



**Senate Fiscal Agency**  
**P. O. Box 30036**  
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**BILL ANALYSIS**



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Senate Bill 195 (as enrolled)  
 Sponsor: Senator Mat J. Dunaskiss  
 Senate Committee: Natural Resources and Environmental Affairs  
 House Committee: Conservation, Environment, and Greak Lakes

Date Completed: 2-28-95

**RATIONALE**

The Wetland Protection Act provides for the preservation, management, protection, and use of wetland by the State. Under the Act, a person must obtain a permit to use or develop wetland in a manner that otherwise would be prohibited. The Act outlines procedures that the Department of Natural Resources (DNR) must follow upon receiving a permit application. Under these procedures, the DNR is required to approve or disapprove an application within 90 days after it is filed with the Department, or within 90 days after a public hearing on the application. If the Department does not approve or disapprove the permit application within the time provided under the Act, the application is considered approved. Similarly, the Act allows municipalities to regulate wetland by adopting a local ordinance that meets the Act's requirements. Upon receiving an application, a municipality must forward a copy of it to the DNR, which must begin reviewing the application. The municipality must review the application and modify, approve, or deny it within 90 days after receiving it. The Act, however, does not specify what occurs if a municipality does not approve or disapprove a permit application within 90 days after receiving it. Reportedly, there has been some confusion among developers who presumed that inaction by a municipality during the 90-day period resulted in automatic approval of the application, as it does under procedures for the DNR. Some people believe that the Act's permit application process for municipalities should be clarified to provide for automatic approval, if a municipality takes no action on a permit within the specified time period.

**CONTENT**

The bill would amend the Wetland Protection Act to specify that if a municipality that adopted an ordinance regulating wetlands did not approve or disapprove a wetland use permit application within the 90-day review period specified in the Act, the permit application would be considered approved. Further, the municipality would be considered to have made the determinations required by the Act, i.e., that the permit was in the public interest and was necessary to realize the benefits derived from the permitted activity, and that the activity was otherwise lawful.

The bill also would require a permit denial to be accompanied by a written statement of all reasons for the denial. Currently, the Act requires a permit denial to be accompanied by a written reason for denial.

MCL 281.708

**ARGUMENTS**

*(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)*

**Supporting Argument**

Under the Act, a municipality must review a permit application pursuant to its ordinance and must modify, approve, or deny the application within 90 days after receiving it. It is not certain, however, what occurs when a municipality has not acted on an application within the 90-day period. Apparently, there has been a presumption among some land developers and local officials that a permit application not acted upon by a municipality within the time period is automatically approved,

as it is when the DNR does not act on a permit application within 90 days of receiving it. In some reported situations, developers presumed that a permit application was approved since they had not been informed otherwise by local officials. In one instance, a construction contractor reportedly applied for permit to build a marina. The State approved the permit but the local township did not act on the application. Since the township took no action on the permit within 90 days, the contractor proceeded with the project under the assumption that the permit received automatic approval. The township subsequently told the contractor that he could not build the marina. Furthermore, according to the bill's proponents, information from the Attorney General indicates that there is no automatic approval by a municipality because it is not specifically provided for under the Act, as it is for the DNR. The bill would provide for this approval and specify that a permit denial would have to be accompanied by a written statement of *all* reasons for denial.

Legislative Analyst: L. Arasim

### **FISCAL IMPACT**

The bill would have an indeterminate fiscal impact on local units of government, depending on the number of municipalities unable to review wetland permit applications within 90 days and the resources that they have available. The bill would not change State regulations on wetland permits.

Fiscal Analyst: G. Cutler

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.