

Senate Fiscal Agency
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BILL ANALYSIS

Telephone: (517) 373-5383
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TDD: (517) 373-0543Senate Bill 422 (S-1)
Sponsor: Senator Roger Kahn, M.D.
Committee: Appropriations

Date Completed: 6-10-11

CONTENT

Senate Bill 422 would amend the Natural Resources and Environmental Protection Act (NREPA) to delay sunsets for several environmental fees charged by the Department of Environmental Quality (DEQ) and Department of State (DOS). A fee sunset is a date set in statute that prevents a State department from collecting a certain fee or fees after that date. The dollar amount of each of these fees would not be changed by the bill from the levels already established in statute. The fiscal year (FY) 2011-12 DEQ and DOS budgets were passed by the Legislature predicated on the extension of each of the fees in the bill. Table 1 shows each fee affected by the bill, its current sunset, and the new sunset that would be established by the bill.

Table 1

| Fee Name | MCL Sections | Current Sunset | Sunset Under Bill |
|--|---|----------------|-------------------|
| Aquatic Nuisance Control fees | 324.3306 | 10/1/2011 | 10/1/2015 |
| Storm Water Discharge fees | 324.3118 | 10/1/2011 | 10/1/2015 |
| NPDES Non-Storm Water fees | 324.3120 | 10/1/2011 | 10/1/2015 |
| Groundwater Discharge Permit fees | 324.3122 | 10/1/2011 | 10/1/2015 |
| Hazardous Waste User Charge fees | 324.11135, 324.11153, 324.12103, 324.12109, 324.12112 | 10/1/2011 | 10/1/2013 |
| Land and Water – Consolidated Permit Application | 324.30104, 324.30109, 324.3104, 324.32513, 324.32312 | 10/1/2011 | 10/1/2015 |
| Watercraft Registration Commercial Look-up | 324.80130 | 10/1/2011 | 10/1/2015 |
| Watercraft Title Commercial Look-up | 324.80315 | 10/1/2011 | 10/1/2015 |
| ORV Commercial Look-up | 324.81114 | 10/1/2011 | 10/1/2015 |
| Snowmobile Commercial Look-up | 324.82156 | 10/1/2011 | 10/1/2015 |

FISCAL IMPACT

Table 2 shows the approximate amount of revenue that each of the affected fees brings in annually. The FY 2011-12 DEQ budget is built on this revenue. Failure to extend these fees would create a deficit in the DEQ budget, and would require the DEQ to scale back or eliminate the affected programs.

Table 2

| Fee | Annual Revenue |
|--|-----------------------|
| Aquatic Nuisance Control fees | \$600,000 |
| Storm Water Discharge fees | \$1,500,000 |
| NPDES Non-Storm Water fees | \$2,900,000 |
| Groundwater Discharge Permit fees | \$1,100,000 |
| Hazardous Waste User Charge fees | \$1,200,000 |
| Land and Water – Consolidated Permit Application | * |
| DEQ Subtotal | \$7,300,000* |
| | |
| Commercial Look-up Watercraft Registration/Title | \$51,332 |
| Commercial Look-up Snowmobile | \$2,338 |
| Commercial Look-Up ORV | Not available |
| DOS Subtotal | \$53,670 |
| TOTAL | \$7,353,670 |
| * Due to how the consolidated permit application fees are calculated, it is not possible to estimate how much revenue these fees bring in annually. Please see page 4 for a more detailed explanation. | |

Brief descriptions of each of the fees and fee areas affected by this bill, as well as the fee levels currently established in statute, are provided below.

Aquatic Nuisance Control (ANC) Fees

ANC fees are paid by people wishing to apply a chemical to a body of water for the purpose of controlling aquatic nuisances such as undesirable plants or swimmer's itch. In FY 2009-10, approximately \$600,000 was generated by these fees. Table 3 shows the schedule for these fees.

Table 3

| Permit Type | Fee |
|---|------------|
| Certificate of Coverage | \$75 |
| Treatment area less than ½ acre | \$75 |
| Treatment area between ½ acre and 5 acres | \$200 |
| Treatment area between 5 acres and 20 acres | \$400 |
| Treatment area between 20 acres and 100 acres | \$800 |
| Treatment area more than 100 acres | \$1,500 |

National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Fees

Storm water discharge fees are paid by municipal, industrial, and construction entities that have built or are building storm water discharge systems. The DEQ uses these fees under authority from the U.S. Environmental Protection Agency (EPA) for the review and approval of new construction permits, system inspections, and system monitoring. The DEQ has indicated that approximately 330 municipal entities, 400 construction operators, and 3,300 industrial facilities pay one or more of the fees annually. A schedule of fees is shown in Table 4. In FY 2009-10, approximately \$1.5 million was raised by these fees.

Table 4

| Fee Type | Fee Description | Fee |
|-----------------|--|------------|
| Construction | A 1-time fee is required for a permit related solely to a site of construction activity for each permitted site. Multiple permits from a single applicant require only a single payment of this fee. | \$400 |

| | | | |
|---|---|------------------|---------|
| Municipal separate storm sewer system (MS4) | MS4 Population Range | 0 - 1,000 | \$500 |
| | | 1,001 - 3,000 | \$1,000 |
| | | 3,001 - 10,000 | \$2,000 |
| | | 10,001 - 30,000 | \$3,000 |
| | | 30,001 - 50,000 | \$4,000 |
| | | 50,001 - 75,000 | \$5,000 |
| | | 75,001 - 100,000 | \$6,000 |
| | Greater than 100,000 | \$7,000 | |
| | Counties | | \$3,000 |
| | Others | | \$500 |
| Industrial | An annual fee is required for a permit related solely to a storm water discharge associated with industrial activity or from a commercial site for which the DEQ determines a permit is needed. | | \$260 |

NPDES Non-Storm Water Fees

NPDES fees are paid by municipal, industrial, and commercial entities that discharge wastewater to bodies of surface water in the State. The DEQ uses revenue from the fees under authority from the EPA for the review and approval of NPDES permits, system inspections, and system monitoring. NPDES permits are valid for up to five years after issuance and may be reissued if State and Federal requirements are met. A separate application and reapplication fee is charged to dischargers as detailed in Table 5.

The DEQ has indicated that approximately 1,500 municipal, commercial, and industrial dischargers pay these fees annually. A schedule of annual fees is shown in Table 6. In FY 2009-10, approximately \$2.9 million was raised by these fees.

Table 5

| Facility Type | Permit Fee |
|--|------------|
| EPA Major Facility | \$750 |
| EPA Minor Facility Individual Permit, CSO Permit, or Wastewater Stabilization Lagoon Individual Permit | \$400 |
| EPA Minor Facility General Permit | \$75 |

Table 6

| Facility Type | Size/Type | Annual Fee |
|--------------------|---|------------|
| EPA Major Facility | Industrial-Commercial Facility | \$8,700 |
| | Municipal 500 Million gallons per day (MGD) or greater | \$213,000 |
| | Municipal 50 to 500 MGD | \$20,000 |
| | Municipal 10 to 50 MGD | \$13,000 |
| | Municipal less than 10 MGD | \$5,500 |
| EPA Minor Facility | Industrial-Commercial General Permit, high-flow | \$400 |
| | Industrial-Commercial General Permit, low-flow | \$150 |
| | Industrial-Commercial Individual Permit, high-flow | \$3650 |
| | Industrial-Commercial Individual Permit, low-flow | \$1650 |
| | Municipal, 1 MGD or greater | \$3,000 |
| | Municipal, less than 1 MGD | \$1,950 |
| | Municipal, General Permit, high-flow | \$600 |
| | Municipal, General Permit, low-flow | \$400 |
| | Municipal CSO | \$6,000 |
| | Wastewater stabilization lagoon | \$1,525 |
| Agricultural | Individual or General Permits (unless facility is an EPA Major or EPA Minor facility) | \$600 |
| | EPA Major Facility (excluding Farmers' Cooperative Corporations) | \$6,000 |
| | EPA Minor Facility (CAFOs) | \$150 |

Groundwater Discharge Fees

Groundwater discharge fees are collected from industrial, commercial, municipal, and other facilities that discharge wastewater into the ground. Entities paying these fees include: manufacturers, public utilities, food processors, municipalities, campgrounds, laundromats, car washes, mining facilities, mobile home parks, and private sewer systems. The DEQ uses revenue from these fees to pay for the review and evaluation of groundwater discharge permit applications. Groundwater discharge permits are valid for a maximum of five years, after which they may be reissued.

Groundwater discharge fees generate approximately \$1.1 million annually. [Table 7](#) shows current fee levels for the three categories of dischargers.

Table 7

| Category | Fee |
|----------|---------|
| Group 1 | \$3,650 |
| Group 2 | \$1,500 |
| Group 3 | \$200 |

Hazardous Waste User Charge Fees

Hazardous waste user charge fees are collected from producers and handlers of hazardous waste. A one-time fee is charged for obtaining a site ID number. An annual fee is charged based on the amount of hazardous waste handled at each site, and a fee is charged for printing and processing costs of hazardous waste manifest forms. The DEQ has indicated that approximately 4,000 entities pay hazardous waste fees annually, the bulk of the entities being businesses. The bill would extend these fees to October 1, 2013.

Hazardous waste user charge fees generate approximately \$1.2 million annually. [Table 8](#) shows current fee levels.

Table 8

| Type | Description | Fee |
|---|--|------------------------|
| Site ID Number User Charge (one-time) | | \$50 |
| Handler User Charges (based on amount of regulated hazardous waste activity) | Small Quantity Generator (more than 100kg and less than 1,000kg generated in any month) | \$100 |
| | Large Quantity Generator (greater than 1,000kg and less than 900,000kg generated for the year) | \$400 |
| | Very Large Quantity Generator (900,000kg or more generated for the year) | \$1,000 |
| | Used oil processors, re-refiners, burners, and used oil fuel marketers | \$100 |
| | Active or inactive treatment, storage, and disposal facilities | \$2,000 |
| Manifest Processing User Charge (per manifest) | | \$6; not to exceed \$8 |

Land and Water Consolidated Permit Application

When individuals in this State undertake construction or other projects that fall under Part 31 (Water Resources Protection), Part 301 (Inland Lakes and Streams), Part 303 (Wetlands Protection), Part 315 (Dam Safety), Part 325 (Submerged Lands), or Part 353 (Sand Dunes Protection and Management) of NREPA, the DEQ Water Resources Division evaluates the application and proposed projects holistically, charging the individual only the highest fee for the permits he or she needs. Even if the individual needs three different permits, he or she is charged only for the one with the highest associated fee. Because of this, it is difficult to determine how much revenue fees from the four specific permitting areas affected by Senate Bill 422 bring in annually. In total, fees from all of the specified parts of NREPA bring in approximately \$1.8 million annually. The broad Land and Water Consolidated Permit Application covers the next four fee groups that are discussed: land

and water – floodplain regulatory authority; land and water – inland lakes and streams; land and water – high-risk erosion/flood permit fees; and land and water – Great Lakes submerged lands fees.

Land and Water – Floodplain Regulatory Authority

These fees are paid by people wishing to undertake construction activity in a floodplain. The fees are used by the DEQ to assess permit applications and, in some cases, perform engineering studies where it is determined that construction might interfere with floodwater discharge. Table 9 shows current fee levels for these permits.

Table 9

| Activity | Fee |
|--|---------|
| Minor project | \$100 |
| All other projects | \$500 |
| Engineering computations (if deemed necessary) | \$1,500 |

Land and Water – Inland Lakes and Streams

A permit issued by the DEQ under Part 301 of NREPA typically must be obtained by someone wishing to do any of the following on any inland lake or stream in the State:

- a) Dredge or fill bottomland.
- b) Construct, enlarge, extend, remove, or place a structure on bottomland.
- c) Construct, reconfigure, or expand a marina.
- d) Create, enlarge, or diminish an inland lake or stream.
- e) Structurally interfere with the natural flow of an inland lake or stream.
- f) Construct, dredge, commence, extend, or enlarge an artificial canal, channel, ditch, lagoon, pond, lake, or similar waterway where the purpose is ultimate connection with an existing inland lake or stream, or where any part of the artificial waterway is located within 500 feet of the ordinary high-water mark of an existing inland lake or stream.
- g) Connect any natural or artificially constructed waterway, canal, channel, ditch, lagoon, pond, lake, or similar water with an existing inland lake or stream for navigation or any other purpose.

Fees associated with these permits are used by the DEQ to review permit applications and, where necessary, inspect sites. Table 10 shows a schedule of these fees.

Table 10

| Activity | Fee |
|---|---------------------------------------|
| Minor project | \$50 |
| First drawdown of a lake for weed control | \$500 |
| Subsequent drawdown | \$50 |
| General permit | \$50 |
| Marina expansion 1-10 slips | \$50 |
| Marina construction 1-10 slips | \$100 |
| Marina expansion 11-50 slips | \$250 plus \$10 for each slip over 50 |
| Marina construction 11-50 slips | \$500 plus \$10 for each slip over 50 |
| Marina maintenance dredging of 10,000 yards or more or shore protection of 500 feet or more | \$1,500 |
| Major projects | \$2,000 |
| All other projects including locating the ordinary high water mark | \$500 |

Land and Water – High-Risk Erosion/Flood Permit Fees

In the absence of an approved local ordinance, people wishing to build or enlarge structures in areas designated as being high-risk erosion or flood areas are required to obtain a permit from the DEQ under Part 323 of NREPA. Applicants also are required to include the payment of a fee with their permit application. The DEQ uses these fees to review permits, and to inspect construction sites, where necessary. Table 11 shows a schedule of these fees.

Table 11

| Activity | Fee |
|---|------------|
| Commercial or multifamily residential project | \$500 |
| Single-family residential project | \$100 |
| Addition to a single-family home or a minor impact project in an environmental area | \$50 |

Land and Water – Great Lakes Submerged Lands Fees

A person must obtain a Great Lakes Bottomlands Permit (as well as pay the appropriate fee) before dredging, filling, modifying, constructing, enlarging, or extending structures in Great Lakes waters or below the ordinary high-water mark of the Great Lakes. These fees are used by the DEQ to review permit applications and to inspect sites where necessary. Table 12 shows a schedule of these fees.

Table 12

| Activity | Fee |
|---|---------------------------------------|
| Minor project | \$50 |
| General permit | \$100 |
| Mowing of vegetation beyond the exemption | \$50 |
| Marina expansion 1-10 slips | \$50 |
| Marina construction 1-10 slips | \$100 |
| Marina expansion 11-50 slips | \$250 plus \$10 for each slip over 50 |
| Marina construction 11-50 slips | \$500 plus \$10 for each slip over 50 |
| Marina maintenance dredging of 10,000 yards or more or shore protection of 500 feet or more | \$1,500 |
| Major projects | \$2,000 |
| All other projects | \$500 |

Watercraft, Off-Road Vehicle (ORV), and Snowmobile Commercial Look-Up Fees

Pursuant to Sections 324.80130, 324.80315, 324.8114 and 324.82156, the Department of State may provide a commercial look-up service of records maintained regarding watercraft, ORVs, and snowmobiles. The Secretary of State charges a fee for this service that is specified in its annual appropriations bill (\$7 per record) and bulk list rates as determined by the DOS. The revenue received from the sale of records is credited to the Transportation Administration Collection Fund and used to support the Department of State's budget. Annual revenue from these fees totals between \$54,000 to \$70,000.

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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.