

HOUSE BILL No. 5510

January 28, 1998, Introduced by Reps. Anthony, Prusi, Mans, Hale and Gire and referred to the Committee on Conservation, Environment and Recreation.

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 30102, 30103, and 30106 (MCL 324.30102, 324.30103, and 324.30106), as added by 1995 PA 59.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 30102. Except as provided in this part, a person with-
2 out a permit from the department shall not do any of the
3 following:

4 (a) Dredge or fill bottomland.

5 (b) Construct, enlarge, extend, remove, or place a structure
6 on bottomland.

7 (c) Erect, maintain, or operate a marina.

8 (d) Create, enlarge, ~~or~~ diminish, OR WITHDRAW WATER FROM
9 an inland lake or stream.

1 (e) Structurally interfere with the natural flow of an
2 inland lake or stream.

3 (f) Construct, dredge, commence, extend, or enlarge an arti-
4 ficial canal, channel, ditch, lagoon, pond, lake, or similar
5 waterway where the purpose is ultimate connection with an exist-
6 ing inland lake or stream, or where any part of the artificial
7 waterway is located within 500 feet of the ordinary high-water
8 mark of an existing inland lake or stream.

9 (g) Connect any natural or artificially constructed water-
10 way, canal, channel, ditch, lagoon, pond, lake, or similar water
11 with an existing inland lake or stream for navigation or any
12 other purpose.

13 Sec. 30103. A permit is not required for any of the
14 following:

15 (a) Any fill or structure existing before April 1, 1966, in
16 waters covered by former ~~Act No. 291 of the Public Acts of 1965~~
17 1965 PA 291, and any fill or structures existing before January
18 9, 1973, in waters covered for the first time by former ~~Act~~
19 ~~No. 346 of the Public Acts of 1972~~ 1972 PA 346.

20 (b) A seasonal structure placed on bottomland to facilitate
21 private noncommercial recreational use of the water if it does
22 not unreasonably interfere with the use of the water by others
23 entitled to use the water or interfere with water flow.

24 (c) Reasonable sanding of beaches to the existing water's
25 edge by a riparian owner.

26 (d) Construction or maintenance of a private agricultural
27 drain regardless of outlet.

1 (e) A waste collection or treatment facility that is
2 approved for construction by the department of public health or
3 ordered or approved by the department.

4 (f) Construction and maintenance of minor drainage struc-
5 tures and facilities which are identified by rule promulgated by
6 the department pursuant to section 30110(1). Before such a rule
7 is promulgated, the rule shall be approved by the majority of a
8 committee consisting of the director, the director of the depart-
9 ment of agriculture, and the director of the state transportation
10 department or their designated representatives. The initial
11 rules shall be issued before July 8, 1973, and shall be reviewed
12 at least annually after that date.

13 (g) Maintenance and improvement of all drains legally estab-
14 lished or constructed prior to January 1, 1973, pursuant to the
15 drain code of 1956, ~~Act No. 40 of the Public Acts of 1956, being~~
16 ~~sections 280.1 to 280.630 of the Michigan Compiled Laws~~ 1956
17 PA 40, MCL 280.1 TO 280.630, except those legally established
18 drains constituting mainstream portions of certain natural water-
19 courses identified in rules promulgated by the department under
20 section 30110.

21 (h) Projects constructed under the watershed protection and
22 flood prevention act, chapter 656, 68 Stat. 666, 16 U.S.C. 1001
23 to 1008 and 1010.

24 (i) Construction and maintenance of privately owned cooling
25 or storage ponds used in connection with a public utility except
26 at the interface with public waters.

1 (j) Maintenance of a structure constructed under a permit
2 issued pursuant to this part and identified by rule promulgated
3 under section 30110(1), if the maintenance is in place and in
4 kind with no design or materials modification.

5 (K) WITHDRAWALS FOR REASONABLE DOMESTIC USE.

6 (L) WITHDRAWALS FOR NONCOMMERCIAL IRRIGATION.

7 (M) WITHDRAWALS FOR AGRICULTURAL IRRIGATION UP TO 10% OF THE
8 INSTANTANEOUS STREAMFLOW OR 1 CUBIC FOOT PER SECOND, WHICHEVER IS
9 LESS.

10 (N) WITHDRAWALS FOR NONCONTACT COOLING WATER SUBJECT TO AN
11 NPDES PERMIT FROM THE DEPARTMENT.

12 (O) WITHDRAWALS OF A TYPE AND VOLUME IDENTIFIED BY RULE
13 PROMULGATED BY THE DEPARTMENT PURSUANT TO SECTION 30110. BEFORE
14 SUCH A RULE IS PROMULGATED, THE RULE SHALL BE APPROVED BY THE
15 MAJORITY OF A COMMITTEE CONSISTING OF THE DIRECTOR, THE DIRECTOR
16 OF THE DEPARTMENT OF AGRICULTURE, AND THE DIRECTOR OF THE DEPART-
17 MENT OF NATURAL RESOURCES, OR THEIR DESIGNATED REPRESENTATIVES.
18 THE INITIAL RULE SHALL BE SUBMITTED TO THIS COMMITTEE BEFORE 1
19 YEAR AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED
20 THIS SUBDIVISION AND SHALL BE REVIEWED ANNUALLY AFTER THAT DATE.

21 Sec. 30106. (1) The department shall issue a permit if it
22 finds that the structure or project will not adversely affect the
23 public trust or riparian rights. In passing upon an application,
24 the department shall consider the possible effects of the pro-
25 posed action upon the inland lake or stream and upon waters from
26 which or into which its waters flow and the uses of all such
27 waters, including uses for recreation, fish and wildlife,

1 aesthetics, local government, agriculture, commerce, and
2 industry. The department shall not grant a permit if the pro-
3 posed project or structure will unlawfully impair or destroy any
4 of the waters or other natural resources of the state. This part
5 does not modify the rights and responsibilities of any riparian
6 owner to the use of his or her riparian water. A permit shall
7 specify that a project completed in accordance with this part
8 shall not cause unlawful pollution as defined by part 31.

9 (2) THE DEPARTMENT SHALL PROVIDE A COPY OF ANY APPLICATION
10 FOR A PERMIT FOR A WATER WITHDRAWAL TO THE DEPARTMENT OF NATURAL
11 RESOURCES IMMEDIATELY UPON RECEIPT. IN ADDITION TO OTHER CRI-
12 TERIA TO BE CONSIDERED IN REVIEWING APPLICATIONS PURSUANT TO THIS
13 PART, THE DEPARTMENT OF NATURAL RESOURCES SHALL CONSIDER WHETHER
14 THE PROPOSED WITHDRAWAL UNACCEPTABLY DEGRADES AQUATIC RESOURCES,
15 INCLUDING FISHERIES RESOURCES AND FISHERIES HABITAT. IF THE
16 DEPARTMENT OR THE DEPARTMENT OF NATURAL RESOURCES DETERMINES THAT
17 THE PROPOSED WATER WITHDRAWAL WILL UNACCEPTABLY DEGRADE AQUATIC
18 RESOURCES, THE PERMIT APPLICATION SHALL BE DENIED.