

HOUSE BILL No. 4501

March 24, 2011, Introduced by Reps. Opsommer, Knollenberg and Kowall and referred to the Committee on Regulatory Reform.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending sections 1305, 1307, and 1311 (MCL 324.1305, 324.1307,
and 324.1311), as added by 2004 PA 325.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1305. (1) ~~Effective 30 days after the state receives an~~
2 ~~application for a permit, the application shall be considered to be~~
3 ~~administratively complete unless~~ **AFTER A DEPARTMENT RECEIVES AN**
4 **APPLICATION FOR A PERMIT, THE DEPARTMENT SHALL DETERMINE WHETHER**
5 **THE APPLICATION IS ADMINISTRATIVELY COMPLETE. UNLESS** the department
6 proceeds as provided under subsection (2), **THE APPLICATION SHALL BE**
7 **CONSIDERED TO BE ADMINISTRATIVELY COMPLETE WHEN THE DEPARTMENT**
8 **MAKES THAT DETERMINATION OR 30 DAYS AFTER THE STATE RECEIVES THE**
9 **APPLICATION, WHICHEVER IS FIRST.**

1 (2) If, before the expiration of the 30-day period under
2 subsection (1), the department notifies the applicant that the
3 application is not administratively complete, specifying the
4 information necessary to make the application administratively
5 complete, or notifies the applicant that a fee required to
6 accompany the application has not been paid, specifying the amount
7 due, the running of the 30-day period under subsection (1) is
8 tolled until the applicant submits to the department the specified
9 information or fee amount due. The notice shall be given in writing
10 or by electronic notification.

11 **(3) AFTER AN APPLICATION IS CONSIDERED TO BE ADMINISTRATIVELY**
12 **COMPLETE UNDER THIS SECTION, THE DEPARTMENT SHALL NOT MAKE MORE**
13 **THAN 1 REQUEST FOR ADDITIONAL INFORMATION THE DEPARTMENT CONSIDERS**
14 **NECESSARY TO MAKE THE APPLICATION TECHNICALLY COMPLETE.**

15 Sec. 1307. (1) By the processing deadline, the department
16 shall approve or deny an application for a permit. If requested by
17 the permit applicant, the department may extend the processing
18 period for a permit by not more than 20%.

19 (2) Approval of an application for a permit may be granted
20 with conditions or modifications necessary to achieve compliance
21 with the part or parts of this act under which the permit is
22 issued.

23 (3) ~~(2)~~—A denial of an application for a permit shall include
24 an explanation of the reasons for denial and make specific
25 reference to provisions of this act or rules promulgated under this
26 act providing the basis for denial.

27 (4) ~~(3)~~—Except for permits described in subsection ~~(4)~~—(5), if

1 the department fails to satisfy the requirements of subsection (1)
2 with respect to an application for a permit, the department shall
3 pay the applicant an amount equal to ~~15%~~**50%** of the greater of the
4 following, as applicable:

5 (a) The amount of the application fee for that permit.

6 (b) If an assessment or other fee is charged on an annual or
7 other periodic basis by the department to a person holding the
8 permit for which the application was submitted, the amount of the
9 first periodic charge of that assessment or other fee for that
10 permit.

11 **(5)** ~~(4)~~—If the department fails to satisfy the requirements of
12 subsection (1) with respect to a permit ~~under~~**REQUIRED BY** section
13 11509, 11512, or ~~30307~~**30304**, the application shall be considered
14 to be approved and the department shall be considered to have made
15 any determination required for approval.

16 **(6)** ~~(5)~~—The failure of the department to satisfy the
17 requirements of subsection (1) or the fact that the department is
18 required to make a payment under subsection ~~(3)~~**(4)** or is
19 considered to have approved a permit under subsection ~~(4)~~**(5)** shall
20 not be used by the department as the basis for discriminating
21 against the applicant. If the department is required to make a
22 payment under subsection ~~(3)~~**(4)**, the application shall be
23 processed in sequence with other applications for the same type of
24 permit, based on the date on which the processing period began,
25 unless the director determines on an application-by-application
26 basis that the public interest is best served by processing in a
27 different order.

(7) IF A DEPARTMENT FAILS TO SATISFY THE REQUIREMENTS OF SUBSECTION (1) 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 SHALL IMMEDIATELY DEVOTE EXTRA RESOURCES TO ELIMINATING ANY BACKLOG AND SATISFYING THE REQUIREMENTS OF SUBSECTION (1) WITH RESPECT TO NEW APPLICATIONS FOR THAT TYPE OF PERMIT WITHIN THE NEXT FISCAL QUARTER.

(8) ~~(6)~~—If the department fails to satisfy the requirements of subsection (1), the director shall notify the appropriations committees of the senate and house of representatives of the failure. The notification shall be in writing and shall include both of the following:

(a) An explanation of the reason for the failure.

(b) A statement of the amount the department was required to pay the applicant under subsection ~~(3)~~—(4) or a statement that the department was required to consider the application to be approved under subsection ~~(4)~~—(5), as applicable.

Sec. 1311. ~~The~~ **BY DECEMBER 1 EACH YEAR, THE** director ~~of the~~ department shall submit a report ~~by December 1, 2005 and each year thereafter~~ to the standing committees and appropriations subcommittees of the senate and house of representatives with primary responsibility for issues under the jurisdiction of that department. The department shall post the current report on its website. The report shall include all of the following information for each type of permit for the preceding fiscal year:

(a) The number of applications for permits the department received.

1 (b) The number of applications approved, the number of
2 applications approved by the processing deadline, the number of
3 applications approved after the processing deadline, and the
4 average time for the department to determine administrative
5 completeness and to approve or disapprove applications.

6 (c) The number of applications denied, the number of
7 applications denied by the processing deadline, and the number of
8 applications denied after the processing deadline.

9 (d) The number of applications approved or denied after the
10 processing deadline that, based on the director's determination of
11 the public interest, were not processed in sequence as otherwise
12 required by section ~~1307(5)~~1307(6).

13 (e) The number of applications that were not administratively
14 complete when received.

15 (f) The amount of money refunded and discounts granted under
16 section 1307.

17 (g) The number of applications processed as provided in
18 section 1309.

19 (H) IF A DEPARTMENT FAILED TO SATISFY THE REQUIREMENTS OF
20 SECTION 1307(1) WITH RESPECT TO 10% OR MORE OF THE APPLICATIONS FOR
21 A PARTICULAR TYPE OF PERMIT RECEIVED DURING A QUARTER OF THE STATE
22 FISCAL YEAR, THE TYPE OF PERMIT AND PERCENTAGE OF APPLICATIONS FOR
23 WHICH THE REQUIREMENTS WERE NOT MET AND INFORMATION ON WHETHER AND
24 HOW THE DEPARTMENT ELIMINATED ANY BACKLOG AND SATISFIED THE
25 REQUIREMENTS OF SECTION 1307(1) WITH RESPECT TO NEW APPLICATIONS
26 FOR THAT TYPE OF PERMIT WITHIN THE NEXT FISCAL QUARTER.