

HOUSE BILL No. 4016

January 13, 2011, Introduced by Reps. Stamas and Johnson and referred to the Committee on Regulatory Reform.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
(MCL 324.101 to 324.90106) by adding part 27.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

PART 27 PROGRAM REVIEW

SEC. 2701. AS USED IN THIS PART:

(A) "DEPARTMENT" MEANS THE DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENT.

(B) "PANEL" MEANS THE NREPA PROGRAM REVIEW PANEL CREATED IN SECTION 2705(1).

SEC. 2703. (1) THE DEPARTMENT AND ANY OTHER STATE DEPARTMENT THAT ADMINISTERS A PROGRAM UNDER THIS ACT SHALL DO 1 OF THE FOLLOWING FOR EACH SUCH PROGRAM:

(A) HIRE THROUGH A REQUEST FOR PROPOSALS PROCESS A QUALIFIED,

1 INDEPENDENT PERSON TO PERFORM A BENCHMARK ANALYSIS OF THE PROGRAM.

2 (B) ARRANGE FOR AN INDEPENDENT AND EXTERNAL PEER REVIEW OF THE
3 PROGRAM.

4 (2) A PERSON SHALL NOT BE SELECTED TO PERFORM A BENCHMARK
5 ANALYSIS OR PEER REVIEW UNDER SUBSECTION (1) UNLESS THE PERSON HAS
6 A PROVEN ABILITY TO EVALUATE REGULATORY ACTIVITIES AND MAKE
7 RECOMMENDATIONS FOR IMPROVEMENT.

8 (3) THE DEPARTMENT AND ANY OTHER STATE DEPARTMENT THAT
9 ADMINISTERS A PROGRAM UNDER THIS ACT SHALL EACH COMPLETE 2
10 BENCHMARK ANALYSES OR PEER REVIEWS IN ANY COMBINATION BY FEBRUARY
11 1, 2012 AND EACH YEAR THEREAFTER UNTIL ALL PROGRAMS UNDER THIS ACT
12 ADMINISTERED BY THAT ENTITY HAVE BEEN ANALYZED OR REVIEWED.

13 (4) BY FEBRUARY 1, 2012, THE DEPARTMENT SHALL COMPLETE A
14 BENCHMARK ANALYSIS OR PEER REVIEW OF THE PART 201 REMEDIATION
15 PROGRAM AND OF THE PART 31 NPDES PROGRAM PURSUANT TO SUBSECTION
16 (3). THE DEPARTMENT SHALL SELECT A PERSON OR PERSONS TO PERFORM THE
17 BENCHMARK ANALYSES OR SHALL ARRANGE FOR THE INDEPENDENT, EXTERNAL
18 PEER REVIEWS FOR THESE PROGRAMS BY JUNE 1, 2011. AN ANALYSIS OR
19 PEER REVIEW FOR THE DEPARTMENT UNDER THIS SECTION SHALL INCLUDE ALL
20 OF THE FOLLOWING:

21 (A) A CALCULATION OF THE DEPARTMENT'S PER-PERMIT COST TO
22 PROCESS THE PERMITS AND ADMINISTER THE PROGRAM.

23 (B) A REVIEW OF THE TIMELINESS OF THE PROCESS FROM RECEIPT OF
24 A PERMIT APPLICATION TO APPROVAL OR DENIAL OF A PERMIT APPLICATION.

25 (C) A REVIEW OF CUSTOMER SERVICE PRACTICES.

26 (D) A REVIEW OF MEASURABLE ENVIRONMENTAL IMPACTS.

27 (E) FOR THE PART 31 AND PART 201 PROGRAMS, A COMPARISON OF THE

1 DEPARTMENT'S PERFORMANCE TO THAT OF OTHER GREAT LAKES STATES.

2 SEC. 2705. (1) THE NREPA PROGRAM REVIEW PANEL IS CREATED
3 WITHIN THE DEPARTMENT.

4 (2) THE PANEL SHALL CONSIST OF THE FOLLOWING MEMBERS:

5 (A) TWO INDIVIDUALS APPOINTED BY THE SPEAKER OF THE HOUSE, 1
6 REPRESENTING PERMIT HOLDERS AND 1 REPRESENTING BUSINESS.

7 (B) TWO INDIVIDUALS APPOINTED BY THE SENATE MAJORITY LEADER, 1
8 REPRESENTING PERMIT HOLDERS AND 1 REPRESENTING BUSINESS.

9 (C) THREE INDIVIDUALS APPOINTED BY THE GOVERNOR, CONSISTING OF
10 2 EMPLOYEES OF THE DEPARTMENT AND 1 PERSON REPRESENTING THE GENERAL
11 PUBLIC.

12 (3) THE MEMBERS FIRST APPOINTED TO THE PANEL SHALL BE
13 APPOINTED BY JULY 1, 2011.

14 (4) MEMBERS OF THE PANEL SHALL SERVE FOR TERMS OF 4 YEARS OR
15 UNTIL A SUCCESSOR IS APPOINTED.

16 (5) IF A VACANCY OCCURS ON THE PANEL, THE VACANCY SHALL BE
17 FILLED FOR THE UNEXPIRED TERM IN THE SAME MANNER AS THE ORIGINAL
18 APPOINTMENT WAS MADE.

19 (6) THE APPOINTING OFFICER MAY REMOVE A MEMBER OF THE PANEL
20 FOR INCOMPETENCY, DERELICTION OF DUTY, MALFEASANCE, MISFEASANCE, OR
21 NONFEASANCE IN OFFICE, OR ANY OTHER GOOD CAUSE.

22 (7) THE FIRST MEETING OF THE PANEL SHALL BE CALLED BY THE
23 DIRECTOR OF THE DEPARTMENT. AT THE FIRST MEETING, THE PANEL SHALL
24 ELECT FROM AMONG ITS MEMBERS A CHAIRPERSON AND OTHER OFFICERS AS IT
25 CONSIDERS NECESSARY OR APPROPRIATE. AFTER THE FIRST MEETING, THE
26 PANEL SHALL MEET AT LEAST QUARTERLY, OR MORE FREQUENTLY AT THE CALL
27 OF THE CHAIRPERSON OR IF REQUESTED BY 2 OR MORE MEMBERS.

1 (8) A MAJORITY OF THE MEMBERS OF THE PANEL CONSTITUTE A QUORUM
2 FOR THE TRANSACTION OF BUSINESS AT A MEETING OF THE PANEL. A
3 MAJORITY OF THE MEMBERS PRESENT AND SERVING ARE REQUIRED FOR
4 OFFICIAL ACTION OF THE PANEL.

5 (9) THE BUSINESS THAT THE PANEL MAY PERFORM SHALL BE CONDUCTED
6 AT A PUBLIC MEETING OF THE PANEL HELD IN COMPLIANCE WITH THE OPEN
7 MEETINGS ACT, 1976 PA 267, MCL 15.261 TO 15.275.

8 (10) A WRITING PREPARED, OWNED, USED, IN THE POSSESSION OF, OR
9 RETAINED BY THE PANEL IN THE PERFORMANCE OF AN OFFICIAL FUNCTION IS
10 SUBJECT TO THE FREEDOM OF INFORMATION ACT, 1976 PA 442, MCL 15.231
11 TO 15.246.

12 (11) MEMBERS OF THE PANEL SHALL SERVE WITHOUT COMPENSATION.
13 HOWEVER, MEMBERS OF THE PANEL MAY BE REIMBURSED FOR THEIR ACTUAL
14 AND NECESSARY EXPENSES INCURRED IN THE PERFORMANCE OF THEIR
15 OFFICIAL DUTIES AS MEMBERS OF THE PANEL.

16 (12) THE PANEL SHALL ASSIST A PERSON PERFORMING A BENCHMARK
17 ANALYSIS OR PEER REVIEW UNDER SECTION 2703 IN DEVELOPING A
18 FRAMEWORK FOR THE WORK.

19 (13) THE PANEL IS DISSOLVED EFFECTIVE JULY 1, 2016.