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House Bill 5055 (Substitute H-1 as passed by the House)
Sponsor: Representative Doug Bennett
House Committee: Great Lakes and Environment
Senate Committee: Natural Resources and Environmental Affairs

Date Completed: 9-21-09

CONTENT

The bill would amend Part 301 (Inland Lakes and Streams) of the Natural Resources and Environmental Protection Act to do the following:

- **Delete the marina operating permit requirement and the \$50 fee for renewal of a marina operating permit.**
- **Provide that a permit would not be required for the annual installation of a seasonal dock or other mooring structure previously authorized by a permit.**
- **Require the Department of Environmental Quality (DEQ) to issue a permit to construct, expand, or reconfigure a marina if it met specified conditions.**

Part 301 prohibits a person from engaging in certain activities without a permit from the DEQ. Under the bill, a permit would not be required for the annual installation of a seasonal dock or docks, pilings, mooring buoys, or other mooring structures previously authorized by and in accordance with a permit issued under Part 301. "Mooring structures" would mean structures used to moor watercraft, including docks, piers, pilings, mooring anchors, lines and buoys, and boat hoists.

Under Part 301, a person must obtain a permit in order to erect, maintain, or operate a marina. The bill, instead, would require a permit to construct, reconfigure, or expand a marina.

"Expand" would mean to occupy a larger area of an inland lake or stream than authorized by a permit issued under Part 301 for marina mooring structures and watercraft moored at the marina.

"Reconfigure" would mean to do either of the following, without the expanding marina:

- Change the location of the dock or docks and other mooring structures at the marina to occupy an area of the inland lake or stream that was not previously authorized by a permit issued under Part 301.
- Decrease the distance available for ingress and egress to an outside slip, as described in Section 30106a.

Under Section 30106a, which the bill would add, the DEQ would have to issue a permit to construct, expand, or reconfigure a marina if the Department determined that the marina met the conditions of Section 30106 (described below) and all of the following conditions:

- The marina extended from riparian property of the applicant.
- The marina did not unreasonably interfere with navigation.
- The marina was located and designed to be operated consistently with the correlative rights of other riparians, including the rights of adjacent riparians.

In order to be designed consistently with the correlative rights of other riparians, the marina would have to be configured so that all boat mooring under any wind condition would occur solely within the marina's riparian interest area. Also, boat mooring and ingress and egress for an outside slip would have to require a minimum maneuvering distance of 1.5 times the length of the slip, measured as described in the bill. ("Riparian interest area" would mean that portion of an inland lake or stream over which a riparian owner has an ownership interest. "Marina's riparian interest area" would mean the riparian interest area of an applicant for a permit and any adjacent area for which the applicant has secured written authorization from the riparian owner whose interest is or may be affected.)

In order to make the required determinations, the DEQ could require the applicant to do either of the following:

- Obtain an easement from any affected adjacent riparian owner authorizing an incursion and record the easement with the register of deeds for the county where the marina was located.
- Submit a riparian interest area estimate survey, sealed by a licensed surveyor.

In determining the need for a riparian interest estimate area survey, the DEQ would have to consider factors such as the shape of the water body, the marina's location on the water body, how much frontage was available to locate the marina, and the dock and mooring configurations.

The owner or operator of a marina existing on the bill's effective date that had not been authorized by a permit under Part 301 would have to obtain a permit under Section 30106a before expanding or reconfiguring the marina, or by January 1, 2012, whichever occurred first. The owner or operator of a marina existing on the bill's effective date that had been authorized by a construction permit under Part 301 would not need to obtain a new construction permit except to expand or reconfigure.

(Section 30106 requires the DEQ to issue a permit if it finds that the structure or project will not adversely affect the public trust or riparian rights. The Department must consider the possible effects of the proposed action upon the inland lake or stream and upon the waters from which or into which its waters flow and the uses of all such waters. The DEQ may not grant a permit if the proposed project or structure will unlawfully impair or destroy any of the waters or natural resources of the State.

Part 301 defines "riparian rights" as those rights that are associated with the ownership of the bank or shore of an inland lake or stream.)

MCL 324.30101 et al.

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bill would eliminate the \$50 annual fee for the renewal of a marina operating permit. This would reduce funding for the program by approximately \$20,000 per year. However, eliminating the need to issue permits for seasonal docks would save the Department in excess of \$175,000, leading to net savings of over \$155,000 per year.

The savings this bill would provide are necessary to support the Governor's FY 2009-10 DEQ budget recommendation.

Fiscal Analyst: Josh Sefton

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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.