

HOUSE BILL No. 5530

December 13, 2001, Introduced by Rep. Kolb and referred to the Committee on Land Use and Environment.

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. THE ENVIRONMEN-
8 TAL QUALITY COMMISSION SHALL ESTABLISH GENERAL POLICIES RELATED
9 TO NATURAL RESOURCES MANAGEMENT AND ENVIRONMENTAL PROTECTION FOR
10 THE GUIDANCE OF THE DIRECTOR OF THE DEPARTMENT OF ENVIRONMENTAL
11 QUALITY IN ADMINISTERING HIS OR HER RESPONSIBILITIES AS PROVIDED

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1 IN THIS ACT AND AS OTHERWISE PROVIDED BY LAW. ADDITIONALLY, THE
2 ENVIRONMENTAL QUALITY COMMISSION SHALL HAVE APPELLATE POWERS AS
3 ESTABLISHED IN SECTION 602. THE ENVIRONMENTAL QUALITY COMMISSION
4 SHALL BE COMPOSED OF 7 MEMBERS, NOT MORE THAN 4 OF WHOM SHALL BE
5 MEMBERS OF THE SAME POLITICAL PARTY, APPOINTED BY THE GOVERNOR BY
6 AND WITH THE ADVICE AND CONSENT OF THE SENATE. A MEMBER OF THE
7 ENVIRONMENTAL QUALITY COMMISSION SHALL BE SELECTED WITH SPECIAL
8 REFERENCE TO THAT PERSON'S ABILITY AND FITNESS TO DEAL WITH AT
9 LEAST 1 OF THE PRINCIPAL LINES OF ACTIVITY VESTED IN THE DEPART-
10 MENT OF ENVIRONMENTAL QUALITY. THE TERM OF OFFICE OF EACH MEMBER
11 OF THE ENVIRONMENTAL QUALITY COMMISSION SHALL BE 4 YEARS.

12 HOWEVER, OF THE MEMBERS FIRST APPOINTED, 2 SHALL SERVE FOR 2
13 YEARS, 3 SHALL SERVE FOR 3 YEARS, AND 2 SHALL SERVE FOR 4 YEARS.
14 THE GOVERNOR SHALL FILL A VACANCY OCCURRING IN THE MEMBERSHIP OF
15 THE ENVIRONMENTAL QUALITY COMMISSION AND MAY REMOVE A MEMBER OF
16 THE COMMISSION FOR CAUSE AFTER A HEARING. EACH MEMBER OF THE
17 ENVIRONMENTAL QUALITY COMMISSION SHALL HOLD OFFICE UNTIL THE
18 APPOINTMENT AND QUALIFICATION OF THAT MEMBER'S SUCCESSOR.

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

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

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

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

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

1 SEC. 602. (1) A DECISION OF THE DEPARTMENT OF ENVIRONMENTAL
2 QUALITY TO ISSUE A PERMIT IS NOT A FINAL DECISION UNTIL 10
3 WORKING DAYS HAVE PASSED FOLLOWING THE PROVISIONAL ISSUANCE OF A
4 PERMIT. DURING THE 10 DAYS FOLLOWING THE PROVISIONAL PERMIT
5 ISSUANCE, ANY PERSON MAY PETITION THE ENVIRONMENTAL QUALITY COM-
6 MISSION TO HEAR AN APPEAL OF THE PROPOSED PERMITTING DECISION.
7 THE ENVIRONMENTAL QUALITY COMMISSION SHALL HEAR THE APPEAL UNLESS
8 THE COMMISSION FINDS THAT THE APPEAL IS FRIVOLOUS AND WHOLLY
9 WITHOUT MERIT BASED ON PERTINENT PROVISIONS OF LAW. THE REJEC-
10 TION OF AN APPEAL SHALL BE MADE IN WRITING TO THE APPLICANT.

11 (2) THE ENVIRONMENTAL QUALITY COMMISSION SHALL REQUEST THAT
12 AFFECTED PARTIES AND PERSONS WHO HAVE PETITIONED FOR AN APPEAL
13 UNDER SUBSECTION (1) SUBMIT WRITTEN DOCUMENTATION AND BRIEFS WITH
14 RESPECT TO THE APPEALS. A PUBLIC HEARING SHALL BE CONDUCTED, AND
15 FOLLOWING A VOTE ON THE MERITS OF THE PERMIT ISSUE AT A PUBLIC
16 MEETING, THE ENVIRONMENTAL QUALITY COMMISSION SHALL PROVIDE THE
17 PARTIES WITH A WRITTEN OPINION AND DECISION WITHIN 90 DAYS OF
18 AGREEING TO HEAR AN APPEAL.

19 (3) A MEMBER OF THE ENVIRONMENTAL QUALITY COMMISSION SHALL
20 NOT PARTICIPATE IN AN APPEAL UNDER THIS SECTION IN WHICH THE
21 MEMBER HAS A FINANCIAL OR PERSONAL INTEREST.

22 (4) THE DECISION OF THE ENVIRONMENTAL QUALITY COMMISSION TO
23 NOT HEAR AN APPEAL UNDER THIS SECTION MAY BE APPEALED TO THE
24 COURTS AS PROVIDED BY LAW. A DECISION BY THE ENVIRONMENTAL QUAL-
25 ITY COMMISSION TO HEAR AN APPEAL IS FINAL AND IS NOT APPEALABLE.