



**Senate Fiscal Agency**  
P. O. Box 30036  
Lansing, Michigan 48909-7536

**BILL ANALYSIS**

**Telephone: (517) 373-5383**  
**Fax: (517) 373-1986**

Senate Bill 1211 (Substitute S-1 as reported)  
Sponsor: Senator Tom Casperson  
Committee: Natural Resources

**CONTENT**

The bill would amend Part 301 (Inland Lakes and Streams) and Part 303 (Wetlands Protection) of the Natural Resources and Environmental Protection Act (NREPA) to do the following:

- Specify that a civil or criminal fine authorized to be imposed for each day of a violation could not be imposed for a day of violation occurring after commencement of both the enforcement action and negotiations between the Department of Environmental Quality (DEQ) or the Attorney General or other prosecuting attorney and the violator over the enforcement action.
- Require the DEQ to consider cost, existing technology, and logistics in light of an overall farm or temporary road project's purpose in a wetland in determining whether an alternative would minimize any adverse effects on the wetland.
- Revise the conditions under which the Department could enter on, upon, or through the premises on which certain activity listed in Part 303 is located or on which information required to be maintained under Part 303 is located.
- Require, on stipulation of the parties or motion, a court that conducted a civil action under Part 303, or a presiding officer who conducted a contested case under Part 303, to award to a prevailing party the costs and fees incurred by the party in connection with the civil action or contested case, unless the Department demonstrated that the State's position was substantially justifiable.
- Revise terms used throughout the Act.

The bill also would amend the Act to extend a provision requiring a department to contact a permittee and extend an offer to discuss potential civil enforcement actions to any person, and require the department to provide that person a statement of facts and a list of each specific provision of statute, rule, or permit that the person was alleged to have violated.

MCL 324.1511 et al.

Legislative Analyst: Nathan Leaman

**FISCAL IMPACT**

The bill would have a small, but likely positive, fiscal impact on the Department of Environmental Quality, and no fiscal impact on local units of government. The bill effectively would tighten the statutory definition of wetland, which would result in a reduction in the total number of acres subject to regulation as such. Under current law, owners of wetlands must apply for a permit to undertake certain activities on that land. Under the bill, there would presumably be fewer of these owners and, therefore, fewer permits for the DEQ to issue, as some parcels that are currently subject to the permit requirement would be no longer. This would result in the loss of an unknown amount of permit revenue, but also a reduction in costs related to the administration of the wetland permit program. Since wetland permit revenue is not sufficient to cover the entire cost of the wetland program, it is likely that the

savings would exceed the amount of revenue lost, and save the DEQ a small amount of General Fund/General Purpose funds.

The bill would have a negative fiscal impact on the State and no fiscal impact on local government. The bill could reduce civil or criminal fine revenue by suspending the imposition of daily fines once the violator entered into negotiations with the State, regardless of whether the violations had ceased. Any decreased civil infraction and penal fine revenue would decrease funding to public libraries. Additional legal costs for the State could accrue when a State agency filed action against a party in violation of the Act. The bill would raise the burden of proof for the State to bring forward evidence to avoid paying the other party's costs, potentially including legal fees, which would likely result in increased court costs to the State.

Date Completed: 12-6-18

Fiscal Analyst: Abbey Frazier  
Josh Sefton

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