

Legislative Analysis



WETLANDS PERMITS

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House Bill 6162 as enrolled
Public Act 435 of 2006

House Bill 6164 as enrolled
Public Act 430 of 2006

House Bill 6165 as enrolled
Public Act 431 of 2006

Sponsor: Rep. John Pastor
House Committee: Natural Resources, Great Lakes, Land Use, and Environment
Senate Committee: Natural Resources and Environmental Affairs

Complete to 1-25-07

A SUMMARY OF HOUSE BILLS 6162, 6164, AND 6165 AS ENROLLED

- House Bill 6162 amended Part 303 of the Natural Resources and Environmental Protection Act to establish procedures and fees for pre-application meetings between the Department of Environmental Quality and landowners concerning proposed wetlands projects.
- House Bill 6164 amended Part 303 to allow a local unit of government to decline to make a recommendation on an application for a wetlands permit.
- House Bill 6165 amended Part 303 to specify the conditions and fees for obtaining minor revisions (including transfers) of wetlands permits.

House Bill 6162

House Bill 6162 amended Part 303 of the Natural Resources and Environmental Protection Act (adding new Section 30306b) to establish procedures and fees for pre-application meetings on wetlands project permits. The bill requires the DEQ to meet with a landowner (or his or her authorized representative), upon request, to review a proposed project or permit application in its entirety. The landowner may request a meeting to be held at the DEQ district office or at the project site.

The fee for a pre-application meeting at DEQ district office is \$150. A project site pre-application meeting fee is \$250 for the first acre or portion of an acre of a project area, plus \$50 for each acre or portion of an acre in excess of the first acre, not to exceed \$1,000. For a project on a single-family residential lot less than one acre in size, a meeting at the DEQ district office requires no fee; a project site meeting fee is \$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

DEQ refunds the fee, no meeting is held. If a person or his or her representative fails to show up for a meeting at an agreed-upon time and place, the fee paid is forfeited. If a DEQ representative fails to show up for meeting at an agreed-upon time and place, the DEQ must refund the fee paid and send a representative to a rescheduled meeting to be held within 10 days.

Any written agreement reached at a pre-application meeting regarding the need to obtain a permit is binding on the DEQ for two years.

MCL 324.30306b

House Bill 6164

Part 303 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 amended Part 303 to allow the local governmental unit the alternative of declining to make any recommendation.

The recommendation of the local unit of government to the DEQ, if any, is allowed at any time within 45 days of the local unit's receipt of the permit application. The bill also amended 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.

MCL 324.30307

House Bill 6165

The bill amended Part 303 (adding new Section 30313b) to allow the DEQ to make minor revisions (including transfers) of a wetlands permit under the following conditions:

- The project is in compliance with the permit and Part 303.
- The minor revisions are requested by the permit holder in writing.
- The request is accompanied by a \$250 fee.
- Transfer requests 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.

The DEQ must approve or deny a minor revisions request within 20 business days unless the only minor revision is a transfer in which the DEQ must act within 10 business days. If the DEQ misses the applicable deadline, it must refund the fee paid. On the other hand, if the DEQ determines that none of the requested changes are minor revisions, the DEQ would keep the fee but the permit holder could apply it 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 (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."

MCL 324.30313b

BACKGROUND INFORMATION:

In general, Part 303 (Wetland Protection) of the Natural Resources and Environmental Protection Act requires individuals to obtain a permit from 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 were designed to improve the wetlands permit process for both applicants and the Department of Environmental Quality. They arose in part from concerns expressed by stakeholders in the wetlands permit process.

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

House Bill 6164 allows local units of government to decline to make a recommendation on a permit application early on in the process. House Bill 6165 clarifies the process for obtaining minor revisions and transfers.

The Legislature enacted several other bills relating to environmental permit approvals in its 2005-2006 Session, including:

- House Bill 6577 (Public Act 601 of 2006), expedited waterworks project permits.
- House Bill 6668 (Public Act 602 of 2006), expedited sewer project permits.
- Senate Bill 1040 (Public Act 275 of 2006), small dam removal permits.
- Senate Bill 1481 (Public Act 531 of 2006), inland lakes and streams permits.

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.

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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.