

HOUSE BILL No. 5284

October 23, 1991, Introduced by Rep. Willis Bullard and referred to the Committee on Conservation, Recreation and Environment.

A bill to amend section 8 of Act No. 203 of the Public Acts of 1979, entitled

"Goemaere-Anderson wetland protection act,"

being section 281.708 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 8 of Act No. 203 of the Public Acts of
2 1979, being section 281.708 of the Michigan Compiled Laws, is
3 amended to read as follows:

4 Sec. 8. (1) Within 60 days after receipt of the completed
5 application and fee, the department may hold a hearing. If a
6 hearing is held, it shall be held in the county where the wetland
7 on which the permit is to apply is located. Notice of the hear-
8 ing shall be made in the same manner as for the promulgation of
9 rules under THE ADMINISTRATIVE PROCEDURES ACT OF 1969, Act
10 No. 306 of the Public Acts of 1969, as amended, being sections

1 24.201 to ~~24.315~~ 24.328 of the Michigan Compiled Laws. The
2 department may approve or disapprove a permit application without
3 a public hearing unless a person requests a hearing in writing
4 within 20 days after the mailing of notification of the permit
5 application as required by subsection (3), or the department
6 determines that the permit application is of significant impact
7 to warrant a public hearing.

8 (2) If a hearing is not held, the department shall approve
9 or disapprove the permit application within 90 days after the
10 completed permit application is filed with the department. If a
11 hearing is held, the department shall approve or disapprove the
12 permit application within 90 days after the conclusion of the
13 hearing. The department may approve a permit application,
14 request modifications in the application, or deny the permit
15 application. If the department approves the permit application,
16 the department shall prepare and send the permit to the
17 applicant. If the department denies, or requests a modification
18 of, the permit application, the department shall send notice of
19 the denial or modification request, and the reasons for the
20 denial or the modifications requested to the applicant.
21 Department approval may include the issuance of a permit contain-
22 ing conditions necessary for compliance with this act. If the
23 department does not approve or disapprove the permit application
24 within the time provided by this subsection, the permit applica-
25 tion shall be considered approved, and the department shall be
26 considered to have made the determinations required by section
27 9. The action taken by the department may be appealed pursuant

1 to Act No. 306 of the Public Acts of 1969, as amended. A
2 property owner may, after exhaustion of administrative remedies,
3 bring appropriate legal action in a court of competent
4 jurisdiction.

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

17 (4) A municipality, by ordinance, MAY ADOPT BY REFERENCE
18 THIS ACT AND THE RULES PROMULGATED UNDER THIS ACT OR may ~~provide~~
19 ~~for~~ ADOPT AN ORDINANCE THAT PROVIDES THE SAME OR A more strin-
20 gent definition and regulation of wetland than is provided under
21 this act. This subsection is supplemental to the existing
22 authority of a municipality to protect wetland WITHIN ITS
23 JURISDICTION. Each municipality ~~which~~ THAT adopts an ordinance
24 regulating ~~wetlands~~ WETLAND shall notify the department. ~~The~~
25 ~~department shall develop an agreement with each municipality~~
26 ~~which has an ordinance regulating wetlands. The agreement shall~~
27 ~~provide for an exchange of information with the department~~

~~1 including information regarding the environmental impact of each~~
~~2 proposed use or development on wetlands, the proposed decision on~~
~~3 each application for a proposed use or development on wetlands,~~
~~4 and other information that may assist the municipality in admin-~~
~~5 istering its ordinance. The agreement shall provide that the~~ A
6 MUNICIPALITY THAT ADOPTS AN ORDINANCE DESCRIBED IN THIS SUBSEC-
7 TION SHALL PROMPTLY FORWARD A COPY OF THE ORDINANCE TO THE
8 DEPARTMENT FOR REVIEW. THE DEPARTMENT HAS 60 DAYS FOLLOWING
9 RECEIPT OF AN ORDINANCE DESCRIBED IN THIS SUBSECTION IN WHICH TO
10 EVALUATE WHETHER THE ORDINANCE IS IN COMPLIANCE. IF THE DEPART-
11 MENT FINDS THE ORDINANCE IN COMPLIANCE WITH THIS ACT, THE DEPART-
12 MENT SHALL NOTIFY THE MUNICIPALITY OF ITS FINDING AND THE MUNICI-
13 PALITY IS FREE TO ENFORCE THE ORDINANCE WITHOUT INTERFERENCE FROM
14 THE DEPARTMENT. IF THE ORDINANCE IS NOT IN COMPLIANCE, THE
15 DEPARTMENT SHALL NOTIFY THE MUNICIPALITY WITHIN THE 60 DAYS FOL-
16 LOWING RECEIPT OF THE ORDINANCE AND NOTIFY THE MUNICIPALITY OF
17 WHAT IS DEFICIENT IN THE ORDINANCE. IF THE DEPARTMENT DOES NOT
18 ISSUE ITS FINDING TO THE MUNICIPALITY REGARDING ITS EVALUATION OF
19 AN ORDINANCE, THE ORDINANCE SHALL BE CONSIDERED TO BE IN COMPLI-
20 ANCE WITH THE REQUIREMENTS OF THIS SECTION. THE department shall
21 not issue a permit if the municipality has denied permission for
22 the permit under ~~its ordinances~~ THE AUTHORITY OF THIS SECTION,
23 unless the permit involves a use or development of regional or
24 statewide public benefit. ~~The agreement shall require that the~~
25 A municipality SHALL use an application form supplied by the
26 department. ~~, and that~~ IN A MUNICIPALITY THAT REGULATES WETLAND
27 WITHIN ITS JURISDICTION PURSUANT TO THE AUTHORITY OF THIS

1 SECTION, each person applying for a permit WITHIN THE
2 JURISDICTION SHALL make application directly with the
3 municipality. Upon receipt, the municipality shall forward a
4 copy of each application to the department. ~~The department~~
5 ~~shall begin reviewing the application as provided in this act.~~
6 The municipality shall review ~~the~~ EACH application FOR A WET-
7 LAND PERMIT pursuant to its ordinance and shall modify, approve,
8 or deny the application within 60 days after receipt. The
9 department shall inform any interested person whether a munici-
10 pality has an ordinance regulating ~~wetlands~~ WETLAND WITHIN ITS
11 JURISDICTION. If the department receives an application with
12 respect to a wetland ~~which~~ THAT is located in a municipality
13 ~~which has an ordinance regulating wetlands~~ THAT REGULATES WET-
14 LAND WITHIN ITS JURISDICTION, the department immediately shall
15 forward the application to the municipality, which shall modify,
16 deny, or approve the application under this subsection. The
17 municipality shall notify the department of its decision. ~~The~~
18 ~~department shall proceed as provided in this act.~~ IF A MUNICI-
19 PALITY ISSUES PERMITS PURSUANT TO THE AUTHORITY OF THIS SECTION,
20 IT IS ENTITLED TO ASSESS A REASONABLE PERMIT FEE TO THE PERMIT
21 APPLICANT FOR ITS SERVICES IN PROCESSING THE PERMIT APPLICATION.
22 IN ADDITION, THE MUNICIPALITY MAY BILL A PERMIT APPLICANT FOR THE
23 REASONABLE EXPENSES INCURRED BY THE MUNICIPALITY IN HIRING CON-
24 SULTANTS TO ASSIST THE MUNICIPALITY IN REVIEWING A PERMIT
25 APPLICATION.

26 (5) If a municipality does not have an ordinance regulating
27 ~~wetlands~~ WETLAND AND HAS NOT PASSED A RESOLUTION DESCRIBED IN

1 THIS SECTION, the department shall promptly send a copy of ~~the~~
2 permit ~~application~~ APPLICATIONS THAT IT RECEIVES to the munici-
3 pality where the wetland is located. The municipality may review
4 the application; may hold a hearing on the application; and may
5 recommend approval, modification, or denial of the application to
6 the department. The recommendations of the municipality shall be
7 made and returned to the department within 45 days after the
8 municipality's receipt of the permit application. The department
9 shall approve, modify, or deny the application as provided in
10 this act.