



Senate Fiscal Agency
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**BILL ANALYSIS**

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Senate Bill 264 (as introduced 3-13-13)
Sponsor: Senator Tom Casperson
Committee: Outdoor Recreation and Tourism

Date Completed: 3-14-13

CONTENT

The bill would amend Parts 13 (Permits), 301 (Inland Lakes and Streams), and 325 (Great Lakes Submerged Bottomlands) of the Natural Resources and Environmental Protection Act to do the following:

- **Provide that a permit to dredge or fill bottomland under Part 301 or Part 325 would be valid for five years.**
- **Prohibit the Department of Environmental Quality (DEQ) from requiring additional environmental studies or surveys during the five-year term.**
- **Allow open lake disposal of dredge material that was not contaminated with toxic substances under a Part 325 dredging permit, under certain circumstances.**
- **Lower the application fee for a permit to dredge at least 10,000 cubic yards from \$2,000 or \$1,500 to \$500, if the dredge material were at least 90% sand.**
- **Establish a 30-day processing period for dredging permit applications under Parts 301 and 325 .**

Part 301: Inland Lakes & Streams

Part 301 prohibits a person from dredging or filling bottomland without a permit from the DEQ. The bill provides that such a permit would be valid for five years. During the permit term, the DEQ could not require additional environmental studies or surveys.

Part 301 prescribes fees that must be submitted with permit applications, until October 1, 2015. For construction or expansion of an existing permitted marina that proposes maintenance dredging of at least 10,000 cubic yards, the fee is \$1,500. For other major projects involving dredging of at least 10,000 cubic yards, the fee is \$2,000. Under the bill, these fees would apply unless the dredge material was determined through testing to be at least 90% sand. In that case, the fee would be \$500.

Part 325: Great Lakes Submerged Bottomlands

Subject to certain exceptions, Part 325 prohibits a person from dredging or placing spoil or other material on bottomland without a permit from the DEQ. Under the bill, such a permit would be valid for five years. During the permit term, the DEQ could not require additional environmental studies or surveys. Additionally, the permit would have to allow open lake disposal of dredge material that was not contaminated with toxic substances as defined in R 323.1205 of the Michigan Administrative Code in water that was at least 90 feet deep

and/or at least 1.5 kilometers from shore. (Under that rule, "toxic substance" means a substance that is present in a sufficient concentration or quantity that is or may become harmful to plant or animal life or designated uses.)

Part 325 prescribes fees similar to those in Part 301 for permits related to the dredging of at least 10,000 cubic yards of material. The bill would establish a \$500 fee if the dredge material were determined through testing to be at least 90% sand.

Upon receiving an application for a permit under Part 325, the DEQ must mail copies of it to adjacent riparian owners; the Department of Community Health; the clerks of the county, city, village, and township; and the county drain commissioner, or, if there is no county drain commissioner, the county road commissioner. The bill would eliminate the reference to the county road commissioner.

Along with the copy of the application, the DEQ must include a statement that unless a written objection is filed with the Department within 20 days, the Department may take action to grant the application. (The DEQ may hold a public hearing on the application after providing at least 10 days' notice.) The bill would authorize the DEQ to issue a permit before the 20-day period expired if emergency conditions warranted a project to protect property or public health, safety, or welfare.

Part 13: Permits

Part 13 prescribes processing periods for applications for permits required by the Act. Generally, for a permit under Part 301, the processing period is 60 days or, if a public hearing is held on the application, 120 days. For a permit for a minor project under Part 301, the processing period is 60 days. (The DEQ must establish minor project categories of activities and projects that are similar in nature, have minimal adverse environmental effects when performed separately, and will have only minimal cumulative adverse effects on the environment.)

The bill would establish a separate processing period of 30 days for a Part 301 permit for a project involving the dredging or filling of bottomland.

As a rule, the processing period for a permit under Section 32503 is 90 days, or 150 days if a public hearing is held. (That section authorizes the DEQ, to enter into agreements pertaining to water over and the filling in of submerged patented land, and to lease or deed unpatented land, after approval of the State Administrative Board.) Under the bill, for a permit under that section for a project involving dredging or placing spoil on bottomland, the processing period would be 30 days.

MCL 324.1301 et al.

Legislative Analyst: Julie Cassidy

FISCAL IMPACT

The bill would have a minor negative fiscal impact on the Department of Environmental Quality. The bill would generally lower the fees paid to the DEQ for permits to dredge over 10,000 cubic yards of material from marinas and for major projects in cases where the composition of the dredge material is determined to be 90% or more sand. Under current law, permits to dredge over 10,000 cubic feet can be as much as \$2,000. The bill would lower the cost of these permits to \$500.

Fiscal Analyst: Josh Sefton

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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.