

## SAFE DRINKING WATER ACT AMENDMENTS

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**House Bill 6577**

**Sponsor: Rep. John Pastor**

**Committee: Natural Resources, Great Lakes, Land Use, and Environment**

**Complete to 11-29-06**

### **A SUMMARY OF HOUSE BILL 6577 AS INTRODUCED 9-20-06**

House Bill 6577 would amend the Safe Drinking Water Act in a number of ways:

- Allow the Department of Environmental Quality (DEQ) to provide verbal, rather than written, approval of minor modifications to waterworks system construction permits in specified circumstances.
- Provide for expedited review of permit applications for certain water main installation projects located in a county with a population between 750,000 and 1,000,000 (Macomb County) and any contiguous county with a population greater than 160,000.
- Amend Section 21 of the act to restrict criminal penalties only to persons who "knowingly" violate the act.
- Permit law enforcement officers to issue and serve appearance tickets on persons for minor offenses under the Safe Drinking Water Act.

Verbal approval of minor modifications. The bill would create an exception to the general rule that written approvals are required for all modifications to a waterworks system for certain minor modifications. The DEQ could verbally approve minor modifications to construction permits "because of unforeseen site conditions that became apparent during construction."

Examples provided in the bill are "extending a hydrant lead or routing a water main around a manhole." A person requesting a minor modification would be required to provide to the DEQ specified information. A person receiving either written or verbal approval of a minor modification would be required to submit revised plans and specifications to the DEQ within 10 days of the approval.

Confirmation of verbal approval of a minor modifications. To obtain confirmation of the DEQ's verbal approval of a minor modification, a person would be required to send an e-mail to the DEQ, at a specified address, with a detailed description of the request for the modification. The DEQ would be required to make reasonable efforts to respond within two business days, confirming whether the request had been approved. If the department did not respond within two business days after receipt of the e-mail, the verbal approval would be considered confirmed.

Expedited review of certain water main permits. The bill would establish an "expedited permit application review process" for the period October 1, 2006 through September 30,

2009 for projects "described in subsection 6"—which are projects consisting solely of installation of new water mains of no greater than 10,000 feet located in a county with a population between 750,000 and 1,000,000 and any contiguous county with a population greater than 160,000.

Application requirements. A supplier requesting expedited review must:

- Notify the DEQ electronically, in accordance with instructions on the DEQ's website, at least two weeks before submitting an expedited permit application review.
- Submit the request for an expedited review electronically with the appropriate fee. (Credit card payment would be required.)
- Submit a written copy of the construction plans and specifications for the project to the DEQ postmarked no later than the date that the application was submitted electronically.

Fees. The bill would establish the following fees for expedited review of eligible water main projects:

- Total length less than 1,000 feet--\$1,000.
- Total length greater than 1,000 but less than 3,000 feet--\$1,500.
- Total length greater than 3,000 but less than or equal to 10,000 feet--\$2,000.

Timetable for determining whether an application is eligible for expedited review. Except as otherwise provided in Section 4a(5) of the bill, the department would not be required to conduct an expedited review (and the fee would not be refunded) if (1) an application were incomplete, (2) the appropriate fee had not been submitted, or (3) the required advance electronic notification had not been made. Within 10 business days of receipt of an application for expedited review, the DEQ would have to notify the supplier of the reasons why the application would not be expedited. The supplier could correct the deficiencies and submit a new request for an expedited permit application review with the appropriate fee. The bill would prohibit the DEQ from rejecting a resubmitted application solely because it failed to identify the deficiencies in the original application.

For a second submission of an application that originally failed to meet the specified requirements, an applicant would have to include a fee equal to 10 percent of the regular fee. If an applicant made additional changes other than those identified as the department as deficient, the applicant would have to include the regular fee. For each subsequent submittal of an application, the applicant would have to include the regular fee.

If an applicant fails to provide a complete application or the appropriate fee, the department would have to notify the applicant within five business days. The application would not be processed until the deficient items were addressed. If the applicant does not provide the deficient items within five days after notification, the application would be handled as provided in Section 4a(3) of the bill. The fee for expedited review would be

refunded if the department fails to meet the deadlines established in Section 4a(7) the bill, discussed below.

Projects eligible for expedited review. As previously described, only projects that consist solely of installation of new water mains not exceeding 10,000 feet located in a county with a population between 750,000 and 1,000,000 and any contiguous county with a population greater than 160,000 are eligible for the expedited process. The bill expressly provides that other types of projects are not eligible for expedited review. Projects not eligible for expedited review include projects involving water treatment processes, ground or elevated storage tanks, chemical feed systems, wells, booster stations, pumps, new proposed waterworks systems subject to a capacity assessment, or projects under the State Drinking Water Revolving Fund established under the Shared Credit Rating Act.

Deadlines for processing expedited permit applications. The DEQ would have to follow the following schedule when reviewing and deciding complete applications submitted for expedited review:

- From October 1, 2006 through September 30, 2007, the DEQ would have to make a permit decision within **20 business days** of receipt of a complete application, including plans and specifications.
- From October 1, 2007, through September 30, 2008, within **15 business days**.
- From October 1, 2008, through September 30, 2009, within **10 business days**.

If the department failed to meet these deadlines, it would continue to expedite review of the application.

Deposit of fees. Expedited review fees would be deposited into the Infrastructure Construction Fund created in Section 4113 of the Natural Resources and Environmental Protection Act.

Definitions. “Complete application” would mean: (1) The DEQ application form is completed, (2) all requested information is provided; (3) the submitted construction plans and specifications are prepared and sealed by a professional engineer licensed under Article 20 of the Occupational Code; and (4) the application, construction plans, and specifications can be processed for issuance of the permit without additional information. The department could consider an application with minor design issues complete on condition that those issues were corrected.

“Project” would mean a plan or proposal to install new water mains within a waterworks system located in one general area where all the components are interconnected but does not include a waterworks system proposed for construction in separate parcels of land or development areas.

Criminal provisions of Safe Drinking Water Act. The bill would amend the standard for misdemeanor violations under Section 21 of the act. Under the bill, only persons who knowingly violate the act or rules under it would be guilty of a misdemeanor.

The bill would also permit law enforcement officers to issue and serve appearance tickets on persons for a minor offense under Sections 9a and 9g of Chapter IV of the Code of Criminal Procedure (MCL 764.9a and 764.9g). “Minor offense” would mean a violation of a permit issued under this Act “that does not functionally impair the operation or capacity of a waterworks system or the level of public health protection it provides.”

**FISCAL IMPACT:**

The department's cost for the processing of expedited permits would be covered by the fee structure provided in Sec. 4A. There would be an indeterminate fee revenue increase to the Infrastructure Construction Fund. (as referenced in Section 4A(9) of the bill.)

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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.