



Senate Fiscal Agency
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Senate Bill 398 (Substitute S-2 as reported)

Sponsor: Senator Sean McCann

Committee: Energy and Environment

CONTENT

The bill would add Section 30111d to Part 301 (Inland Lakes and Streams) of the Natural Resources and Environmental Protection Act to require an owner of a structure or fill located in bottomlands and determined to be in violation of Part 301 to take emergency action to immediately repair or remove the structure or fill upon emergency order from the Director of the Department of Environment, Great Lakes, and Energy (EGLE).¹

If an owner failed to comply with an order or was unavailable or unable to be contacted, EGLE could take the action necessary and could recover the costs incurred from the owner in a civil action in a court of competent jurisdiction. Within 15 days after the Director issued an emergency order, EGLE would have to provide the owner with an opportunity for a hearing pursuant to the Administrative Procedures Act. At the hearing, the Director would have to determine, based on information and fact, if the emergency order would have to be continued, modified, suspended, or terminated as necessary for or consistent with the protection of public health, safety, welfare, property, or natural resources or the public trust in natural resources.

The bill would not apply to violations arising from residential property.

MCL 324.30111d

BRIEF RATIONALE

According to testimony, when privately operated dam owners lower water levels without consulting EGLE, built-up silt and sediment can be sent downriver, ruining the ecology of the environment below. Some believe that this happened in the Kalamazoo River in 2019, leading to an ongoing legal battle. It is thought that giving EGLE more tools to combat situations like this before they occur could reduce the likelihood of similar problems in the future.

Legislative Analyst: Nathan Leaman

FISCAL IMPACT

The bill would have a minimal negative fiscal impact on EGLE. The impact would be determined by the frequency with which these emergency orders were issued and the number of hearings held. Costs associated with any cleanup actions taken by EGLE could be recuperated through civil action. The costs to EGLE would be limited to the administrative costs of holding any necessary hearings.

Date Completed: 2-27-24

Fiscal Analyst: Jonah Houtz

¹ "Bottomland" means the land area of an inland lake or stream that lies below the ordinary high-water mark and that may or may not be covered by water.