

Senate Fiscal Agency
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SFA**BILL ANALYSIS**

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Senate Bill 1206 (as passed by the Senate)
Sponsor: Senator Walter H. North
Committee: Judiciary

Date Completed: 4-2-02

RATIONALE

Section 76107 of the Natural Resources and Environmental Protection Act (NREPA) prohibits recovering, altering, or destroying abandoned property that is in, on, under, or over the bottomlands of the Great Lakes, including those within a Great Lakes Bottomlands Preserve, without a permit issued jointly by the Department of History, Arts, and Libraries (DHAL) and the Department of Natural Resources. Section 76107 also prohibits removing, conveying, mutilating, or defacing a human body or the remains of a human body located on the bottomlands of the Great Lakes, except under certain conditions.

Public Act 155 of 2001 (Senate Bill 410), which took effect on January 1, 2002, amended Section 76107 to establish graduated sanctions for violations of that section. The sanctions include both misdemeanor and felony penalties, based on the value of the bottomlands property that is illegally recovered, altered, or destroyed. The 2001 Act also established a felony penalty of up to 10 years' imprisonment and/or a maximum fine of \$5,000 for offenses involving a human body or human remains located on the Great Lakes bottomlands. Another section of the NREPA, however, provides that a violation of Section 76107 is a misdemeanor punishable by up to six months' imprisonment, a maximum fine of \$500, or both. Since the NREPA, as amended by Public Act 155, now includes more severe penalties for violations of Section 76107, it has been suggested that references to that section in the misdemeanor penalty provision should be deleted.

CONTENT

The bill would amend Part 761 (Aboriginal Records and Antiquities) of the NREPA to

delete a reference to Section 76107 from a provision establishing misdemeanor penalties for certain violations.

Currently, the NREPA provides that a violation of Section 76107 or 76111 of the Act or a rule promulgated under Part 761 is a misdemeanor and that, unless another penalty is provided in Part 761, a violation is punishable by up to six months' imprisonment, a maximum fine of \$500, or both. Under the bill, only a violation of Section 76111 or a rule promulgated under Part 761 would be subject to that penalty provision. (Section 76111 requires the Department of Environmental Quality (DEQ) to establish Great Lakes Bottomlands Preserves and provides that the DEQ and the DHAL may not grant a permit to recover abandoned artifacts within a Great Lakes Bottomlands Preserve except for historical or scientific purposes or when the recovery will not adversely affect the historical, cultural, or recreational integrity of the preserve area as a whole.)

MCL 324.76116

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

Public Act 155 of 2001 established misdemeanor and felony penalties for the unauthorized recovery, alteration, or destruction of property from the Great Lakes bottomlands, depending on the value of the property, and specified a felony penalty for removing, conveying, mutilating, or defacing a human body or human remains located on the bottomlands of the Great Lakes. The

section of the NREPA subjecting those violations to a misdemeanor penalty of six months' imprisonment and/or a maximum fine of \$500, then, appears to be in conflict with the revisions enacted in 2001. This might cause confusion in bringing charges against an alleged perpetrator of those crimes and in sentencing someone found guilty of those violations. By deleting the reference to the section that prohibits those activities from the NREPA's six-month misdemeanor provision, the bill would make that provision consistent with the revisions enacted by Public Act 155.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have no fiscal impact on State or local government because Section 76107 of the NREPA establishes sanctions for violations of that section.

Fiscal Analyst: Bethany Wicksall

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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.