

HOUSE BILL No. 5854

April 24, 2018, Introduced by Reps. Howell, Bellino, LaFave, Sheppard, Lucido, Lilly, Kosowski, Rendon, Dianda, Cole, Glenn, Reilly, Hauck, Hornberger, VanSingel, Miller, VanderWall and Chirkun and referred to the Committee on Natural Resources.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending section 30312d (MCL 324.30312d), as amended by 2013 PA
98, and by adding section 30312f.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 30312d. ~~(1) The department shall develop a program to~~
2 ~~facilitate ecologically responsible voluntary wetland restoration~~
3 ~~and enhancement projects in coordination with state, federal,~~
4 ~~tribal, and nongovernmental groups specializing in wetland~~
5 ~~restoration and conservation. The program shall include, but not be~~
6 ~~limited to, enhancing coordination, consistency, and operational~~
7 ~~procedures and improving and streamlining the permitting process,~~
8 ~~to facilitate a net gain in wetland quantity, quality, or both.~~
9 ~~— (2) The department shall develop a blueberry production~~
10 ~~assistance program to provide wetland delineation and~~

1 preapplication services and assistance with avoidance and
2 minimization **OF ADVERSE EFFECTS ON WETLAND**. The department shall
3 coordinate this program with the department of agriculture and
4 rural development. The department shall also provide education and
5 outreach on wetland regulations and agricultural activities and
6 assist interested parties with the development of wetland
7 mitigation banks for the purpose of providing required compensatory
8 mitigation for agricultural impacts.

9 **SEC. 30312F. (1) THE DEPARTMENT SHALL DEVELOP A PROGRAM TO**
10 **FACILITATE VOLUNTARY WETLAND RESTORATION PROJECTS IN COORDINATION**
11 **WITH STATE, FEDERAL, TRIBAL, AND NONGOVERNMENTAL GROUPS**
12 **SPECIALIZING IN WETLAND RESTORATION AND CONSERVATION. THE PROGRAM**
13 **SHALL INCLUDE, BUT NOT BE LIMITED TO, ENHANCING COORDINATION,**
14 **CONSISTENCY, AND OPERATIONAL PROCEDURES AND IMPROVING AND**
15 **STREAMLINING THE PERMITTING PROCESS, TO FACILITATE A NET GAIN IN**
16 **WETLAND QUANTITY OR QUALITY, OR BOTH.**

17 **(2) VWR PROJECTS SHALL BE PERMITTED BY THE DEPARTMENT THROUGH**
18 **1 OR MORE OF THE FOLLOWING:**

19 **(A) A NATIONWIDE PERMIT.**

20 **(B) AUTHORIZATION TO PROCEED UNDER A GENERAL PERMIT.**

21 **(C) A PERMIT FOR A MINOR PROJECT CATEGORY.**

22 **(D) AN INDIVIDUAL PERMIT.**

23 **(3) ANY OF THE FOLLOWING MAY APPLY FOR A PERMIT UNDER THIS**
24 **PART, INCLUDING AUTHORIZATION TO PROCEED UNDER A GENERAL PERMIT,**
25 **FOR A VWR PROJECT:**

26 **(A) A STATE OR FEDERAL AGENCY OR NONGOVERNMENTAL ORGANIZATION**
27 **WHOSE PRIMARY STATED MISSION, PURPOSE, OR PROGRAMS INCLUDE WETLAND**

1 CONSERVATION, SUCH AS THE DEPARTMENT, THE DEPARTMENT OF AGRICULTURE
2 AND RURAL DEVELOPMENT, THE UNITED STATES FISH AND WILDLIFE SERVICE,
3 THE UNITED STATES FOREST SERVICE, THE UNITED STATES DEPARTMENT OF
4 AGRICULTURE NATURAL RESOURCES CONSERVATION SERVICE, OR DUCKS
5 UNLIMITED.

6 (B) A PERSON THAT IS IN PARTNERSHIP WITH AN ENTITY DESCRIBED
7 IN SUBDIVISION (A).

8 (4) COMPENSATORY MITIGATION IS NOT REQUIRED FOR A VWR PROJECT
9 ACTIVITY THAT RESULTS IN A NET INCREASE IN WETLAND ACRES,
10 FUNCTIONS, OR VALUES.

11 (5) A VWR PROJECT IN ALTERED WETLAND OR DEGRADED WETLAND MAY
12 CHANGE WETLAND VEGETATION OR WETLAND TYPE AS A RESULT OF
13 REESTABLISHING HYDROLOGY, EMULATING A PREEEXISTING HYDROLOGY,
14 MEETING HABITAT REQUIREMENTS OF SPECIES, OR RESTORING, DEVELOPING,
15 REHABILITATING, ENHANCING, MAINTAINING, OR MANAGING HABITATS OF
16 SPECIAL CONCERN.

17 (6) A VWR PROJECT MAY INCLUDE, BUT IS NOT LIMITED TO, ANY OF
18 THE FOLLOWING ACTIVITIES:

19 (A) THE REMOVAL OF ACCUMULATED SEDIMENTS.

20 (B) THE INSTALLATION, REMOVAL, AND MAINTENANCE OF WATER
21 CONTROL STRUCTURES, DIKES, AND BERMS, AS WELL AS DISCHARGES OF
22 DREDGED OR FILL MATERIAL TO RESTORE APPROPRIATE CHANNEL
23 CONFIGURATIONS AFTER SMALL WATER CONTROL STRUCTURES, DIKES, AND
24 BERMS ARE REMOVED.

25 (C) THE INSTALLATION OF CURRENT DEFLECTORS.

26 (D) THE ENHANCEMENT, REHABILITATION, OR REESTABLISHMENT OF
27 RIFFLE AND POOL STREAM STRUCTURES.

1 (E) THE PLACEMENT OF IN-STREAM HABITAT STRUCTURES.

2 (F) MODIFICATIONS OF STREAM BEDS OR BANKS TO ENHANCE,
3 REHABILITATE, OR REESTABLISH STREAM MEANDERS.

4 (G) THE REMOVAL OF STREAM BARRIERS, SUCH AS UNDERSIZED
5 CULVERTS, FORDS, OR GRADE CONTROL STRUCTURES.

6 (H) THE BACKFILLING OF ARTIFICIAL CHANNELS.

7 (I) THE REMOVAL OF DRAIN TILES OR OTHER DRAINAGE STRUCTURES
8 AND THE FILLING, BLOCKING, OR RESHAPING OF DRAINAGE DITCHES TO
9 RESTORE WETLAND HYDROLOGY.

10 (J) THE INSTALLATION OF STRUCTURES OR FILLS NECESSARY TO
11 RESTORE OR ENHANCE WETLAND OR STREAM HYDROLOGY.

12 (K) THE CONSTRUCTION OF SMALL NESTING ISLANDS.

13 (L) THE CONSTRUCTION OF OPEN WATER AREAS.

14 (M) ACTIVITIES NEEDED TO REESTABLISH VEGETATION, INCLUDING
15 PLOWING OR DISKING FOR SEED BED PREPARATION AND THE PLANTING OF
16 APPROPRIATE WETLAND SPECIES.

17 (N) REESTABLISHMENT OF SUBMERGED AQUATIC VEGETATION.

18 (O) MECHANIZED LAND CLEARING TO REMOVE NONNATIVE INVASIVE,
19 EXOTIC, OR NUISANCE VEGETATION.

20 (P) INSTALLATION OF NESTING STRUCTURES AND ISLANDS, MICRO AND
21 MACRO TOPOGRAPHY REESTABLISHMENT, DREDGING, SOIL MANIPULATION,
22 CONTOURING, DISKING, AND OTHER ACTIVITIES RELATED TO A SPECIFIC
23 WETLAND HABITAT OR SPECIES CONSERVATION PRACTICE.

24 (7) A VWR PROJECT SHALL NOT INCLUDE THE PLANTING OF NONNATIVE
25 PLANT SPECIES.

26 (8) SUBJECT TO SUBSECTION (9), THE FOLLOWING ACTIVITIES, IF
27 CONDUCTED BY A PERSON DESCRIBED IN SUBSECTION (3), ARE NOT SUBJECT

1 TO PERMIT REGULATION UNDER THIS PART:

2 (A) MANAGEMENT OF WETLAND WATER LEVELS FOR ANY OF THE
3 FOLLOWING PURPOSES:

4 (i) TO MANAGE FISH OR WILDLIFE HABITAT UNDER A SITE AREA
5 MANAGEMENT PLAN.

6 (ii) TO PREVENT OR CONTROL INVASIVE SPECIES UNDER A SITE AREA
7 MANAGEMENT PLAN.

8 (iii) TO BENEFIT THREATENED AND ENDANGERED SPECIES UNDER A
9 SITE AREA MANAGEMENT PLAN.

10 (B) MAINTENANCE OR REPAIR ACTIVITIES TO SUSTAIN WETLAND VALUES
11 OR FUNCTIONS, FISH OR WILDLIFE HABITAT, OR RELATED OUTDOOR
12 RECREATION ACCESS.

13 (9) SUBSECTION (8) DOES NOT APPLY TO RARE AND IMPERILED
14 WETLAND UNLESS THE WETLAND IS UNDER ACTIVE MANAGEMENT PURSUANT TO A
15 PLAN ADOPTED BY A STATE OR FEDERAL AGENCY.

16 (10) FOR A VWR PROJECT AUTHORIZED UNDER THIS SECTION, THE
17 DEPARTMENT SHALL ISSUE THE FOLLOWING:

18 (A) A WATER QUALITY CERTIFICATION UNDER SECTION 401 OF TITLE
19 IV OF THE FEDERAL WATER POLLUTION CONTROL ACT, 33 USC 1341, WITHIN
20 30 DAYS AFTER THE DEPARTMENT'S RECEIPT OF AN APPLICATION FOR
21 CERTIFICATION.

22 (B) A NOTIFICATION OF CONCURRENCE WITH A COASTAL ZONE
23 MANAGEMENT CONSISTENCY DETERMINATION PROVIDED TO THE DEPARTMENT BY
24 AN APPLICANT FOR A FEDERAL LICENSE OR PERMIT UNDER SECTION 307 OF
25 THE COASTAL ZONE MANAGEMENT ACT OF 1972, 16 USC 1456, WITHIN 30
26 DAYS AFTER THE DEPARTMENT'S RECEIPT OF THE CONSISTENCY
27 DETERMINATION.

1 (11) A FLOODPLAIN PERMIT UNDER PART 31, A PERMIT UNDER PART
2 301, OR AN ENVIRONMENTAL AREA PERMIT UNDER PART 323 IS NOT REQUIRED
3 FOR VWR PROJECT ACTIVITIES UNDERTAKEN TO RESTORE AN AREA THAT WAS
4 HISTORICALLY WETLAND.

5 (12) RULES PROMULGATED UNDER THIS PART BY THE DEPARTMENT OF
6 ENVIRONMENTAL QUALITY BEFORE THE EFFECTIVE DATE OF THIS SECTION
7 PERTAIN TO VWR PROJECTS EXCEPT TO THE EXTENT THAT THEY ARE IN
8 CONFLICT WITH THIS SECTION OR SUPERSEDED BY RULES PROMULGATED BY
9 THE DEPARTMENT OF NATURAL RESOURCES FOR THE PURPOSES OF THIS
10 SECTION.

11 (13) THE DEPARTMENT SHALL CONSULT WITH THE DEPARTMENT OF
12 ENVIRONMENTAL QUALITY IN THE ADMINISTRATION AND ENFORCEMENT OF THIS
13 SECTION.

14 Enacting section 1. This amendatory act takes effect 90 days
15 after the date it is enacted into law.

16 Enacting section 2. This amendatory act does not take effect
17 unless Senate Bill No. ____ or House Bill No. 5855 (request no.
18 05514'18 *) of the 99th Legislature is enacted into law.