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BILL ANALYSIS



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Senate Bill 1481 (as enrolled)

**PUBLIC ACT 531 of 2006**

Sponsor: Senator Patricia L. Birkholz

Senate Committee: Natural Resources and Environmental Affairs

House Committee: Natural Resources, Great Lakes, Land Use, and Environment

Date Completed: 1-16-07

## **CONTENT**

**The bill amended Part 301 (Inland Lakes and Streams) of the Natural Resources and Environmental Protection Act to authorize the Department of Environmental Quality (DEQ) to do the following:**

- **Issue a general permit for certain pipeline projects.**
- **Impose certain conditions on activities authorized under a minor project category or a general permit.**
- **Require an application for a minor project category or a general permit to be processed as otherwise required for permits under Part 301.**
- **Revoke or modify a general permit under certain circumstances.**

Under Part 301, a person must have a permit to engage in various activities, including dredging or filling bottomland; constructing, enlarging, removing, or placing a structure on bottomland; creating, enlarging, or diminishing an inland lake or stream; and connecting a waterway or body of water with an existing inland lake or stream. Part 301 allows the DEQ, by rule, to establish minor project categories of activities and projects that are similar in nature and have minimal adverse environmental impacts.

Part 301 also authorizes the DEQ, after notice and opportunity for a hearing, to issue a general permit on a statewide basis or within a local unit of government for projects that are similar in nature. Previously, this was limited to general permits for the removal of qualifying small dams. Under the bill, among the activities

the DEQ may consider for general permit eligibility are the removal of qualifying small dams and the maintenance or repair of an existing pipeline, if the pipeline is maintained or repaired in a manner to assure that any adverse impact on the lake or stream will be minimized.

The \$50 fee previously prescribed for a general permit for a small dam removal permit applies, under the bill, to any authorization under a general permit. Additionally, under the bill, a general permit is subject to existing provisions limiting the validity of a general permit for small dam removal to five years, and requiring eligible projects to cause only minimal adverse environmental impacts when performed separately and to have only minimal cumulative adverse impact on the environment.

Previously, the DEQ could impose conditions on the removal of a small dam authorized under a general permit if the conditions were designed to remove an impairment to the lake or stream, to mitigate the project's impact, or otherwise to restore or rehabilitate the lake or stream. Under the bill, the DEQ may issue, deny, or impose conditions on project activities authorized under a minor project category or a general permit if the conditions are designed to remove an impairment to the lake or stream, to mitigate the project's impact, or otherwise to improve water quality. Also, as previously allowed for a general permit for small dam removal, the DEQ may impose a reasonable time when the proposed project is to be completed or terminated.

Under the bill, if the DEQ determines that activity in a proposed project, although within a minor project category or a general permit, is likely to cause more than minimal adverse environmental impacts, the Department may require that the application be processed according to Section 30105(3), and reviewed for compliance with Section 30106.

(Under Section 30105(3), upon receiving an application, the DEQ must submit copies for review to the Director of the Department of Community Health or the local health department, to the city, village, or township, and the county where the project is to be located, to the local conservation district, to the appropriate watershed council, if any, and to others required to be included in the application. Each copy must be accompanied by a statement that unless a written request is filed with the DEQ within 20 days after the submission for review, the DEQ may grant the application without a public hearing where the project is located. The DEQ may hold a public hearing upon the written request of the applicant or a riparian owner or a person or governmental unit that is entitled to receive a copy of the application.

Under Section 30106, the DEQ must issue a permit if it finds that the structure or project will not adversely affect the public trust or riparian rights. In passing upon an application, the DEQ must consider the possible effects of the proposed action upon the inland lake or stream and upon water from which or into which its water flows and the uses of the water, including uses for recreation, fish and wildlife, aesthetics, local government, agriculture, commerce, and industry. The DEQ may not grant a permit if the proposed project or structure will unlawfully impair or destroy any of the water or other natural resources of the State. A permit must specify that a project completed in accordance with Part 301 will not cause unlawful pollution.)

The bill allows the DEQ to modify or revoke a general permit if, after opportunity for a public hearing, it determines that the activities authorized by the permit have more than a minimal adverse impact on the environment on an individual or cumulative basis, or the activities generally would be more appropriately processed according to

Section 30105(3) and reviewed for compliance with Section 30106.

The bill took effect on December 29, 2006.

MCL 324.30104 et al.

Legislative Analyst: Julie Cassidy

#### **FISCAL IMPACT**

The bill will increase revenue to the State by an indeterminate amount. Additional general permits may be issued for the expanded project purposes that are allowed under the bill. Section 30104 of the Act establishes a \$50 fee for permits issued under the section providing for small dam removal permits and, under the bill, other general permits. The revenue is deposited into the Land and Water Permit Fee Fund and used for administration of land and water programs.

Fiscal Analyst: Jessica Runnels

#### **S0506\S1481es**

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.