

HOUSE BILL No. 6166

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 30321 (MCL 324.30321), as amended by 1996 PA
 530.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 30321. (1) The department shall make or cause to be made
 2 a preliminary inventory of all wetland in this state on a county by
 3 county basis and file the inventory with the ~~agricultural~~
 4 ~~extension office,~~ **MICHIGAN STATE UNIVERSITY COOPERATIVE EXTENSION**
 5 **SERVICE, THE** register of deeds, and **THE** county clerk.

6 (2) ~~At~~ **THE DEPARTMENT SHALL HOLD AT** least 2 hearings ~~shall~~
 7 ~~be held~~ in each state planning and development region created by
 8 Executive Directive No. 1973-1 ~~. The hearing shall be held by the~~

1 ~~department after publication and due notice~~ so that interested
 2 parties may comment on the inventory. **THE DEPARTMENT SHALL PUBLISH**
 3 **DUE NOTICE OF EACH HEARING.** After the hearings, the department
 4 shall issue a final inventory. ~~which shall be sent and kept by the~~
 5 ~~agricultural extension office,~~ **THE DEPARTMENT SHALL SEND A COPY OF**
 6 **THE FINAL INVENTORY TO THE MICHIGAN STATE UNIVERSITY COOPERATIVE**
 7 **EXTENSION SERVICE, THE** register of deeds, and **THE** county clerk, **AND**
 8 **EACH OF THESE SHALL RETAIN ITS RESPECTIVE COPY.** ~~Legislators shall~~
 9 ~~receive~~ **THE DEPARTMENT SHALL SEND EACH LEGISLATOR A COPY OF** an
 10 inventory of a county or ~~regional classification for their~~
 11 ~~districts~~ **REGION INCLUDED IN WHOLE OR IN PART IN HIS OR HER**
 12 **DISTRICT** including both preliminary and final inventories unless
 13 the ~~legislators request~~ **LEGISLATOR REQUESTS** not to receive the
 14 ~~materials~~ **INVENTORY.**

15 (3) Before an inventory is made of a county, a person who owns
 16 or leases a parcel of property located in that county may request
 17 that the department ~~of environmental quality~~ assess whether the
 18 parcel of property or a portion of the parcel is wetland. The
 19 request shall satisfy all of the following requirements:

20 (a) Be made on a form provided by the department.

21 (b) Be signed by the person who owns or leases the property.

22 (c) Contain a legal description of the parcel and, if only a
 23 portion of the parcel is to be assessed, a description of the
 24 portion to be assessed.

25 (d) Include a map showing the location of the parcel.

26 (e) Grant the department or its agent permission to enter on
 27 the parcel for the purpose of conducting the assessment.

1 (4) IF THE REQUEST UNDER SUBSECTION (3) REQUESTS THAT THE
2 DEPARTMENT CONDUCT ANY ON-SITE ASSESSMENT IN THE PRESENCE OF A
3 WETLANDS CONSULTANT RETAINED BY THE PERSON MAKING THE REQUEST, AND
4 SPECIFIES THE CONSULTANT'S NAME, ADDRESS, AND TELEPHONE NUMBER, THE
5 DEPARTMENT SHALL CONDUCT ANY ON-SITE ASSESSMENT IN THE PRESENCE OF
6 THE CONSULTANT.

7 (5) ~~—(4)—~~ The department shall assess the parcel within a
8 reasonable time after the request is made. The department may enter
9 upon the parcel to conduct the assessment. Upon completion of the
10 assessment, the department shall provide the person **WHO MADE THE**
11 **REQUEST** with a written assessment report. The assessment report
12 shall do all of the following:

13 (a) Identify in detail the location of any wetland in the area
14 assessed.

15 (b) If wetland is present in the area assessed, describe the
16 types of activities that require a permit under this part.

17 (c) If the assessment report determines that the area assessed
18 or part of the area assessed is not wetland, state that the
19 department lacks jurisdiction under this part as to the area that
20 the report determines is not wetland and that this determination is
21 binding on the department for 3 years from the date of the
22 assessment.

23 (d) Contain the date of the assessment.

24 (e) Advise that the person may request the department to
25 reassess the parcel or any part of the parcel that the person
26 believes was erroneously determined to be wetland if the request is
27 accompanied by evidence pertaining to wetland vegetation, soils, or

1 hydrology that is different from or in addition to the information
2 relied upon by the department.

3 (f) Advise that the assessment report does not constitute a
4 determination of wetland that may be regulated under local
5 ordinance or wetland areas that may be regulated under federal law
6 and advise how a determination of wetland areas regulated under
7 federal law may be obtained.

8 (g) List regulatory programs that may limit land use
9 activities on the parcel, advise that the list is not exhaustive,
10 and advise that the assessment report does not constitute a
11 determination of jurisdiction under those programs. The regulatory
12 programs listed shall be those under the following parts:

13 (i) Part 31, with respect to floodplains and floodways.

14 (ii) Part 91.

15 (iii) Part 301.

16 (iv) Part 323.

17 (v) Part 325.

18 (vi) Part 353.

19 (6) ~~—(5)—~~ A person may request the department to reassess any
20 area assessed under ~~—subsections (3) and (4)—~~ **SUBSECTION (3),**
21 **SUBSECTION (4) IF APPLICABLE, AND SUBSECTION (5)** that the person
22 believes the department erroneously determined to be wetland. ~~—The~~
23 ~~requirements of subsections (3) and (4)—~~ **SUBSECTIONS (3) TO (5)**
24 apply to the request, assessment, and assessment report. However,
25 the request shall be accompanied by evidence pertaining to wetland
26 vegetation, soils, or hydrology that is different from or in
27 addition to the information relied upon by the department. The

1 assessment report shall not contain the information required by
2 subsection ~~-(4)(e)-~~ **(5)(E)**.

3 **(7)** ~~-(6)-~~ If an assessment report determines that the area
4 assessed or part of the area assessed is not a wetland regulated by
5 the department under this part, then the area determined by the
6 assessment report not to be a wetland is not a wetland regulated by
7 the department under this part for a period of 3 years after the
8 date of the assessment.

9 **(8)** ~~-(7)-~~ The department may charge a fee for an assessment
10 requested under subsection (3) based upon the cost to the
11 department of conducting an assessment, **INCLUDING, IF APPLICABLE,**
12 **ANY COSTS INCURRED IN COMPLYING WITH A REQUEST UNDER SUBSECTION**
13 **(4).**