act.

12 (7) If a municipality does not have an ordinance regulating
13 wetlands, the department shall promptly send a copy of the permit
14 application to the municipality where the wetland is located.
15 The municipality may review the application; may hold a hearing
16 on the application; and may recommend approval, modification, or
17 denial of the application to the department. The recommendations
18 of the municipality shall be made and returned to the department
19 within 45 days after the municipality's receipt of the permit
20 application. The department shall approve, modify, or deny the
21 application as provided in this act.

22 Sec. 14. (1) The attorney general may commence a civil
23 action for appropriate relief, including injunctive relief upon
24 request of the department under section 13(1). An action under
25 this subsection may be brought in the circuit court for the
26 county of Ingham or for a county in which the defendant is
27 located, resides, or is doing business. The court has

1 jurisdiction to restrain the violation and to require compliance
2 with this act. In addition to any other relief granted under
3 this section, the court may impose a civil fine of not more than
4 \$10,000.00 per day of violation. A person who violates an order
5 of the court ~~shall be~~ IS subject to a civil fine not to exceed
6 \$10,000.00 for each day of violation.

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

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

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

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

22 (4) ~~(3)~~ A person who ~~wilfully~~ WILLFULLY or recklessly
23 violates a condition or limitation in a permit issued by the
24 department under this act, or a corporate officer who has knowl-
25 edge of or is responsible for a violation, is guilty of a misde-
26 meanor, punishable by a fine of not less than \$2,500.00 nor more
27 than \$25,000.00 per day of violation, or by imprisonment for not

1 more than 1 year, or both. A person who violates this section a
2 second or subsequent time is guilty of a felony, punishable by a
3 fine of not more than \$50,000.00 for each day of violation, or by
4 imprisonment for not more than 2 years, or both.

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

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

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

20 (3) Other than criminal fines, funds collected by a munici-
21 pality under an ordinance authorized under section 8(4) ~~—~~ shall
22 be deposited in the general fund of the municipality.

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

1 (2) At least 2 hearings shall be held in each state planning
2 and development region created by Executive Directive No.

3 1973-1. The hearing shall be held by the department after publi-
4 cation and due notice so that interested parties may comment on
5 the inventory. After the hearings the department shall issue a
6 final inventory which shall be sent and kept by the agricultural
7 extension office, register of deeds, and county clerk.
8 Legislators shall receive an inventory of a county or regional
9 classification for their districts including both preliminary and
10 final inventories unless the legislators request not to receive
11 the materials.

12 (3) Before an inventory is made of a county, interested per-
13 sons may request the department to inspect property and the
14 department shall make a written wetland determination. The
15 determination shall be made within a reasonable time after the
16 request. Completion of the inventory shall not delay implementa-
17 tion of this act. THE REQUEST FOR A WETLAND DETERMINATION SHALL
18 BE ACCOMPANIED BY A FEE OF \$50.00 FOR A PARCEL OF LAND 5 ACRES OR
19 LESS IN SIZE AND \$10.00 PER ACRE FOR PARCELS GREATER THAN 5
20 ACRES.

21 Section 2. This amendatory act shall not take effect unless
22 Senate Bill No. 238

23 of the 87th Legislature is enacted into law.