

HOUSE BILL No. 6410

September 24, 2002, Introduced by Reps. Kolb and Lipsey and referred to the Committee on Land Use and Environment.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending section 30301 (MCL 324.30301), as added by 1995 PA
59, and by adding section 30312a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 30301. As used in this part:

2 (A) "DEPARTMENT" MEANS THE DEPARTMENT OF ENVIRONMENTAL
3 QUALITY.

4 (B) "DIRECTOR" MEANS THE DIRECTOR OF THE DEPARTMENT.

5 (C) ~~-(a)-~~ "Fill material" means soil, rocks, sand, waste of
6 any kind, or any other material that displaces soil or water or
7 reduces water retention potential.

8 (D) ~~-(b)-~~ "Minor drainage" includes ditching and tiling for
9 the removal of excess soil moisture incidental to the planting,
10 cultivating, protecting, or harvesting of crops or improving the

1 productivity of land in established use for agriculture,
2 horticulture, silviculture, or lumbering.

3 (E) "MITIGATION WETLAND" MEANS WETLAND CREATED UNDER SECTION
4 30312, AS A CONDITION OF A PERMIT, TO MITIGATE THE IMPACT OF A
5 DISCHARGE OF FILL MATERIAL.

6 (F) ~~-(c)-~~ "Person" means an individual, sole proprietorship,
7 partnership, corporation, association, municipality, this state
8 ~~—, and~~ OR AN instrumentality or agency of this state, the fed-
9 eral government ~~—,~~ or an instrumentality or agency of the fed-
10 eral government, or other legal entity.

11 (G) ~~-(d)-~~ "Wetland" means land characterized by the presence
12 of water at a frequency and duration sufficient to support, and
13 that under normal circumstances does support, wetland vegetation
14 or aquatic life, and is commonly referred to as a bog, swamp, or
15 marsh and which is any of the following:

16 (i) Contiguous to the Great Lakes or Lake St. Clair, an
17 inland lake or pond, or a river or stream.

18 (ii) Not contiguous to the Great Lakes, an inland lake or
19 pond, or a river or stream; and more than 5 acres in size; except
20 this subparagraph ~~shall not be of effect~~ DOES NOT APPLY, except
21 for the purpose of inventorying, in counties of less than 100,000
22 population until the department certifies to the commission it
23 has substantially completed its inventory of wetlands in that
24 county.

25 (iii) Not contiguous to the Great Lakes, an inland lake or
26 pond, or a river or stream; and 5 acres or less in size if the
27 department determines that protection of the area is essential to

1 the preservation of the natural resources of the state from
2 pollution, impairment, or destruction and the department has so
3 notified the owner; except this subparagraph may be utilized
4 regardless of wetland size in a county in which subparagraph (ii)
5 ~~is of no effect~~ DOES NOT APPLY; except for the purpose of
6 inventorying, at the time.

7 SEC. 30312A. (1) WITHIN 60 DAYS AFTER THE EFFECTIVE DATE OF
8 THE AMENDATORY ACT THAT ADDED THIS SECTION, THE DIRECTOR SHALL
9 CONVENE A MITIGATION WETLAND WORKGROUP. THE WORKGROUP SHALL
10 INCLUDE AT LEAST 1 REPRESENTATIVE OF EACH OF THE FOLLOWING:

- 11 (A) THE DEPARTMENT.
- 12 (B) BUSINESS AND INDUSTRY INTERESTS.
- 13 (C) ENVIRONMENTAL PROTECTION ORGANIZATIONS.
- 14 (D) CONSERVATION ORGANIZATIONS.
- 15 (E) LOCAL GOVERNMENT.
- 16 (F) THE GENERAL PUBLIC.

17 (2) MEMBERS OF THE WORKGROUP SHALL SERVE WITHOUT COMPENSA-
18 TION FROM THE DEPARTMENT, EXCEPT THAT DEPARTMENT REPRESENTATIVES
19 SHALL RECEIVE THEIR NORMAL SALARY. MEMBERS OF THE WORKGROUP MAY
20 BE REIMBURSED FOR THEIR ACTUAL AND NECESSARY EXPENSES INCURRED IN
21 THE PERFORMANCE OF THEIR OFFICIAL DUTIES AS MEMBERS OF THE
22 WORKGROUP.

23 (3) THE WORKGROUP SHALL DO ALL OF THE FOLLOWING:

- 24 (A) DETERMINE WHETHER THE DEPARTMENT HAS BEEN COMPLYING WITH
25 STANDARDS SET FORTH IN THIS PART AND RULES PROMULGATED UNDER THIS
26 PART IN DETERMINING WHETHER TO ISSUE PERMITS UNDER THIS PART.

1 (B) DETERMINE REASONS WHY MITIGATION WETLAND HAS IN SOME
2 CASES FAILED TO PERFORM ITS INTENDED FUNCTION.

3 (C) DETERMINE REASONS WHY MITIGATION WETLAND HAS IN SOME
4 CASES NOT BEEN CREATED AS REQUIRED BY THE DEPARTMENT.

5 (D) RECOMMEND STANDARDS FOR TRACKING COMPLIANCE WITH
6 REQUIREMENTS TO CREATE MITIGATION WETLAND.

7 (E) RECOMMEND CONSTRUCTION STANDARDS FOR MITIGATION
8 WETLAND.

9 (F) RECOMMEND STANDARDS TO DETERMINE WHETHER MITIGATION WET-
10 LAND PERFORMS ITS INTENDED FUNCTION.

11 (G) RECOMMEND CHANGES IN SANCTIONS FOR FAILURE TO CREATE
12 MITIGATION WETLAND SUCH AS INCREASED FINES AND BEING INELIGIBLE
13 TO OBTAIN A PERMIT UNDER THIS PART.

14 (4) BY 1 YEAR AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT
15 THAT ADDED THIS SECTION, THE WORKGROUP CREATED UNDER SUBSECTION
16 (1) SHALL SUBMIT A COPY OF A REPORT OF ITS FINDINGS AND RECOMMEN-
17 DATIONS TO THE STANDING COMMITTEES OF THE SENATE AND THE STANDING
18 COMMITTEES OF THE HOUSE OF REPRESENTATIVES WITH PRIMARY JURISDIC-
19 TION OVER NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ISSUES.