

# HOUSE BILL No. 4901

June 26, 2003, Introduced by Reps. Milosch, Tabor, Bradstreet, Richardville, Nitz,  
Brandenburg, Farhat and Casperson and referred to the Committee on Conservation and  
Outdoor Recreation.

A bill to amend 1994 PA 451, entitled  
"Natural resources and environmental protection act,"  
by amending sections 30101 and 30104 (MCL 324.30101 and  
324.30104), as amended by 1999 PA 106, and by adding sections  
30114, 30115, and 30116.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 30101. As used in this part:

2       (a) "Bottomland" means the land area of an inland lake or  
3 stream that lies below the ordinary high-water mark and that may  
4 or may not be covered by water.

5       (b) "Bulkhead line" means a line that is established pursuant  
6 to this part beyond which dredging, filling, or construction of  
7 any kind is not allowed without a permit.

8       (c) "Department" means the department of environmental  
9 quality.

1 (d) "Fund" means the land and water management permit fee  
2 fund created in section 30113.

3 (e) "Impoundment" means water held back by a dam, dike,  
4 floodgate, or other barrier.

5 (f) "Inland lake or stream" means a natural or artificial  
6 lake, pond, or impoundment; a river, stream, or creek which may  
7 or may not be serving as a drain as defined by the drain code of  
8 1956, 1956 PA 40, MCL 280.1 to 280.630; or any other body of  
9 water that has definite banks, a bed, and visible evidence of a  
10 continued flow or continued occurrence of water, including the  
11 St. Marys, St. Clair, and Detroit rivers. Inland lake or stream  
12 does not include the Great Lakes, Lake St. Clair, or a lake or  
13 pond that has a surface area of less than 5 acres.

14 (g) "Marina" means a facility that is owned or operated by a  
15 person, extends into or over an inland lake or stream, and offers  
16 service to the public or members of the marina for docking,  
17 loading, or other servicing of recreational watercraft.

18 (h) "Minor offense" means either of the following violations  
19 of this part if the project involved in the offense is a minor  
20 project as listed in R 281.816 of the Michigan administrative  
21 code or the department determines that restoration of the  
22 affected property is not required:

23 (i) The failure to obtain a permit under this part.

24 (ii) A violation of a permit issued under this part.

25 (i) **"Ordinance" or "inland lakes and streams ordinance" means**  
26 **an ordinance adopted by a local unit of government regulating**  
27 **inland lakes and streams as authorized by this part.**

1           **(j)** ~~-(i)-~~ "Ordinary high-water mark" means the line between  
2 upland and bottomland that persists through successive changes in  
3 water levels, below which the presence and action of the water is  
4 so common or recurrent that the character of the land is marked  
5 distinctly from the upland and is apparent in the soil itself,  
6 the configuration of the surface of the soil, and the  
7 vegetation. On an inland lake that has a level established by  
8 law, it means the high established level. Where water returns to  
9 its natural level as the result of the permanent removal or  
10 abandonment of a dam, it means the natural ordinary high-water  
11 mark.

12           **(k)** ~~-(j)-~~ "Project" means an activity that requires a permit  
13 pursuant to section 30102.

14           **(l)** ~~-(k)-~~ "Property owners' association" means any group of  
15 organized property owners publishing a directory of their  
16 membership, the majority of which are riparian owners and are  
17 located on the inland lake or stream that is affected by the  
18 proposed project.

19           **(m)** ~~-(l)-~~ "Riparian owner" means a person who has riparian  
20 rights.

21           **(n)** ~~-(m)-~~ "Riparian rights" means those rights which are  
22 associated with the ownership of the bank or shore of an inland  
23 lake or stream.

24           **(o)** ~~-(n)-~~ "Seasonal structure" includes any type of dock,  
25 boat hoist, ramp, raft, or other recreational structure that is  
26 placed into an inland lake or stream and removed at the end of  
27 the boating season.

1           **(p)** ~~(e)~~ "Structure" includes a marina, wharf, dock, pier,  
2 dam, weir, stream deflector, breakwater, groin, jetty, sewer,  
3 pipeline, cable, and bridge.

4           **(q)** ~~(p)~~ "Upland" means the land area that lies above the  
5 ordinary high-water mark.

6           Sec. 30104. (1) ~~Before~~ **Subject to subsection (5), before**  
7 a project that is subject to this part is undertaken, a person  
8 shall file an application and receive a permit from the  
9 department. The application shall be on a form prescribed by the  
10 department and shall include any information that may be required  
11 by the department. If a project includes activities at multiple  
12 locations, 1 application may be filed for the combined  
13 activities.

14           (2) Except as provided in subsections (3) and (4), an  
15 application for a permit shall be accompanied by a fee based on  
16 an administrative cost in accordance with the following  
17 schedule:

18           (a) Until October 1, 2003:

19           (i) For a minor project listed in R 281.816 of the Michigan  
20 administrative code, or a seasonal drawdown or the associated  
21 reflooding, or both, of a dam or impoundment for the purpose of  
22 weed control, a fee of \$50.00. However, for a permit for a  
23 seasonal drawdown or associated reflooding, or both, of a dam or  
24 impoundment for the purpose of weed control that is issued for  
25 the first time after October 9, 1995, an initial fee of \$500.00  
26 with subsequent permits for the same purpose being assessed a  
27 \$50.00 fee.

1           (ii) For construction or expansion of a marina, a fee of:

2           (A) \$50.00 for an expansion of 1-10 slips to an existing  
3 permitted marina.

4           (B) \$100.00 for a new marina with 1-10 proposed marina  
5 slips.

6           (C) \$250.00 for an expansion of 11-50 slips to an existing  
7 permitted marina, plus \$10.00 for each slip over 50.

8           (D) \$500.00 for a new marina with 11-50 proposed marina  
9 slips, plus \$10.00 for each slip over 50.

10          (E) \$1,500.00 if an existing permitted marina proposes  
11 maintenance dredging of 10,000 cubic yards or more or the  
12 addition of seawalls, bulkheads, or revetments of 500 feet or  
13 more.

14          (iii) For renewal of a marina operating permit, a fee of  
15 \$50.00.

16          (iv) For major projects other than a project described in  
17 subparagraph (ii)(E), involving any of the following, a fee of  
18 \$2,000.00:

19          (A) Dredging of 10,000 cubic yards or more.

20          (B) Filling of 10,000 cubic yards or more.

21          (C) Seawalls, bulkheads, or revetment of 500 feet or more.

22          (D) Filling or draining of 1 acre or more of wetland  
23 contiguous to a lake or stream.

24          (E) New dredging or upland boat basin excavation in areas of  
25 suspected contamination.

26          (F) Shore projections, such as groins and underwater  
27 stabilizers, that extend 150 feet or more into a lake or stream.

1 (G) New commercial docks or wharves of 300 feet or more in  
2 length.

3 (H) Stream enclosures 100 feet or more in length.

4 (I) Stream relocations 500 feet or more in length.

5 (J) New golf courses.

6 (K) Subdivisions.

7 (L) Condominiums.

8 (v) For all other projects not listed in subparagraphs (i)  
9 through (iv), a fee of \$500.00.

10 (b) Beginning October 1, 2003, a fee of \$25.00 for any  
11 project listed in subdivision (a).

12 (3) A project that requires review and approval under this  
13 part and 1 or more of the following acts or parts of acts is  
14 subject to only the single highest permit fee required under this  
15 part or the following acts or parts of acts:

16 (a) Part 303.

17 (b) Part 323.

18 (c) Part 325.

19 (d) Section 3104.

20 (e) Section 117 of the land division act, 1967 PA 288, MCL  
21 560.117.

22 (4) If work has been done in violation of a permit  
23 requirement under this part and restoration is not ordered by the  
24 department, the department may accept an application for a permit  
25 if the application is accompanied by a fee equal to 2 times the  
26 permit fee required under this section.

27 **(5) The department shall inform any interested person of**

1 whether or not a local unit of government has an inland lakes and  
2 streams ordinance. If the department receives an application  
3 with respect to an inland lake or stream that is located in a  
4 local unit of government that has an inland lakes and streams  
5 ordinance, the department shall notify the applicant and shall  
6 immediately forward a copy of the application to the local unit  
7 of government.

8       Sec. 30114. (1) A local unit of government may regulate  
9 inland lakes and streams within its boundaries, by ordinance,  
10 only as provided under this part. However, an ordinance  
11 regulating inland lakes and streams does not obviate the  
12 requirement of obtaining a permit from the department under this  
13 part.

14       (2) An inland lakes and streams ordinance shall comply with  
15 all of the following:

16       (a) The ordinance shall not provide a different definition of  
17 inland lakes and streams than is provided in this part.

18       (b) The ordinance shall comply with sections 30115 and  
19 30116.

20       (c) The ordinance shall require a permit for activities  
21 described in section 30102.

22       (d) The ordinance shall not require a permit for projects  
23 that are authorized without a permit under section 30103 and that  
24 otherwise comply with this part.

25       (3) Prior to the effective date of an inland lakes and  
26 streams ordinance, a local unit of government that wishes to  
27 adopt such an ordinance shall complete and make available to the

1 public at a reasonable cost an inventory map of all inland lakes  
2 and streams within the local unit of government, except that a  
3 local unit of government located in a county that has a  
4 population of less than 100,000 is not required to include public  
5 lands on its inventory map. A local unit of government shall  
6 make a draft of the inventory map available to the public, shall  
7 provide for public notice and comment opportunity prior to  
8 finalizing the inventory map, and shall respond in writing to  
9 written comments received by the local unit of government  
10 regarding the contents of the inventory map. Upon completion of  
11 an inventory map or upon a subsequent amendment of an inventory  
12 map, the local unit of government shall notify each record owner  
13 of property on the property tax roll of the local unit of  
14 government that the inventory map exists or has been amended,  
15 where the map may be reviewed, and that the local unit of  
16 government has an inland lakes and streams ordinance. The notice  
17 may be given by including the required information with the  
18 annual notice of the property owner's property tax assessment.

19 (4) A local unit of government that adopts an inland lakes  
20 and streams ordinance shall notify the department.

21 (5) Any project that received a permit under this part prior  
22 to the effective date of an inland lakes and streams ordinance  
23 adopted by a local unit of government is not subject to local  
24 regulation, unless the local unit of government had established a  
25 bulkhead line approved by the department under section 30108,  
26 allowing jurisdiction over the area landward of the bulkhead  
27 line.



1           Sec. 30115. (1) Subject to subsection (4), in administering  
2 an inland lakes and streams ordinance, a local unit of government  
3 shall use an application form supplied by the department. A  
4 person applying for an inland lakes and streams permit shall  
5 submit an application directly to the local unit of government.

6           (2) Upon receipt of a permit application, the local unit of  
7 government shall forward a copy of the application along with any  
8 state fees that may have been submitted under section 30104 to  
9 the department. Upon receipt of an application forwarded to it  
10 from a local unit of government, the department shall review the  
11 application as provided in this part.

12           (3) A local unit of government shall review a permit  
13 application pursuant to its ordinance and shall modify, approve,  
14 or deny the application within 90 days after receipt of the  
15 application. If a local unit of government does not approve or  
16 disapprove the permit application within the time period provided  
17 by this subsection, the permit application shall be considered  
18 approved, and the local unit of government shall be considered to  
19 have made the determinations as listed in section 30106. The  
20 denial of a permit shall be accompanied by a written statement of  
21 all reasons for denial. The failure to supply complete  
22 information with a permit application may be the reason for  
23 denial of a permit.

24           (4) Upon making a decision on a permit application, the local  
25 unit of government shall notify the department of its decision.

26           (5) A local unit of government that adopts an inland lakes  
27 and streams ordinance shall process inland lakes and streams

1 permit applications in a manner that ensures that the same entity  
2 makes decisions on site plans, plats, and related matters and  
3 that the applicant is not required to submit to a hearing on the  
4 permit application before more than 1 local unit of government  
5 decision-making body. This subsection does not apply to either  
6 of the following:

7 (a) A preliminary review by a planning department, planning  
8 consultant, or planning commission, prior to submittal to the  
9 decision-making body if required by the ordinance.

10 (b) An appeal process that is provided for appeal to the  
11 legislative body or other body designated to hear appeals.

12 Sec. 30116. (1) A local unit of government that adopts an  
13 inland lakes and streams ordinance shall include in the ordinance  
14 a provision that allows a landowner to request a revaluation of  
15 the affected property for assessment purposes to determine its  
16 fair market value under the use restriction if a permit is denied  
17 by a local unit of government for a proposed inland lakes and  
18 streams project. A landowner who is aggrieved by a  
19 determination, action, or inaction under this subsection may  
20 appeal that determination, action, or inaction pursuant to the  
21 general property tax act, 1893 PA 206, MCL 211.1 to 211.157.

22 (2) If a permit applicant is aggrieved by a determination,  
23 action, or inaction by the local unit of government regarding the  
24 issuance of a permit under an inland lakes and streams ordinance,  
25 that person may seek judicial review in the same manner as  
26 provided in the administrative procedures act of 1969, 1969 PA  
27 306, MCL 24.201 to 24.328.

1           (3) This section does not limit the right of an inland lakes  
2 and streams owner to institute proceedings in any circuit of the  
3 circuit court of the state against any person when necessary to  
4 protect the riparian owner's rights.