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BILL ANALYSIS



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Senate Bill 409 (as introduced 5-30-17)
Sponsor: Senator Tom Casperson
Committee: Natural Resources

Date Completed: 6-13-17

CONTENT

The bill would amend Part 325 (Great Lakes Submerged Lands) of the Natural Resources and Environmental Protection Act to allow the Department of Environmental Quality to enter into a lease with the owner of waterfront property, occupied for single-family residential purposes, to use the abutting unpatented lake bottomlands and water over those bottomlands for a private harbor.

Part 325 authorizes the DEQ, after finding that the public trust in the water of the Great Lakes will not be impaired or substantially affected, to enter into agreements to lease or deed unpatented Great Lakes bottomlands belonging to or held in trust by the State. An applicant for such an agreement must be a riparian or littoral¹ owner of property touching or situated opposite the unpatented land, or an occupant of that land. If the DEQ determines that it is in the public interest to grant a deed or lease to an applicant or enter into an agreement to allow use and improvements in the water, the Department must determine the amount of consideration the applicant must pay to the State for the conveyance or lease of the land. The DEQ must forward the money to the State Treasurer to be credited to the Land and Water Management Permit Fee Fund.

Under the bill, the Department could enter into a lease with the owner of riparian or littoral property, occupied only for single-family residential purposes, to use the abutting unpatented lake bottomlands and water over those bottomlands for a private harbor if all of the following conditions were met:

- The private harbor was formed by a breakwater erected on unpatented lake bottomlands.
- The private harbor was used exclusively for private, noncommercial recreational watercraft.
- The full term of the lease was 50 years consisting of two 25-year terms.

For a lease entered into on or after the bill's effective date, the consideration would have to be a lump-sum payment at the beginning of the first 25-year term of the agreement of 1% of the current state equalized value of the lessee's upland riparian or littoral property or payment of the lump sum pursuant to a schedule as agreed by the Department. The same would apply to the second 25-year term of the agreement.

¹ Generally, "riparian" relates to land adjacent to a river or stream and "littoral" relates to land abutting an ocean, sea, or lake. Within the context of Part 325 of the Natural Resources and Environmental Protection Act, "littoral" refers to the shore of a Great Lake.

Unless otherwise requested by the lessee and agreed to by the Department, for a lease entered into before the bill's effective date, the Department would be required to credit any lease payment made in 2016 against the future payments owed under the payment agreement between the Department and the lessee.

The bill would take effect 90 days after it was enacted.

MCL 324.32505 & 324.32511

Legislative Analyst: Nathan Leaman

FISCAL IMPACT

The bill would likely not have a significant fiscal impact on the Department of Environmental Quality, and would have no fiscal impact on local units of government. Under the bill, the Department would be allowed, in certain circumstances, to lease bottomlands for use as a private noncommercial harbor to property owners with adjacent land. It is not clear where revenue derived from these leases would go; some sections in Part 325 credit revenue to the State General Fund, whereas others credit revenue to the Land and Water Management Permit Fee Fund. In either case, the amount of revenue this bill would likely generate is not expected to be significant.

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.