

HOUSE BILL No. 6164

June 8, 2006, Introduced by Reps. Pastor, Moore, Garfield, Gosselin, Stakoe, Hansen, Brandenburg, Shaffer, Amos, Marleau, Jones, Stahl, Elsenheimer, Hoogendyk, Palmer, Sheen, Wenke, Booher, Vander Veen, Casperson, Caul, Moolenaar, Acciavatti and Baxter and referred to the Committee on Natural Resources, Great Lakes, Land Use, and Environment.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending section 30307 (MCL 324.30307), as amended by 2004 PA
325.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 30307. (1) Within 60 days after receipt of the completed
2 application and fee, the department may hold a hearing. If a
3 hearing is held, it shall be held in the county where the wetland
4 to which the permit is to apply is located. Notice of the hearing
5 shall be made in the same manner as for the promulgation of rules
6 under the administrative procedures act of 1969, 1969 PA 306, MCL
7 24.201 to 24.328. The department may approve or disapprove a permit
8 application without a public hearing unless a person requests a
9 hearing in writing within 20 days after the mailing of notification

1 of the permit application as required by subsection (3) or unless
2 the department determines that the permit application is of
3 significant impact **SO AS** to warrant a public hearing.

4 (2) The action taken by the department on a permit application
5 under this part and part 13 may be appealed pursuant to the
6 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
7 24.328. A property owner may, after exhaustion of administrative
8 remedies, bring appropriate legal action in a court of competent
9 jurisdiction.

10 (3) A person who desires notification of pending permit
11 applications may make a written request to the department
12 accompanied by an annual fee of \$25.00, which shall be credited to
13 the general fund of the state. The department shall prepare a
14 biweekly list of the applications made during the previous 2 weeks
15 and shall promptly mail copies of the list for the remainder of the
16 calendar year to the persons who requested notice. The biweekly
17 list shall state the name and address of each applicant, the
18 location of the wetland in the proposed use or development,
19 including the size of both the proposed use or development and of
20 the wetland affected, and a summary statement of the purpose of the
21 use or development.

22 (4) A local unit of government may regulate wetland within its
23 boundaries, by ordinance, only as provided under this part. This
24 subsection is supplemental to the existing authority of a local
25 unit of government. An ordinance adopted by a local unit of
26 government pursuant to this subsection shall comply with all of the
27 following:

1 (a) The ordinance shall not provide a different definition of
2 wetland than is provided in this part, except that a wetland
3 ordinance may regulate wetland of less than 5 acres in size.

4 (b) If the ordinance regulates wetland that is smaller than 2
5 acres in size, the ordinance shall comply with section 30309.

6 (c) The ordinance shall comply with sections 30308 and 30310.

7 (d) The ordinance shall not require a permit for uses that are
8 authorized without a permit under section 30305, and shall
9 otherwise comply with this part.

10 (5) Each local unit of government that adopts an ordinance
11 regulating wetlands under subsection (4) shall notify the
12 department.

13 (6) A local unit of government that adopts an ordinance
14 regulating wetlands shall use an application form supplied by the
15 department, and each person applying for a permit shall make
16 application directly to the local unit of government. Upon receipt,
17 the local unit of government shall forward a copy of each
18 application along with any state fees that may have been submitted
19 under section 30306 to the department. The department shall begin
20 reviewing the application as provided in this part. The local unit
21 of government shall review the application pursuant to its
22 ordinance and shall modify, approve, or deny the application within
23 90 days after receipt. If a ~~municipality~~ **LOCAL UNIT OF GOVERNMENT**
24 does not approve or disapprove the permit application within the
25 time period provided by this subsection, the permit application
26 shall be considered approved, and the ~~municipality~~ **LOCAL UNIT OF**
27 **GOVERNMENT** shall be considered to have made the determinations as

1 listed in section 30311. The denial of a permit shall be
2 accompanied by a written statement of all reasons for denial. The
3 failure to supply complete information with a permit application
4 may be reason for denial of a permit. ~~The~~ **IF REQUESTED, THE**
5 department shall inform ~~any interested~~ **A** person whether or not a
6 local unit of government has an ordinance regulating wetlands. If
7 the department receives an application with respect to a wetland
8 located in a local unit of government that has an ordinance
9 regulating wetlands, the department immediately shall forward the
10 application to the local unit of government, which shall modify,
11 deny, or approve the application under this subsection. The local
12 unit of government shall notify the department of its decision. The
13 department shall proceed as provided in this part.

14 (7) ~~If~~ **SUBJECT TO SUBSECTION (8), IF** a local unit of
15 government does not have an ordinance regulating wetlands, the
16 department shall promptly send a copy of the permit application to
17 the local unit of government where the wetland is located. The
18 local unit of government may review the application; may hold a
19 hearing on the application; and may recommend approval,
20 modification, or denial of the application to the department. The
21 recommendations of the local unit of government shall be made and
22 returned to the department within 45 days after the local unit of
23 government's receipt of the permit application.

24 (8) **IF A LOCAL UNIT OF GOVERNMENT SUBMITS TO THE DIRECTOR A**
25 **WRITTEN WAIVER OF ITS POWERS UNDER SUBSECTION (7), THE DEPARTMENT**
26 **NEED NOT COMPLY WITH SUBSECTION (7) WITH RESPECT TO THAT LOCAL UNIT**
27 **OF GOVERNMENT. THE WAIVER REMAINS EFFECTIVE UNTIL THE LOCAL UNIT OF**

1 GOVERNMENT SUBMITS TO THE DIRECTOR A WRITTEN RETRACTION OF THE
2 WAIVER.

3 (9) ~~—(8)—~~ In addition to the requirements of subsection (7),
4 the department shall notify the local unit of government that the
5 department has issued a permit under this part within the
6 jurisdiction of that local unit of government within 15 days of
7 issuance of the permit. The department shall enclose a copy of the
8 permit with the notice.