



Senate Fiscal Agency
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Senate Bill 813 (as introduced 1-12-22)
Sponsor: Senator Sean McCann
Committee: Natural Resources

Date Completed: 2-7-22

CONTENT

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

- Allow the Department of Environment, Great Lakes, and Energy (EGLE) to issue a written emergency order requiring the owner of a structure or fill located on bottomlands to repair or remove the structure or fill, or take any other action EGLE determined necessary, if the structure or fill were in imminent danger or failure or were causing or threatening to cause harm to public health, safety, welfare, property, or the natural resources.**
- Allow EGLE to modify the requirements of an emergency order or terminate it if all necessary actions were completed and an emergency no longer existed.**
- Require EGLE, within 15 days after issuing an order, to provide the owner with an opportunity for a hearing under the Administrative Procedures Act.**
- Require EGLE, during a hearing, to determine if the emergency order would have to be continued, modified, suspended, or terminated.**

Under Part 301, a person is required to have a permit from EGLE to dredge or fill bottomland, or to construct, enlarge, extend, remove, or place a structure on bottomland. "Bottomland" means the land area of an inland lake or stream that lies below the ordinary high-water mark and that may or may not be covered by water.

Under the bill, EGLE could issue a written emergency order that required the owner of a structure or fill located on bottomlands to immediately repair or remove the structure or fill, or take any other action EGLE determined necessary, if the structure or fill were in imminent danger of failure or if it were causing or threatening to cause harm to public health, safety, welfare, property, or the natural resources or the public trust in those natural resources. The Department could modify the requirements of an emergency order and could terminate the order upon determination, in writing, that all necessary emergency actions were completed and that an emergency no longer existed.

Within 15 days after EGLE issued an emergency order, it would have to provide the owner with an opportunity for a hearing under Chapter 4 of the Administrative Procedures Act (which pertains to procedures in contested cases). At the hearing, EGLE would have to determine, based on information and fact, if the emergency order would have to be continued, modified, suspended, or terminated as necessary for or consistent with the protection of public health, safety, welfare, property, or natural resources or the public trust in those resources.

Proposed MCL 324.30111d

Legislative Analyst: Dana Adams

FISCAL IMPACT

The bill would have a negative fiscal impact on the Department of Environment, Great Lakes, and Energy and no direct fiscal impact on local units of government. The bill would grant EGLE authority to issue written emergency orders to the owners of structures located on bottomlands. The magnitude of the negative fiscal impact on DEGLE is indeterminate and would depend on the volume of its use of the new emergency authority. The cost of this change would be equal to the Department's increase in administrative costs and any legal expenses incurred from court challenges.

While the bill would have no direct fiscal impact on local governments, there would be a benefit if EGLE were successful in using its emergency authority to prevent, mitigate, or remediate environmental damage. Environmental damage typically has a deleterious effect on local economies by displacing outdoor industries such as boating, fishing, and other forms of recreation.

Fiscal Analyst: Ben Dawson

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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.