

Legislative Analysis



FLOODPLAIN PERMIT FEES

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House Bill 6472 (H-1) as reported from committee

Sponsor: Rep. Triston Cole

Committee: Natural Resources

Complete to 12-5-18

Analysis available at
<http://www.legislature.mi.gov>

(Enacted as Public Act 518 of 2018)

SUMMARY:

House Bill 6472 would amend Part 31 (Water Resources Protection) of the Natural Resources and Environmental Protection Act to extend the sunset on existing floodplain permit fees and to create a general floodplain permit fee.

Currently, floodplain permit fees are issued by the Department of Environmental Quality (DEQ) and are generally needed for any occupation, construction, filling, or grade change within the floodplain of a river, stream, or drain, including bridge or culvert construction. Permits are valid for up to five years. A floodplain permit for a minor project has a fee of \$100, while an application for all other floodplain permits has a fee of \$500, with an additional \$1,500 assessment to cover the cost of an engineering review if one is determined to be needed by the DEQ.

The bill would extend the sunset (expiration date) on these applicable fees from October 1, 2019 to October 1, 2024.

The bill would require the DEQ to establish minor project categories of activities within floodplains and floodplain projects, for which the \$100 permit application fee would apply.

The bill would also require the DEQ to issue general permits on a statewide basis. An application for a floodplain permit for the general permit category would have a \$50 fee that would also sunset on October 1, 2024.

Both minor project categories and general permit categories would be for projects that will have only minimal cumulative adverse effects on the environment. If the DEQ determined that activity in a proposed project would likely cause more than minimal adverse effects, the DEQ could require the application to be processed as a standard floodplain permit, and thus subject to the \$500 fee and potential \$1,500 review assessment, even if the proposed project fell within a floodplain minor project category or floodplain general permit category.

The DEQ would have to provide notice and an opportunity for a public hearing before establishing the activities that would encompass either a minor or general project category. All other provisions of Part 31 that are not applicable only to floodplain general permits would be applicable to a minor project. New minor project and general project categories would have to be proposed by the DEQ by December 31, 2019.

The DEQ would have the discretion to issue, deny, or impose conditions on floodplain project activities for a minor project or general permit category, but only if the conditions were designed to remove an impairment to a river and its floodplain or to mitigate the effects of the

project. The DEQ also could establish a reasonable time by which the proposed project would have to be completed or terminated.

The bill would take effect 90 days after enactment.

MCL 324.3104

FISCAL IMPACT:

House Bill 6472 would increase revenues for the DEQ by extending the sunset on the floodplain application fee from October 1, 2019 to October 1, 2024. This fee is among the six land and water permit fees collected by the DEQ, including the Great Lakes shoreline permits, inland lakes and streams application fee, ordinary high water mark establishment fee, pre-application meeting fee, and submerged lands application fees. These land and water permit fees generate \$2.1 million in annual revenue for the DEQ and are primarily used to support land and water interface permit programs.

The bill would also create a new general permit category for certain floodplain projects likely to cause “only minimal adverse environmental effects” at a rate of \$50. This new general permit would be priced below the current \$100 to \$500 floodplain application fee range. The number of projects whose applications would be subject to this new lower rate is unclear at present. The aforementioned extension of the fee sunset would increase future net revenue for the department by allowing the DEQ to continue to collect the fee, but the addition of a new lower fee rate of \$50 would likely lead to a comparative reduction in fee revenue, as some applicants who currently pay \$100 would pay the lower rate. The bill is unlikely to significantly increase costs for the DEQ, as the department is currently administering the floodplain application process. The bill would increase costs for local units of government whose floodplain projects would not be subject to an application fee after October 1, 2019 under current law.

POSITIONS:

A representative of the Department of Environmental Quality testified in support of the bill. (11-28-18)

The following entities indicated support for the bill (11-28-18):

- Consumers Energy
- DTE Energy
- Michigan Environmental Council
- Ducks Unlimited

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.