

Senate Fiscal Agency  
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**SFA****BILL ANALYSIS**

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Senate Bill 651 (as introduced 6-10-99)  
Sponsor: Senator Ken Sikkema  
Committee: Natural Resources and Environmental Affairs

Date Completed: 7-28-99

## **CONTENT**

**The bill would amend Part 91 (Soil Erosion and Sedimentation Control) of the Natural Resources and Environmental Protection Act to revise the permit requirements for undertaking or maintaining a land use or an earth change; impose a State civil infraction fine of \$2,500 for a violation of Part 91, rules, or a permit, and a \$25,000 fine for each day a person knowingly violated Part 91, rules, or a permit; and provide that the violator would be liable to the State for injury to, destruction of, or loss of natural resources.**

(The Act defines "land use" as a use of land that may result in an earth change, including subdivision, residential, commercial, industrial, recreational, or other development, private and public highway, road and street construction, and drainage construction. "Earth change" means a human-made change in the natural cover or topography of land, including cut and fill activities, that may result in or contribute to soil erosion or sedimentation of water; the term does not include plowing and tilling soil for the purpose of crop production.)

### **Permit**

Currently, a person may not maintain or undertake a land use or earth change governed by Part 91 or the rules or governed by an applicable local ordinance, except in accordance with Part 91 and the rules or with the applicable local ordinance and pursuant to a permit approved by the appropriate county or local enforcing agency. A person who violates this provision is guilty of a misdemeanor. The bill would delete these provisions.

The bill specifies that a person could not undertake or maintain a land use or an earth change regulated under Part 91 unless the person had applied for and received a permit from the authorized public agency and, if required under the bill, from the Department of Environmental Quality. (The Act defines "authorized public agency" as a State, local, or county agency designated by the Department to enforce soil erosion and sedimentation control requirements with regard to land uses undertaken by it.)

The authorized public agency would have to forward an application to the Department for review if the application were submitted for a permit that included a proposed land use or earth change that was within 500 feet of the ordinary high-water mark of the Great Lakes or their connecting waters; was within a high-risk area as defined in the Act; was within a critical dune area; or would cause a disturbance of more than 50 acres.

The Department could not approve a permit received under the bill if it believed the proposed land use or earth change would cause soil erosion that could result in the sedimentation of State waters.

### **Fines and Penalties**

Under the bill, a person who violated Part 91, the rules promulgated under it, or a permit issued under it would be responsible for a State civil infraction and subject to a civil fine of up to \$2,500.

A person who knowingly violated Part 91, the rules promulgated under it, or a permit issued under it would be responsible for the payment of a civil fine of up to \$25,000 for each day the violation occurred. A default in the payment of a civil 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. The bill would require 50% of the civil

finest collected under this provision to be deposited into the State General Fund, and 50% to be deposited with the authorized public agency with jurisdiction at the location of the violation to be used by the agency to administer and enforce Part 91.

In addition to a fine, a person who violated Part 91, the rules promulgated under it, or a permit issued under it would be liable to the State for damages for injury to, destruction of, or loss of natural resources resulting from the violation.

Currently, a person who owns land that is not in compliance with Part 91 and who, after notice, refuses to implement and maintain soil erosion and sedimentation control measures in conformance with the part is responsible for a State civil infraction and may be ordered to pay a civil fine of up to \$500. The bill would delete this provision.

MCL 324.9112 et. al

Legislative Analyst: N. Nagata

### **FISCAL IMPACT**

The bill would have an indeterminate impact on State and local government expenditures and revenues. The bill would give the Department of Environmental Quality new responsibility for issuing land use or earth change permits under certain circumstances. The Department estimates that this new responsibility could result in the need for an additional 15 to 18 full-time equated positions at an approximate annual cost of between \$1 million and \$1.25 million. Local government or enforcing agencies that currently have responsibility for issuing these permits could experience a reduction in costs as a result of the Department assuming responsibility for this activity. Finally, the bill would result in an indeterminate increase in revenue to libraries, to the local agency with jurisdiction over the location where a violation occurred, and to the State general fund from the increase in civil fines authorized by the bill.

Fiscal Analyst: P. Graham

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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.