

## **EXEMPT TEMPORARY EROSION CONTROL STRUCTURES FROM PERMIT PROCESS**

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<http://www.house.mi.gov/hfa>

**Senate Bill 714 as passed by the Senate**

**Sponsor: Sen. Roger Victory**

**House Committee: Natural Resources and Outdoor Recreation**

**Senate Committee: Environmental Quality**

**Revised 2-18-20**

Analysis available at  
<http://www.legislature.mi.gov>

### **SUMMARY:**

Senate Bill 714 would amend Part 323 (Shorelands Protection and Management) and Part 325 (Great Lakes Submerged Lands) of the Natural Resources and Environmental Protection Act to exempt temporary erosion control structures from the permitting process.

Currently under the act, permits are required for certain construction activities. The bill would add a permitting exemption for construction of a temporary erosion control structure if all of the following conditions were met:

- The structure is installed on shoreland of one of the following bodies of water when the level of that body of water is at least the following applicable distance above sea level:
  - Lake Superior, 603.1 feet.
  - Lake Michigan, 581.5 feet.
  - Lake Huron, 581.5 feet.
  - Lake St. Clair, 576.7 feet.
  - Lake Erie, 573.8 feet.
- The structure is constructed of materials approved by the Department of Environment, Great Lakes, and Energy (EGLE).
- The structure is constructed by a licensed contractor.
- Before installation commences, the property owner notifies EGLE in writing of all of the following:
  - The name, address, phone number, and email address of the property owner.
  - The location of the proposed structure.
  - The type and approximate amount of material of which the structure will be composed.

Within 78 weeks after filing notice as outlined above, the property owner would have to either remove the temporary structure or file an application for any permit required under Part 323 or 325, as applicable, for a permanent erosion control structure to replace the temporary structure. If the application for a permanent structure were denied, the property owner would have to remove the temporary structure within 90 days after the denial. Within 14 days after removal of a temporary structure, the property owner would have to notify EGLE in writing of the removal. The notice would have to state the name, address, phone number, and email address of the property owner and the location of the former structure. The bill would not require a permit for the removal of a temporary erosion control structure.

Under the bill, a person operating under Part 323 who violated the above process could be ordered to pay a civil fine of up to \$2,000. A violation could be prosecuted by the prosecutor of the county in which the violation occurred or by the attorney general. A person operating under Part 325 who violated the above process would be guilty of a misdemeanor punishable by imprisonment for up to one year or a fine of up to \$1,000, or both.

MCL 324.32312 et seq. and proposed MCL 324.32312c and 324.32517

**FISCAL IMPACT:**

Senate Bill 714 would have an indeterminate fiscal impact on the state and on local units of government. The number of convictions that would result under provisions of the bill is not known. Violations could be either misdemeanors or civil infractions, depending on the circumstances. New misdemeanor convictions would increase costs related to county jails and/or local misdemeanor probation supervision. Costs of local incarceration in county jails and local misdemeanor probation supervision, and how those costs are financed, vary by jurisdiction. The fiscal impact on local court systems would depend on how provisions of the bill affected caseloads and related administrative costs. Any increase in penal or civil fine revenue would increase funding for public and county law libraries, which are the constitutionally designated recipients of those revenues.

The bill is likely to reduce revenue for EGLE by establishing exemptions to current requirements for Great Lakes shoreline permits and submerged lands permits; these permits range between \$50 to \$500 and \$50 to \$2,000 respectively. These two permits, along with four others, comprise the department's six land and water permits, which collectively generate about \$2.1 million in annual revenue. This revenue primarily supports land and water interface permit programs, which administers the following: Flood Hazard, National Flood Insurance, and Dam Safety programs; permit process for shoreline construction; compliance enforcement for lakes, streams, wetlands, Great Lakes, flood plains, and sand dunes areas; and the Great Lakes Shorelands Program. The extent of potential revenue loss is unclear as it is unknown how many permit applicants would be granted a temporary exemption as provided under the bill. The bill is unlikely to have a fiscal impact on local units of government unless a local government is a property owner that would otherwise be subject to permit requirements under current law, in which case the local government in question may realize a permit cost savings through the granting of a temporary permit.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.