



# HOUSE BILL No. 4678

April 29, 1993, Introduced by Reps. Bullard, Dobb, DeMars, Voorhees, Middleton, London and Middaugh and referred to the Committee on Conservation, Environment and Great Lakes.

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

"Goemaere-Anderson wetland protection act,"

as amended by Act No. 295 of the Public Acts of 1992, 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, as amended by Act No. 295 of the Public Acts of 1992, being  
3 section 281.708 of the Michigan Compiled Laws, is amended to read  
4 as follows:

5       Sec. 8. (1) Within 60 days after receipt of the completed  
6 application and fee, the department may hold a hearing. If a  
7 hearing is held, it shall be held in the county where the wetland  
8 on which the permit is to apply is located. Notice of the  
9 hearing shall be made in the same manner as for the promulgation

1 of rules under the administrative procedures act of 1969, Act  
2 No. 306 of the Public Acts of 1969, as amended, being sections  
3 24.201 to 24.328 of the Michigan Compiled Laws. The department  
4 may approve or disapprove a permit application without a public  
5 hearing unless a person requests a hearing in writing within 20  
6 days after the mailing of notification of the permit application  
7 as required by subsection (3), or the department determines that  
8 the permit application is of significant impact to warrant a  
9 public hearing.

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

1 shall be considered to have made the determinations required by  
2 section 9. The action taken by the department may be appealed  
3 pursuant to Act No. 306 of the Public Acts of 1969, as amended.  
4 A property owner may, after exhaustion of administrative reme-  
5 dies, bring appropriate legal action in a court of competent  
6 jurisdiction.

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

19 (4) A municipality may regulate wetland within its bounda-  
20 ries, by ordinance, only as provided under this act. This sub-  
21 section is supplemental to the existing authority of a  
22 municipality. An ordinance adopted by a municipality pursuant to  
23 this subsection shall comply with all of the following:

24 (a) The ordinance shall not provide a different definition  
25 of wetland than is provided in this act, except that a wetland  
26 ordinance may regulate wetland of less than 5 acres in size.

1 (b) If the ordinance regulates wetland that is smaller than  
2 2 acres in size, the ordinance shall comply with section 8b.

3 (c) The ordinance shall comply with sections 8a and 8c.

4 (d) The ordinance shall not require a permit for uses that  
5 are authorized without a permit under section 6, and shall other-  
6 wise comply with this act.

7 (5) Each municipality that adopts an ordinance regulating  
8 wetlands under subsection (4) shall notify the department.

9 (6) A municipality that adopts an ordinance regulating wet-  
10 lands shall use an application form supplied by the department,  
11 and each person applying for a permit shall make application  
12 directly with the municipality. Upon receipt, the municipality  
13 shall forward a copy of each application to the department. The  
14 department shall begin reviewing the application as provided in  
15 this act. The municipality shall review the application pursuant  
16 to its ordinance and shall modify, approve, or deny the applica-  
17 tion within 90 days after receipt. The denial of a permit shall  
18 be accompanied by a written reason for denial. The failure to  
19 supply complete information with a permit application may be  
20 reason for denial of a permit. The department shall inform any  
21 interested person whether OR NOT a municipality has an ordinance  
22 regulating wetlands. If the department receives an application  
23 with respect to a wetland which is located in a municipality  
24 which has an ordinance regulating wetlands, the department imme-  
25 diately shall forward the application to the municipality, which  
26 shall modify, deny, or approve the application under this

1 subsection. The municipality shall notify the department of its  
2 decision. The department shall proceed as provided in this act.

3 (7) If a municipality does not have an ordinance regulating  
4 wetlands, the department shall promptly send a copy of the permit  
5 application to the municipality where the wetland is located.  
6 The municipality may review the application; may hold a hearing  
7 on the application; and may recommend approval, modification, or  
8 denial of the application to the department. The recommendations  
9 of the municipality shall be made and returned to the department  
10 within 45 days after the municipality's receipt of the permit  
11 application. The department shall approve, modify, or deny the  
12 application as provided in this act.

13 (8) IN ADDITION TO THE REQUIREMENTS OF SUBSECTION (7), THE  
14 DEPARTMENT SHALL NOTIFY THE MUNICIPALITY THAT THE DEPARTMENT HAS  
15 ISSUED A PERMIT UNDER THIS ACT WITHIN THE JURISDICTION OF THAT  
16 MUNICIPALITY.