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Senate Bill 61 (as introduced 1-28-21)
Sponsor: Senator Roger Victory
Committee: Environmental Quality

Date Completed: 2-23-21

CONTENT

The bill would amend Part 325 (Great Lakes Submerged Lands) the Natural Resources and Environmental Protection Act to do the following:

- **Specify that the ordinary high-water mark of the Great Lakes would be at the elevations currently prescribed, or the elevation of the surface of each lake during calm water, whichever was higher.**
- **Require the Department of Environment, Great Lakes, and Energy (EGLE), to develop and make available a simplified application for a permit if the water level of any lake were one foot or more above the numeric level specified for that lake.**
- **Prescribe requirements that would have to be met for an applicant to use the simplified application for a shoreline protection structure.**
- **Specify the information that would have to be included on a simplified permit application.**
- **Prescribe application and processing periods for a simplified permit application.**

Ordinary High-Water Marks

Part 325 governs all of the waters of the Great Lakes within the State's boundaries and all of the unpatented lake bottomlands and unpatented made lands in the Great Lakes, including the bays and harbor of the Great Lakes, belonging to the State or held in trust by it. "Land" or "lands", as used in Part 325, refers to the unpatented lake bottomlands and unpatented made lands and patented lands in the Great Lakes and the bays and harbors of the Great Lakes lying below and lakeward of the natural, ordinary high-water mark.

"Ordinary high-water mark" means the line between upland and bottomland that persists through successive changes in water levels, below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil itself, the configuration of the surface of the soil, and the vegetation. On an inland lake that has a level established by law, it means the high established level. Where water returns to its natural level as the result of the permanent removal or abandonment of a dam, it means the natural ordinary high-water mark.

Currently, under Part 325, the ordinary high-water mark is at the following elevations above sea level, international Great Lakes datum of 1955:

- Lake Superior, 601.5 feet.
- Lakes Michigan and Huron, 579.8 feet.
- Lake St. Clair, 574.7 feet.
- Lake Erie, 571.6 feet.

Under the bill, the ordinary high-water mark would be at the elevations prescribed above, or the elevation of the surface of each lake during calm water, whichever was higher.

Simplified Permits

Part 325 governs the issuance of permits for various activities or work performed on or near the Great Lakes. Under the bill, the Department would have to develop and make available a simplified application for a permit under Part 325 if the water level of any lake were one foot or more above the numeric level specified for that lake.

An applicant could use the simplified application for a shoreline protection structure if all of the following requirements were met:

- The project fell within a shoreline protection minor project category established under Section 32512a.
- The work had not been done in violation of a permit requirement under Part 325.

(Section 32512a requires the Department to establish minor project categories of activities that are similar in nature, have minimal adverse environmental effects when performed separately, and will have only minimal cumulative adverse effects on the environment.)

The simplified permit application would have to include all of the following:

- The name, address, and telephone number of the property owner and any other contact information EGLE required.
- The location of the proposed structure by address and legal description.
- A description of the purpose of the project and of project construction.
- A plan showing the project on an adequate scale with contours and cross-section profiles.
- Other relevant information required by EGLE.

All of the following would apply to a simplified permit application under the bill:

- The application period, notwithstanding the time frame in Section 1305(1), would be 14 days.
- The processing period, notwithstanding the time frame in Section 1301(i), would be 28 days.

(Section 1305(1) requires the Department to determine whether an application is administratively complete after it receives it and specifies that the application is administrative complete when the Department makes that determination or, unless the Department notifies the applicant otherwise, 30 days after receiving it, whichever is first. Section 1301(j) defines "processing period" as the specified time period after the close of the application period for various permits under the Act. For a minor project established under Section 32512a(1) or a specific project under a general permit under Section 32512a(2), the processing period is 60 days. Generally, for a permit under Section 32512, the processing period is 90 days, unless a hearing is held, in which case, the period is 150 days.)

MCL 324.32502 et al.

Legislative Analyst: Dana Adams

FISCAL IMPACT

The bill would require the Department to develop a simplified application process for permits, which would result in some short-term costs in an amount that is unknown at this time. The

new timeline requirements for the application and processing periods could create an ongoing expense for additional FTE hours, depending on the actual number of applications received.

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.