



**House
Legislative
Analysis
Section**

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HARBOR DEVELOPMENT ACT

**Senate Bills 335 and 336 as passed by the
House**

Sponsor: Sen. Phil Arthurhultz

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House Bill 4709 (H-2)

FEB 08 1987

Sponsor: Rep. Thomas L. Hickner

Mich. State Law Library

First Analysis (12-17-87)

House Committee: Appropriations

**Senate Committee: State Affairs, Tourism and
Transportation**

THE APPARENT PROBLEM:

Boating is one of Michigan's most popular recreational activities. However, those familiar with Michigan boating agree that the state has a severe shortage of slips and other marina facilities for the mooring and storage of watercraft. In fact, it has been suggested that Michigan could use up to 15,000 additional boat slips. Due to the high costs associated with acquiring and developing waterfront property, private investors are often discouraged from developing new marinas and expanding existing ones. Consequently, the establishment of a state fund to acquire and develop harbors has been suggested, along with allowing the Michigan State Waterways Commission to sell or lease the acquired real property.

In addition, if such practices were authorized it is felt that the commission should be expanded in order to assure that adequate oversight of the acquisition and development functions is achieved and that marina industry interests are represented on the commission.

THE CONTENT OF THE BILLS:

Senate Bill 335.

The bill would create the Harbor Development Act to authorize the Michigan State Waterways Commission to acquire, develop and lease real property for use as a marina. The commission could purchase real property for the development of marinas only when it could demonstrate that the demand for recreational boat slips within a specific harbor or within a local unit of government exceeded the available supply. The bill would authorize the commission to undertake various activities for the purpose of developing marinas, such as selling or removing buildings or structures on property acquired by the commission which was not essential for the marina development. The bill would also provide that if property acquired by the commission required modification or improvement to make it financially attractive to potential investors, the commission could construct nonrevenue-producing harbor facilities at those sites. In addition, the bill would authorize the commission to enter into leases of real property or portions of the property that it determined would aid in the construction of a marina, the provision for summer or winter storage of watercraft, or the provision of other services normally found at commercial marinas.

Construction and Leasing. If the commission determined that property acquired was suitable for use as a marina, it would publicly solicit proposals for the development of the marina and the lease of the real property. The bill

would specify procedures for soliciting construction bids and leasing real property. In evaluating proposals for construction of revenue-producing harbor facilities, the commission would take certain aspects into consideration. They would include the technical qualifications of applicants, the financial responsibility of applicants, and the ability of the applicants to efficiently perform services necessary to maintain a sound facility. The commission could reject any proposal for construction for any reason without cause. The commission could also establish minimum standards applicable to the construction and operation of harbor facilities.

Leases entered into by the commission would be for an initial term of not more than 25 years. However, leases could be extended for a period of not more than five years at the discretion of the commission. The bill would permit the commission to act jointly as a lessor with one or more local units of government. Revenue from such leases would be apportioned according to the proportional share of the investments in the construction of nonrevenue-producing harbor facilities and in consideration of the relative land investments of the commission and the local unit or units. Leases could not be sold transferred, or assigned unless first approved by the commission. The commission would be authorized to establish a penalty schedule for nonpayment of lease payments. Leases entered into by the commission would specify that if a lessee defaulted on a payment for more than 60 days, or if a lessee defaulted on a payment or delayed making a payment for more 30 days on more than two occasions in a single year, the commission could declare the lease agreement breached and seek its remedies at law or in accordance with the lease agreement.

Liability. The commission would not be liable for loss of life or injury or damage to persons or property as a result of conditions on property, waterways, or facilities on property leased to persons by the commission. However, the bill would not relieve lessees of any obligations they would otherwise have if they were found to have failed to meet their obligations properly.

The bill is tie-barred to House Bill 4709.

Senate Bill 336.

The bill would amend current law to require that one member of the Michigan State Waterways Commission be an owner or operator of a harbor or marina in Michigan and that one member be a representative of the marine-trades industry who was not an owner or operator

S.B. 335, 336 & HB 4709 (12-17-87)

of a harbor or marina. The first term of the owner-member would expire on September 18, 1989. The first term of the representative of the marine-trades industry would expire on September 18, 1988.

The bill would add the term "harbor facilities," and define it to mean 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. The bill would also add the term "marina," and define it to mean a site which contained harbor facilities.

MCL 281.501 and 281.502

House Bill 4709

The bill would create the Michigan State Waterways Fund and the Michigan Harbor Development Fund in the state treasury. Both funds would be administered by the commission. The Harbor Development Fund would be used solely for the purposes provided in the Harbor Development Act (created in Senate Bill 335). The fund would receive revenue as the legislature provided.

The Michigan State Waterways Fund would be used solely for the construction, operation, and maintenance of recreational boating facilities, the acquisition of property, and for administration of the bill. The fund would receive revenue as the legislature provided.

The bill is tie-barred to Senate Bill 335.

BACKGROUND INFORMATION:

The Senate-passed version of House Bill 5062 would double watercraft registration fees, establish a new fee for registration of non-motorized canoes, and change the revenue distribution of the fees. Under the bill, 37.5 percent of the fee revenue would be earmarked for the Harbor Development Fund, which would mean that approximately \$8.4 million would be credited to the fund over a three-year period.

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, Senate Bills 335 and 336 would have no fiscal implications to the state. Funding for House Bill 4709 is anticipated to be \$2.9 million over a three-year period, subject to a legislative appropriation. (12-16-87)

ARGUMENTS:

For:

The demand for boat slips and other harbor facilities on Michigan's waterways far exceeds the supply. Meeting that demand would be highly beneficial not only to boaters and marina owners and operators, but also to the state's tourism industry as a whole. Adequately servicing more boaters would result in more tourist dollars being spent both at marinas and in surrounding communities.

The Michigan Harbor Development Fund would serve as a mechanism to entice private sector investment in marina construction projects. Without such encouragement, private investors are unlikely to commit capital resources to development projects on costly waterfront acreage.

In addition, if the Michigan State Waterways commission were to oversee this program, it would be necessary to expand the commission's membership in order to provide it with additional expertise.

Against:

The bills represent nothing more than government

encroachment into the private sector. The harbor development program outlined in the bill would unfairly promote government acquisition and development of harbors at the expense of private developers.

Response: On the contrary, the bills would promote private investment by assisting developers in the most expensive aspects of harbor development projects: acquiring and preparing property for use as a marina. By performing some of the costly preliminary functions of harbor development (such as purchasing property, dredging waterways, and ensuring shore protection) the proposed program would encourage the establishment of harbor facilities on the state's waterways.

Against:

Many waterfront property holders, especially those owning acreage on inland lakes, do not desire further marina development. They feel that the lakes already are too congested and that further development would only detract from the recreational and environmental aspects of their aquatic havens.

Response: The vast majority of the harbor development projects resulting from the program proposed in the bills would be on the Great Lakes, rather than on inland waterways. The bill specifies that development projects from the fund would be limited to the Great Lakes and their connecting waterways and inland lakes over 10,000 acres in size. According to the Department of Natural Resources, there are only five inland lakes of that size in Michigan.

POSITIONS:

The Department of Natural Resources supports the bill. (12-16-87)

The Michigan Charter Boat Association supports the bill. (12-16-87)

The Michigan Marine Dealers Association supports the bill. (12-16-87)

The Michigan Boating Industries Association supports the bill. (12-16-87)