

BY: Environmental Matters Committee

AMENDMENTS TO HOUSE BILL NO. 154

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in the sponsor line, strike “Delegate Frush” and substitute “Delegates Frush and Hogan”; strike beginning with “prohibiting” in line 5 down through “circumstance;” in line 6 and substitute “making certain permits subject to a certain application fee refund process;”; in line 10, strike “a certain review” and substitute “certain reviews”; in the same line, strike “a certain report” and substitute “certain reports and a certain plan”; in line 11, strike “a certain date” and substitute “certain dates”; and in line 20, after “Section” insert “1-607 and”.

AMENDMENT NO. 2

On page 2, after line 19, insert:

“1-607.

(a) (1) This subsection applies to applications for all licenses and permits issued, or required to be reissued, by the Department.

(2) On or before January 1, 1998, and each year thereafter, in consultation with interested parties, the Department shall publish expected review times for each licensing and permitting program.

(3) On or before January 1, 1998, for each licensing and permitting program, the Department shall offer assistance and information to persons which may include:

(i) Written lists of information and materials required with applications;

(ii) Written lists of common application questions and mistakes;

(Over)

(iii) Preapplication meetings with prospective applicant to address technical issues;

(iv) Written receipts to the applicant upon submission of an application;
and

(v) The status of active applications.

(b) (1) This subsection applies to permits which are:

(I) [identified] IDENTIFIED in § 1-601(a) of this subtitle; OR

(II) ISSUED UNDER TITLE 5, SUBTITLE 9 OF THIS ARTICLE.

(2) The Department shall provide to the applicant:

(i) A notice of completed application; or

(ii) If the Department determines that the application is incomplete, the reasons, in writing, that the application was determined to be incomplete.

(3) (I) [The] FOR PERMITS IDENTIFIED IN § 1-601(A) OF THIS SUBTITLE, THE notice of completed application shall include an estimated time for issuance of the tentative determination if requested by the applicant.

(II) FOR PERMITS ISSUED UNDER TITLE 5, SUBTITLE 9 OF THIS ARTICLE, THE NOTICE OF COMPLETED APPLICATION SHALL INCLUDE AN ESTIMATE OF THE DATE BY WHICH THE DEPARTMENT WILL GRANT, DENY, OR CONDITION THE PERMIT.

(4) A permit applicant may apply to the Department for a refund of all or a portion of the application fee if:

(i) 1. [The] FOR PERMITS IDENTIFIED IN § 1-601(A) OF THIS

SUBTITLE, THE Department fails to issue a tentative determination regarding the application within the estimated time provided in the notice of completed application; OR

2. FOR PERMITS ISSUED UNDER TITLE 5, SUBTITLE 9 OF THIS ARTICLE, THE DEPARTMENT FAILS TO GRANT, DENY, OR CONDITION A PERMIT WITHIN THE TIME PERIODS PROVIDED UNDER § 5-906 OF THIS ARTICLE;

(ii) The applicant demonstrates that the delay was caused solely by the Department and was not the result of procedures or requirements outside control of the Department, including:

1. Reviews by federal, local, or other State government agencies;
2. Procedures for public participation; or
3. The failure of the applicant to submit information to the Department in a timely manner; and

(iii) 1. [The] FOR PERMITS IDENTIFIED IN § 1-601(A) OF THIS SUBTITLE, THE applicant applies to the Department within 60 days after the estimated time for issuance of a tentative determination; OR

2. FOR PERMITS ISSUED UNDER TITLE 5, SUBTITLE 9 OF THIS ARTICLE, THE APPLICANT APPLIES TO THE DEPARTMENT WITHIN 60 DAYS AFTER THE DATE BY WHICH THE DEPARTMENT WAS TO HAVE GRANTED, DENIED, OR CONDITIONED A PERMIT UNDER THE TIME PERIODS PROVIDED UNDER § 5-906 OF THIS ARTICLE.

(5) The Secretary, or the Secretary's designee, shall review the refund request and determine if a refund of any amount is appropriate.

(6) If the Secretary denies the refund request, the Department shall provide the applicant a written explanation of the denial and of the procedures and requirements outside the control of the Department on which the denial was based within 60 days.”.

AMENDMENT NO. 3

On page 3, in line 24, strike “(2)” and substitute “(3)”; strike beginning with “THE” in line 28 down through “(2)” in line 31; and in line 31, strike “PARAGRAPHS (1) AND (3)” and substitute “PARAGRAPH (2)”.

AMENDMENT NO. 4

On page 4, in line 12, strike “(3)” and substitute “(2)”; in line 13, strike “(2)” and substitute “(1)”; in line 15, strike the first “OR”; and in line 16, after “CODE” insert “, OR A UNIT OF THE STATE, A MUNICIPAL CORPORATION, OR A COUNTY”; in line 19, strike “AND”; and in line 20, after “(III)” insert “PERFORMANCE OF FORESTRY BEST MANAGEMENT PRACTICES CONTAINED IN AN EROSION AND SEDIMENT CONTROL PLAN:

1. PREPARED BY A REGISTERED FORESTER; AND

2. APPROVED BY THE APPROPRIATE SOIL CONSERVATION DISTRICT; AND

(IV)”;

and after line 22, insert:

“(3) FOR PURPOSES OF THIS SUBSECTION, A MINING ACTIVITY UNDERTAKEN ON AFFECTED LAND AS IDENTIFIED IN A PERMIT ISSUED UNDER TITLE 15 OF THIS ARTICLE SHALL BE:

(I) DEEMED TO BE A MINOR PROJECT; AND

(II) SUBJECT TO THE APPROPRIATE APPLICATION FEE UNDER PARAGRAPH (1)(I) AND (II) OF THIS SUBSECTION.

(4) THE FEES IMPOSED UNDER THIS SUBSECTION MAY NOT BE MODIFIED PRIOR TO JANUARY 1, 2009.”.

AMENDMENT NO. 5

On page 5, in line 8, after “(5)” insert “IN ACCORDANCE WITH SUBSECTION (E) OF THIS SECTION, “; and after line 22, insert:

“(E) THE DEPARTMENT SHALL:

(1) PRIORITIZE THE USE OF THE WETLANDS AND WATERWAYS PROGRAM FUND TO IMPROVE THE LEVEL OF SERVICE TO THE REGULATED COMMUNITY; AND

(2) IDENTIFY AND IMPLEMENT MEASURES THAT WILL REDUCE DELAYS AND DUPLICATION IN THE ADMINISTRATION OF THE WETLANDS AND WATERWAYS PERMIT PROCESS, INCLUDING THE PROCESSING OF APPLICATIONS FOR WETLANDS AND WATERWAYS PERMITS IN ACCORDANCE WITH § 1-607 OF THE ENVIRONMENT ARTICLE.”.

AMENDMENT NO. 6

On page 6, in line 33, after “(a)” insert “(1)”; in line 35, after “develop” insert “an action plan with”.

On page 7, in line 1, after “promptly” insert “, including an assessment of any gaps that may exist in meeting the goals and deadlines under § 5-906(j) of the Environment Article and specific measures for resolving those gaps by January 1, 2007”; in line 2, strike “and”; in line 3, strike “(b)” and substitute “(2)”; in the same line, strike “report” and substitute “submit the action plan”; and strike beginning with “regarding” in line 5 down through “recommendations” in line 6 and substitute “; and”

(3) On or before January 1, 2007, in accordance with § 2-1246 of the State Government Article, submit a report to the House Environmental Matters Committee and the Senate Education, Health, and Environmental Affairs Committee demonstrating that the measures identified in the action plan have been implemented to achieve compliance with the goals and deadlines under § 5-906(j) of the Environment Article; and

(b) On or before January 1, 2008, convene a work group consisting of interested

stakeholders to review and assess whether the Wetlands and Waterways Program, due to the enactment of this Act, successfully improved the level of service to the regulated community, including:

- (1) Reviewing the number of new positions assigned to the Program;
- (2) Reviewing the Program's progress in improving permit turnaround time frames and permit backlogs and any enhanced services provided to the regulated community as a result of this Act;
- (3) Analyzing the long-term funding needs of the Wetlands and Waterways Program;
- (4) Determining whether the application fees provided by this Act are adequate to support an effective program; and
- (5) On or before December 1, 2008, in accordance with § 2-1246 of the State Government Article, reporting the findings and recommendation of the work group to the Legislative Policy Committee, the House Environmental Matters Committee, and the Senate Education, Health, and Environmental Affairs Committee”.