

Act No. 302
Public Acts of 2010
Approved by the Governor
December 16, 2010
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December 16, 2010
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**STATE OF MICHIGAN
95TH LEGISLATURE
REGULAR SESSION OF 2010**

Introduced by Senators Richardville, Birkholz, Kahn and Patterson

ENROLLED SENATE BILL No. 34

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, assessments, and donations; to provide certain appropriations; to prescribe penalties and provide remedies; and to repeal acts and parts of acts," by amending sections 4112, 4113, 78101, and 78110 (MCL 324.4112, 324.4113, 324.78101, and 324.78110), sections 4112 and 4113 as added by 2006 PA 602, section 78101 as amended by 2010 PA 34, and section 78110 as amended by 2004 PA 587.

The People of the State of Michigan enact:

Sec. 4112. (1) For projects described in subsection (2), an expedited review process shall be available through September 30, 2015. To be eligible for expedited review, an applicant shall submit all of the items under subsection (4) not later than September 30, 2015.

(2) Subject to subsection (3), the following projects are eligible for expedited review:

- (a) A conventional gravity sewer extension of 10,000 feet or less of sewer line.
- (b) A simple pumping station and force main.
- (c) A small diameter pressure sewer and grinder pumping station.

(3) An expedited review shall not be conducted for a project that is being funded by the state water pollution control revolving fund created in section 16a of the shared credit rating act, 1985 PA 227, MCL 141.1066a.

(4) A person requesting an expedited review shall do all of the following:

(a) At least 10 business days prior to submitting an application under subdivision (b), notify the department electronically, in accordance with the instructions provided on the department's website, of his or her intent to request expedited review. The department may waive this 10-day notification requirement.

(b) Submit electronically a complete application for a construction permit including a request for expedited review and including, via credit card, the appropriate fee under subsection (5).

(c) Provide a written copy of the construction plans and specifications for the project that has been prepared, signed, and sealed by a licensed professional engineer to the department postmarked not later than the date that the application is submitted electronically.

(d) For nongovernmental entities, provide certification to the department that all necessary contractual service agreements and financial plans are in place.

(5) Except as provided in subsection (7), the fee for an expedited review is as follows:

(a) For a conventional gravity sewer extension less than 2,000 feet, \$1,000.00.

(b) For a conventional gravity sewer extension equal to or greater than 2,000 feet but less than 4,000 feet of sewer line, \$1,500.00, and for each incremental increase of up to 2,000 feet of sewer line, an additional \$500.00.

(c) For a simple pumping station and force main, \$2,000.00.

(d) For a small diameter pressure sewer and grinder pumping station consisting of not more than 2,000 feet of sewer line and not more than 10 grinder pumping stations, \$2,000.00.

(e) For small diameter pressure sewer and grinder pumping station projects not covered by subdivision (d) and consisting of not more than 5,000 feet of sewer line and not more than 25 grinder pumping stations, \$4,000.00.

(6) Except as provided in subsection (8), if an applicant does not comply with subsection (4), the department shall not conduct an expedited review and any submitted fee shall not be refunded. Within 10 business days after receipt of the application, the department shall notify the applicant of the reasons why the department's review of the application will not be expedited. Upon receipt of this notification, a person may correct the deficiencies and resubmit an application and request for an expedited review with the appropriate fee specified under subsection (7). The department shall not reject a resubmitted application and request for expedited review solely because of deficiencies that the department failed to fully identify in the original application.

(7) For a second submission of an application that originally failed to meet the requirements specified in subsection (4), the applicant shall instead include a fee equal to 10% of the fee specified in subsection (5). However, if the deficiency included failure to pay the appropriate fee, the second submission shall include the balance of the appropriate fee plus 10% of the appropriate fee. If the applicant makes additional changes other than those items identified by the department as being deficient, the applicant shall instead include an additional fee equal to the fee specified in subsection (5). For the third and each subsequent submittal of an application that failed to meet the requirements specified in subsection (4), the applicant shall include an additional fee equal to the fee specified in subsection (5).

(8) If an applicant fails to sign the application, submits construction plans and specifications that have not been prepared, signed, and sealed by a licensed professional engineer, or submits an insufficient fee, the department shall notify the applicant within 5 business days of the deficiency. The application shall not be processed until the deficient items are addressed. If the applicant does not provide the deficient items within 5 business days after notification by the department, the application shall be handled as provided in subsection (4).

(9) The department shall review and make a decision on complete applications submitted with a request for expedited review within 10 business days of receipt by the department of a complete application. However, if the department waives the notification requirement of subsection (4)(a), the department shall review and make a decision on the application within 20 business days of receipt of a complete application.

(10) If the department fails to meet the deadline specified in subsection (9), the department shall continue to expedite the application review process for an application submitted under this section. However, the fee for an expedited review required under this section shall be refunded if the department fails to meet the deadline established in subsection (9).

(11) The department shall transmit fees collected under this section to the state treasurer for deposit into the fund.

(12) As used in this section, "complete application" means that a department-provided application form is completed, all requested information has been provided, and the application can be processed without additional information.

Sec. 4113. (1) The infrastructure construction fund is created within the state treasury.

(2) The state treasurer may receive money or other assets from any source for deposit into the fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments.

(3) Money in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund.

(4) The department shall expend money from the fund, upon appropriation, only to administer this part and the safe drinking water act, 1976 PA 399, MCL 325.1001 to 325.1023, including all of the following:

(a) Maintenance of program data.

(b) Development of program-related databases and software.

(c) Compliance assistance, education, and training directly related to this part and the safe drinking water act, 1976 PA 399, MCL 325.1001 to 325.1023.

(d) Program administration activities.

(5) By January 1 of each year until January 1, 2016, the department shall prepare and submit to the governor, the chairs of the standing committees of the senate and house of representatives with primary responsibility for issues

related to natural resources and the environment, and the chairs of the subcommittees of the senate and house appropriations committees with primary responsibility for appropriations to the department a report that details the department's administration of the expedited review process under section 4112 and the expedited review process under section 4a of the safe drinking water act, 1976 PA 399, MCL 325.1004a, in the previous fiscal year. This report shall include, at a minimum, all of the following as itemized for each expedited review process:

- (a) The number of requests for expedited review received by the department.
- (b) The percentage and number of requests for expedited review that were properly submitted.
- (c) The percentage and number of requests for expedited review that were reviewed for completeness within statutory time frames.
- (d) The percentage and number of requests for expedited review for which a final action was taken by the department within statutory time frames. The type of final action shall be indicated.
- (e) The amount of revenue in the fund at the end of the fiscal year.

Sec. 78101. As used in this part:

- (a) "Commercial motor vehicle" means that term as defined in section 74101.
- (b) "Commission" means the Michigan state waterways commission.
- (c) "Department" means the department of natural resources.
- (d) "Designated state-operated public boating access site" means a state-operated public boating access site designated under section 78105(2).
- (e) "Director" means the administrative director of the commission.
- (f) "Diesel motor fuel" means any liquid fuel used in the operation of engines of the diesel type in motor vehicles or watercraft.
- (g) "Gasoline" means gasoline, casing head or natural gasoline, benzole, benzine, and naphtha. Gasoline also means any liquid prepared, advertised, offered for sale, sold for use as, or used for, the generation of power for the propulsion of motor vehicles or watercraft, including any product obtained by blending together any 1 or more products of petroleum, regardless of their original names or characteristics, with or without other products, unless the resultant product obtained is entirely incapable of use for the generation of power for the propulsion of motor vehicles or watercraft. Gasoline does not include diesel fuel, liquefied petroleum gas, or commercial or industrial naphthas or solvents manufactured, imported, received, stored, distributed, sold, or used exclusively for purposes other than as a fuel for motor vehicles or watercraft.
- (h) "Harbor" means a portion of a lake or other body of water either naturally or artificially protected so as to be a place of safety for watercraft, including contrivances used or designed for navigation on water and used or owned by the United States.
- (i) "Harbor facilities" means the structures at a harbor constructed to protect the lake or body of water and the facilities provided within the harbor and ashore for the mooring and servicing of watercraft and the servicing of crews and passengers.
- (j) "Inland lake or stream" means that term as defined in section 30101.
- (k) "Liquefied petroleum gas" means gases derived from petroleum or natural gases that are in the gaseous state at normal atmospheric temperature and pressure, but that may be maintained in the liquid state at normal atmospheric temperature by suitable pressure.
- (l) "Marina" means a site that contains harbor facilities.
- (m) "Motor vehicle" means that term as defined in section 74101.
- (n) "Navigable water" means any waterway navigable by vessels, or capable of being made navigable by vessels through artificial improvements, and includes the structures and facilities created to facilitate navigation.
- (o) "Nonresident motor vehicle" means that term as defined in section 74101.
- (p) "Person" includes any individual, partnership, corporation, association, or body politic, except the United States and this state, and includes any trustee, receiver, assignee, or other similar representative of those entities.
- (q) "Public boating access site" means a publicly owned site for the launching of recreational watercraft.
- (r) "Recreational boating facilities" means boat launches, harbors, marinas, and locks assisting recreational boats accessing water bodies at different elevations.
- (s) "Recreation passport fee" means that term as defined in section 2001.
- (t) "Resident motor vehicle" means that term as defined in section 74101.
- (u) "Retail fuel dealer" includes any person or persons, both private and municipal, who engage in the business of selling or distributing fuel within this state.

(v) "Secretary of state" means the secretary of state of this state, acting directly or through a duly authorized deputy, investigators, agents, and employees.

(w) "Vessel" means all watercraft except the following:

(i) Watercraft used for commercial fishing.

(ii) Watercraft used by the sea scout department of the boy scouts of America chiefly for training scouts in seamanship.

(iii) Watercraft owned by this state, any political subdivision of this state, or the federal government.

(iv) Watercraft when used in interstate or foreign commerce and watercraft used or owned by any railroad company or railroad car ferry company.

(v) Watercraft when used in trade, including watercraft when used in connection with an activity that constitutes a person's chief business or means of livelihood.

(x) "Watercraft" means any contrivance used or designed for navigation on water, including, but not limited to, any vessel, ship, boat, motor vessel, steam vessel, vessel operated by machinery, motorboat, sailboat, barge, scow, tugboat, and rowboat, but does not include contrivances used or owned by the United States.

(y) "Waterway" means any body of water.

(z) "Waterways account" means the waterways account of the Michigan conservation and recreation legacy fund provided for in section 2035.

Sec. 78110. Money in the waterways account shall be used only for the following:

(a) The construction, operation, and maintenance of the following that are associated with recreational boating facilities:

(i) Ramps and related support infrastructure for launching watercraft.

(ii) Piers, jetties, breakwaters, or other similar structures connected to existing or proposed recreational boating facilities or harbors of refuge.

(iii) Moorage facilities and related support infrastructure at marinas to provide dockage for transient and seasonal users.

(iv) Studies and surveys necessary for the development of recreational boating facilities or the operation of recreational boating facilities, and the implementation of recommendations from these studies and surveys.

(v) Restrooms, sewage treatment facilities, showers, potable water supplies, security lights, and parking areas.

(vi) Pump outs.

(vii) Access roads, bridges, signals, and other infrastructure to provide the public access to recreational boating facilities.

(viii) Engineering costs, including planning and construction costs and costs of environmental assessments and permit applications.

(ix) Dredging, stump removal, and aquatic weed control when the activities can be shown to clear lanes to make a water body more accessible primarily for recreational boats as opposed to general navigation.

(x) Navigational aids in the immediate area of recreational boating facilities.

(xi) Signage for the effective use of recreational boating facilities.

(xii) Publication of guides, brochures, maps, road signs, internet sites, and other aids to inform boaters of recreational boating facilities.

(xiii) Projects that compensate or mitigate for natural resource losses caused by activities described in this subdivision.

(xiv) Locks used exclusively by recreational boaters.

(xv) Leases of property for recreational boating facilities or parking areas for the exclusive use of recreational boating facilities.

(xvi) Boat storage facilities, boat lift facilities, and boat servicing facilities within recreational boating facilities when constructed so as to be leased to a private marina operator under the guidelines of part 791.

(xvii) Equipment used exclusively for the development, maintenance, or operation of recreational boating facilities.

(b) The acquisition of property or rights in property for the purposes of this part, including both of the following:

(i) Land acquisition for the development of recreational boating facilities or parking areas exclusively for the servicing of recreational boating facilities.

(ii) Water rights for the securing of recreational boating access facilities.

(c) For grants to local units of government and state colleges or universities to acquire and develop harbors of refuge and public boating access sites under section 78115.

(d) For the purposes provided in part 791.

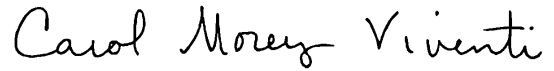
(e) For the administration of this part and part 791, including the following:

(i) Administrative and overhead cost directly related to recreational boating facilities.

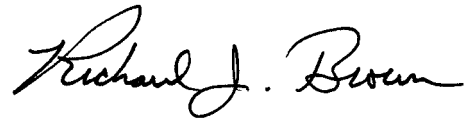
(ii) Employee wages and benefits incurred for the administration of this part.

(iii) Conferences, meetings, and training for employees working at or on recreational boating facilities.

This act is ordered to take immediate effect.



Secretary of the Senate



Clerk of the House of Representatives

Approved

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Governor