

HOUSE BILL No. 5383

November 1, 2005, Introduced by Reps. Sheen, Pastor, Taub, Booher, Garfield, Stahl, Drolet, Vander Veen, Gosselin, Rocca, Baxter, Huizenga, Hildenbrand, Hune, Hoogendyk, Palmer, Mortimer, Acciavatti, Nitz, Marleau, LaJoy, Caul, Green, Jones, Whitmer, Newell, Meyer, Pearce, Elsenheimer, Gaffney, Amos, Kahn, Moore, Shaffer, Robertson, Hummel, Moolenaar and Brown and referred to the Committee on Natural Resources, Great Lakes, Land Use, and Environment.

A bill to amend 1994 PA 451, entitled

"Natural resources and environmental protection act,"

by amending section 30311 (MCL 324.30311), as added by 1995 PA 59.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 30311. (1) A permit for an activity listed in section
2 30304 shall not be approved unless the department determines that
3 the issuance of a permit is in the public interest, that the permit
4 is necessary to realize the benefits derived from the activity, and
5 that the activity is otherwise lawful.

6 (2) In determining whether the activity is in the public
7 interest, the ~~benefit~~ **BENEFITS** which reasonably may be expected
8 to accrue from the proposal shall be balanced against the
9 reasonably foreseeable detriments of the activity. The decision
10 shall reflect the national and state concern for the protection of

1 natural resources from pollution, impairment, and destruction. The
2 following general criteria shall be considered:

3 (a) The relative extent of the public and private need for the
4 proposed activity. **THE APPLICANT'S ASSERTION OF THE PRIVATE NEED**
5 **FOR THE ACTIVITY SHALL BE PRESUMED TO BE VALID.**

6 (b) The availability of feasible and prudent alternative
7 locations and methods to ~~accomplish~~ **ACHIEVE** the expected benefits
8 from the activity. **IN DETERMINING WHETHER AN ALTERNATIVE LOCATION**
9 **IS FEASIBLE AND PRUDENT, THE DEPARTMENT SHALL CONSIDER ALL OF THE**
10 **FOLLOWING:**

11 (i) **WHETHER THE ALTERNATIVE LOCATION IS ON THE SAME PARCEL OR**
12 **TRACT AS THE PROPOSED LOCATION.**

13 (ii) **IF THE ALTERNATIVE LOCATION IS NOT ON THE SAME PARCEL OR**
14 **TRACT AS THE PROPOSED LOCATION, WHETHER THE ALTERNATIVE LOCATION IS**
15 **ALREADY OWNED BY THE APPLICANT.**

16 (iii) **WHETHER THE PROPOSED ACTIVITY WOULD BE RELATED TO AND**
17 **BENEFIT, OR BE BENEFITED BY, AN EXISTING DEVELOPED USE OF THE**
18 **PROPOSED LOCATION.**

19 (c) The extent and permanence of the beneficial or detrimental
20 effects that the proposed activity may have on the public and
21 private uses to which the area is suited, including the benefits
22 the wetland provides.

23 (d) The probable ~~impact~~ **EFFECT** of each proposal in relation
24 to the cumulative effect created by other existing and anticipated
25 activities in the watershed.

26 (e) The probable ~~impact~~ **EFFECT** on recognized historic,
27 cultural, scenic, ecological, ~~or~~ **AND** recreational values, ~~and~~

1 on the public health, ~~or fish or~~ **AND ON FISH AND** wildlife.

2 (f) The size of the wetland being considered.

3 (g) The amount of remaining wetland in the general area.

4 (h) Proximity to any waterway.

5 (i) Economic value, both public and private, of the proposed
6 land change to the general area.

7 (3) In considering a permit application, the department shall
8 give serious consideration to findings of necessity for the
9 proposed activity which have been made by other state agencies.

10 (4) A permit shall not be issued unless it is shown that **THE**
11 **PERMITTED ACTIVITY WILL NOT RESULT IN** an unacceptable disruption
12 ~~will not result~~ to the aquatic resources. In determining whether a
13 disruption to the aquatic resources is unacceptable, the criteria
14 set forth in section 30302 and subsection (2) shall be considered.
15 A permit shall not be issued unless the applicant also shows either
16 of the following:

17 (a) The proposed activity is primarily dependent upon being
18 located in the wetland.

19 (b) A feasible and prudent alternative does not exist.