

Act No. 155
Public Acts of 1993
Approved by the Governor
August 18, 1993
Filed with the Secretary of State
August 19, 1993

**STATE OF MICHIGAN
87TH LEGISLATURE
REGULAR SESSION OF 1993**

Introduced by Senators Hoffman and Ehlers

ENROLLED SENATE BILL No. 719

AN ACT to amend sections 2a and 5b of Act No. 245 of the Public Acts of 1929, entitled as amended "An act to regulate, protect, and conserve the water resources of the state, to provide for the control over the pollution of any waters of the state and the Great Lakes, to provide for the control over the alteration of the watercourses and the floodplains of all rivers and streams; to create a water resources commission; to prescribe the powers and duties of certain state agencies and officials; to require the registration of manufacturing products, production materials, and waste products where certain wastes are discharged; to require permits to regulate the discharge or storage of any substance which may affect the quality of the waters of the state and to establish restrictions to assure compliance with applicable state standards and to authorize the establishment of permit restrictions and programs to assure compliance with applicable federal law and regulations; to prohibit the pollution of any waters of the state and the Great Lakes; to prohibit the obstruction of the floodways of the rivers and streams of the state; to designate the department of natural resources as the state agency to cooperate and negotiate with other governments and agencies in matters concerning the water resources of the state; and to provide penalties and remedies for the violation of this act," as amended by Act No. 19 of the Public Acts of 1990, being sections 323.2a and 323.5b of the Michigan Compiled Laws; and to add section 10a.

The People of the State of Michigan enact:

Section 1. Sections 2a and 5b of Act No. 245 of the Public Acts of 1929, as amended by Act No. 19 of the Public Acts of 1990, being sections 323.2a and 323.5b of the Michigan Compiled Laws, are amended and section 10a is added to read as follows:

Sec. 2a. (1) The department is designated the state agency to cooperate and negotiate with other governments, governmental units and governmental agencies in matters concerning the water resources of the state, including but not limited to flood control, beach erosion control and water quality control planning, development, and management. The department shall have control over the alterations of natural or present watercourses of all rivers and streams in the state to assure that the channels and the portions of the floodplains that are the floodways are not inhabited and are kept free and clear of interference or obstruction that will cause any undue restriction of the capacity of the floodway. The department may take such steps as may be necessary to take advantage of any act of congress that may be of assistance in carrying out the purposes of this act including the water resources planning act, Public Law 89-80, as amended, 42 U.S.C. 1962 to 1962-1 and 1962a to 1962d-3 and the federal water pollution control act, chapter 758, 86 Stat. 816, 33 U.S.C. 1251 to 1252, 1253 to 1254, 1255 to 1257, 1258 to 1263, 1265 to 1270, 1281, 1282 to 1293, 1294 to 1299, 1311 to 1313, 1314 to 1326, 1328 to 1330, 1341 to 1345, 1361 to 1377, and 1381 to 1387.

(2) The department shall report to the governor and to the legislature at least once in each year any plans or projects being carried on or considered and shall include in the report requests for any legislation needed to carry out

any proposed projects or agreements made necessary thereby, together with any requests for appropriations. The department may make recommendations to the governor on the designation of areawide water quality planning regions and organizations relative to the governor's responsibilities under the federal water pollution control act.

(3) A person shall submit an application for a permit to alter a floodplain on a form approved by the department and shall include information that may be required by the department to assess the proposed alteration's impact on the floodplain. If an alteration includes activities at multiple locations in a floodplain, 1 application may be filed for combined activities.

(4) Except as provided in subsections (5) and (6), until October 1, 1995, an application for a floodplain permit shall be accompanied by a fee of \$500.00. Until October 1, 1995, if the department determines that engineering computations are required to assess the impact of a proposed floodplain alteration on flood stage or discharge characteristics, the department shall assess the applicant an additional \$1,500.00 to cover the department's cost of review.

(5) Until October 1, 1995, an application for a floodplain permit for a minor project category shall be accompanied by a fee of \$100.00. Minor project categories shall be established by rule and shall include activities and projects that are similar in nature and have minimal potential for causing harmful interference.

(6) If work has been done in violation of a permit requirement under this act and restoration is not ordered by the department, the department may accept an application for a permit if the application is accompanied by a fee equal to 2 times the permit fee required under subsection (4) or (5).

(7) The department shall forward fees collected under this section to the state treasurer for deposit in the land and water management permit fee fund created in section 16 of the inland lakes and streams act of 1972, Act No. 346 of the Public Acts of 1972, being section 281.966 of the Michigan Compiled Laws.

(8) A project that requires review and approval under this act and 1 or more of the following acts is subject to only the single highest permit fee required under this act or the following acts:

(a) The inland lakes and streams act of 1972, Act No. 346 of the Public Acts of 1972, being sections 281.951 to 281.965 of the Michigan Compiled Laws.

(b) The Goemaere-Anderson wetland protection act, Act No. 203 of the Public Acts of 1979, being sections 281.701 to 281.722 of the Michigan Compiled Laws.

(c) The Great Lakes submerged lands act, Act No. 247 of the Public Acts of 1955, being sections 322.701 to 322.715 of the Michigan Compiled Laws.

(d) The shorelands protection and management act of 1970, Act No. 245 of the Public Acts of 1970, being sections 281.631 to 281.644 of the Michigan Compiled Laws.

(e) Section 117 of the subdivision control act of 1967, Act No. 288 of the Public Acts of 1967, being section 560.117 of the Michigan Compiled Laws.

Sec. 5b. A person shall not occupy or permit the occupation for residential, commercial, or industrial purposes of lands or fill or grade or permit the filling or grading for any purposes other than agricultural of land in the floodplains, stream bed, or channel of any stream, as ascertained and determined for record by the department, or undertake or engage in any activity on or with respect to land that is determined by the department to harmfully interfere with the discharge or stage characteristics of a stream, unless the occupation, filling, grading, or other activity is permitted under this act.

Sec. 10a. (1) Except as provided in subsections (2) and (3), a person who alters or causes the alteration of a floodplain in violation of this act is guilty of a misdemeanor, punishable by a fine of not more than \$2,500.00 for each occurrence.

(2) A person who commits a minor offense is guilty of a misdemeanor, punishable by a fine of not more than \$500.00 for each violation. A law enforcement officer may issue and serve an appearance ticket upon a person for a minor offense pursuant to sections 9a to 9g of chapter IV of the code of criminal procedure, Act No. 175 of the Public Acts of 1927, being sections 764.9a to 764.9g of the Michigan Compiled Laws.

(3) A person who willfully or recklessly violates a condition of a floodplain permit issued under this act is guilty of a misdemeanor, punishable by a fine of not more than \$2,500.00 per day.

(4) As used in this section, "minor offense" means either of the following violations of this act if the department determines that restoration of the affected floodplain is not required:

(a) The failure to obtain a permit under this act.

(b) A violation of a permit issued under this act.

Section 2. This amendatory act shall not take effect unless Senate Bill No. 238 of the 87th Legislature is enacted into law.

This act is ordered to take immediate effect.

Secretary of the Senate.

Co-Clerk of the House of Representatives.

Approved -----

Governor.