



Senate Fiscal Agency
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BILL ANALYSIS



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House Bill 4861 (Substitute H-1 as reported without amendment)
House Bill 4862 (Substitute H-1 as reported without amendment)
House Bill 4863 (Substitute H-2 as reported without amendment)
House Bill 4864 (Substitute H-2 as reported without amendment)
House Bill 4865 (Substitute H-1 as reported with amendment)
House Bill 4866 (Substitute H-2 as reported without amendment)
House Bill 4893 (Substitute H-1 as reported with amendment)
Sponsor: Representative William Bobier (H.B. 4861-4866)
Representative James Middaugh (H.B. 4893)

House Committee: Appropriations
Senate Committee: Natural Resources and Environmental Affairs

Date Completed: 9-19-95

RATIONALE

The Department of Natural Resources (DNR) is authorized under the Natural Resources and Environmental Protection Act (NREPA) to review permit applications for various purposes that relate to the use of land and water, e.g., operating marinas, performing construction work in certain areas near water, and using chemicals to control "aquatic nuisances" such as swimmers' itch. Further, the DNR is authorized to assess fees to help defray its costs in processing permit applications, responding to unauthorized activities by people regulated under the Act, providing information to the public, and performing various other administrative tasks required by the statute. Due to General Fund budget constraints in previous years, however, as well as an increase in developmental activity, the DNR reportedly has had problems obtaining and maintaining staff and other resources necessary to process permits on a timely basis and carry out its other functions efficiently.

To address the problem, legislation was enacted in 1991 and 1993 to raise the fees, establish an application fee system to cover the administrative costs of reviewing and processing permit applications, and create the Land and Water Management Permit Fee Fund within the State Treasury. The authorization for the new fees and the fee increases, however, is scheduled to expire on October 1, 1995. Some claim that in order for the DNR to continue to process permit applications and fulfill its other regulatory and investigative

duties, it must have the fee revenue to support the activities. In fact, the 1995-96 DNR budget, as proposed by the Governor and passed by the House and Senate, assumes continuation of the fees.

CONTENT

House Bills 4861 (H-1) through 4864 (H-2) and House Bill 4866 (H-2) would amend sections of the Natural Resources and Environmental Protection Act, House Bill 4865 (H-1) would amend the Subdivision Control Act, and House Bill 4893 (H-1) would amend the Public Health Code, to extend from October 1, 1995, to October 1, 1999, the sunset dates for various permit and review fees.

House Bill 4861 (H-1) would amend Section 32312, which regulates the use and development of high-risk, flood risk, and environmental areas, and provides for various fees for commercial or residential construction projects. (The fees originated in the Shorelands Protection and Management Act.)

House Bill 4862 (H-1) would amend Section 3104, which establishes fees for permits to alter floodplains. (The fees originated in Public Act 245 of 1929.)

House Bill 4863 (H-2) would amend Section 32513, which establishes fees for minor projects

as described in the rules promulgated under the NREPA; construction or expansion of marinas; major projects such as new construction, dredging, or filling projects; and other types of projects on or near submerged lands. (The fees originated in the Great Lakes Submerged Lands Act.)

324.3104 & 324.3118 (H.B. 4862)
324.32513 (H.B. 4863)
324.30104 et al. (H.B. 4864)
560.117 (H.B. 4865)
324.36111 (H.B. 4866)
333.12562 (H.B. 4893)

House Bill 4864 (H-2) would amend Sections 30104, 30105, 30109, and 30113, which:

- Specify fees for various permits involving minor projects as described in the rules; major projects such as dredging, draining, filling, and new construction; and marina projects on inland lakes and streams.
- Assess a service fee for establishing a high water mark on a person's property.

(The fees originated in the Inland Lakes and Streams Act.)

Currently, the Department of Natural Resources must process completed permit applications required under the NREPA, the Public Health Code, or the Subdivision Control Act within 60 days. The bill would require the 60-day deadline to be met unless the Act or part specifically provided for permit application processing time limits.

House Bill 4866 (H-2) would amend Section 36111, which provides for the use of proceeds from lien payments by landowners who withdraw from the Farmland and Open Space Protection Program. The NREPA allows the DNR to use the proceeds to purchase development rights on certain land areas, and to finance the administration of the program. (The provision originated in the Farmland and Open Space Preservation Act.)

House Bill 4865 (H-1) would amend the Subdivision Control Act to extend from October 1, 1995, to October 1, 1999, the sunset on fees to cover the administrative costs of reviewing preliminary plats of subdivisions lying wholly or partly within a floodplain of a river, stream, creek, or lake.

House Bill 4893 (H-1) would amend the Public Health Code to extend from October 1, 1995, to October 1, 1999, the permit fees for the application of chemicals to lakes and streams to control "aquatic nuisances" such as aquatic plants and swimmers' itch.

MCL 324.32312 (H.B. 4861)

SENATE COMMITTEE ACTION

The Senate Committee adopted amendments to House Bills 4865 (H-1) and 4893 (H-1) to state that the bills' references to Section 30113 (in which the Land and Water Management Permit Fee Fund was created) more specifically are to Section 30113 of Part 301 (Inland Lakes and Streams) of the Natural Resources and Environmental Protection Act.

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

The bills would help enable the DNR to fulfill its regulatory and investigative responsibilities under the NREPA by continuing an important revenue source--i.e., permit fees and lien payments. Those whose projects affect the State's natural resources and those who benefit financially and otherwise by using land and water in a variety of ways should be assessed fees high enough to generate the kind of revenue the DNR needs to hire staff and acquire resources necessary to execute its duties in a timely and efficient manner.

Response: Since the permit programs help protect the environment for the good of all Michigan citizens, it would be fairer if General Fund dollars, rather than permit fees, were used to pay the administrative costs of the permit programs.

Supporting Argument

Reportedly, there has been a good response from the regulated community due to an increase in the expeditious issuance of permits. The DNR receives approximately 8,000 permit requests yearly. The establishment of the permit application fee system has enabled the DNR to reduce a backlog of applications from 700 in October 1993 to about 200 currently. The processing time for applications now is about 50 days. Continuing the fee system would help shorten the processing time to about 40 to 45 days.

Legislative Analyst: L. Burghardt

FISCAL IMPACT

House Bills 4861 (H-1) through 4865 (H-1) and 4893 (H-1) would allow continued collection of between \$1,544,800 and \$2.1 million in fee revenue to the State.

According to the Department of Natural Resources, \$840,819 in Land & Water Permit Fees and \$744,800 in Stormwater Permit Fees were collected in FY 1993-94. For FY 1994-95, \$1,320,367 and \$825,600 have been collected to date. Fiscal year 1995-96 appropriations total \$3,024,900 in estimated fee revenue.

These fees are used to operate the permitting programs in the Department, and their elimination would result in a reduction of approximately 25% in the "Land & Water Administration" line item and a 100% reduction in the "Stormwater Discharge Program" in the Department budget.

House Bill 4866 (H-2) would allow continued use of up to \$600,000 in revenue to the State.

According to the DNR, \$2.4 million in Farmland and Open Space revenue was collected in FY 1993-94. Current law allows the use of up to \$600,000 in this revenue for DNR administrative costs. For FY 1995-96, \$520,500 was appropriated for this program, which represents 100% of the "Farmland and Open Space Preservation" line item.

Fiscal Analyst: G. Cutler

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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.