

SENATE BILL NO. 391

February 25, 1999, Introduced by Senators DE BEAUSSAERT, PETERS, A. SMITH, YOUNG and BYRUM and referred to the Committee on Natural Resources and Environmental Affairs.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
(MCL 324.101 to 324.90106) by adding part 6.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 PART 6 DEPARTMENT OF ENVIRONMENTAL QUALITY
2 SEC. 601. (1) THE DEPARTMENT OF ENVIRONMENTAL QUALITY CRE-
3 ATED UNDER EXECUTIVE REORGANIZATION ORDER NO. 1995-16 SHALL POS-
4 SESS THE POWERS AND PERFORM THE DUTIES GRANTED AND IMPOSED BY
5 THIS ACT AND AS OTHERWISE PROVIDED BY LAW.
6 (2) THE ENVIRONMENTAL QUALITY COMMISSION IS CREATED AS THE
7 HEAD OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY AND SHALL ESTAB-
8 LISH GENERAL POLICIES RELATED TO NATURAL RESOURCES MANAGEMENT AND
9 ENVIRONMENTAL PROTECTION FOR THE GUIDANCE OF THE DIRECTOR OF THE
10 DEPARTMENT OF ENVIRONMENTAL QUALITY IN ADMINISTERING HIS OR HER
11 RESPONSIBILITIES AS PROVIDED IN THIS ACT AND AS OTHERWISE

1 PROVIDED BY LAW, AND SHALL HAVE APPELLATE POWERS AS ESTABLISHED
2 IN SECTION 602. THE ENVIRONMENTAL QUALITY COMMISSION SHALL BE
3 COMPOSED OF 7 MEMBERS, NOT MORE THAN 4 OF WHOM SHALL BE MEMBERS
4 OF THE SAME POLITICAL PARTY, APPOINTED BY THE GOVERNOR BY AND
5 WITH THE ADVICE AND CONSENT OF THE SENATE. A MEMBER OF THE ENVI-
6 RONMENTAL QUALITY COMMISSION SHALL BE SELECTED WITH SPECIAL REF-
7 ERENCE TO THAT PERSON'S ABILITY AND FITNESS TO DEAL WITH AT LEAST
8 1 OF THE PRINCIPAL LINES OF ACTIVITY VESTED IN THE DEPARTMENT OF
9 ENVIRONMENTAL QUALITY. THE TERM OF OFFICE OF EACH MEMBER OF THE
10 ENVIRONMENTAL QUALITY COMMISSION SHALL BE 4 YEARS. HOWEVER, OF
11 THE MEMBERS FIRST APPOINTED, 2 SHALL SERVE FOR 2 YEARS, 3 SHALL
12 SERVE FOR 3 YEARS, AND 2 SHALL SERVE FOR 4 YEARS. THE GOVERNOR
13 SHALL FILL A VACANCY OCCURRING IN THE MEMBERSHIP OF THE ENVIRON-
14 MENTAL QUALITY COMMISSION AND MAY REMOVE A MEMBER OF THE COMMIS-
15 SION FOR CAUSE AFTER A HEARING. EACH MEMBER OF THE ENVIRONMENTAL
16 QUALITY COMMISSION SHALL HOLD OFFICE UNTIL THE APPOINTMENT AND
17 QUALIFICATION OF THAT MEMBER'S SUCCESSOR.

18 (3) THE ENVIRONMENTAL QUALITY COMMISSION, WITHIN 30 DAYS
19 AFTER HAVING QUALIFIED AND ANNUALLY AFTER THAT TIME, SHALL MEET
20 AT ITS OFFICE IN LANSING AND ORGANIZE BY APPOINTING A SECRETARY,
21 WHO NEED NOT BE A MEMBER OF THE ENVIRONMENTAL QUALITY
22 COMMISSION. THE GOVERNOR SHALL APPOINT A CHAIRPERSON OF THE
23 ENVIRONMENTAL QUALITY COMMISSION FROM AMONG ITS MEMBERS, WHO
24 SHALL SERVE AS CHAIRPERSON AT THE PLEASURE OF THE GOVERNOR. FOUR
25 MEMBERS OF THE ENVIRONMENTAL QUALITY COMMISSION CONSTITUTE A
26 QUORUM FOR THE TRANSACTION OF BUSINESS. THE BUSINESS WHICH THE
27 ENVIRONMENTAL QUALITY COMMISSION MAY PERFORM SHALL BE CONDUCTED

1 AT A PUBLIC MEETING OF THE ENVIRONMENTAL QUALITY COMMISSION HELD
2 IN COMPLIANCE WITH THE OPEN MEETINGS ACT, 1976 PA 267, MCL 15.261
3 TO 15.275. PUBLIC NOTICE OF THE TIME, DATE, AND PLACE OF THE
4 MEETING SHALL BE GIVEN IN THE MANNER REQUIRED BY THE OPEN MEET-
5 INGS ACT, 1976 PA 267, MCL 15.261 TO 15.275. A MEETING MAY BE
6 CALLED BY THE CHAIRPERSON AND SHALL BE CALLED ON REQUEST OF A
7 MAJORITY OF THE MEMBERS OF THE ENVIRONMENTAL QUALITY COMMISSION.
8 MEETINGS MAY BE HELD AS OFTEN AS NECESSARY AND AT OTHER PLACES
9 THAN THE COMMISSIONERS' OFFICES AT LANSING. THE ENVIRONMENTAL
10 QUALITY COMMISSION SHALL MEET AT LEAST ONCE EACH MONTH.

11 (4) THE ENVIRONMENTAL QUALITY COMMISSION SHALL APPOINT AND
12 EMPLOY A DIRECTOR OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY WHO
13 SHALL CONTINUE IN OFFICE AT THE PLEASURE OF THE ENVIRONMENTAL
14 QUALITY COMMISSION. THE DIRECTOR OF THE DEPARTMENT OF ENVIRON-
15 MENTAL QUALITY SHALL APPOINT 1 OR MORE DEPUTY DIRECTORS AND OTHER
16 ASSISTANTS AND EMPLOYEES AS ARE NECESSARY TO ADMINISTER THE
17 POWERS AND DUTIES OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY AS
18 PROVIDED IN THIS ACT AND AS OTHERWISE PROVIDED BY LAW. A PERSON
19 TO WHOM THE DIRECTOR OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY
20 HAS LAWFULLY DELEGATED DECISION MAKING AUTHORITY IN WRITING MAY
21 PERFORM A DUTY OR EXERCISE A POWER CONFERRED BY LAW UPON THE
22 DEPARTMENT OF ENVIRONMENTAL QUALITY AT THE TIME AND TO THE EXTENT
23 THE DUTY AND POWER IS DELEGATED TO THAT PERSON BY THE DIRECTOR OF
24 THE DEPARTMENT OF ENVIRONMENTAL QUALITY. WHEN A VACANCY IN THE
25 OFFICE OF DIRECTOR OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY
26 OCCURS, OR THE DIRECTOR OF THE DEPARTMENT OF ENVIRONMENTAL
27 QUALITY IS UNABLE TO PERFORM THE DUTIES OF THAT OFFICE OR IS

1 ABSENT FROM THE STATE, THE POWERS AND DUTIES OF THE DIRECTOR OF
2 THE DEPARTMENT OF ENVIRONMENTAL QUALITY AS PRESCRIBED BY LAW
3 SHALL BE IMPOSED ON AND TRANSFERRED TO A DEPUTY DIRECTOR UNTIL
4 THE VACANCY IS FILLED OR THE INABILITY OR ABSENCE FROM THE STATE
5 OF THE DIRECTOR OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY
6 CEASES.

7 (5) THE COMPENSATION OF THE DEPUTY DIRECTORS, THE ASSIST-
8 ANTS, AND THE EMPLOYEES AND THE NUMBER OF ASSISTANTS AND EMPLOY-
9 EES SHALL BE SUBJECT TO THE APPROVAL OF THE STATE ADMINISTRATIVE
10 BOARD. THE MEMBERS OF THE ENVIRONMENTAL QUALITY COMMISSION SHALL
11 NOT RECEIVE COMPENSATION UNDER THIS PART, BUT EACH MEMBER AND THE
12 OTHER OFFICERS AND EMPLOYEES OF THE DEPARTMENT OF ENVIRONMENTAL
13 QUALITY ARE ENTITLED TO REASONABLE EXPENSES WHILE TRAVELING IN
14 THE PERFORMANCE OF THEIR DUTIES PRESCRIBED BY THIS ACT AND AS
15 OTHERWISE PROVIDED BY LAW. THE SALARIES AND EXPENSES AUTHORIZED
16 UNDER THIS ACT SHALL BE PAID OUT OF THE STATE TREASURY IN THE
17 SAME MANNER AS THE SALARIES OF OTHER STATE OFFICERS AND EMPLOYEES
18 ARE PAID. THE DEPARTMENT OF MANAGEMENT AND BUDGET SHALL FURNISH
19 SUITABLE OFFICES AND OFFICE EQUIPMENT, AT LANSING, FOR THE USE OF
20 THE DEPARTMENT OF ENVIRONMENTAL QUALITY. EACH MEMBER OF THE
21 ENVIRONMENTAL QUALITY COMMISSION AND THE DIRECTOR OF THE DEPART-
22 MENT OF ENVIRONMENTAL QUALITY SHALL QUALIFY BY TAKING AND SUB-
23 SCRIBING TO THE CONSTITUTIONAL OATH OF OFFICE AND BY FILING IT IN
24 THE OFFICE OF THE SECRETARY OF STATE.

25 SEC. 602. (1) A DECISION OF THE DEPARTMENT OF ENVIRONMENTAL
26 QUALITY TO ISSUE A PERMIT IS NOT A FINAL DECISION UNTIL 10
27 WORKING DAYS HAVE PASSED FOLLOWING THE PROVISIONAL ISSUANCE OF A

1 PERMIT. DURING THE 10 DAYS FOLLOWING THE PROVISIONAL PERMIT
2 ISSUANCE, ANY PERSON MAY PETITION THE ENVIRONMENTAL QUALITY COM-
3 MISSION TO HEAR AN APPEAL OF THE PROPOSED PERMITTING DECISION.
4 THE ENVIRONMENTAL QUALITY COMMISSION SHALL HEAR THE APPEAL UNLESS
5 THE COMMISSION FINDS THAT THE APPEAL IS FRIVOLOUS AND WHOLLY
6 WITHOUT MERIT BASED ON PERTINENT PROVISIONS OF THIS ACT AND RULES
7 PROMULGATED UNDER THIS ACT. THE REJECTION OF AN APPEAL SHALL BE
8 MADE IN WRITING TO THE APPLICANT.

9 (2) THE ENVIRONMENTAL QUALITY COMMISSION SHALL REQUEST THAT
10 AFFECTED PARTIES AND PERSONS WHO HAVE PETITIONED FOR AN APPEAL
11 SUBMIT WRITTEN DOCUMENTATION AND BRIEFS WITH RESPECT TO THE
12 APPEALS. A PUBLIC HEARING SHALL BE CONDUCTED, AND FOLLOWING A
13 VOTE ON THE MERITS OF THE PERMIT ISSUE AT A PUBLIC MEETING, THE
14 ENVIRONMENTAL QUALITY COMMISSION SHALL PROVIDE THE PARTIES WITH A
15 WRITTEN OPINION AND DECISION WITHIN 90 DAYS OF AGREEING TO HEAR
16 AN APPEAL.

17 (3) A MEMBER OF THE ENVIRONMENTAL QUALITY COMMISSION SHALL
18 NOT PARTICIPATE IN AN APPEAL IN WHICH THE MEMBER HAS A FINANCIAL
19 OR PERSONAL INTEREST.

20 (4) THE DECISION OF THE ENVIRONMENTAL QUALITY COMMISSION TO
21 NOT HEAR AN APPEAL MAY BE APPEALED TO THE COURTS AS PROVIDED BY
22 LAW. A DECISION BY THE ENVIRONMENTAL QUALITY COMMISSION TO HEAR
23 AN APPEAL IS FINAL AND IS NOT APPEALABLE.