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House Bill 6162 (Substitute H-2 as passed by the House) House Bill 6164 (Substitute H-1 as passed by the House) House Bill 6165 (Substitute H-2 as passed by the House)

Sponsor: Representative John Pastor

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

Senate Committee: Natural Resources and Environmental Affairs

Date Completed: 9-6-06

CONTENT

The bills would amend Part 303 (Wetlands Protection) of the Natural Resources and Environmental Protection Act to do the following:

- -- Require the Department of Environmental Quality (DEQ), upon request and receipt of the appropriate fee, to meet with an applicant to review a proposal to conduct certain restricted activities with respect to a wetland.
- -- Allow a local unit of government, after reviewing a permit application involving a wetland within that local unit, to decline to make any recommendation to the DEO regarding the application.
- -- Allow the DEQ, upon request and receipt of a \$250 fee, to approve minor revisions to a permit or an authorization under a general permit.

The bills are described below.

House Bill 6162 (H-2)

Part 303 prohibits the following activities without a permit issued by the Department of Environmental Quality:

- -- Depositing or permitting the placement of fill material in a wetland.
- -- Dredging, removing, or permitting the removal of soil or minerals from a wetland.
- -- Constructing, operating, or maintaining any use or development in a wetland.
- -- Draining surface water from a wetland.

The DEQ may issue a permit to conduct any of these activities only if it determines that issuance of the permit is in the public interest, that the permit is necessary to realize the benefits derived from the activity, and that the activity is otherwise lawful.

Under the bill, upon written request by a landowner or another person, the Department would have to meet with that person or his or her representative to review a proposed project or a permit application in its entirety. The meeting would have to take place either at the DEQ's district office for the district that included the project site, or, if authorized by the landowner, at the project site, as specified in the request.

A request for a meeting would have to be accompanied by a fee. The fee for meeting at the district office would be \$150. The fee for meeting at the project site would be \$250 for the first acre or portion of an acre of project area, plus \$50 for each additional acre or portion of an acre, not to exceed \$1,000. If the location of the project were a single family residential lot less than one acre in size, there would be no fee for a meeting at the district office, and the fee for meeting at the project site would be \$100.

If a person withdrew a request for a meeting at least 24 hours before the meeting, the DEQ either could agree to reschedule the meeting or would have to refund the fee promptly, and would be under no obligation to meet with the person. Otherwise, if after agreeing to the time and place for a meeting, the person were not represented at the meeting, he or she would forfeit the fee.

If, after agreeing to the time and place for a meeting, the DEQ were not represented at the meeting, the Department would have to refund the fee and send a representative to a rescheduled meeting to be held within 10 days of the first meeting date.

The bill specifies that any written agreement reached at the meeting would be binding on the Department.

House Bill 6164 (H-1)

Under Part 303, if the DEQ receives a permit application to conduct the restricted activities specified above with respect to a wetland, and the local unit of government where the wetland is located does not have an ordinance regulating wetlands, the DEQ must send a copy of the permit application to that local unit of government. The local unit may review the application and recommend approval, modification, or denial of the application to the DEQ within 45 days of receiving the application.

Under the bill, the local unit of government also would have the option of notifying the DEQ that it declined to make a recommendation.

House Bill 6165 (H-2)

The bill would permit the DEQ to make minor revisions in a permit or an authorization under a general permit issued under Part 303 if all of the following applied:

- -- The project was in compliance with the permit or authorization and Part 303.
- -- The minor revisions were requested by the permittee in writing.
- -- The request was accompanied by a fee of \$250.

If the request were for a transfer of the permit or authorization, it would have to be accompanied by a written agreement between the current and new owners or operators containing a specific date for transfer of responsibility, coverage, and liability under the permit or authorization.

The DEQ would have to approve or deny the request within 20 business days, unless the only minor revision requested were a transfer as described above, in which case the DEQ would have to approve the request within 10 business days. If the DEQ failed to approve or deny the request within the specified time period, it would have to refund the fee.

If the Department determined that none of the changes requested were minor revisions, it would have to retain the fee, although the permittee could apply the fee toward a new permit for a project at that site.

Under the bill, "minor revision" would mean either a transfer of an individual permit or authorization under a general permit, or a revision that did not increase the overall impact of a project on wetlands and that was within the scope of the project as described in the original permit or authorization.

(Under Part 303, the DEQ may issue general permits on a statewide basis or within a local unit of government for a category of activities, if the Department determines that the activities are similar in nature, will cause only minimal adverse environmental effects when performed separately, and will have only minimal cumulative adverse effect on the environment.)

Proposed MCL 324.30306b (H.B. 6162) MCL 324.30307 (H.B. 6164) Proposed MCL 324.30313b (H.B. 6165) Legislative Analyst: Curtis Walker

FISCAL IMPACT

House Bill 6162 (H-2)

The bill would have an indeterminate fiscal impact on the State. The Department of Environmental Quality would be required to meet with project representatives to review project or permit applications. To cover the costs of providing this service, the bill would establish fees that the Department would assess. The total amount collected from the fees would depend on the number of requested meetings. The fee revenue would be deposited into the Land and Water Permit Fee Fund, which is used to support land and water permitting and regulatory activities.

House Bill 6164 (H-1)

The bill would have no fiscal impact on State or local government.

House Bill 6165 (H-2)

The bill would have an indeterminate fiscal impact on the State. The Department of Environmental Quality would be authorized to charge a fee of \$250 for processing minor revisions to a wetlands permit. The total amount collected from the fee would depend on the number of requested revisions. The fee revenue would be deposited into the Land and Water Permit Fee Fund, which is used to support land and water permitting and regulatory activities.

Fiscal Analyst: Jessica Runnels

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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.