

Senate Fiscal Agency  
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**SFA**



**BILL ANALYSIS**

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Senate Bill 1058 (Substitute S-4 as reported)  
Sponsor: Senator Dave Jaye  
Committee: Hunting, Fishing and Forestry

Date Completed: 11-30-98

### **RATIONALE**

Currently, under Part 301 (Inland Lakes and Streams) of the Natural Resources and Environmental Protection Act (NREPA), a person must have a permit to engage in certain construction activities, such as building a marina, placing a structure on bottomland, or structurally interfering with the natural flow of a lake or stream. Existing exceptions to the permit requirement include a seasonal structure placed on bottomland for private recreational use of the water; reasonable sanding of beaches; a private agricultural drain; minor drainage structures and facilities; projects constructed under the Watershed Protection and Flood Prevention Act; and privately owned cooling or storage ponds.

Further, Part 325 (Great Lakes Submerged Lands) of the NREPA requires a person to have a permit to construct, dredge, commence, or do any work with respect to an artificial canal, channel, ditch, lagoon, pond, lake, or similar waterway for connection with any of the Great Lakes, including Lake St. Clair; dredge or place spoil or other material on bottomland; or construct a marina. The Department of Environmental Quality (DEQ) must consider the impact on the public trust when reviewing permit applications to construct on or occupy Great Lakes bottomlands. This consideration includes boating and navigation, as well as the impact on fisheries and wildlife habitat that are directly related to other public trust uses.

Some people believe that maintenance or repair of seawalls or docks currently in use should be allowed without a permit from the DEQ, if the maintenance or repair would result in the same type of structure and dimensions as the original permitted structure.

### **CONTENT**

The bill would amend Part 301 and Part 325 of the NREPA to allow the maintenance or repair of a serviceable seawall or dock without a permit if the maintenance or repair would result in the same type of structure and dimensions as the original, and the original structure were permitted under the Act. (The term "serviceable seawall or dock" would mean a structure that were usable and functional for the intended purpose. The structure could require some maintenance but could not be so degraded as to require repairs costing 20% or more of the fair market value of a new structure of similar design.)

MCL 324.30103 & 324.32512

### **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 bill would provide convenience and avoid unnecessary paperwork by allowing minor maintenance or repair of a serviceable seawall or dock without a permit from the DEQ if the maintenance or repair would result in the same type of structure and dimensions as the permitted original structure. In other words, the repaired seawall or dock would have to be the same as the structure that already had been approved under the DEQ's permitting process. An excessively dilapidated structure could not be rebuilt without a permit.

#### **Opposing Argument**

Eliminating the permit process for the maintenance or repair of a seawall or dock could promote haphazard construction of a structure and the destruction of valuable fisheries, wildlife habitat areas, and wetlands. The DEQ's regulation of

construction and maintenance projects is critical to ensure some level of protection of the State's natural resources.

Legislative Analyst: N. Nagata

**FISCAL IMPACT**

The bill would have a minimal indeterminate fiscal impact due to loss of permit revenue for certain seawalls and docks, and a decrease in administrative costs to process permits.

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.