



**House
Legislative
Analysis
Section**

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SOIL EROSION CONTROL

House Bill 4774

Sponsor: Rep. David Mead

**Committee: Conservation and Outdoor
Recreation**

Complete to 11-7-00

A SUMMARY OF HOUSE BILL 4774 AS INTRODUCED 6-10-99

Currently, Part 91 of the Natural Resources and Environmental Protection Act (NREPA), which regulates soil erosion and sedimentation control, specifies that a person must act in accordance with the provisions of Part 91 or the rules promulgated under it, or with an applicable local ordinance, in order to maintain or undertake a land use or earth change that is governed either by these provisions, or according to a permit approved by the appropriate county or local enforcing agency. A violation of this provision is considered a misdemeanor. House Bill 4774 would add a new section to the act to replace these provisions and specify, instead, that a person undertaking conditions that were regulated under the provisions of Part 91 would have to obtain a permit, either from the authorized public agency or the Department of Environmental Quality (DEQ). The bill would also increase the penalties imposed for violations of the provisions of Part 91; allow for 50 percent of the amount received from these fines to go to the authorized public agency that had jurisdiction at the location of the violation; and require violators to be liable to the state for damages resulting from a violation.

Permits. Under the bill, a person who wished to undertake or maintain a land use or an earth change that was regulated under the provisions of Part 91 would have to obtain a permit from the authorized public agency, and the authorized public agency (defined under the act to mean a state, local, or county agency designated under the act to enforce soil erosion and sedimentation control requirements with regard to land uses undertaken by it) would have to forward an application to the DEQ for review if it included a proposed land use or earth change that met any of the following conditions:

- It was within 500 feet of the ordinary high-water mark of the Great Lakes or their connecting waters.
- It was within a high-risk area, as defined under Part 323 of the act, concerning shorelands protection and management (MCL 324.32301).
- It was within a critical dune area, as defined in Part 353 of the act, concerning sand dune protection and management (MCL 324.35302).
- It would cause a disturbance of more than 50 acres.

The DEQ could not approve a permit if it believed the proposed land use or earth change would cause soil erosion that would result in the sedimentation of state waters.

Civil Infraction. Currently, the act specifies that, if a person owns land that is not in compliance with the provisions of Part 91, and, after notice, refuses to implement and maintain soil erosion and sedimentation control measures of Part 91, then he or she may be liable for a civil fine of up to \$500. House Bill 4774 would replace this provision with the following:

- A person who violated the provisions of Part 91, the rules promulgated under Part 91, or a permit issued under Part 91, would be responsible for a state civil infraction and subject to a civil fine of up to \$2,500.

- A person who knowingly violated the provisions of Part 91, the rules promulgated under Part 91, or a permit issued under Part 91, would be responsible for a civil fine of up to \$25,000 for each day the violation occurred. A default in the payment of the fine or costs ordered under this provision, or an installment of the fine or costs, could be remedied by any means authorized under the Revised Judicature Act (MCL 600.101 et al.).

Distribution of Civil Fines. Civil fines collected under the provisions of the bill would be deposited as follows: 50 percent into the general fund; and 50 percent with the authorized public agency that had jurisdiction at the location of the violation, and used to administer and enforce the provisions of Part 91. In addition to a fine, a person who violated the provisions of Part 91, the rules promulgated under Part 91, or a permit issued under Part 91, would be liable to the state for damages for injury to, destruction of, or loss of natural resources resting from the violation.

MCL 324.9111a

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