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BILL ANALYSIS

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Senate Bill 1040 (as introduced 2-8-06)

Sponsor: Senator Patricia L. Birkholz

Committee: Natural Resources and Environmental Affairs

Date Completed: 2-14-06

CONTENT

The bill would amend Part 301 (Inland Lakes and Streams) of the Natural Resources and Environmental Protection Act to authorize the Department of Environmental Quality (DEQ) to issue a permit for the removal of small dams that met specified criteria.

Specifically, after notice and an opportunity for a public hearing, the DEQ could issue a general permit on a statewide basis or within a local unit of government for projects for the removal of qualifying small dams that were similar in nature, that would cause only minimal adverse environmental effects when performed separately, and that would have only minimal cumulative adverse effect on the environment.

A general permit would be valid for up to five years. The DEQ could impose conditions on the authorized removal of a small dam if the conditions were designed to remove an impairment to the lake or stream. The DEQ also could establish a reasonable time when the proposed project was to be completed or terminated.

The bill would prescribe a \$50 fee for authorization under a general permit for the removal of a qualifying small dam. (Like other application fees under Part 301, this fee would apply until October 1, 2008.)

"Dam" would mean an artificial barrier, including dikes, embankments, and appurtenant works, that impounds, diverts, or is designed to impound or divert water. "Qualifying small dam" would mean a dam that meets all of the following conditions:

- The height of the dam is less than two feet.
- The impoundment from the dam covers less than two acres.
- The dam does not serve as the first dam upstream from the Great Lakes or their connecting waterways.
- The dam is not serving as a sea lamprey barrier.
- There are no threatened or endangered species that have been identified in the area that would be affected by the project.
- There are no known areas of contaminated sediments in the area that would be affected by the project.
- The DEQ has received written permission for the dam's removal from all riparian property owners adjacent to the dam's impoundment.

"Height of the dam" would mean the difference in elevation measured vertically between the natural bed of an inland lake or stream at the downstream toe of the dam, or, if it is not

across a stream channel or watercourse, from the lowest elevation of the downstream toe of the dam, to the design flood elevation or to the lowest point of the top of the dam, whichever is less.

In addition, the bill would require the DEQ to post on its website a list of pending applications, public notices, and public hearing schedules under Part 301.

Under Part 301, the DEQ, by rule, may establish minor project categories of activities and projects that are similar in nature and have minimal adverse environmental impact. The DEQ may act upon an application for an activity or project within a minor project category after an on-site inspection of the land and water involved without providing notices or holding a public hearing under Part 301. The bill would delete the reference to an on-site inspection.

MCL 324.30101 et al.

Legislative Analyst: Julie Koval

FISCAL IMPACT

It is unknown how many small dams would be eligible for removal authorization under the proposed general permit. It is likely that eligible dams would be a subset of those constructed under Part 307 (Inland Lake Levels) of the Act, of which there are 235. If all of these dams were removed, the \$50 fee would generate aggregate revenue of \$11,750, which would be deposited into the Land and Water Fee Fund and used solely for administration of land and water programs. (Larger dams are constructed under Part 315 (Dam Safety) of the Act. Their removal could have a more significant environmental impact than allowable under the proposed general permit. There are 813 dams regulated by Part 315.)

Fiscal Analyst: Jessica Runnels

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