

ALTER DEFINITION OF WETLAND

House Bill 5024

Sponsor: Rep. Raymond Basham

**Committee: Conservation
and Outdoor Recreation**

Complete to 9-7-00

A SUMMARY OF HOUSE BILL 5024 AS INTRODUCED 10-21-99

Under Part 303 of the Natural Resources and Environmental Protection Act (NREPA), concerning wetland protection (MCL 324.30301 et al.), “wetland” is defined as land that, among other things, is commonly referred to as a bog, swamp, or marsh, and that is contiguous to the Great Lakes or Lake St. Clair, an inland lake or pond, or a river or stream. If not contiguous to the Great Lakes, an inland lake or pond, or a river or stream, the land must be more than 5 acres in size, except in counties of less than 100,000. However, land that is not contiguous to the Great Lakes, an inland lake or pond, or a river or stream, and is 5 acres or less in size, may be defined as wetland if the Department of Environmental Quality (DEQ) has determined that its protection is essential to preserve the state’s natural resources. House Bill 5024 would amend Part 303 to reduce the wetland size threshold in each case to 1 acre, to extend the definition of wetland to include “vernal ponds,” and to establish a vernal pond conservation and education program.

Local Wetland Ordinances. Under NREPA, a local unit of government may regulate wetland within its boundaries by ordinance if certain conditions are met, and if the wetland is less than 5 acres in size. The act also specifies that, if a wetland is smaller than 3 acres in size, then the local ordinance must comply with provisions of the act that pertain to wetland of less than 2 acres in size. (These provisions apply to wetland that is unique or of special importance, such as wetland that supports endangered plants or a unique ecosystem, or a wetland whose site provides erosion control). Under the definition of “wetland” proposed under the bill, the wetland size threshold would be reduced in each case to 1 acre. In addition, the bill would specify that, when a wetland is 1 acre or less in size, and is not contiguous to the Great Lakes, an inland lake or pond, or a river or stream, the DEQ must use the same criterion that apply to wetland that is unique or of special importance when deciding whether the area must be protected. A request could be made to the DEQ in writing to have such an area designated as wetland. If the person making the request was not the owner of the property where the area was located, the DEQ would be required to notify the owner of the request, in writing, within one month. The notice would explain that the owner could submit information relevant to the department’s determination within three months after the notice was sent. This information would have to be taken into consideration by the DEQ in making its determination, together with information submitted by the requestor, and other information the department considered relevant. The DEQ would be required to inform the owner and the requestor of its determination in writing within five months after receiving the request.

Vernal Ponds. House Bill 5024 would also amend the current definition of “wetland” to include vernal ponds, which would be defined, under the bill, to mean a naturally occurring confined depression of any size without a permanent aboveground outlet that meets all of the following requirements:

- It has surface water at any time during the growing season.
- It provides habitat for amphibians or other species that depend upon vernal ponds for all or part of their life cycle, as determined by the DEQ.
- It lacks an adult fish population.
- It lacks abundant herbaceous vegetation.

Vernal Pond Conservation and Education Program. Under the bill, the Department of Natural Resources (DNR) would be required to establish a vernal pond conservation and education program, under which it would do all of the following:

- Educate the general public and owners of land containing vernal ponds on the significant plant, wildlife, and ecosystem values supported by vernal ponds.
- Promote the identification and protection of vernal ponds.
- Provide recognition to owners of land containing vernal ponds who certified in writing that they would preserve them for a period of at least 10 years.
- Obtain conservation easements, as that term is defined under Part 21, Subpart 11 of the act (MCL 324.2140), concerning conservation and historic preservation easements, from willing owners of land containing vernal ponds, in order to protect both the ponds and vernal pond buffer zones.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.