

WETLAND PERMITS

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House Bill 6162 (Substitute H-2)

House Bill 6164 (Substitute H-1)

House Bill 6165 (Substitute H-2)

Sponsor: Rep. John Pastor

Committee: Natural Resources, Great Lakes, Land Use, and Environment

Complete to 9-8-06

A SUMMARY OF HOUSE BILLS 6162, 6164, AND 6165 AS PASSED BY THE HOUSE

Part 303 (Wetland Protection) of the Natural Resources and Environmental Protection Act requires individuals to obtain a permit, with certain exceptions, from the Department of Environmental Quality (DEQ) when doing any of the following: (1) depositing or permitting the placement of fill material in a wetland; (2) dredging, removing, or permitting the removal of soil or minerals from a wetland; (3) constructing, operating, or maintaining any use or development in a wetland; and (4) draining surface water from a wetland.

These bills are designed to improve the wetland permit process for both applicants and the DEQ, including establishing a process for meetings between the DEQ and individual landowners or developers to review proposed projects.

House Bill 6162 (H-2)

House Bill 6162 would establish a mechanism for pre-application and other meetings, and establish a fee structure to help defray the costs of the additional meetings.

The bill would amend Part 303 of the Natural Resources and Environmental Protection Act (MCL 324.30306b) to require the DEQ, if requested by the landowner or another person in writing, to meet with the person or his or her representatives to review a proposed project or a wetland permit application in its entirety. The request would specify whether the meeting would take place at the appropriate DEQ district office, or at the project site itself, if authorized by the landowner. Any written agreement reached at the meeting would be binding on the DEQ.

The fee for a district office meeting would be \$150. A project site meeting fee would be \$250 for the first acre or portion of an acre, plus \$50 for each acre or portion of an acre in excess of the first acre, not to exceed a total of \$1,000. For a project on a single-family residential lot less than one acre in size, a district office meeting would require no fee and a project site meeting fee would be \$100.

If a person withdraws a request for a meeting at least 24 hours before the scheduled meeting, the DEQ may either agree to reschedule the meeting or refund the fee. If the fee

is refunded, the DEQ need not meet with the person. If a person or his or her representative fails to show up for a meeting at an agreed-upon time and place, the person would forfeit the fee paid. If a DEQ representative fails to show up for meeting at an agreed-upon time and place, the DEQ would be required to refund the fee and send a representative to a rescheduled meeting to be held within 10 days.

House Bill 6164 (H-1)

Part 303 (MCL 324.30307) requires the DEQ to send local governmental units that do not have an ordinance regulating wetlands copies of permit applications relating to wetlands in that local unit. The local unit may review an application and recommend that it be approved, denied, or modified. The bill would allow the local governmental unit the alternative of notifying the DEQ that it declines to make a recommendation as to the permit application. The recommendation of the local unit of government to the DEQ, if any, would be allowed at any time within 45 days of the local unit's receipt of the permit application. The bill would also amend Section 30307(6) to change "municipality" to "local unit of government" and to require the DEQ to notify persons as to whether a local unit of government has a wetlands ordinance upon request.

House Bill 6165 (H-2)

The bill would amend Part 303 (MCL 324.30313b) to allow the DEQ to make minor revisions in permits and authorizations and to transfer permits and authorizations under the following conditions:

- The project is in compliance with the permit or authorization and Part 303.
- The minor revisions are requested by the permittee in writing.
- The request is accompanied by a \$250 fee.
- If the request is for a transfer of a permit or authorization, the request must be accompanied by a written agreement between the current and new owners containing a specific date for the transfer of responsibility, coverage, and liability under the permit or authorization.

The DEQ would be required to approve or deny a minor revisions request within 20 business days and a transfer request within 10 business days. If the DEQ misses the applicable deadline, it would be required to refund the fee. On the other hand, if the DEQ determines that none of the requested changes are minor revisions, the DEQ would keep the fee but it could be applied toward a new permit for a project at that site.

As defined in the bill, a "minor revision" means either (1) a transfer of a permit or authorization, or (2) a "revision that does not increase the overall impact of a project on wetlands that is within the scope of the project as described in the original permit or authorization."

FISCAL IMPACT:

House Bills 6162 and 6165 would have an indeterminate fiscal impact on the DEQ. The bills permit the DEQ to assess fees to cover its costs for its responsibilities under the bills. House Bill 6164 would have no fiscal impact on the state. None of the bills would have a fiscal impact on local governmental units.

BACKGROUND INFORMATION:

These bills are designed to improve the wetland permit process for both applicants and the Department of Environmental Quality. They arose in part from concerns expressed by stakeholders in the wetland permit process.

Developers and individual landowners have at times expressed the desire for the meetings such as those allowed by House Bill 6162 to help them get advice about permit applications, to give the DEQ an opportunity to flag issues or concerns early on in the process, and, at times, or to have DEQ staff look at the site in question. The bill establishes a process for requesting a meeting and a fee structure to help defray the costs to the DEQ of holding additional meetings.

House Bill 6164 would allow local units of government to decline to make a recommendation on a permit application early on in the process. Often, local units of governments already have already taken a position on the appropriateness of a project as a result of local zoning or land use procedures. This bill is an effort to streamline the process.

Finally, House Bill 6165 clarifies the process for obtaining minor revisions and transfers.

POSITIONS:

The Department of Environmental Quality testified in support of the bills, with amendments, to the House Committee on Natural Resources, Great Lakes, Land Use, and Environment. (6-29-06)

The Michigan Home Builders, Michigan Environmental Council, Michigan Chamber of Commerce, and Michigan Association of Realtors have indicated their support of the bills. (6-29-06)

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.