

Rep. Koetje offered the following substitute (H-2):

**HOUSE SUBSTITUTE FOR  
SENATE BILL NO. 567**

A bill to amend 1994 PA 451, entitled  
"Natural resources and environmental protection act,"  
by amending sections 3104, 8716, 30104, 30109, 32312, and 32513  
(MCL 324.3104, 324.8716, 324.30104, 324.30109, 324.32312, and  
324.32513), sections 3104, 30104, 30109, and 32312 as amended by  
1999 PA 106 and section 32513 as amended by 2003 PA 14.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 3104. (1) The department is designated the state  
2 agency to cooperate and negotiate with other governments,  
3 governmental units, and governmental agencies in matters  
4 concerning the water resources of the state, including, but not  
5 limited to, flood control, beach erosion control, and water  
6 quality control planning, development, and management. The  
7 department shall have control over the alterations of natural or  
8 present watercourses of all rivers and streams in the state to

1 assure that the channels and the portions of the floodplains that  
2 are the floodways are not inhabited and are kept free and clear  
3 of interference or obstruction that will cause any undue  
4 restriction of the capacity of the floodway. The department may  
5 take steps as may be necessary to take advantage of any act of  
6 congress that may be of assistance in carrying out the purposes  
7 of this part, including the water resources planning act, Public  
8 Law 89-80, 42 U.S.C. 1962 to 1962-1 and 1962a to 1962d-3, and the  
9 federal water pollution control act, chapter 758, 86 Stat. 816,  
10 33 U.S.C. 1251 to 1252, 1253 to 1254, 1255 to 1257, 1258 to 1263,  
11 1265 to 1270, **1273 to 1274**, 1281, 1282 to 1293, 1294 to ~~1299~~  
12 **1301**, 1311 to 1313, 1314 to 1330, 1341 to ~~1345~~ **1346**, 1361 to  
13 **1375, 1376 to** 1377, and 1381 to 1387.

14 (2) The department shall report to the governor and to the  
15 legislature at least annually any plans or projects being  
16 implemented or considered for implementation and shall include in  
17 the report requests for any legislation needed to implement any  
18 proposed projects or agreements made necessary as a result of a  
19 plan or project, together with any requests for appropriations.  
20 The department may make recommendations to the governor on the  
21 designation of areawide water quality planning regions and  
22 organizations relative to the governor's responsibilities under  
23 the federal water pollution control act.

24 (3) A person shall submit an application for a permit to  
25 alter a floodplain on a form approved by the department and shall  
26 include information that may be required by the department to  
27 assess the proposed alteration's impact on the floodplain. If an

1 alteration includes activities at multiple locations in a  
2 floodplain, 1 application may be filed for combined activities.

3 (4) Except as provided in subsections (5), ~~(6)~~, and ~~-(6)~~  
4 ~~(8)~~, until October 1, ~~-2003-~~ **2008**, an application for a  
5 floodplain permit shall be accompanied by a fee of \$500.00.  
6 Until October 1, ~~-2003-~~ **2008**, if the department determines that  
7 engineering computations are required to assess the impact of a  
8 proposed floodplain alteration on flood stage or discharge  
9 characteristics, the department shall assess the applicant an  
10 additional \$1,500.00 to cover the department's cost of review.

11 (5) Until October 1, ~~-2003-~~ **2008**, an application for a  
12 floodplain permit for a minor project category shall be  
13 accompanied by a fee of \$100.00. Minor project categories shall  
14 be established by rule and shall include activities and projects  
15 that are similar in nature and have minimal potential for causing  
16 harmful interference.

17 (6) If work has been done in violation of a permit  
18 requirement under this part and restoration is not ordered by the  
19 department, the department may accept an application for a permit  
20 if the application is accompanied by a fee equal to 2 times the  
21 permit fee required under subsection (4) or (5).

22 (7) The department shall forward fees collected under this  
23 section to the state treasurer for deposit in the land and water  
24 management permit fee fund created in section 30113.

25 (8) A project that requires review and approval under this  
26 part and 1 or more of the following is subject to only the single  
27 highest permit fee required under this part or the following:

1 (a) Part 301.

2 (b) Part 303.

3 (c) Part 323.

4 (d) Part 325.

5 (e) Section 117 of the land division act, 1967 PA 288, MCL  
6 560.117.

7 Sec. 8716. (1) The freshwater protection fund is created  
8 within the state treasury.

9 (2) The state treasurer may receive money or other assets  
10 from any source for deposit into the fund, including general fund  
11 general purpose appropriations, gifts, grants, bequests, and, if  
12 provided by law, revenue from the sale of Michigan freshwater  
13 protection bonds or the Michigan freshwater protection checkoff  
14 on state income and single business tax returns. The director  
15 shall annually seek matching general fund general purpose  
16 appropriations in amounts equal to the groundwater protection  
17 fees deposited into the fund pursuant to this part. The state  
18 treasurer shall direct the investment of the fund. The state  
19 treasurer shall credit to the fund interest and earnings from  
20 fund investments.

21 (3) Money in the fund at the close of the fiscal year shall  
22 remain in the fund and shall not lapse to the general fund.

23 (4) The department shall expend money from the fund, upon  
24 appropriation, only for 1 or more of the following purposes:

25 (a) Direct assistance.

26 (b) Indirect assistance.

27 (c) Emergency response and removal of potential sources of

1 groundwater contamination. Expenditures pursuant to this  
2 subdivision shall not exceed \$15,000.00 per location.

3 **(d) Groundwater protection and groundwater regulatory**  
4 **program.**

5 **(e) —(d)—** Administrative costs. Expenditures pursuant to  
6 this subdivision shall not exceed 20% of the annual  
7 appropriations from the fund.

8 (5) The department shall establish criteria and procedures  
9 for approving proposed expenditures from the fund.

10 (6) Notwithstanding section 8715, if at the close of any  
11 fiscal year the amount of money in the fund exceeds  
12 \$3,500,000.00, the department shall not collect a groundwater  
13 protection fee for the following year. After the groundwater  
14 protection fees have been suspended under this subsection, the  
15 fees shall only be reinstated if, at the close of any succeeding  
16 fiscal year, the amount of money in the fund is less than  
17 \$1,000,000.00.

18 (7) The department of treasury shall, before November 1 of  
19 each year, notify the department of the balance in the fund at  
20 the close of the preceding fiscal year.

21 (8) As used in this section:

22 (a) "Administrative costs" includes, but is not limited to,  
23 costs incurred during any of the following:

24 (i) Groundwater monitoring for pesticides and fertilizers.

25 (ii) Development and enforcement of groundwater protection  
26 rules.

27 (iii) Coordination of programs under this part with the

1 United States environmental protection agency and other state  
2 programs with groundwater and pesticide management  
3 responsibilities.

4 (iv) Management of pesticide sales information.

5 (b) "Direct assistance" includes, but is not limited to,  
6 programs that will provide for any of the following:

7 (i) Provision of alternate noncommunity water supplies.

8 (ii) Closure of wells that may impact groundwater, such as  
9 abandoned, improperly constructed, or drainage wells.

10 (iii) The environmentally sound disposal or recycling of  
11 specialty pesticide containers.

12 (iv) The environmentally sound disposal or recycling of  
13 nonspecialty pesticide containers.

14 (v) Specialty and nonspecialty pesticide pickup programs for  
15 pesticides not currently registered for use.

16 (vi) Programs devoted to integrated pest and crop management  
17 that strive to encourage the judicious use of pesticides and  
18 fertilizers through targeted applications as part of a systems  
19 approach to pest control and related crop management decisions.

20 (vii) Incentive and cost share programs for persons in the  
21 groundwater stewardship program for implementation of groundwater  
22 stewardship practices or groundwater protection rules.

23 (viii) Incentive and cost share programs for persons who  
24 notify the director of potential sources of groundwater  
25 contamination on their property.

26 (ix) Monitoring of private well water for pesticides and  
27 fertilizers.

1           (x) Removal of soils and waters contaminated by pesticides  
2 and fertilizers and the land application of those materials at  
3 agronomic rates.

4           (xi) Groundwater stewardship program grants pursuant to  
5 section 8710.

6           (xii) Other programs established pursuant to this part.

7           (c) "Indirect assistance" includes, but is not limited to,  
8 programs that will provide for any of the following:

9           (i) Public education and demonstration programs on specialty  
10 pesticide container recycling and environmentally sound disposal  
11 methods.

12           (ii) Educational programs for pesticide and fertilizer end  
13 users.

14           (iii) Technical assistance programs for pesticide and  
15 fertilizer end users.

16           (iv) The promotion and implementation of on-site evaluation  
17 systems and groundwater stewardship practices.

18           (v) Research programs for determination of the impacts of  
19 alternate pesticide and fertilizer management practices.

20           (vi) Research program for determination of aquifer  
21 sensitivity and vulnerability to contamination by pesticides and  
22 fertilizers.

23           Sec. 30104. (1) Before a project that is subject to this  
24 part is undertaken, a person shall file an application and  
25 receive a permit from the department. The application shall be  
26 on a form prescribed by the department and shall include any  
27 information that may be required by the department. If a project

1 includes activities at multiple locations, 1 application may be  
2 filed for the combined activities.

3 (2) Except as provided in subsections (3) and (4), **until**  
4 **October 1, 2008**, an application for a permit shall be accompanied  
5 by a fee based on an administrative cost in accordance with the  
6 following schedule:

7 ~~(a) Until October 1, 2003:~~

8 **(a) —(i)—** For a minor project listed in R 281.816 of the  
9 Michigan administrative code, or a seasonal drawdown or the  
10 associated reflooding, or both, of a dam or impoundment for the  
11 purpose of weed control, a fee of \$50.00. However, for a permit  
12 for a seasonal drawdown or associated reflooding, or both, of a  
13 dam or impoundment for the purpose of weed control that is issued  
14 for the first time after October 9, 1995, an initial fee of  
15 \$500.00 with subsequent permits for the same purpose being  
16 assessed a \$50.00 fee.

17 **(b) —(ii)—** For construction or expansion of a marina, a fee  
18 of:

19 **(i) —(A)—** \$50.00 for an expansion of 1-10 slips to an  
20 existing permitted marina.

21 **(ii) —(B)—** \$100.00 for a new marina with 1-10 proposed marina  
22 slips.

23 **(iii) —(C)—** \$250.00 for an expansion of 11-50 slips to an  
24 existing permitted marina, plus \$10.00 for each slip over 50.

25 **(iv) —(D)—** \$500.00 for a new marina with 11-50 proposed  
26 marina slips, plus \$10.00 for each slip over 50.

27 **(v) —(E)—** \$1,500.00 if an existing permitted marina proposes



1 maintenance dredging of 10,000 cubic yards or more or the  
 2 addition of seawalls, bulkheads, or revetments of 500 feet or  
 3 more.

4       (c) ~~(iii)~~ For renewal of a marina operating permit, a fee  
 5 of \$50.00.

6       (d) ~~(iv)~~ For major projects other than a project described  
 7 in ~~subparagraph (ii)(E)~~ **subdivision (b)(v)**, involving any of  
 8 the following, a fee of \$2,000.00:

9       (i) ~~(A)~~ Dredging of 10,000 cubic yards or more.

10       (ii) ~~(B)~~ Filling of 10,000 cubic yards or more.

11       (iii) ~~(C)~~ Seawalls, bulkheads, or revetment of 500 feet or  
 12 more.

13       (iv) ~~(D)~~ Filling or draining of 1 acre or more of wetland  
 14 contiguous to a lake or stream.

15       (v) ~~(E)~~ New dredging or upland boat basin excavation in  
 16 areas of suspected contamination.

17       (vi) ~~(F)~~ Shore projections, such as groins and underwater  
 18 stabilizers, that extend 150 feet or more into a lake or stream.

19       (vii) ~~(G)~~ New commercial docks or wharves of 300 feet or  
 20 more in length.

21       (viii) ~~(H)~~ Stream enclosures 100 feet or more in length.

22       (ix) ~~(I)~~ Stream relocations 500 feet or more in length.

23       (x) ~~(J)~~ New golf courses.

24       (xi) ~~(K)~~ Subdivisions.

25       (xii) ~~(L)~~ Condominiums.

26       (e) ~~(v)~~ For all other projects not listed in ~~subparagraphs~~  
 27 ~~(i)~~ **subdivisions (a)** through ~~(iv)~~ **(d)**, a fee of \$500.00.

1 ~~(b) Beginning October 1, 2003, a fee of \$25.00 for any~~  
2 ~~project listed in subdivision (a).~~

3 (3) A project that requires review and approval under this  
4 part and 1 or more of the following acts or parts of acts is  
5 subject to only the single highest permit fee required under this  
6 part or the following acts or parts of acts:

7 (a) Part 303.

8 (b) Part 323.

9 (c) Part 325.

10 (d) Section 3104.

11 (e) Section 117 of the land division act, 1967 PA 288, MCL  
12 560.117.

13 (4) If work has been done in violation of a permit  
14 requirement under this part and restoration is not ordered by the  
15 department, the department may accept an application for a permit  
16 if the application is accompanied by a fee equal to 2 times the  
17 permit fee required under this section.

18 Sec. 30109. Upon the written request of a riparian owner  
19 and upon payment of a service fee, the department may enter into  
20 a written agreement with a riparian owner establishing the  
21 location of the ordinary high-water mark for his or her  
22 property. In the absence of substantially changed conditions,  
23 the agreement shall be conclusive proof of the location in all  
24 matters between the state and the riparian owner and his or her  
25 successors in interest. Until October 1, ~~2003~~ **2008**, the  
26 service fee provided for in this section shall be \$500.00.  
27 ~~Beginning October 1, 2003, the service fee provided for in this~~

1 ~~section shall be \$50.00.~~ The department shall forward all  
2 service fees to the state treasurer for deposit into the fund.

3       Sec. 32312. (1) The department, in order to regulate the  
4 uses and development of high-risk areas, flood risk areas, and  
5 environmental areas and to implement the purposes of this part,  
6 shall promulgate rules. ~~Until October 1, 2003,~~ **Except as**  
7 **provided under subsection (2), until October 1, 2008,** if permits  
8 are required pursuant to rules promulgated under this part, a fee  
9 of \$500.00 shall be submitted to the department with each  
10 application for a commercial or multi-family residential project,  
11 a fee of \$100.00 shall be submitted with each application for a  
12 single-family home construction, and a fee of \$50.00 shall be  
13 submitted with each application for an addition to an existing  
14 single-family home or for a project that has a minor impact on  
15 fish and wildlife resources in environmental areas as determined  
16 by the department.

17       (2) A project that requires review and approval under this  
18 part and under 1 or more of the following is subject to only the  
19 single highest permit fee required under this part or the  
20 following:

21       (a) Part 301.

22       (b) Part 303.

23       (c) Part 325.

24       (d) Section 3104.

25       (e) Section 117 of the land division act, 1967 PA 288, MCL  
26 560.117.

27       (3) The department shall forward fees collected under this

1 section to the state treasurer for deposit in the land and water  
2 management permit fee fund created in section 30113.

3 (4) A circuit court, upon petition and a showing by the  
4 department that a violation of a rule promulgated under  
5 subsection (1) exists, shall issue any necessary order to the  
6 defendant to correct the violation or to restrain the defendant  
7 from further violation of the rule.

8 Sec. 32513. (1) Before any work or connection specified in  
9 section 32512 or 32512a is undertaken, a person shall file an  
10 application with the department of environmental quality setting  
11 forth the following:

12 (a) The name and address of the applicant.

13 (b) The legal description of the lands included in the  
14 project.

15 (c) A summary statement of the purpose of the project.

16 (d) A map or diagram showing the proposal on an adequate  
17 scale with contours and cross-section profiles of the waterway to  
18 be constructed.

19 (e) Other information required by the department of  
20 environmental quality.

21 (2) Except as provided in subsections (3) and (4), **until**  
22 **October 1, 2008**, an application for a permit under this section  
23 shall be accompanied by a fee according to the following  
24 schedule:

25 ~~(a) Until October 1, 2004:~~

26 **(a) ~~(i)~~** For a project in a category of activities for which  
27 a general permit is issued under section 32512a, a fee of

1 \$100.00.

2       **(b)** ~~-(ii)-~~ For activities included in the minor project  
3 category as described in rules promulgated under this part and  
4 for a permit for the removal of vegetation in an area that is not  
5 more than 100 feet wide or the width of the property, whichever  
6 is less, or the mowing of vegetation in excess of what is allowed  
7 in section 32512(2)(a)(ii), in the area between the ordinary  
8 high-water mark and the water's edge, a fee of \$50.00.

9       **(c)** ~~-(iii)-~~ For construction or expansion of a marina, a fee  
10 of:

11       **(i)** ~~-(A)-~~ \$50.00 for an expansion of 1-10 slips to an  
12 existing permitted marina.

13       **(ii)** ~~-(B)-~~ \$100.00 for a new marina with 1-10 proposed marina  
14 slips.

15       **(iii)** ~~-(C)-~~ \$250.00 for an expansion of 11-50 slips to an  
16 existing permitted marina, plus \$10.00 for each slip over 50.

17       **(iv)** ~~-(D)-~~ \$500.00 for a new marina with 11-50 proposed  
18 marina slips, plus \$10.00 for each slip over 50.

19       **(v)** ~~-(E)-~~ \$1,500.00 if an existing permitted marina proposes  
20 maintenance dredging of 10,000 cubic yards or more or the  
21 addition of seawalls, bulkheads, or revetments of 500 feet or  
22 more.

23       **(d)** ~~-(iv)-~~ For major projects other than a project described  
24 in ~~subparagraph (iii)(E)-~~ **subdivision (c)(v)**, involving any of  
25 the following, a fee of \$2,000.00:

26       **(i)** ~~-(A)-~~ Dredging of 10,000 cubic yards or more.

27       **(ii)** ~~-(B)-~~ Filling of 10,000 cubic yards or more.

1           (iii) ~~-(C)-~~ Seawalls, bulkheads, or revetment of 500 feet or  
2 more.

3           (iv) ~~-(D)-~~ Filling or draining of 1 acre or more of coastal  
4 wetland.

5           (v) ~~-(E)-~~ New dredging or upland boat basin excavation in  
6 areas of suspected contamination.

7           (vi) ~~-(F)-~~ New breakwater or channel jetty.

8           (vii) ~~-(G)-~~ Shore protection, such as groins and underwater  
9 stabilizers, that extend 150 feet or more on Great Lakes  
10 bottomlands.

11          (viii) ~~-(H)-~~ New commercial dock or wharf of 300 feet or more  
12 in length.

13          (e) ~~-(v)-~~ For all other projects not listed in ~~subparagraphs~~  
14 ~~(i)-~~ **subdivisions (a)** through ~~(iv)-~~ **(d)**, \$500.00.

15          ~~(b) Beginning October 1, 2004, a fee of \$50.00 for any~~  
16 ~~project listed in subdivision (a).~~

17          (3) A project that requires review and approval under this  
18 part and 1 or more of the following is subject to only the single  
19 highest permit fee required under this part or the following:

20           (a) Part 301.

21           (b) Part 303.

22           (c) Part 323.

23           (d) Section 3104.

24           (e) Section 117 of the land division act, 1967 PA 288, MCL  
25 560.117.

26          (4) If work has been done in violation of a permit  
27 requirement under this part and restoration is not ordered by the

1 department of environmental quality, the department of  
2 environmental quality may accept an application for a permit if  
3 the application is accompanied by a fee equal to 2 times the  
4 permit fee required under this section.

5 (5) The department of environmental quality shall forward all  
6 fees collected under this section to the state treasurer for  
7 deposit into the land and water management permit fee fund  
8 created in section 30113.