



Senate Fiscal Agency
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BILL



ANALYSIS

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House Bill 4303 (Substitute H-1 as passed by the House)

Sponsor: Representative Ed McBroom

House Committee: Transportation

Senate Committee: Transportation

Date Completed: 6-11-12

CONTENT

The bill would amend Part 303 (Wetland Protection) of the Natural Resources and Environmental Protection Act to prohibit the Department of Environmental Quality (DEQ) from imposing a requirement for compensatory wetland mitigation on a permit for an activity undertaken in conjunction with road work, without the consent of the entity with jurisdiction over the road, under certain circumstances. The bill also would explicitly prohibit the DEQ from imposing compensatory wetland mitigation as a condition on a general permit.

Part 303 requires a person to obtain a permit from the DEQ to do any of the following, subject to certain exceptions:

- Deposit or permit the placement of fill material in a wetland.
- Dredge, remove, or permit the removal of soil or minerals from a wetland.
- Construct, operate, or maintain any use or development in a wetland.
- Drain surface water from a wetland.

Part 303 authorizes the DEQ to impose as a condition on any permit, other than a general permit, a requirement for compensatory wetland mitigation. The Department may approve one or more of the following methods of compensatory wetland mitigation:

- The acquisition of approved credits from a wetland mitigation bank.
- The restoration of previously existing wetland.
- The creation of new wetlands.
- The preservation of exceptional wetlands.

The bill would eliminate the reference to "other than a general permit", and specifically prohibit the DEQ from imposing compensatory wetland mitigation as a condition on a general permit.

Under Part 303, maintenance or improvement of public streets, highways, or roads is allowed in a wetland without a permit, if conducted in the right-of-way and in a manner that assures that any adverse effect on the wetland will be otherwise minimized. (Maintenance or improvement does not include adding extra lanes, increasing the right-of-way, or deviating from the existing location of the street, highway, or road.) For road work that was not exempt from the permit requirement, the bill would prohibit the DEQ from imposing compensatory wetland mitigation as a condition on a permit for an activity undertaken in conjunction with road work, without the consent of the entity with legal jurisdiction over the road, if both of the following conditions were met:

- The road was in existence on the bill's effective date.
- The activity took place within the road right-of-way.

The bill would define "road" as a city or village street, county road, or State trunk line highway. "Road work" would mean the maintenance, repair, improvement, or reconstruction of a road. The term would not include the construction of a road.

MCL 324.30311d

Legislative Analyst: Julie Cassidy

FISCAL IMPACT

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

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.