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BILL ANALYSIS

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House Bill 4892 (as passed by the House)
Sponsor: Representative Tom Casperson
House Committee: Transportation
Senate Committee: Natural Resources and Environmental Affairs

Date Completed: 5-22-06

CONTENT

The bill would amend Part 303 (Wetlands Protection) of the Natural Resources and Environmental Protection Act to prohibit the Department of Environmental Quality (DEQ) from imposing conditions on a permit under Part 303 for an activity undertaken in conjunction with road work, without the consent of the entity having legal jurisdiction over the road, under certain circumstances.

Under Part 303, a person may not engage in certain activities except as otherwise provided in Part 303 or by a permit issued by the DEQ. These activities include constructing, operating, or maintaining any use or development in a wetland. The DEQ may impose conditions on a permit for a use or development if the conditions are designed to remove an impairment to the benefits of the wetland, mitigate the impact of a discharge of fill material, or otherwise improve water quality.

The bill would make an exception to this provision for a permit for an activity undertaken in conjunction with road work. In that case, the DEQ could not impose conditions on the permit without the consent of the entity with legal jurisdiction over the road if the road were in existence on the bill's effective date, and the activity took place within the right-of-way of the road.

Under the bill, "road" would mean a city or village street, county road, or State trunk line highway.

"Road work" would mean preservation as defined under Section 10c of Public Act 51 of 1951, the Michigan Transportation Fund law. Under that section, "preservation" means an activity undertaken to preserve the integrity of the existing roadway system, and includes maintenance; capital preventive treatments; safety projects; reconstruction; resurfacing; restoration; rehabilitation; widening of less than the width of one lane; adding auxiliary weaving, climbing, or speed change lanes; modernizing intersections; adding auxiliary turning lanes of a half-mile or less; and installing traffic signs or signals in new locations and replacing existing signal devices. The term does not include new construction of highways, roads, streets, or bridges; a project that increases the capacity of a highway facility to accommodate that part of traffic having neither an origin nor a destination within the local area; widening of a lane width or more; or the addition of turn lanes more than a half-mile long.

MCL 324.30312

Legislative Analyst: Julie Koval

FISCAL IMPACT

The bill would have an indeterminate fiscal impact on the State and local units of government. Fewer permit conditions would be imposed on preservation activities within existing road rights-of-way. This could mean that less environmental mitigation activity would be required by the Michigan Department of Transportation (MDOT) and local road agencies for indeterminate savings, although Federal environmental regulations still would apply, which could negate the potential savings. Any savings to MDOT would mean less expenditure from the Michigan Transportation Fund.

Fiscal Analyst: Jessica Runnels

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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.