

HB5114, As Passed House, December 4, 1997

H.B. 5114

(As amended December 3, 1997)

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 30306, 30307, and 30317 (MCL 324.30306, 324.30307, and 324.30317), section 30306 as added by 1995 PA 59, section 30307 as amended by 1995 PA 103, and section 30317 as amended by 1996 PA 530.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 30306. (1) Except as provided in section ~~30307(4)~~
2 30307(6), to obtain a permit for a use or development listed in
3 section 30304, ~~the~~ A person ~~desiring the permit~~ shall file an
4 application with the department on a form provided by the
5 department. ~~accompanied by a fee of \$25.00. A person who has a~~
6 ~~permit for the particular activity under part 301 or part 615~~
7 ~~does not need to pay the fee prescribed by this subsection.~~ The
8 application shall include all of the following:

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- 1 (a) The person's name and address.
- 2 (b) The location of the wetland.
- 3 (c) A description of the wetland on which the use or devel-
4 opment is to be made.
- 5 (d) A statement AND APPROPRIATE DRAWINGS describing the pro-
6 posed use or development.
- 7 (e) The wetland owner's name and address.
- 8 (f) An environmental assessment ~~, on a form supplied by the~~
9 ~~department,~~ of the proposed use or development if requested by
10 the department, which assessment shall include the effects upon
11 wetland benefits and the effects upon the water quality, flow,
12 and levels, and the wildlife, fish, and vegetation within a con-
13 tiguous lake, river, or stream.
- 14 (2) For the purposes of subsection (1), a proposed use or
15 development of a wetland shall be considered as a single permit
16 application under this part if the scope, extent, and purpose of
17 a use or development are made known at the time of the applica-
18 tion for the permit.
- 19 (3) EXCEPT AS PROVIDED IN SUBSECTIONS (4) AND (5), AN APPLI-
20 CATION FOR A PERMIT SUBMITTED UNDER SUBSECTION (1) SHALL BE
21 ACCOMPANIED BY THE FOLLOWING FEE:
- 22 (A) FOR A PROJECT IN A CATEGORY OF ACTIVITIES FOR WHICH A
23 GENERAL PERMIT IS ISSUED UNDER SECTION 30312, A FEE OF \$100.00.
- 24 (B) FOR A MAJOR PROJECT, INCLUDING ANY OF THE FOLLOWING, A
25 FEE OF \$2,000.00:
- 26 (i) FILLING OR DRAINING OF 1 ACRE OR MORE OF COASTAL OR
27 INLAND WETLAND.

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- 1 (ii) 10,000 CUBIC YARDS OR MORE OF WETLAND FILL.
2 (iii) A NEW GOLF COURSE IMPACTING WETLAND.
3 (iv) A SUBDIVISION IMPACTING WETLAND.
4 (v) A CONDOMINIUM IMPACTING WETLAND.
5 (C) FOR ALL OTHER PROJECTS, A FEE OF \$500.00.
6 (4) A PROJECT THAT REQUIRES REVIEW AND APPROVAL UNDER THIS
7 PART AND 1 OR MORE OF THE FOLLOWING IS SUBJECT TO ONLY THE SINGLE
8 HIGHEST PERMIT FEE REQUIRED UNDER THIS PART OR THE FOLLOWING:
9 (A) SECTION 3104.
10 (B) PART 301.
11 (C) PART 323.
12 (D) PART 325.
13 (E) SECTION 117 OF THE LAND DIVISION ACT, 1967 PA 288, MCL
14 560.117.
15 (5) IF WORK HAS BEEN DONE IN VIOLATION OF A PERMIT REQUIRE-
16 MENT UNDER THIS PART AND RESTORATION IS NOT ORDERED BY THE
17 DEPARTMENT, THE DEPARTMENT MAY ACCEPT AN APPLICATION FOR A PERMIT
18 IF THE APPLICATION IS ACCOMPANIED BY A FEE EQUAL TO TWICE THE
19 PERMIT FEE REQUIRED UNDER THIS SECTION.

[(6) IF THE DEPARTMENT DETERMINES THAT A PERMIT IS NOT REQUIRED
UNDER THIS PART, THE DEPARTMENT SHALL PROMPTLY REFUND THE FEE PAID
UNDER THIS SECTION.]

20 Sec. 30307. (1) Within 60 days after receipt of the com-
21 pleted application and fee, the department may hold a hearing.
22 If a hearing is held, it shall be held in the county where the
23 wetland ~~on~~ TO which the permit is to apply is located. Notice
24 of the hearing shall be made in the same manner as for the
25 promulgation of rules under the administrative procedures act of
26 1969, ~~Act No. 306 of the Public Acts of 1969, being sections~~
27 ~~24.201 to 24.328 of the Michigan Compiled Laws~~ 1969 PA 306, MCL

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1 24.201 TO 24.328. The department may approve or disapprove a
2 permit application without a public hearing unless a person
3 requests a hearing in writing within 20 days after the mailing of
4 notification of the permit application as required by subsection
5 (3) or unless the department determines that the permit applica-
6 tion is of significant impact to warrant a public hearing.

7 (2) If a hearing is not held, the department shall approve
8 or disapprove the permit application within 90 days after the
9 completed permit application is filed with the department. If a
10 hearing is held, the department shall approve or disapprove the
11 permit application within 90 days after the conclusion of the
12 hearing. The department may approve a permit application,
13 request modifications in the application, or deny the permit
14 application. If the department approves the permit application,
15 the department shall prepare and send the permit to the
16 applicant. If the department denies, or requests a modification
17 of, the permit application, the department shall send notice of
18 the denial or modification request and the reasons for the denial
19 or the modifications requested to the applicant. Department
20 approval may include the issuance of a permit containing condi-
21 tions necessary for compliance with this part. If the department
22 does not approve or disapprove the permit application within the
23 time provided by this subsection, the permit application shall be
24 considered approved, and the department shall be considered to
25 have made the determinations required by section 30311. The
26 action taken by the department may be appealed pursuant to ~~Act~~
27 ~~No. 306 of the Public Acts of 1969~~ THE ADMINISTRATIVE PROCEDURES

1 ACT OF 1969, 1969 PA 306, MCL 24.201 TO 24.328. A property owner
2 may, after exhaustion of administrative remedies, bring appropri-
3 ate legal action in a court of competent jurisdiction.

4 (3) A person who desires notification of pending permit
5 applications may make a written request to the department accom-
6 panied by an annual fee of \$25.00, which shall be credited to the
7 general fund of the state. The department shall prepare a
8 biweekly list of the applications made during the previous 2
9 weeks and shall promptly mail copies of the list for the remain-
10 der of the calendar year to the persons who requested notice.
11 The biweekly list shall state the name and address of each appli-
12 cant, the location of the wetland in the proposed use or develop-
13 ment, including the size of both the proposed use or development
14 and of the wetland affected, and a summary statement of the pur-
15 pose of the use or development.

16 (4) A local unit of government may regulate wetland within
17 its boundaries, by ordinance, only as provided under this part.
18 This subsection is supplemental to the existing authority of a
19 local unit of government. An ordinance adopted by a local unit
20 of government pursuant to this subsection shall comply with all
21 of the following:

22 (a) The ordinance shall not provide a different definition
23 of wetland than is provided in this part, except that a wetland
24 ordinance may regulate wetland of less than 5 acres in size.

25 (b) If the ordinance regulates wetland that is smaller than
26 2 acres in size, the ordinance shall comply with section 30309.

1 (c) The ordinance shall comply with sections 30308 and
2 30310.

3 (d) The ordinance shall not require a permit for uses that
4 are authorized without a permit under section 30305, and shall
5 otherwise comply with this part.

6 (5) Each local unit of government that adopts an ordinance
7 regulating wetlands under subsection (4) shall notify the
8 department.

9 (6) A local unit of government that adopts an ordinance reg-
10 ulating wetlands shall use an application form supplied by the
11 department, and each person applying for a permit shall make
12 application directly to the local unit of government. Upon
13 receipt, the local unit of government shall forward a copy of
14 each application ALONG WITH ANY STATE FEES THAT MAY HAVE BEEN
15 SUBMITTED UNDER SECTION 30306 to the department. The department
16 shall begin reviewing the application as provided in this part.
17 The local unit of government shall review the application pursu-
18 ant to its ordinance and shall modify, approve, or deny the
19 application within 90 days after receipt. If a municipality does
20 not approve or disapprove the permit application within the time
21 period provided by this subsection, the permit application shall
22 be considered approved, and the municipality shall be considered
23 to have made the determinations as listed in section 30311. The
24 denial of a permit shall be accompanied by a written statement of
25 all reasons for denial. The failure to supply complete informa-
26 tion with a permit application may be reason for denial of a
27 permit. The department shall inform any interested person

1 whether or not a local unit of government has an ordinance
2 regulating wetlands. If the department receives an application
3 with respect to a wetland which is located in a local unit of
4 government which has an ordinance regulating wetlands, the
5 department immediately shall forward the application to the local
6 unit of government, which shall modify, deny, or approve the
7 application under this subsection. The local unit of government
8 shall notify the department of its decision. The department
9 shall proceed as provided in this part.

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

21 (8) In addition to the requirements of subsection (7), the
22 department shall notify the local unit of government that the
23 department has issued a permit under this part within the juris-
24 diction of that local unit of government within 15 days of issu-
25 ance of the permit. The department shall enclose a copy of the
26 permit with the notice.

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1 Sec. 30317. The ~~fees and~~ civil fines collected under this
2 part shall be forwarded to the state treasurer for deposit in the
3 general fund of the state. ~~, except that~~ THE fees collected
4 under ~~section 30321~~ THIS PART shall be deposited in the land
5 and water management permit fee fund created in section 30113.
[SUBJECT TO SECTION 30113, THE DEPARTMENT SHALL EXPEND MONEY FROM
THE LAND AND WATER MANAGEMENT PERMIT FEE FUND, UPON APPROPRIATION,
TO SUPPORT GUIDANCE FOR PROPERTY OWNERS AND APPLICANTS, PERMIT
PROCESSING, COMPLIANCE INSPECTIONS, AND ENFORCEMENT ACTIVITIES UNDER
THIS PART. NOT MORE THAN 90 DAYS AFTER THE END OF EACH STATE FISCAL
YEAR ENDING AFTER 1997, THE DEPARTMENT SHALL PREPARE A REPORT
DESCRIBING HOW MONEY FROM THE LAND AND WATER MANAGEMENT PERMIT FEE
FUND WAS EXPENDED DURING THAT FISCAL YEAR AND SHALL SUBMIT THE
REPORT TO THE STANDING COMMITTEES OF THE HOUSE OF REPRESENTATIVES
AND THE SENATE THAT PRIMARILY ADDRESS ISSUES PERTAINING TO THE
PROTECTION OF NATURAL RESOURCES AND THE ENVIRONMENT, AND THE
APPROPRIATIONS COMMITTEES IN THE HOUSE OF REPRESENTATIVES AND THE
SENATE.]
6 Other than CIVIL FINES AND COSTS, THE DISPOSITION OF WHICH IS
7 GOVERNED BY SECTION 8379 OF THE REVISED JUDICATURE ACT OF 1961,
8 1961 PA 236, MCL 600.8379, OR criminal fines, funds collected by
9 a local unit of government under an ordinance authorized under
10 section 30307(4) shall be deposited in the general fund of the
11 local unit of government.