

# SENATE BILL No. 845

March 31, 1992, Introduced by Senator DE GROW and referred to the Committee on Natural Resources and Environmental Affairs.

A bill to amend section 6 of Act No. 203 of the Public Acts of 1979, entitled  
"Goemaere-Anderson wetland protection act,"  
being section 281.706 of the Michigan Compiled Laws; and to add section 6a.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Section 1. Section 6 of Act No. 203 of the Public Acts of  
2 1979, being section 281.706 of the Michigan Compiled Laws, is  
3 amended and section 6a is added to read as follows:

4       Sec. 6. (1) Activities ~~which~~ THAT require a permit under  
5 THE GREAT LAKES SUBMERGED LANDS ACT, Act No. 247 of the Public  
6 Acts of 1955, as amended, being sections 322.701 to 322.715 of  
7 the Michigan Compiled Laws, or THE INLAND LAKES AND STREAMS ACT,  
8 Act No. 346 of the Public Acts of 1972, being sections 281.951 to

1 281.965 of the Michigan Compiled Laws, ~~shall~~ DO not require a  
2 permit under this act.

3 (2) The following uses shall be allowed in a wetland without  
4 a permit subject to other laws of this state and the owner's  
5 regulation:

6 (a) Fishing, trapping, or hunting.

7 (b) Swimming or boating.

8 (c) Hiking.

9 (d) Grazing of animals.

10 (e) Farming, horticulture, silviculture, lumbering, and  
11 ranching activities, including plowing, irrigation, irrigation  
12 ditching, seeding, cultivating, minor drainage, harvesting for  
13 the production of food, fiber, and forest products, or upland  
14 soil and water conservation practices.

15 (f) Maintenance or operation of serviceable structures in  
16 existence on ~~the effective date of this act~~ OCTOBER 1, 1980 or  
17 constructed pursuant to this act.

18 (g) Construction or maintenance of farm or stock ponds.

19 (h) Maintenance, operation, or improvement ~~which~~ THAT  
20 includes straightening, widening, or deepening of the following  
21 ~~which~~ THAT is necessary for the production or harvesting of  
22 agricultural products:

23 (i) An existing private agricultural drain.

24 (ii) That portion of a drain legally established pursuant to  
25 THE DRAIN CODE OF 1956, Act No. 40 of the Public Acts of 1956, as  
26 amended, being sections 280.1 to 280.630 of the Michigan Compiled

1 Laws, which has been constructed or improved for drainage  
2 purposes.

3 (iii) A drain constructed pursuant to other provisions of  
4 this act.

5 (j) Construction or maintenance of farm roads, forest roads,  
6 or temporary roads for moving mining or forestry equipment, if  
7 the roads are constructed and maintained in a manner to assure  
8 that any adverse effect on the wetland will be otherwise  
9 minimized.

10 (k) Drainage necessary for the production and harvesting of  
11 agricultural products if the wetland is owned by a person who is  
12 engaged in commercial farming and the land is to be used for the  
13 production and harvesting of agricultural products. Except as  
14 otherwise provided in this act, land improved under this subdivi-  
15 sion after ~~the effective date of this act~~ OCTOBER 1, 1980 shall  
16 not be used for nonfarming purposes without a permit from the  
17 department. This subdivision ~~shall~~ DOES not apply to a wetland  
18 ~~which~~ THAT is contiguous to a lake or stream, or to a tributary  
19 of a lake or stream, or to a wetland ~~which~~ THAT the department  
20 has determined by clear and convincing evidence to be a wetland  
21 ~~which~~ THAT is necessary to be preserved for the public inter-  
22 est, in which case a permit ~~shall be~~ IS required.

23 (l) Maintenance or improvement of public streets, highways,  
24 or roads, within the right-of-way, THAT REQUIRES LESS THAN 10,000  
25 CUBIC YARDS OF FILL and ARE IMPLEMENTED in such a manner as to  
26 assure that any adverse effect on the wetland will be otherwise  
27 minimized. Maintenance or improvement does not include adding

1 extra lanes; increasing the right of way; or deviating from the  
2 existing location of the street, highway, or road. A USE  
3 DESCRIBED IN THIS SUBDIVISION MAY BE REGULATED BY A GENERAL  
4 PERMIT.

5 (m) Maintenance, repair, or operation of gas or oil pipe-  
6 lines and construction of gas or oil pipelines having a diameter  
7 of 6 inches or less, if the pipelines are constructed, main-  
8 tained, or repaired in a manner to assure that any adverse effect  
9 on the wetland will be otherwise minimized.

10 (n) Maintenance, repair, or operation of electric transmis-  
11 sion and distribution power lines and construction of distribu-  
12 tion power lines if the distribution power lines are constructed,  
13 maintained, or repaired in a manner to assure that any adverse  
14 effect on the wetland will be otherwise minimized.

15 (o) Operation or maintenance, including reconstruction of  
16 recently damaged parts, of serviceable dikes and levees in exis-  
17 tence on the effective date of this act or constructed pursuant  
18 to this act.

19 (p) Construction of iron and copper mining tailings basins  
20 and water storage areas.

21 (3) After ~~the effective date of this act~~ OCTOBER 1, 1980  
22 but immediately prior to the approval of a state program under  
23 section 404 of title 4 of the clean water act of 1977, 33  
24 U.S.C. 1344, where a project solely involves the discharge of  
25 fill material subject to the individual permit requirements of  
26 section 404 of title 4 of the clean water act of 1977, 33

1 U.S.C. 1344, an additional permit ~~shall~~ IS not ~~be~~ required by  
2 this act.

3 SEC. 6A. (1) IN ADMINISTERING THIS ACT WITH REGARD TO STATE  
4 OR FEDERALLY FUNDED PROJECTS THAT REQUIRE A WETLAND USE PERMIT IF  
5 THE DEPARTMENT DETERMINES THAT MITIGATION IS APPROPRIATE, THE  
6 DEPARTMENT SHALL TAKE INTO ACCOUNT THE PRIMARY FUNCTION OF EACH  
7 INDIVIDUAL WETLAND IN DETERMINING THE LOCATION AND AMOUNT OF MIT-  
8 IGATION AND WETLAND CREATION THAT MAY BE NECESSARY.

9 (2) IN IMPLEMENTING SUBSECTION (1), THE DEPARTMENT SHALL DO  
10 BOTH OF THE FOLLOWING:

11 (A) REPLACE WETLAND FOR WHICH WATER RETENTION IS THE PRIMARY  
12 FUNCTION OF THE WETLAND WITH WETLAND IN THE SAME WATERSHED,  
13 UNLESS SUCH A REPLACEMENT IS NOT FEASIBLE AND PRUDENT.

14 (B) REPLACE WETLAND FOR WHICH WILDLIFE HABITAT IS THE PRI-  
15 MARY FUNCTION OF THE WETLAND WITH WETLAND IN A LOCATION APPROPRI-  
16 ATE TO THE WILDLIFE RESIDING IN THE WETLAND THAT IS THE SUBJECT  
17 OF THE WETLAND USE PERMIT.

18 (3) IN ADDITION TO THE OTHER REQUIREMENTS OF THIS SECTION,  
19 REPLACEMENT WETLANDS MAY BE CREATED IN SUCH A WAY TO TAKE ADVAN-  
20 TAGE OF ECONOMIES OF SCALE, WHETHER OR NOT AT THE SITE OF A PAR-  
21 TICULAR PROJECT. IF THE ACREAGE OF THE REPLACEMENT WETLAND IS  
22 LARGER THAN THAT REQUIRED FOR THE PARTICULAR PROJECT, THE DEPART-  
23 MENT CREATING, OR CAUSING TO BE CREATED, THE WETLAND MAY COUNT  
24 THE EXCESS ACREAGE TO ITS CREDIT ON ANOTHER PROJECT, SUBJECT TO  
25 THE REQUIREMENTS OF SUBSECTIONS (1) AND (2).