



**House  
Legislative  
Analysis  
Section**

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**LIMIT AUTHORITY OF WATER RES. COMMISS'N**

House Bills 4305 and 4306

**RECEIVED**

**JUL 19 1989**

Sponsor: Rep. David Honigman  
Committee: Conservation, Recreation, & Environment  
Complete to 4-24-89

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***A SUMMARY OF HOUSE BILLS 4305  
and 4306 AS INTRODUCED 2-23-89***

House Bill 4306 would create the Flood Damage Reduction Act to limit damages and threats from floods and to control the alteration of floodplains. The Department of Natural Resources (DNR) would be the enforcing agency for the purposes of the bill. It would determine the location and extent of floodplains, floodways, and critical storm water runoff areas and the potential flood characteristics of lakes and watercourses. Actions of the department or authorized communities or agencies (see below) could not unreasonably impair the public trust and environmental values in the adjacent waters, and could not conflict with existing state and local regulations.

The bill would require the department to develop books, plans and procedures for flood prevention and management. The bill would also require the department to prepare a standardized permit application form for floodplain alterations and a priority list for determining the order in which floodplain studies and storm water studies should be completed by federal or state agencies. The department or its agents would be authorized to enter onto private or public property to inspect or investigate conditions related to flooding at any reasonable time.

Under the bill, flood damage reduction resources of the department would be integrated into the Michigan Emergency Preparedness Plan and, in case of actual disasters and disaster training, the department would provide flood damage reduction resources according to the plan.

Communities would cooperate with the department and federal agencies in evaluating flooding potential and identifying floodplains. Communities could also develop and implement flood damage reduction programs to complement local floodplain regulations and storm water management programs. Prior to the sale by the state or an authorized community of any property containing a floodplain, the state or the community would notify the purchaser of the existence of the floodplain and that the property could be subject to certain restrictions under the bill.

Flood damage mitigation fund. The bill would create a flood damage mitigation fund in the state treasury. The fund would consist of appropriations by the legislature, permit fees established under the bill, and any gifts or donations. The accumulated principle of the fund could not exceed \$1 million. The balance of the fund at the end of the year would not revert to the general fund.

Money in the fund would be expended by the department in the form of grants or a three percent subsidy on a loan from any public lending institution to individuals for flood-proofing measures in disaster areas. Grants could not exceed 50 percent of the cost of a flood-proofing measure or \$5,000, whichever was less. An interest subsidy on a loan would be applied to the loan principal in the

form of a discounted lump-sum payment based on the first \$25,000 of eligible costs of the flood-proofing measures. Grants and subsidies would be administered by the department in consultation with the Department of State Police. Applications for grants and subsidies would have to be postmarked no later than 90 days after the date of the declaration of a state of disaster. The bill would specify information to be included in applications and procedures for payments from the fund. The bill would allow supplemental appropriations for certain areas under certain circumstances if money in the fund was insufficient to meet the needs of a flood disaster.

Alterations of a floodplain. The bill would prohibit a person from causing the alteration of a floodplain unless he or she was in possession of a permit from the department or an authorized community under the bill. Applications for an alteration permit issued by the department would be accompanied by a \$50 fee, and fee money would be credited to the flood damage mitigation fund created under the bill. Applications for a permit issued by an authorized community would be accompanied by a fee based on the community's administrative costs and could be retained by the community. Permits for alteration could not be issued for an alteration for the construction or improvement of a residence, or the renovation of a structure into a residence, in a floodway. The bill would also prohibit alterations for the disposal or storage of certain toxic or water reactive materials. Permits for alterations would not be required for the following:

- tilling of land for agricultural use;
- flood control projects authorized by a federal agency;
- improvements to, or maintenance of, an existing county or intercounty drain;
- floodplain alterations by an authorized public agency; and
- stream crossings for certain logging purposes.

Permit applications would be reviewed by agencies, local units and individuals affected by a proposed alteration. Under the bill, the department could, by rule, establish minor project categories of activities and projects that were similar in nature to alterations. The department could act upon an application for a minor project without providing public notice.

Authorized Communities. The department would determine whether floodplain mapping in a community was sufficient to allow the community to apply for designation as an authorized community under the bill. After approval of a community's mapping, a community could apply for designation as an authority once it prepared floodplain regulations that met or exceeded rules for floodplain management standards under the bill, in addition to meeting other requirements. A community that was designated as an authority under the bill would be responsible for the approval or rejection of floodplain alteration permits and the administration and enforcement of floodplain regulations. Further, public agencies that

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were responsible for designing and constructing public facilities that could be located within a floodplain could apply to the department for designation as an authority under the bill. The assessing officers of an authorized community would be required to adjust assessments for losses in value resulting from regulation of land in flood plain areas. The department could revoke the authorization of a community or a public agency upon determination that floodplain regulations or design standards and procedures had not been administered or enforced in accordance with the bill. However, the bill would specify ways in which a community or public agency could address the department's determination and the revocation of authority.

Critical Storm Water Study. The bill would require the department to determine if a critical storm water runoff area should be designated after the completion or approval of a storm water study. If a critical storm water runoff area was designated, the bill would allow communities within a critical storm water area to adopt, administer, and enforce a storm water management program. Water storage in floodplains and wetlands in critical storm water runoff areas would be preserved if the wetlands were regulated under the Wetland Protection Act.

Penalties. A person who altered or allowed the alteration of a floodplain in violation of the bill would be guilty of a misdemeanor, punishable by a fine of not more than \$2,500 for each occurrence. A person who willfully or recklessly violated a condition of a permit issued under the bill would be guilty of a misdemeanor punishable by a fine of not more than \$2,500 per day. The state, a community, or any other person could bring action in court to restrain or prevent any violation or continuation of a violation of the bill, rules developed under the bill, or a local floodplain regulation adopted and approved under the bill.

House Bill 4305 would amend the Water Resources Commission enabling act to limit the authority of the commission. Currently, the commission is responsible for cooperating and negotiating with other units concerning the state's water resources and for taking advantage of any acts of Congress which could be of assistance in fulfilling the requirements of the law. Under the bill, the Department of Natural Resources would have these responsibilities. In addition, the department would take over commission responsibilities to report to the governor and legislature on water projects and commission responsibilities for taking court action to enforce laws relating to pollution of state waters.

Under the bill, the commission would no longer have control over the alteration of watercourses and floodplains of the rivers and streams in the state nor could the commission continue to prohibit the obstruction of the floodways of rivers and streams of the state.

MCL 323.2a et al.

The bills are tie-barred.