

## MARINA AND SEASONAL MOORING PERMITS

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**House Bill 5450 (Substitute H-1)**

**Sponsor: Rep. Doug Bennett**

**Committee: Appropriations**

**Complete to 12-18-08**

### **A SUMMARY OF HOUSE BILL 5450 AS REPORTED FROM COMMITTEE 12-10-08**

The bill as introduced proposed a number of permit fee increases for the Department of Environmental Quality (DEQ). The H-1 Substitute reported from committee would amend provisions in Part 301 (Inland Lakes and Streams) of the Natural Resources and Environmental Protection Act concerning the issuance of permits for marinas and seasonal mooring structures by DEQ. The bill would eliminate (1) three-year operating permits (and the associated \$50 permit fee) for marinas and (2) annual permits for seasonal mooring structures that have previously been issued a permit. It would also adopt a standard for issuing a permit to construct, reconfigure, or expand a marina.

Permit required. Under the bill, a permit would be needed to "**construct, reconfigure, or expand**" a marina, rather than to "erect, maintain, or operate a marina," as is currently the case. The current definition of "marina"<sup>1</sup> would be retained.

- "**Reconfigure**" would mean "to change the configuration of the mooring structures at a marina without enlarging the area of the inland lake or stream occupied by the mooring structures and watercraft moored at the marina."
- "**Expand**" would mean "to either increase the number of watercraft moored at a marina or to increase the area of the inland lake or stream occupied by the marina's mooring structures and the watercraft moored at the marina."

Marina operating renewal fee. The bill would eliminate the existing \$50 fee for renewal of a marina operating permit, given that an operating permit would no longer be necessary.

Seasonal mooring structure exemptions. Section 30103 currently exempts a number of structures and activities from the permit requirement, including "a seasonal structure placed on bottomland to facilitate private noncommercial recreational use of the water" so long as the structure does not (1) unreasonably interfere with the use of water by others entitled to use the water or (2) interfere with water flow. (Section 30103(b))

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<sup>1</sup> In Part 301, "marina" means "a facility that is owned or operated by a person, extends into or over an inland lake or stream, and offers service to the public or members of the marina for docking, loading, or other servicing of recreational watercraft." (Section 30101(j))

The bill would retain this seasonal structure exemption and all other existing exemptions but insert a new exemption for seasonal structures previously authorized by a permit. Specifically, a permit would no longer be needed for the "[a]nnual installation of a seasonal dock, filings, filings, mooring buoys, or other mooring structures previously authorized by a permit issued under [Part 301]. (Proposed Section 30103(l))

Standard for issuance of a permit to construct, expand, or reconfigure a marina. The bill would add a new Section 30106a requiring the DEQ to issue a permit to construct, expand, or reconfigure a marina if the conditions of Section 30106 were met (that is, after a determination that there would be no adverse impact on the public trust or riparian rights following a consideration of specified issues) and the marina (1) extends from the riparian property of the applicant; (2) does not interfere with navigation; and (3) is located and designed to be operated in a manner consistent with the correlative rights of other riparian owners including adjacent riparian owners.

The following requirements would also apply to marinas:

- Vessel ingress, egress, and circular swing. The marina would have to be configured so that all expected vessel ingress and egress from any mooring, and all circular swing areas of vessels moored at mooring buoys under varying wind directions would occur either (1) solely within the applicant's riparian interest area; or (2) within the applicant's riparian interest area and an adjacent area for which the applicant has secured written authorization from the affected riparian owner. The bill defines "riparian interest area" as "that portion of the bottomlands of an inland lake or stream in which a riparian owner has an ownership interest."
- Slips could not extend to edge of riparian boundaries. There would have to be a distance equal to at least 1.5 times the longest slip length between the applicant's slips and any of the applicants' riparian interest area boundaries. "Slip length" is defined as the longer of "the total length of all mooring structures including the docks and pilings" and "the total length of the vessel moored in the slip, including, but not limited to, outboard engines, boat hoists, bowsprits, and swim platforms."
- No interference with use patterns. The marina could not interfere with common or reasonably expected use patterns on the inland lake or stream.

Riparian interest area estimate survey; easements. The DEQ could require an applicant to submit a "riparian interest area estimate survey, sealed by a licensed surveyor" or to obtain an easement from any affected adjacent riparian owner authorizing incursion and record the easement with the register of deeds for the county in which the marina is located.

Application to existing marinas. The owner or operator of a marina that lacks a permit under Section 301 as of the bill's effective date would have to obtain one by January 1, 2010 (or before reconfiguring or expanding the marina, if earlier).

Local governmental authority to regulate marinas. The bill specifies that "[Section 30106a] does not limit the authority of a local unit of government to regulate the location or operation of a marina. The issuance of a permit under [Section 30106a] does not eliminate the need to obtain other applicable authorizations, including those by the local unit of government."

**FISCAL IMPACT:**

According to the department, the bill would reduce restricted state revenue from operating permit renewals by up to \$20,000. Elimination of the Marine Operating Permit (MOP) program would reduce DEQ program costs by approximately \$175,000 annually. The governor's recent Executive Order required that the DEQ receive \$87,500 less than previously budgeted from General Fund revenues for this program.

**POSITIONS:**

The Department of Environmental Quality supports the bill as reported. (12-15-08)

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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.