

CONFIDENTIAL
LEGISLATIVE BILL REVIEW FORM: 2015

Bill Number: H.6
Standards

Name of Bill: An Act Relating to Application of the Lake Shoreland Protection

Agency/Dept.: Department of Environmental Conservation

Author of Bill Review: Dan Homeier

Date of Bill Review: 01/14/2015

Status of Bill (check one):

☒ Upon Introduction ☐ As passed by 1st body ☐ As passed by both bodies ☐ Fiscal

Recommended Position:

☐ Support ☒ Oppose ☐ Remain Neutral ☐ Support with modifications identified in #8 below

Analysis of Bill

1. Summary of bill and issue it addresses. *Describe what the bill is intended to accomplish and why.*

The bill proposes to amend the transition section of the Shoreland Protection Act, Section 9, by altering what permits a shoreland property owner must have applied for, or obtained, in order to be exempt from the Act. Currently state statute requires that a shoreland property owner must have applied for, or obtained, "all necessary state, local, or federal permits" prior to the effective date of the Act. The proposed bill would change that requirement by instead requiring that a shoreland property owner must have applied for, or obtained, "all municipal zoning and development permits" prior to the effective date of the Act. As noted in the bill's statement of purpose, the intent of the bill is to clarify the requirements a shoreland property owner must have met prior to the effective date of the Act in order to qualify for the transition. In actuality, the bill would likely cause confusion and would lead to unequal treatment of shoreland property owners based upon whether or not their municipalities have "municipal zoning and development permits." Many towns don't have local zoning or zoning permitting requirements and therefore, projects in those towns that had obtained all necessary state and federal permits prior to the effective date of the Act would need a Shoreland Permit, while in towns with local zoning, projects that had only obtained local zoning permits prior to the effective date of the Act would not require a Shoreland Permit even if they had not obtained all other necessary state and federal permits.

- 2. Is there a need for this bill?** *Please explain why or why not.* There is no need for this bill considering that, as stated above, it would lead to unequal treatment of shoreland property owners based upon whether or not their municipalities had "municipal zoning and development permits" and it would likely cause confusion regarding the requirements for the transition section. Confusion could arise because the bill's amendment to the transition language could be interpreted to mean that shoreland property owners in towns without municipal zoning or development permits, by default, have obtained all necessary permits to qualify for the transition. In other words, one might argue that in towns without zoning, the plans for a project (i.e., sketch or drawing) developed prior to July 1, 2014 would suffice to show that the project is exempt from the Act. In either instance, the bill creates unequal treatment of shoreland property owners and uncertainty regarding how the transition language requirements would be interpreted, potentially frustrating Department, municipal, and applicant efforts to properly meet transition requirements.

3. What are likely to be the fiscal and programmatic implications of this bill for this Department?

The bill would burden the Department with complex decisions regarding which shoreland property owners qualify for the transition section, costing valuable staff time and resources. For example, the Watershed Management Division and the Drinking Water and Groundwater Protection Division have already invested staff time interpreting and understanding the transition section as enacted and how it pertains to property owners who had acquired or applied for a water supply/wastewater disposal permit. This bill would disrupt that understanding, requiring consultation between the Divisions to reinterpret the transition section requirements.

4. What might be the fiscal and programmatic implications of this bill for other departments in state government, and what is likely to be their perspective on it? Although administration of the Shoreland Protection Act is specific to the Department of Environmental Conservation, this bill confuse other departments within state government, costing both DEC and other departments the time required to interpret and understand the transition section requirements.

5. What might be the fiscal and programmatic implications of this bill for others, and what is likely to be their perspective on it? *(for example: public, municipalities, organizations, business, regulated entities, etc.)*

This bill is likely to affect internal and external partners and stakeholders similarly. Municipalities and regulated entities will likely be confused by the transition and may balk at how it treats landowners differently depending on whether or not a municipality has zoning permitting requirements.

6. Other Stakeholders:

6.1 Who else is likely to support the proposal and why? Regulated entities and municipal officials in municipalities requiring zoning and development permits may support this bill as it eliminates the need for shoreland property owners in those municipalities to have applied for, or obtained, state and federal permits to meet transition section.

6.2 Who else is likely to oppose the proposal and why? Regulated entities and municipal officials in municipalities without zoning may not support this bill as it eliminates the transition provision for shoreland property owners in these municipalities. Environmental groups would likely oppose the bill because it could cause confusion.

7. Rationale for recommendation: *Justify recommendation stated above.* The Department does not support this bill because it arbitrarily treats shoreland property owners differently and could cause major confusion over the meaning of the transition language.

8. Specific modifications that would be needed to recommend support of this bill: *Not meant to rewrite bill, but rather, an opportunity to identify simple modifications that would change recommended position.*
The Department supports the language originally enacted.

Commissioner has reviewed this document:

Date:

1/26/15

Secretary has reviewed this document:

Date:

1-27-15