

HOUSE BILL No. 5855

April 24, 2018, Introduced by Reps. Bellino, Howell, LaFave, Sheppard, Lucido, Lilly, Kosowski, Rendon, Dianda, Cole, Glenn, Reilly, Hauck, Hornberger, VanSingel, Miller, Chirkun and VanderWall 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 30301 (MCL 324.30301), as amended by 2012 PA
247.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 30301. (1) As used in this part:

(A) "ALTERED WETLAND" MEANS WETLAND IN WHICH VEGETATION, SOIL,
HYDROLOGY, OR ANY COMBINATION THEREOF HAVE BEEN SUFFICIENTLY
ALTERED BY HUMAN ACTIVITIES OR NATURAL EVENTS AS TO ADVERSELY
AFFECT THE FUNCTIONS AND VALUES OF THE WETLAND.

(B) "DEGRADED WETLAND" MEANS EITHER OF THE FOLLOWING:

(i) WETLAND IN WHICH THERE IS EXCESSIVE DRAINAGE OR IMPAIRED
SURFACE WATER FLOW OR GROUNDWATER HYDROLOGY.

(ii) WETLAND THAT HAS BEEN PARTIALLY FILLED OR EXCAVATED,
CONTAMINATED WITH HAZARDOUS SUBSTANCES, OR INFESTED WITH INVASIVE

1 SPECIES, OR THE ECOLOGICAL VALUE OF WHICH HAS BEEN SUBSTANTIALLY
2 REDUCED.

3 (C) ~~(a)~~—"Department" means the department of environmental
4 quality, **EXCEPT THAT AS USED IN OR APPLIED TO THE ADMINISTRATION**
5 **AND ENFORCEMENT OF SECTION 30312F, DEPARTMENT MEANS THE DEPARTMENT**
6 **OF NATURAL RESOURCES.**

7 (D) ~~(b)~~—"Director" means the director of the department.

8 (E) ~~(c)~~—"Exceptional wetland" means wetland that provides
9 physical or biological functions essential to the natural resources
10 of ~~the~~ **THIS** state and that may be lost or degraded if not preserved
11 through an approved site protection and management plan for the
12 purposes of providing compensatory wetland mitigation.

13 (F) ~~(d)~~—"Fill material" means soil, rocks, sand, waste of any
14 kind, or any other material that displaces soil or water or reduces
15 water retention potential. **UNCONTAMINATED WATER IS NOT FILL**
16 **MATERIAL.**

17 (G) **"FORMER WETLAND" MEANS LAND THAT BEEN MODIFIED TO THE**
18 **POINT THAT IT NO LONGER HAS THE HYDROLOGIC CHARACTERISTICS OF A**
19 **WETLAND.**

20 (H) ~~(e)~~—"Landscape level wetland assessment" means the use of
21 aerial photographs, maps, and other remotely sensed information to
22 predict and evaluate wetland characteristics and functions in the
23 context of all of the following:

24 (i) The wetland's landscape position and hydrologic
25 characteristics.

26 (ii) The surrounding landscape.

27 (iii) The historic extent and condition of the wetland.

(I) ~~(f)~~ "Minor drainage" includes ditching and tiling for the removal of excess soil moisture incidental to the planting, cultivating, protecting, or harvesting of crops or improving the productivity of land in established use for agriculture, horticulture, silviculture, or lumbering.

(J) ~~(g)~~ "Nationwide permit" means a nationwide permit issued by the United States ~~army corps of engineers~~ **ARMY CORPS OF ENGINEERS** under ~~72 FR 11091 to 11198 (March 12, 2007),~~ **82 FR 1860 TO 2008 (JANUARY 6, 2017)**, including all general conditions, regional conditions, and conditions imposed by this state pursuant to a water quality certification under section 401 of title IV of the federal water pollution control act, 33 USC 1341, or a coastal zone management consistency determination under section 307 of the coastal zone management act of 1972, 16 USC 1456.

(K) ~~(h)~~ "Ordinary high-water mark" means the ordinary high-water mark as specified in section 32502.

(L) ~~(i)~~ "Person" means an individual, sole proprietorship, partnership, corporation, association, municipality, this state, an instrumentality or agency of this state, the federal government, an instrumentality or agency of the federal government, or other legal entity.

(M) ~~(j)~~ "Rapid wetland assessment" means a method for generally assessing the functions, values, and condition of individual wetlands based on existing data and field indicators.

(N) ~~(k)~~ "Rare and imperiled wetland" means any of the following:

(i) Great Lakes marsh.

- 1 (ii) Southern wet meadow.
- 2 (iii) Inland salt marsh.
- 3 (iv) Intermittent wetland or boggy seepage wetland.
- 4 (v) Coastal plain marsh.
- 5 (vi) Interdunal wetland.
- 6 (vii) Lakeplain wet prairie.
- 7 (viii) Lakeplain wet-mesic prairie.
- 8 (ix) Northern wet-mesic prairie.
- 9 (x) Wet-mesic prairie.
- 10 (xi) Wet prairie.
- 11 (xii) Prairie fen.
- 12 (xiii) Northern fen.
- 13 (xiv) Patterned fen.
- 14 (xv) Poor fen.
- 15 (xvi) Muskeg.
- 16 (xvii) Rich conifer swamp.
- 17 (xviii) Relict conifer swamp.
- 18 (xix) Hardwood-conifer swamp.
- 19 (xx) Northern swamp.
- 20 (xxi) Southern swamp.
- 21 (xxii) Southern floodplain forest.
- 22 (xxiii) Inundated shrub swamp.
- 23 (O) "VOLUNTARY WETLAND RESTORATION PROJECT" OR "VWR PROJECT"
- 24 MEANS ACTIVITIES THAT ARE UNDERTAKEN ON A VOLUNTARY BASIS TO
- 25 RESTORE, REHABILITATE, ENHANCE, MAINTAIN, OR MANAGE WETLANDS,
- 26 INCLUDING, BUT NOT LIMITED TO, ALTERED WETLAND, DEGRADED WETLAND,
- 27 OR FORMER WETLAND, TO INCREASE WETLAND ACREAGE, QUALITY, FUNCTION,

OR VALUE AS DETERMINED BY PUBLISHED RESEARCH, CASE STUDIES, OR
 DEMONSTRATION PROJECTS. VWR PROJECT DOES NOT INCLUDE AN ACTIVITY
 UNDERTAKEN TO FULFILL, CURRENTLY OR IN THE FUTURE, A FEDERAL,
 STATE, OR LOCAL WETLAND PERMIT MITIGATION REQUIREMENT.

(P) ~~(l)~~ "Water dependent" means requiring access or proximity
 to or siting within an aquatic site to fulfill its basic purpose.

(Q) ~~(m)~~ "Wetland", **SUBJECT TO SUBDIVISION (P)**, means land
 characterized by the presence of water at a frequency and duration
 sufficient to support, and that under normal circumstances does
 support, wetland vegetation or aquatic life, and is commonly
 referred to as a bog, swamp, or marsh, and **TO** which ~~is~~ any of the
 following **APPLY**:

(i) ~~Contiguous~~ **IT IS CONTIGUOUS** to the Great Lakes or Lake St.
 Clair, an inland lake or pond, or a river or stream.

(ii) ~~Not contiguous to the Great Lakes, an inland lake or~~
~~pond, or a river or stream; and~~ **IT IS** more than 5 acres in size.

(iii) ~~Not contiguous to the Great Lakes, an inland lake or~~
~~pond, or a river or stream; and 5 acres or less in size if the~~
~~department determines that~~ **THE** protection of the area is **DETERMINED**
BY THE DEPARTMENT TO BE essential to the preservation of the
 natural resources of ~~the~~ **THIS** state from pollution, impairment, or
 destruction and the department has so notified the owner.

(2) The department and local units of government shall apply
 the technical wetland delineation standards set forth in the United
 States ~~army corps of engineers~~ **ARMY CORPS OF ENGINEERS** January 1987
~~wetland delineation manual, technical report~~ **"WETLAND DELINEATION**
MANUAL, TECHNICAL REPORT" Y-87-1, and appropriate regional United

1 States ~~army corps of engineers~~ **ARMY CORPS OF ENGINEERS** supplements,
2 in identifying wetland boundaries under this part, including, but
3 not limited to, section 30307.

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

6 Enacting section 2. This amendatory act does not take effect
7 unless Senate Bill No. ____ or House Bill No. 5854 (request no.
8 06010'18 *) of the 99th Legislature is enacted into law.