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Senate Bill 275 (as introduced 3-17-11)  
Sponsor: Senator Tom Casperson  
Committee: Economic Development

Date Completed: 4-13-11

### **CONTENT**

**The bill would amend Part 13 (Permits) of the Natural Resources and Environmental Protection Act (NREPA) to do all of the following:**

- Revise provisions regarding when an application for a permit is considered administratively complete.**
- Limit a department to one request for additional information from an applicant after an application was considered administratively complete.**
- Increase the amount a department must pay to an applicant if the department fails to approve or deny an application for a permit by the appropriate processing deadline.**
- Require a department to devote extra resources to eliminating any backlog and satisfying processing deadline requirements under certain circumstances.**
- Require a department director's annual report to legislative committees to include information on the department's failure to meet processing deadlines under certain circumstances and on whether and how the department corrected those failures.**

(Part 13 regulates the processing of applications for many permits issued under NREPA, and specifies processing periods ranging from 20 days to 150 days after the close of the application period for those permits. Under Part 13, "department" means the department, agency, or officer authorized by NREPA to approve or deny an application for a particular permit.)

#### **Administratively Complete Applications**

Under Part 13, effective 30 days after the State receives an application for a permit, the application must be considered to be administratively complete unless the department notifies the applicant that the application is not administratively complete, specifying the information necessary to make it complete, or notifies the applicant that a required fee had not been paid.

The bill instead specifies that, after a department received an application for a permit, the department would have to determine whether the application was administratively complete. Unless the department notified the applicant, within 30 days after receiving the application, that the application was not administratively complete or that a fee had not been paid, the application would be considered administratively complete when the department made that determination or 30 days after the State received the application, whichever came first.

Under Part 13, if, within the 30-day period after the department receives an application, the department notifies the applicant that the application is not administratively complete, specifying the needed information, or notifies the applicant that a fee required to accompany the application has not been paid, specifying the amount due, the running of the 30-day period is tolled until the applicant submits the specified information or fee amount.

The bill specifies that, after an application was considered to be administratively complete, the department could not make more than one request for additional information that it considered necessary to make the application technically complete.

#### Payment for Failure to Meet Deadline

Part 13 requires a department to approve or deny an application for a permit by the processing deadline. If requested by the permit applicant, the department may extend the processing period by up to 20%. Except for certain permits, if the department fails to approve or deny an application by the processing deadline, the department must pay the applicant an amount equal to 15% of the greater of the following, as applicable:

- The amount of the application fee for that permit.
- If the department charges an assessment or other fee on an annual or other periodic basis, the amount of the first periodic charge of that assessment or other fee.

Under the bill, the department would have to pay the applicant an amount equal to 50% of the greater of those amounts.

#### Extra Resources

Under the bill, if a department failed to approve or deny applications by the processing deadline with respect to 10% or more of the applications for a particular type of permit received during a quarter of the State fiscal year, the department immediately would have to devote extra resources to eliminating any backlog and satisfying the processing deadline requirements with respect to new applications for that type of permit within the next fiscal quarter.

#### Report to Legislative Committees

Part 13 requires the director of a department to submit a report by December 1 of each year to the Senate and House standing committees and appropriations subcommittees with primary responsibility for issues under the jurisdiction of that department. Part 13 lists information that must be included in that report.

Under the bill, if a department failed to satisfy the processing requirements with respect to 10% or more of the applications for a particular type of permit received during a quarter of the State fiscal year, the report would have to include the type of permit and percentage of applications for which the requirements were not met and information on whether and how the department eliminated any backlog and satisfied the bill's requirements to devote extra resources to eliminating any backlog and satisfying the processing deadline requirements for new applications for that type of permit in the next fiscal quarter.

MCL 324.1305 et al.

Legislative Analyst: Patrick Affholter

#### **FISCAL IMPACT**

The bill would require a department to direct extra resources to environmental permitting programs administered under Part 13 of NREPA if those programs failed to approve or deny 10% or more of permit applications within the time frame set in statute. The bill does not

specify where these extra resources would come from. These resources would likely be transferred from elsewhere in the department, so there would be no net fiscal impact on the department as a whole. Any transfer resulting from this bill, unless made from the same appropriation line as the program receiving the transfer, would have to be approved by both the House and Senate Appropriations Committees. Such transfers could potentially have programmatic effects on the department, but the nature of these would remain unknown until a transfer request was brought before the Legislature.

The bill also would require an annual report containing various information regarding Part 13 permitting programs, including actions taken to address programs that failed to meet statutory administrative completion timelines. This report would introduce some new, minor administrative costs to the department. It is unknown what the annual cost of this report would be.

Finally, the bill would increase the amount the department must pay an applicant if it fails to approve or deny a permit by the applicable deadline. Under current law, the department must pay 15% of whichever is greater: the amount of the application fee for the permit, or the amount of any annual or periodic fee. The bill would increase the payment to 50% of the greater amount. In FY 2008-09, approximately \$4,000 in refunds were issued under the 15% refund requirement. If a similar number of applications were processed late in the future, it would reasonable to expect this number to closer to \$13,000 or \$14,000.

Fiscal Analyst: Josh Sefton

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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.