



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

BILL ANALYSIS



Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

House Bill 4981 (Substitute H-1 as passed by the House)
Sponsor: Representative Steven Lindberg
House Committee: Tourism, Outdoor Recreation, and Natural Resources
Senate Committee: Natural Resources and Environmental Affairs

Date Completed: 4-22-08

CONTENT

The bill would amend Part 21 (General Real Estate Powers) of the Natural Resources and Environmental Protection Act to require, rather than permit, the Department of Natural Resources (DNR) to grant an easement over State-owned land if certain conditions are met; and revise the conditions for granting an easement.

Part 21 permits the DNR to grant an easement over State-owned land under its jurisdiction to an individual only if all of the following conditions are met:

- The individual does not have other access to his or her land.
- The easement does not conflict with an existing DNR program or management plan or a local ordinance.
- The roadway for which the easement is granted is open to public access and is not for the exclusive use of the grantee.
- The easement provides the logical and most feasible access to the individual's land.
- The width of the roadway is restricted to the minimum consistent with the quality of the road required.
- The individual agrees to construct the road if necessary, and maintain it.
- The individual offers a similar roadway easement to the DNR across the land to which the easement is to provide access.

The bill would require, rather than allow, the DNR to grant or otherwise provide for an easement for a roadway over State-owned land under its jurisdiction to an individual who requested it if the specified conditions were met. With regard to the first condition, the individual could not have other "legal" access to his or her land, as confirmed by a policy of title insurance or the written opinion of an attorney. With regard to the last condition, the DNR could not accept a roadway easement if it would end at a body of water. Additionally, the bill would require the individual to make the request on a form provided by the Department.

Under the bill, a document granting an easement could provide that the parcel that was benefited by the easement could not be partitioned or split into one or more parcels that were less than 40 acres in size.

If a request for an easement were denied, the DNR would have to give the person who requested it written notice of the denial and the reasons for it.

Under Part 21, the DNR may not grant an easement if any of the following apply:

- The proposed easement is over land designated as a wilderness area, wild area, or natural area under Part 351 (Wilderness and Natural Areas).
- The proposed easement is over land in an area closed to vehicular traffic pursuant to a management plan approved by the DNR.
- The construction or use of the new or existing roadway will result in unnecessary damage to or destruction of the surface, soil, animal life, fish or aquatic life, or property.

The bill would refer to unreasonable, rather than unnecessary, damage.

MCL 324.2123 & 324.2124

Legislative Analyst: Julie Cassidy

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Jessica Runnels