

TEMPORARY WATER VESSEL ORDINANCES

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House Bill 5463 (proposed substitute H-1)

Sponsor: Rep. Jim Lilly

Committee: Natural Resources and Outdoor Recreation

Complete to 2-18-20

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

SUMMARY:

House Bill 5463 would amend Part 801 (Marine Safety) of the Natural Resources and Environmental Protection Act (NREPA) to allow a local political subdivision to request a special rule or temporary ordinance for the use of vessels and other devices on a water body subject to its jurisdiction.

Currently under NREPA, the Department of Natural Resources (DNR) can allow a *political subdivision* to issue special local rules for the use of vessels, water skis, water sleds, aquaplanes, surfboards, or other similar devices. These rules apply to the local bodies of water year-round. The DNR conducts investigations and inquiries into whether these special rules are needed, which includes considering several conditions and pieces of information.

Political subdivision means a Michigan county, metropolitan authority, municipality, or combination of those entities.

A denial of a special rule can currently be appealed to the Michigan Waterways Commission, which then makes the final decision as to whether a rule is needed. Under the bill, appeals would instead be made to the director of the DNR, who would also have the final determination as to whether a rule is needed.

The bill would further allow a political subdivision to request a temporary ordinance for the use of vessels on a water body subject to its jurisdiction. A temporary ordinance would include a local watercraft control or administrative rule. A request for a temporary ordinance would have to be in the form of an official resolution approved by a majority of the governing body of the political subdivision following a public hearing on the resolution. A temporary ordinance would expire after six months and could not be extended or renewed in consecutive years.

An application for a temporary ordinance would have to contain all of the following information:

- The resolution approved by the political subdivision's governing body and a copy of the public notice listing the adoption of the resolution on the agenda.
- The information required for the DNR to conduct investigations and inquiries into whether special rules are needed.
- The circumstances that justify a temporary ordinance rather than a special rule.
- A complete list of all local ordinances, regulations, and rules concerning the water body and how they are enforced.
- How the political subdivision plans to provide for and fund the public notice of the temporary ordinance, including buoy placement and signage, and how it will be enforced.
- Any other information the political subdivision believes is relevant or necessary.

The DNR would have to review the application within 10 days after receiving it. For a complete application, the DNR would have to conduct an investigation and inquiry within 10 days into the need for a temporary ordinance. For an application requiring additional information, the DNR would have to request that information and conduct the investigation and inquiry within 10 days after receiving that information.

Within 10 days after completing its investigation and inquiry, if the DNR determines that there is a need for a temporary ordinance, the DNR would have to propose a temporary ordinance affecting all boats or boat types on the water body. The DNR would have to submit the proposed temporary ordinance to the political subdivision. Notwithstanding any charter provision or other provision of law, the proposed temporary ordinance would take effect when both of the following requirements were met, which would have to occur within 20 days after the DNR submitted the proposed temporary ordinance to the political subdivision:

- The governing body of the political subdivision adopts the ordinance at a public meeting.
- The political subdivision notifies the DNR of the adoption.

If the political subdivision fails to notify the DNR of its adoption of the proposed temporary ordinance, then the proposed temporary ordinance would be considered disapproved and no further action could be taken.

If the DNR determines that there is not a need for a temporary ordinance, the DNR would have to notify the political subdivision and provide the specific reasons for this determination. A denial of a temporary ordinance could be appealed by the political subdivision to the director of the DNR, who would make the final agency decision on the need for a temporary ordinance.

The following table highlights the timeline that would apply under the bill to the temporary ordinance process:

Timeline	Action
Date of application	Political subdivision applies for a temporary ordinance
Within 10 days after receiving application	DNR reviews application
Within 10 days after reviewing application	For a complete application, DNR conducts investigation and inquiry into need for temporary ordinance; if additional information is needed, DNR requests that information
Within 10 days after receiving any necessary additional information	DNR conducts investigation and inquiry into need for temporary ordinance
Within 10 days after completing investigation and inquiry	<ul style="list-style-type: none"> • If DNR determines there is no need for temporary ordinance, DNR notifies political subdivision with specific reasons for denial • If DNR determines there is need for temporary ordinance, DNR submits a proposed local ordinance to the political subdivision

Within 20 days after DNR submits proposed temporary ordinance	<ul style="list-style-type: none"> • Governing body of the political subdivision adopts ordinance at public meeting • Political subdivision notifies DNR of the adoption
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MCL 324.80104, 324.80110, and 324.80112 and proposed MCL 324.80112a

FISCAL IMPACT:

House Bill 5463 is likely to increase administrative costs for the DNR and local units of government if a temporary ordinance is formally considered as provided under the bill. Both state and local government officials may incur these additional costs in the course of following the application and notification procedures outlined in HB 5463. The extent of a potential cost increase is unclear and likely to vary by application. The bill is unlikely to affect revenues and does not provide additional funding to state or local governments to support additional costs. The department's FY 2019-20 funding is \$438.7 Gross (\$47.0 million GF/GP) and 2,340.1 FTE positions.

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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.