




Senate Fiscal Agency
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BILL  ANALYSIS

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Senate Bill 34 (as enacted)

PUBLIC ACT 302 of 2010

Sponsor: Senator Randy Richardville

Senate Committee: Natural Resources and Environmental Affairs

House Committee: Tourism, Outdoor Recreation and Natural Resources

Date Completed: 5-10-11

RATIONALE

In 2006, Michigan voters approved Proposal 06-1, which amended the State Constitution to create the Conservation and Recreation Legacy Fund, and establish several existing conservation and recreation accounts as components of the Fund. The constitutional amendment provides that money held in the component funds may be used only for specified purposes, and may not be diverted to other funds.

Proposal 06-1 combined the Michigan State Waterways Fund, the Harbor Development Fund, and the Marine Safety Fund into the Waterways Account within the umbrella Conservation and Recreation Legacy Fund. The specified purposes for which money in the Waterways Account may be spent include certain expenses associated with recreational boating facilities, property acquisition, and administration. Over the last few years, some people became concerned that statutory language delineating allowable expenditures left room for the use of this money in unrelated ways, and should be more specific.

In an unrelated matter, Public Act 602 of 2006 created a pilot program for certain sewer system projects in several counties. Under the program, a permit applicant could pay a fee in exchange for expedited review of the application. The program expired on September 30, 2010. It was suggested that the program be reinstated and expanded statewide.

CONTENT

The bill amended Part 781 (Michigan State Waterways Commission) of the Natural Resources and Environmental Protection Act to describe the purposes for which money in the Waterways Account may be spent in regard to recreational boating facilities and administration. The bill also amended Part 41 (Sewerage Systems) to eliminate county population requirements applicable to an expedited review process for certain sewerage system permit applications; and extend the availability of the expedited review process through September 30, 2015.

The bill took effect on December 16, 2010.

Waterways Account

The purposes for which money in the Waterways Account of the Michigan Conservation and Recreation Legacy Fund may be used originally included the construction, operation, and maintenance of recreational boating facilities. Under the bill, the money may be used for the construction, operation, and maintenance of the following that are associated with recreational boating facilities:

- Ramps and related support infrastructure for launching watercraft.
- Piers, jetties, breakwaters, or other similar structures connected to existing or proposed recreational boating facilities or harbors of refuge.

- Moorage facilities and related support infrastructure at marinas to provide dockage for transient and seasonal users.
- Studies and surveys necessary for the development or operation of recreational boating facilities, and the implementation of recommendations from these studies and surveys.
- Restrooms, sewage treatment facilities, showers, potable water supplies, security lights, and parking areas.
- Pump outs.
- Access roads, bridges, signals, and other infrastructure to give the public access to recreational boating facilities.
- Engineering costs, including planning and construction costs and costs of environmental assessments and permit applications.
- Dredging, stump removal, and aquatic weed control when the activities can be shown to clear lanes to make a water body more accessible primarily for recreational boats as opposed to general navigation.
- Navigational aids in the immediate area of recreational boating facilities.
- Signage for the effective use of recreational boating facilities.
- Publication of guides, brochures, maps, road signs, internet sites, and other aids to inform boaters of recreational boating facilities.
- Projects that compensate or mitigate for natural resource losses caused by the specified activities related to recreational boating facilities.
- Locks used exclusively by recreational boaters.
- Leases of property for recreational boating facilities or parking areas for their exclusive use.
- Boat storage facilities, boat lift facilities, and boat servicing facilities within recreational boating facilities when constructed to be leased to a private marina operator under guidelines set forth in Part 791 (Harbor Development).
- Equipment used exclusively for the development, maintenance, or operation of recreational boating facilities.

Previously, money in the Waterways Account also could be used for the acquisition of property for the purposes of Part 781. The bill allows the money to be used for the acquisition of property or rights in property for the purposes of Part 781, including land acquisition for the development of

recreational boating facilities, marinas, or parking areas exclusively for the servicing of recreational boating facilities; and water rights for the securing of recreational boating access facilities.

In addition, Part 781 allows Waterways Account money to be used for the following:

- Grants to local units of government and State colleges or universities to acquire and develop harbors of refuge and public boating access sites.
- The purposes provided in Part 791.
- The administration of Parts 781 and 791.

Under the bill, the administration of Parts 781 and 791 includes the following:

- Administrative and overhead cost related directly to recreational boating facilities.
- Employee wages and benefits incurred in the administration of Part 781.
- Conferences, meetings, and training for employees working at or on recreational boating facilities.

The bill defines "recreational boating facilities" as boat launches, harbors, marinas, and locks assisting recreational boats gaining access to water bodies at different elevations.

Sewerage Systems: Expedited Review

Part 41 requires a permit from the Department of Environmental Quality (DEQ) for a sewerage system project. Previously, Part 41 required the Department to establish an expedited review process for construction permit applications for certain projects located in a county with a population of between 750,000 and 1.0 million (i.e., Macomb County) and any contiguous county with a population of more than 160,000 (i.e., Oakland, St. Clair, and Wayne Counties). The expedited review process was available through September 30, 2010, and an applicant had to submit all required documentation by that date to be eligible for expedited review.

The bill deleted the population criteria, and requires the expedited review to be available through September 30, 2015.

(The projects eligible for expedited review include a conventional gravity sewer extension of 10,000 feet or less of sewer

line, a simple pumping station and force main, and a small diameter pressure sewer and grinder pumping station. The fee for expedited review ranges from \$1,000 to \$4,000, depending on the project.)

A person requesting an expedited review must notify the DEQ electronically of his or her intent to request expedited review at least 10 business days before submitting the application. Under the bill, the Department may waive this requirement.

The DEQ must review and make a decision on a complete application submitted with a request for expedited review within 10 business days of receiving it. Under the bill, however, if the Department waives the notification requirement, it must review and make a decision on the application within 20 business days after receiving it.

Part 41 requires the DEQ to prepare an annual report and submit it to the Governor and the chairpersons of specified legislative committees. The report must detail the Department's administration of the expedited review process in the previous fiscal year, and include information described in the Act.

Previously, the Department had to submit the report each year from 2009 until 2011. The bill requires the report every year until 2016.

MCL 324.4112 et al.

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

Voters approved Proposal 06-1 to protect funds dedicated to the conservation of natural resources and recreational opportunities from being diverted to unrelated State programs and functions. Since then, some people have raised concerns that the statutory language outlining allowable uses of Waterways Account money was too broad and did not prevent the diversion of money within the Department of Natural Resources. The specificity added by the bill will ensure that this money is spent in a manner consistent with the spirit of Proposal 06-1.

Supporting Argument

The three-year expedited review pilot program for wastewater and drinking water projects was implemented in 2007 in response to reduced General Fund appropriations to the DEQ. The Department had to make cuts, and with fewer engineers on staff to review permit applications, turnaround times increased. For projects on a tight timetable, the delays were critical. The program was successful in facilitating the timely completion of sewer projects, and should be available throughout the State. The need for an expedited review option will continue to exist as the DEQ functions with reduced funding and staff.

Legislative Analyst: Julie Cassidy

FISCAL IMPACT

The bill's provisions concerning the Waterways Account will have no fiscal impact on State or local government. The bill expands and specifies additional uses of the Michigan State Waterways Account of the Conservation and Recreation Legacy Fund, but it does not increase or decrease any revenue to the account.

The expedited review process authorized for three counties under Section 4112 resulted in 20 permits and \$36,800 in permit fee revenue over three fiscal years (FY 2007-08 through FY 2009-10). The bill extends the process to the entire State and delays the sunset from September 30, 2010, to September 30, 2015. Revenue and costs will depend on the permits requested.

Fiscal Analyst: Bill Bowerman

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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.