

# HOUSE BILL No. 4350

February 8, 1995, Introduced by Reps. Hill, Alley, Middaugh and Murphy and referred to the Committee on Conservation, Environment and Great Lakes.

A bill to amend Act No. 451 of the Public Acts of 1994, entitled "Natural resources and environmental protection act," being sections 324.101 to 324.90101 of the Michigan Compiled Laws, by adding section 90103 and parts 301, 303, 305, 307, 309, 311, 313, 315, 321, 322, 323, 325, 327, 329, 331, 333, 337, 339, 341, 351, 353, 355, 357, 361, and 365; to amend the headings of certain parts; and to repeal acts and parts of acts.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Act No. 451 of the Public Acts of 1994, being  
2 sections 324.101 to 324.90101 of the Michigan Compiled Laws, is  
3 amended by adding section 90103 and parts 301, 303, 305, 307,  
4 309, 311, 313, 315, 321, 322, 323, 325, 327, 329, 331, 333, 337,  
5 339, 341, 351, 353, 355, 357, 361, and 365 and by amending the  
6 headings of certain parts to read as follows:

~~ARTICLE III NATURAL RESOURCES MANAGEMENT~~

~~CHAPTER 1: HABITAT PROTECTION~~

~~INLAND WATERS~~

~~Part 301. Inland Lakes and Streams~~

ARTICLE III NATURAL RESOURCES MANAGEMENT

CHAPTER 1: HABITAT PROTECTION

INLAND WATERS

PART 301 INLAND LAKES AND STREAMS

~~Sec. 1. This act shall be known and may be cited as the "inland lakes and streams act of 1972".~~

Sec. ~~2~~ 30101. As used in this ~~act~~ PART:

(a) "Bottomland" means the land area of an inland lake or stream that lies below the ordinary high-water mark and ~~which~~ THAT may or may not be covered by water.

(b) "Bulkhead line" means a line that is established pursuant to this ~~act~~ PART beyond which dredging, filling, or construction of any kind is not allowed without a permit.

~~(c) "Commission" means the commission of natural resources.~~

~~(d) "Department" means the department of natural resources.~~

(C) ~~(e)~~ "Fund" means the land and water management permit fee fund created in section ~~16~~ 30113.

(D) ~~(f)~~ "Impoundment" means water held back by a dam, dike, floodgate, or other barrier.

(E) ~~(g)~~ "Inland lake or stream" means a natural or artificial lake, pond, or impoundment; a river, stream, or creek which may or may not be serving as a drain as defined by the drain code

1 of 1956, Act No. 40 of the Public Acts of 1956, ~~as amended,~~  
2 being sections 280.1 to 280.630 of the Michigan Compiled Laws;  
3 ~~r~~ or any other body of water that has definite banks, a bed,  
4 and visible evidence of a continued flow or continued occurrence  
5 of water, including the St. Marys, St. Clair, and Detroit  
6 rivers. Inland lake or stream does not include the Great Lakes,  
7 Lake St. Clair, ~~and~~ OR a lake or pond that has a surface area  
8 of less than 5 acres.

9 (F) ~~(h)~~ "Marina" means a facility that is owned or oper-  
10 ated by a person, extends into or over an inland lake or stream,  
11 and offers service to the public or members of the marina for  
12 docking, loading, or other servicing of recreational watercraft.

13 (G) ~~(i)~~ "Minor offense" means either of the following vio-  
14 lations of this ~~act~~ PART if the project involved in the offense  
15 is a minor project as listed in R 281.816 of the Michigan admin-  
16 istrative code or the department determines that restoration of  
17 the affected property is not required:

18 (i) The failure to obtain a permit under this ~~act~~ PART.

19 (ii) A violation of a permit issued under this ~~act~~ PART.

20 (H) ~~(j)~~ "Ordinary high-water mark" means the line between  
21 upland and bottomland that persists through successive changes in  
22 water levels, below which the presence and action of the water is  
23 so common or recurrent that the character of the land is marked  
24 distinctly from the upland and is apparent in the soil itself,  
25 the configuration of the surface of the soil, and the  
26 vegetation. On an inland lake that has a level established by  
27 law, it means the high established level. Where water returns to

1 its natural level as the result of the permanent removal or  
2 abandonment of a dam, it means the natural ordinary high-water  
3 mark.

4 ~~(k) "Person" means any individual, partnership, corpora-~~  
5 ~~tion, association, political subdivision of the state, the~~  
6 ~~department or other instrumentality or agency of the state,~~  
7 ~~political subdivision thereof, or other legal entity.~~

8 (I) ~~(l)~~ "Project" means an activity that requires a permit  
9 pursuant to section ~~3~~ 30102.

10 (J) ~~(m)~~ "Property owners' association" means any group of  
11 organized property owners publishing a directory of their member-  
12 ship, the majority of which are riparian owners and are located  
13 on the inland lake or stream that is affected by the proposed  
14 project.

15 (K) ~~(n)~~ "Riparian owner" means a person who has riparian  
16 rights.

17 (L) ~~(o)~~ "Riparian rights" means those rights which are  
18 associated with the ownership of the bank or shore of an inland  
19 lake or stream.

20 (M) ~~(p)~~ "Seasonal structure" includes any type of dock,  
21 boat hoist, ramp, raft, or other recreational structure that is  
22 placed into an inland lake or stream and removed at the end of  
23 the boating season.

24 (N) ~~(q)~~ "Structure" includes a marina, wharf, dock, pier,  
25 dam, weir, stream deflector, breakwater, groin, jetty, sewer,  
26 pipeline, cable, and bridge.

1 (O) ~~(r)~~ "Upland" means the land area that lies above the  
2 ordinary high-water mark.

3 Sec. ~~3~~ 30102. Except as provided in this ~~act~~ PART, a  
4 person without a permit from the department shall not DO ANY OF  
5 THE FOLLOWING:

6 (a) Dredge or fill bottomland.

7 (b) Construct, enlarge, extend, remove, or place a structure  
8 on bottomland.

9 (c) Erect, maintain, or operate a marina.

10 (d) Create, enlarge, or diminish an inland lake or stream.

11 (e) Structurally interfere with the natural flow of an  
12 inland lake or stream.

13 (f) Construct, dredge, commence, extend, or enlarge an arti-  
14 ficial canal, channel, ditch, lagoon, pond, lake, or similar  
15 waterway where the purpose is ultimate connection with an exist-  
16 ing inland lake or stream, or where any part of the artificial  
17 waterway is located within 500 feet of the ordinary high-water  
18 mark of an existing inland lake or stream.

19 (g) Connect any natural or artificially constructed water-  
20 way, canal, channel, ditch, lagoon, pond, lake, or similar water  
21 with an existing inland lake or stream for navigation or any  
22 other purpose.

23 Sec. ~~4~~ 30103. ~~(t)~~ A permit ~~shall~~ IS not ~~be~~ required  
24 for ANY OF THE FOLLOWING:

25 (a) Any fill or structure existing before April 1, 1966, in  
26 waters covered by former Act No. 291 of the Public Acts of 1965,  
27 and any fill or structures existing before January 9, 1973, in

1 waters covered for the first time by ~~this act~~ FORMER ACT  
2 NO. 346 OF THE PUBLIC ACTS OF 1972.

3 (b) A seasonal structure placed on bottomland to facilitate  
4 private noncommercial recreational use of the water if it does  
5 not unreasonably interfere with the use of the water by others  
6 entitled to use the water or interfere with water flow.

7 (c) Reasonable sanding of beaches to the existing water's  
8 edge by a riparian owner.

9 (d) Construction or maintenance of a private agricultural  
10 drain regardless of outlet.

11 (e) A waste collection or treatment facility ~~which~~ THAT is  
12 approved for construction by the department of public health or  
13 ordered or approved by the ~~water resources commission~~  
14 DEPARTMENT.

15 (f) Construction and maintenance of minor drainage struc-  
16 tures and facilities which are identified by rule promulgated by  
17 the ~~commission~~ DEPARTMENT pursuant to section ~~++(1)~~  
18 30110(1). Before such a rule is promulgated, ~~it~~ THE RULE shall  
19 be approved by the majority of a committee consisting of the  
20 director, ~~of the department,~~ the director of the department of  
21 agriculture, and the director of the state transportation depart-  
22 ment or their designated representatives. The initial rules  
23 shall be issued before July 8, 1973, and shall be reviewed at  
24 least annually ~~thereafter~~ AFTER THAT DATE.

25 (g) Maintenance and improvement of all drains legally estab-  
26 lished or constructed prior to January 1, 1973, pursuant to the  
27 drain code of 1956, Act No. 40 of the Public Acts of 1956, ~~as~~

1 ~~amended,~~ being sections 280.1 to 280.630 of the Michigan  
2 Compiled Laws, except those legally established drains constitut-  
3 ing mainstream portions of certain natural watercourses identi-  
4 fied in rules promulgated by the ~~commission pursuant to~~  
5 DEPARTMENT UNDER section ~~++~~ 30110.

6 (h) Projects constructed under the watershed protection and  
7 flood prevention act, ~~16 U.S.C. 1001 to 1009~~ CHAPTER 656, 68  
8 STAT. 666, 16 U.S.C. 1001 TO 1008 AND 1010.

9 (i) Construction and maintenance of privately owned cooling  
10 or storage ponds used in connection with a public utility except  
11 at the interface with public waters.

12 (j) Maintenance of a structure constructed under a permit  
13 issued pursuant to this ~~act~~ PART and identified by rule promul-  
14 gated ~~pursuant to~~ UNDER section ~~++(++)~~ 30110(1), if the main-  
15 tenance is in place and in kind with no design or materials  
16 modification.

17 ~~(2) For 3 years after the effective date of this subsec-~~  
18 ~~tion, a permit shall not be required under this act for the~~  
19 ~~repair, reconstruction, or improvement of a dam located in~~  
20 ~~Everett township, Newaygo county, and/or a dam located in the~~  
21 ~~village of Luther, Lake county, which is 75 years old if the dam~~  
22 ~~was damaged or destroyed by an act of God in 1986. However, a~~  
23 ~~person who is performing a project for the repair, reconstruc-~~  
24 ~~tion, or improvement of a fill or structure that is exempt from~~  
25 ~~obtaining a permit under this subsection shall submit to the~~  
26 ~~department and the joint capital outlay committee plans and~~  
27 ~~specifications for the project. These plans and specifications~~

~~1 shall be prepared by a licensed professional engineer and shall  
2 meet acceptable standards in the industry and must be approved by  
3 the joint capital outlay committee in order for a dam to be  
4 repaired, reconstructed, or improved. In reviewing for approval  
5 plans and specifications for the project, the joint capital  
6 outlay committee may require environmental considerations to pro-  
7 tect water quality such as underspill devices, minimum flow  
8 releases and removal of contaminated sediments that may be resus-  
9 pended in the water column upon impoundment. Such contaminated  
10 sediments shall be disposed of in accordance with state law. A  
11 licensed professional engineer shall also supervise the per-  
12 formance of the project and certify its completion to the  
13 department.~~

14       Sec. ~~5~~ 30104. (1) Before a project that is subject to  
15 this ~~act~~ PART is undertaken, a person shall file an application  
16 and receive a permit from the department. The application shall  
17 be on a form prescribed by the department and shall include any  
18 information that may be required by the department. If a project  
19 includes activities at multiple locations, 1 application may be  
20 filed for the combined activities.

21       (2) Except as provided in subsections (3) and (4), an appli-  
22 cation for a permit shall be accompanied by a fee based on an  
23 administrative cost in accordance with the following schedule:

24       (a) Until October 1, 1995:

25       (i) For a minor project listed in R 281.816 of the Michigan  
26 administrative code, a fee of \$50.00.



1 (ii) For construction or expansion of a marina, a fee of:

2 (A) \$50.00 for an expansion of 1-10 slips to an existing  
3 permitted marina.

4 (B) \$100.00 for a new marina with 1-10 proposed marina  
5 slips.

6 (C) \$250.00 for an expansion of 11-50 slips to an existing  
7 permitted marina, plus \$10.00 for each slip over 50.

8 (D) \$500.00 for a new marina with 11-50 proposed marina  
9 slips, plus \$10.00 for each slip over 50.

10 (E) \$1,500.00 if an existing permitted marina proposes main-  
11 tenance dredging of 10,000 cubic yards or more or the addition of  
12 seawalls, bulkheads, or revetments of 500 feet or more.

13 (iii) For renewal of a marina operating permit, a fee of  
14 \$50.00.

15 (iv) For major projects other than a project described in  
16 subparagraph (ii)(E), involving any of the following, a fee of  
17 \$2,000.00:

18 (A) Dredging of 10,000 cubic yards or more.

19 (B) Filling of 10,000 cubic yards or more.

20 (C) Seawalls, bulkheads, or revetment of 500 feet or more.

21 (D) Filling or draining of 1 acre or more of wetland conti-  
22 guous to a lake or stream.

23 (E) New dredging or upland boat basin excavation in areas of  
24 suspected contamination.

25 (F) Shore projections, such as groins and underwater stabi-  
26 lizers, that extend 150 feet or more into a lake or stream.

1 (G) New commercial docks or wharves of 300 feet or more in  
2 length.

3 (H) Stream enclosures 100 feet or more in length.

4 (I) Stream relocations 500 feet or more in length.

5 (J) New golf courses.

6 (K) Subdivisions.

7 (L) Condominiums.

8 (v) For all other projects not listed in subparagraphs (i)  
9 through (iv), a fee of \$500.00.

10 (b) Beginning October 1, 1995, a fee of \$25.00 for any  
11 project listed in subdivision (a).

12 (3) A project that requires review and approval under this  
13 ~~act~~ PART and 1 or more of the following acts OR PARTS OF ACTS  
14 is subject to only the single highest permit fee required under  
15 this ~~act~~ PART or the following acts OR PARTS OF ACTS:

16 (a) ~~The Goemaere Anderson wetland protection act, Act~~  
17 ~~No. 203 of the Public Acts of 1979, being sections 281.701 to~~  
18 ~~281.722 of the Michigan Compiled Laws.~~ PART 303.

19 (b) ~~The Great Lakes submerged lands act, Act No. 247 of the~~  
20 ~~Public Acts of 1955, being sections 322.701 to 322.715 of the~~  
21 ~~Michigan Compiled Laws.~~ PART 325.

22 (c) ~~The shorelands protection and management act of 1970,~~  
23 ~~Act No. 245 of the Public Acts of 1970, being sections 281.631 to~~  
24 ~~281.644 of the Michigan Compiled Laws.~~ PART 323.

25 (d) Section ~~2a of Act No. 245 of the Public Acts of 1929,~~  
26 ~~being section 323.2a of the Michigan Compiled Laws~~ 3104.

1 (e) Section 117 of the subdivision control act of 1967, Act  
2 No. 288 of the Public Acts of 1967, being section 560.117 of the  
3 Michigan Compiled Laws.

4 (4) If work has been done in violation of a permit require-  
5 ment under this ~~act~~ PART and restoration is not ordered by the  
6 department, the department may accept an application for a permit  
7 if the application is accompanied by a fee equal to 2 times the  
8 permit fee required under this section.

9 Sec. ~~6~~ 30105. (1) Until October 1, 1995, a person who  
10 desires notification of pending applications may submit a written  
11 request to the department accompanied by an annual fee of  
12 \$25.00. The department shall forward all annual fees to the  
13 state treasurer for deposit into the fund. The department shall  
14 prepare a monthly list of the applications made during the previ-  
15 ous month and shall promptly mail copies of the list for the  
16 remainder of the calendar year to the persons who have so  
17 requested notice. The monthly list shall state the name and  
18 address of each applicant, the legal description of the lands  
19 included in the applicant's project, and a summary statement of  
20 the purpose of the project. The department may hold a public  
21 hearing on pending applications.

22 (2) Except as otherwise provided in this section, upon  
23 receiving an application, the department shall submit copies for  
24 review to the director of public health or the local health  
25 department designated by the director of public health, TO the  
26 city, village, or township ~~—~~ and the county where the project  
27 is to be located, TO the local soil conservation district, TO the

1 local watershed council organized under ~~the local river~~  
2 ~~management act, Act No. 253 of the Public Acts of 1964, as~~  
3 ~~amended, being sections 323.301 to 323.320 of the Michigan~~  
4 ~~Compiled Laws~~ PART 311, if any, TO the local port commission, if  
5 any, and TO the persons required to be included in the applica-  
6 tion pursuant to section ~~5(1)~~ 30104(1). Each copy of the  
7 application shall be accompanied by a statement that unless a  
8 written request is filed with the department within 20 days after  
9 the submission for review, the department may grant the applica-  
10 tion without a public hearing where the project is located. The  
11 department may hold a public hearing upon the written request of  
12 the applicant or a riparian owner or a person or governmental  
13 unit that is entitled to receive a copy of the application pursu-  
14 ant to this subsection.

15 (3) After completion of a project for which an application  
16 is approved, the department may cause a final inspection to be  
17 made and certify to the applicant that the applicant has complied  
18 with the department's permit requirements.

19 (4) At least 10 days' notice of a hearing to be held  
20 ~~pursuant to~~ UNDER this section shall be given by ~~the~~ publica-  
21 tion in a newspaper circulated in the county where the project is  
22 to be located and by mailing copies of the notice to the persons  
23 who have requested the monthly list pursuant to subsection (1),  
24 TO the person requesting the hearing, and TO the persons and gov-  
25 ernmental units that are entitled to receive a copy of the appli-  
26 cation pursuant to subsection (2).

1 (5) The department shall grant or deny the permit within 60  
2 days, or within 90 days if a public hearing is held, after the  
3 filing of an application pursuant to section ~~5~~ 30104. If a  
4 permit is denied, the department shall provide to the applicant a  
5 concise written statement of its reasons for denial of the  
6 permit, and, if it appears that a minor modification of the  
7 application would result in the granting of the permit, the  
8 nature of the modification shall be stated. In an emergency, the  
9 department may issue a conditional permit before the expiration  
10 of the 20-day period referred to in subsection (2).

11 (6) The department, by rule promulgated ~~pursuant to~~ UNDER  
12 section ~~++(+)~~ 30110(1), may establish minor project categories  
13 of activities and projects that are similar in nature and have  
14 minimal adverse environmental impact. The department may act  
15 upon an application received pursuant to section ~~5~~ 30104 for an  
16 activity or project within a minor project category after an  
17 on-site inspection of the land and water involved without provid-  
18 ing notices or holding a public hearing pursuant to subsection  
19 (2). A final inspection or certification of a project completed  
20 under a permit granted pursuant to this subsection is not  
21 required, but all other provisions of this ~~act~~ PART are appli-  
22 cable to a minor project.

23 Sec. ~~7~~ 30106. The department shall issue a permit if it  
24 finds that the structure or project will not adversely affect the  
25 public trust or riparian rights. In passing upon an application,  
26 the department shall consider the possible effects of the  
27 proposed action upon the inland lake or stream and upon waters

1 from which or into which its waters flow and the uses of all such  
2 waters, including uses for recreation, fish and wildlife, aes-  
3 thetics, local government, agriculture, commerce, and industry.  
4 The department shall not grant a permit if the proposed project  
5 or structure will unlawfully impair or destroy any of the waters  
6 or other natural resources of the state. This ~~act shall~~ PART  
7 DOES not modify the rights and responsibilities of any riparian  
8 owner to the use of his OR HER riparian water. A permit shall  
9 specify that a project completed in accordance with this ~~act~~  
10 PART shall not cause unlawful pollution as defined by ~~Act~~  
11 ~~No. 245 of the Public Acts of 1929, as amended~~ PART 31.

12       Sec. ~~8~~ 30107. A permit is effective until revoked for  
13 cause but not beyond its term and may be subject to renewal. A  
14 permit may specify the term and conditions under which the work  
15 is to be carried out. A permit may be revoked after a hearing  
16 for violation of any of its provisions, any provision of this  
17 ~~act~~ PART, any rule promulgated under this ~~act~~ PART, or any  
18 misrepresentation in application.

19       Sec. ~~9~~ 30108. The department may establish by permit a  
20 bulkhead line on its own application or on the application of a  
21 ~~city, village, township or county~~ LOCAL UNIT OF GOVERNMENT.  
22 The application shall be filed as provided in ~~subsection (1) of~~  
23 section ~~5~~ 30104(1) with public notice and hearings as provided  
24 in section ~~6~~ 30105. Upon acceptance of the bulkhead line by  
25 the affected units of government, the area landward of the bulk-  
26 head line shall ~~thereafter~~ AFTER THAT ACCEPTANCE be under  
27 ~~their~~ THE jurisdiction OF THOSE UNITS OF GOVERNMENT as to the

1 placement of structures and fills in the waters unless  
2 jurisdiction is returned to the state. In establishing a bulk-  
3 head line, the department shall provide for local requirements  
4 and ~~insure~~ ENSURE the public trust in the adjacent waters  
5 against unreasonable interferences.

6 Sec. ~~10~~ 30109. Upon the written request of a riparian  
7 owner and upon payment of a service fee, the department may enter  
8 into a written agreement with a riparian owner establishing the  
9 location of the ordinary high-water mark for his or her  
10 property. In the absence of substantially changed conditions,  
11 the agreement shall be conclusive proof of the location in all  
12 matters between the state and the riparian owner and his or her  
13 successors in interest. Until October 1, 1995, the service fee  
14 provided for in this section shall be \$500.00. Beginning October  
15 1, 1995, the service fee provided for in this section shall be  
16 \$50.00. The department shall forward all service fees to the  
17 state treasurer for deposit into the fund.

18 Sec. ~~11~~ 30110. (1) The ~~commission~~ DEPARTMENT may  
19 promulgate and enforce rules to implement this ~~act in accordance~~  
20 ~~with and subject to Act No. 306 of the Public Acts of 1969, as~~  
21 ~~amended, being sections 24.201 to 24.315 of the Compiled Laws of~~  
22 ~~1948~~ PART.

23 (2) If a person is aggrieved by any action or inaction of  
24 the department, he OR SHE may request a formal hearing on the  
25 matter involved. The hearing shall be conducted by the commis-  
26 sion in accordance with the provisions for contested cases in THE  
27 ADMINISTRATIVE PROCEDURES ACT OF 1969, Act No. 306 of the Public

1 Acts of 1969, ~~as amended~~ BEING SECTIONS 24.201 TO 24.328 OF THE  
2 MICHIGAN COMPILED LAWS.

3 (3) A determination, action, or inaction by the commission  
4 following the hearing ~~shall be~~ IS subject to judicial review as  
5 provided in Act No. 306 of the Public Acts of 1969. ~~as~~  
6 ~~amended.~~

7 (4) This section does not limit the right of a riparian  
8 owner to institute proceedings in any circuit court of the state  
9 against any person when necessary to protect his OR HER rights.

10 Sec. ~~+2~~ 30111. This ~~act shall~~ PART DOES not deprive a  
11 riparian owner of rights associated with his OR HER ownership of  
12 water frontage. A riparian owner among other rights controls any  
13 temporarily or periodically exposed bottomland to the water's  
14 edge, wherever it may be at any time, and holds the land secure  
15 against trespass in the same manner as his OR HER upland subject  
16 to the public trust to the ordinary high-water mark.

17 Sec. ~~+3~~ 30112. (1) The department may commence a civil  
18 action in the circuit court of the county in which a violation  
19 occurs to enforce compliance with this ~~act~~ PART, to restrain  
20 violation of this ~~act~~ PART or any action contrary to an order  
21 of the department denying a permit, to enjoin the further per-  
22 formance of, or order the removal of, any project that is under-  
23 taken contrary to this ~~act~~ PART or after denial of a permit by  
24 the department, or to order the restoration of the affected area  
25 to its prior condition.

26 (2) In a civil action commenced under this ~~act~~ PART, the  
27 circuit court, in addition to any other relief granted, may



1 assess a civil fine of not more than \$5,000.00 per day for each  
2 day of violation.

3 (3) Except as provided in subsection (4), a person who vio-  
4 lates this ~~act~~ PART or a permit issued under this ~~act~~ PART is  
5 guilty of a misdemeanor, punishable by a fine of not more than  
6 \$10,000.00 per day for each day of violation.

7 (4) A person who commits a minor offense is guilty of a mis-  
8 demeanor, punishable by a fine of not more than \$500.00 for each  
9 violation. A law enforcement officer may issue and serve an  
10 appearance ticket upon a person for a minor offense pursuant to  
11 sections 9a to 9g of chapter IV of the code of criminal proce-  
12 dure, Act No. 175 of the Public Acts of 1927, being sections  
13 764.9a to 764.9g of the Michigan Compiled Laws.

14 (5) A person who knowingly makes a false statement, repre-  
15 sentation, or certification in an application for a permit ~~or~~ OR  
16 in a notice or report required by a permit, ~~or~~ or a person who  
17 knowingly renders inaccurate any monitoring device or method  
18 required to be maintained by a permit, is guilty of a misdemean-  
19 or, punishable by a fine of not more than \$10,000.00 per day for  
20 each day of violation.

21 (6) Any civil penalty assessed, sought, or agreed to by the  
22 department shall be appropriate to the violation.

23 ~~Sec. 14. Act No. 291 of the Public Acts of 1965, as~~  
24 ~~amended, being sections 281.731 to 281.752 of the Compiled Laws~~  
25 ~~of 1948, is repealed.~~

26 ~~Sec. 15. All proceedings pending and all rights and~~  
27 ~~liabilities existing, acquired or incurred at the time this act~~

~~1 takes effect are saved and may be consummated according to the  
2 law in force when they were commenced. This act shall not be  
3 construed to affect any prosecution pending or begun before the  
4 effective date of this act.~~

5       Sec. ~~16~~ 30113. (1) The land and water management permit  
6 fee fund is created within the state treasury.

7       (2) The state treasurer may receive money or other assets  
8 from any source for deposit into the fund. The state treasurer  
9 shall direct the investment of the fund. The state treasurer  
10 shall credit to the fund interest and earnings from fund  
11 investments. The state treasurer shall annually present to the  
12 department an accounting of the amount of money in the fund.

13       (3) Money in the fund at the close of the fiscal year shall  
14 remain in the fund and shall not lapse to the general fund.

15       (4) The department shall expend money from the fund, upon  
16 appropriation, only to implement this ~~act~~ PART and the  
17 following: ~~acts or parts of acts:~~

18       (a) Sections ~~2a, 5a, and 5b of Act No. 245 of the Public~~  
19 ~~Acts of 1929, being sections 323.2a, 323.5a, and 323.5b of the~~  
20 ~~Michigan Compiled Laws~~ 3104, 3107, AND 3108.

21       (b) ~~The Great Lakes submerged lands act, Act No. 247 of the~~  
22 ~~Public Acts of 1955, being sections 322.701 to 322.715 of the~~  
23 ~~Michigan Compiled Laws.~~ PART 325.

24       (c) ~~The Goemaere Anderson wetland protection act, Act~~  
25 ~~No. 203 of the Public Acts of 1979, being sections 281.701 to~~  
26 ~~281.722 of the Michigan Compiled Laws.~~ PART 303.

1 (d) Section 12562 of the public health code, Act No. 368 of  
2 the Public Acts of 1978, being section 333.12562 of the Michigan  
3 Compiled Laws.

4 (e) ~~The shorelands protection and management act of 1970,~~  
5 ~~Act No. 245 of the Public Acts of 1970, being sections 281.631 to~~  
6 ~~281.644 of the Michigan Compiled Laws.~~ PART 323.

7 (f) Section 117 of the subdivision control act of 1967, Act  
8 No. 288 of the Public Acts of 1967, being section 560.117 of the  
9 Michigan Compiled Laws.

10 (g) ~~The dam safety act, Act No. 300 of the Public Acts of~~  
11 ~~1989, being sections 281.1301 to 281.1365 of the Michigan~~  
12 ~~Compiled Laws.~~ PART 315.

13 (h) ~~Sections 16 to 44 of the sand dune protection and man-~~  
14 ~~agement act, Act No. 222 of the Public Acts of 1976, being sec-~~  
15 ~~tions 281.666 to 281.694 of the Michigan Compiled Laws.~~ PART  
16 353.

17 (5) The department shall process permit applications for the  
18 ~~public~~ acts AND PARTS OF ACTS cited in subsection (4) within 60  
19 days after receiving a completed permit application.

20 (6) The department shall annually report to the legislature  
21 on both of the following:

22 (a) How money in the fund was expended during the previous  
23 fiscal year.

24 (b) For permit programs funded with money in the fund, the  
25 average length of time for department action on permit applica-  
26 tions for each class of permits reviewed.

1 ~~Part 303. Wetlands Protection~~

2 PART 303 WETLAND PROTECTION

3 ~~Sec. 1. This act shall be known and may be cited as the~~  
4 ~~"Goemaere Anderson wetland protection act".~~

5 Sec. ~~2~~ 30301. As used in this ~~act~~ PART:

6 ~~(a) "Department" means the department of natural~~  
7 ~~resources.~~

8 ~~(b) "Director" means the director of the department of natu-~~  
9 ~~ral resources.~~

10 (A) ~~(c)~~ "Fill material" means soil, rocks, sand, waste of  
11 any kind, or any other material ~~which~~ THAT displaces soil or  
12 water or reduces water retention potential.

13 (B) ~~(d)~~ "Minor drainage" includes ditching and tiling for  
14 the removal of excess soil moisture incidental to the planting,  
15 cultivating, protecting, or harvesting of crops or improving the  
16 productivity of land in established use for agriculture, horti-  
17 culture, silviculture, or lumbering.

18 ~~(e) "Municipality" means a city, village, township, or~~  
19 ~~county.~~

20 (C) ~~(f)~~ "Person" means an individual, sole proprietorship,  
21 partnership, corporation, association, municipality, this state,  
22 and instrumentality or agency of this state, the federal govern-  
23 ment, or an instrumentality or agency of the federal government,  
24 or other legal entity.

25 (D) ~~(g)~~ "Wetland" means land characterized by the presence  
26 of water at a frequency and duration sufficient to support, and  
27 that under normal circumstances does support, wetland vegetation

1 or aquatic life, and is commonly referred to as a bog, swamp, or  
2 marsh and which is any of the following:

3 (i) Contiguous to the Great Lakes or Lake St. Clair, an  
4 inland lake or pond, or a river or stream.

5 (ii) Not contiguous to the Great Lakes, an inland lake or  
6 pond, or a river or stream; and more than 5 acres in size; except  
7 this ~~subdivision~~ SUBPARAGRAPH shall not be of effect, except  
8 for the purpose of inventorying, in counties of less than 100,000  
9 population until the department certifies to the commission ~~of~~  
10 ~~natural resources~~ it has substantially completed its inventory  
11 of wetlands in that county.

12 (iii) Not contiguous to the Great Lakes, an inland lake or  
13 pond, or a river or stream; and 5 acres or less in size if the  
14 department determines that protection of the area is essential to  
15 the preservation of the natural resources of the state from pol-  
16 lution, impairment, or destruction and the department has so  
17 notified the owner; except this ~~subdivision~~ SUBPARAGRAPH may be  
18 utilized regardless of wetland size in a county in which  
19 ~~subdivision~~ SUBPARAGRAPH (ii) is of no effect; except for the  
20 purpose of inventorying, at the time.

21 Sec. ~~3~~ 30302. (1) The legislature finds that:

22 (a) Wetland conservation is a matter of state concern since  
23 a wetland of 1 county may be affected by acts on a river, lake,  
24 stream, or wetland of other counties.

25 (b) A loss of a wetland may deprive the people of the state  
26 of some or all of the following benefits to be derived from the  
27 wetland:

1 (i) Flood and storm control by the hydrologic absorption and  
2 storage capacity of the wetland.

3 (ii) Wildlife habitat by providing breeding, nesting, and  
4 feeding grounds and cover for many forms of wildlife, waterfowl,  
5 including migratory waterfowl, and rare, threatened, or endan-  
6 gered wildlife species.

7 (iii) Protection of subsurface water resources and provision  
8 of valuable watersheds and recharging ground water supplies.

9 (iv) Pollution treatment by serving as a biological and  
10 chemical oxidation basin.

11 (v) Erosion control by serving as a sedimentation area and  
12 filtering basin, absorbing silt and organic matter.

13 (vi) Sources of nutrients in water food cycles and nursery  
14 grounds and sanctuaries for fish.

15 (c) Wetlands are valuable as an agricultural resource for  
16 the production of food and fiber, including certain crops which  
17 may only be grown on sites developed from wetland.

18 (d) That the extraction and processing of nonfuel minerals  
19 may necessitate the use of wetland, if it is determined pursuant  
20 to section ~~9~~ 30311 that the proposed activity is dependent upon  
21 being located in the wetland ~~7~~ and that a prudent and feasible  
22 alternative does not exist.

23 (2) In the administration of this ~~act~~ PART, the department  
24 shall consider the criteria provided in subsection (1).

25 Sec. ~~4~~ 30303. The department may enter into an agreement  
26 to make contracts with the federal government, other state  
27 agencies, ~~municipalities,~~ LOCAL UNITS OF GOVERNMENT, private

1 agencies, or persons for the purposes of making studies for the  
 2 efficient preservation, management, protection, and use of wet-  
 3 land resources. A study shall be available as a public record  
 4 for distribution at cost as provided in section 4 of THE FREEDOM  
 5 OF INFORMATION ACT, Act No. 442 of the Public Acts of 1976, being  
 6 section 15.234 of the Michigan Compiled Laws.

7       Sec. ~~5~~ 30304. Except as otherwise provided by this ~~act~~  
 8 PART or by a permit obtained from the department under sections  
 9 ~~7~~ 30306 to ~~12~~ 30314, a person shall not DO ANY OF THE  
 10 FOLLOWING:

11       (a) Deposit or permit the placing of fill material in a  
 12 wetland.

13       (b) Dredge, remove, or permit the removal of soil or miner-  
 14 als from a wetland.

15       (c) Construct, operate, or maintain any use or development  
 16 in a wetland.

17       (d) Drain surface water from a wetland.

18       Sec. ~~6~~ 30305. (1) Activities which require a permit under  
 19 ~~the Great Lakes submerged lands act, Act No. 247 of the Public~~  
 20 ~~Acts of 1955, as amended, being sections 322.701 to 322.715 of~~  
 21 ~~the Michigan Compiled Laws, or the inland lakes and streams act,~~  
 22 ~~Act No. 346 of the Public Acts of 1972, being sections 281.951 to~~  
 23 ~~281.965 of the Michigan Compiled Laws, shall~~ PART 325 OR  
 24 PART 301 DO not require a permit under this ~~act~~ PART.

25       (2) The following uses ~~shall be~~ ARE allowed in a wetland  
 26 without a permit subject to other laws of this state and the  
 27 owner's regulation:

- 1 (a) Fishing, trapping, or hunting.
- 2 (b) Swimming or boating.
- 3 (c) Hiking.
- 4 (d) Grazing of animals.
- 5 (e) Farming, horticulture, silviculture, lumbering, and  
6 ranching activities, including plowing, irrigation, irrigation  
7 ditching, seeding, cultivating, minor drainage, harvesting for  
8 the production of food, fiber, and forest products, or upland  
9 soil and water conservation practices. Wetland altered under  
10 this subdivision shall not be used for a purpose other than a  
11 purpose described in this subsection without a permit from the  
12 department.
- 13 (f) Maintenance or operation of serviceable structures in  
14 existence on ~~the effective date of this act~~ OCTOBER 1, 1980 or  
15 constructed pursuant to this ~~act~~ PART OR FORMER ACT NO. 203 OF  
16 THE PUBLIC ACTS OF 1979.
- 17 (g) Construction or maintenance of farm or stock ponds.
- 18 (h) Maintenance, operation, or improvement which includes  
19 straightening, widening, or deepening of the following which is  
20 necessary for the production or harvesting of agricultural  
21 products:
- 22 (i) An existing private agricultural drain.
- 23 (ii) That portion of a drain legally established pursuant to  
24 the drain code of 1956, Act No. 40 of the Public Acts of 1956,  
25 ~~as amended,~~ being sections 280.1 to 280.630 of the Michigan  
26 Compiled Laws, which has been constructed or improved for  
27 drainage purposes.



1 (iii) A drain constructed pursuant to other provisions of  
2 this ~~act~~ PART OR FORMER ACT NO. 203 OF THE PUBLIC ACTS OF  
3 1979.

4 (I) ~~(j)~~ Construction or maintenance of farm roads, forest  
5 roads, or temporary roads for moving mining or forestry equip-  
6 ment, if the roads are constructed and maintained in a manner to  
7 assure that any adverse effect on the wetland will be otherwise  
8 minimized.

9 (J) ~~(k)~~ Drainage necessary for the production and harvest-  
10 ing of agricultural products if the wetland is owned by a person  
11 who is engaged in commercial farming and the land is to be used  
12 for the production and harvesting of agricultural products.  
13 Except as otherwise provided in this ~~act~~ PART, wetland improved  
14 under this subdivision after ~~the effective date of this act~~  
15 OCTOBER 1, 1980 shall not be used for nonfarming purposes without  
16 a permit from the department. This subdivision shall not apply  
17 to a wetland which is contiguous to a lake or stream, or to a  
18 tributary of a lake or stream, or to a wetland ~~which~~ THAT the  
19 department has determined by clear and convincing evidence to be  
20 a wetland ~~which~~ THAT is necessary to be preserved for the  
21 public interest, in which case a permit ~~shall be~~ IS required.

22 (K) ~~(l)~~ Maintenance or improvement of public streets,  
23 highways, or roads, within the right-of-way and in such a manner  
24 as to assure that any adverse effect on the wetland will be oth-  
25 erwise minimized. Maintenance or improvement does not include  
26 adding extra lanes, ~~—~~ increasing the right-of-way, ~~—~~ or

1 deviating from the existing location of the street, highway, or  
2 road.

3 (L) ~~(m)~~ Maintenance, repair, or operation of gas or oil  
4 pipelines and construction of gas or oil pipelines having a diam-  
5 eter of 6 inches or less, if the pipelines are constructed, main-  
6 tained, or repaired in a manner to assure that any adverse effect  
7 on the wetland will be otherwise minimized.

8 (M) ~~(n)~~ Maintenance, repair, or operation of electric  
9 transmission and distribution power lines and construction of  
10 distribution power lines, if the distribution power lines are  
11 constructed, maintained, or repaired in a manner to assure that  
12 any adverse effect on the wetland will be otherwise minimized.

13 (N) ~~(o)~~ Operation or maintenance, including reconstruction  
14 of recently damaged parts, of serviceable dikes and levees in  
15 existence on ~~the effective date of this act~~ OCTOBER 1, 1980 or  
16 constructed pursuant to this ~~act~~ PART OR FORMER ACT NO. 203 OF  
17 THE PUBLIC ACTS OF 1979.

18 (O) ~~(p)~~ Construction of iron and copper mining tailings  
19 basins and water storage areas.

20 (3) After ~~the effective date of this act~~ OCTOBER 1, 1980  
21 but immediately prior to the approval of a state program under  
22 section 404 of title ~~4~~ IV of the ~~clean water act of 1977~~  
23 FEDERAL WATER POLLUTION CONTROL ACT, CHAPTER 758, 86 STAT. 884,  
24 33 U.S.C. 1344, where a project solely involves the discharge of  
25 fill material subject to the individual permit requirements of  
26 section 404 of title ~~4~~ IV of the ~~clean water act of 1977~~, 33

1 ~~U.S.C. 1344~~ FEDERAL WATER POLLUTION CONTROL ACT, an additional  
2 permit ~~shall~~ IS not ~~be~~ required by this ~~act~~ PART.

3       Sec. ~~7~~ 30306. (1) Except as provided in section ~~8(4)~~  
4 30307(4), to obtain a permit for a use or development listed in  
5 section ~~5~~ 30304, the person desiring the permit shall file an  
6 application with the department on a form provided by the depart-  
7 ment accompanied by a fee of \$25.00. A person who has a permit  
8 for the particular activity under ~~Act No. 346 of the Public Acts~~  
9 ~~of 1972,~~ PART 301 or ~~Act No. 61 of the Public Acts of 1939, as~~  
10 ~~amended, being sections 319.1 to 319.27 of the Michigan Compiled~~  
11 ~~Laws,~~ PART 615 does not need to pay the fee prescribed by this  
12 subsection. The application shall include ALL OF THE FOLLOWING:

13       (a) The person's name and address.

14       (b) The location of the wetland.

15       (c) A description of the wetland on which the use or devel-  
16 opment is to be made.

17       (d) A statement describing the proposed use or development.

18       (e) The wetland owner's name and address.

19       (f) An environmental assessment, on a form supplied by the  
20 department, of the proposed use or development if requested by  
21 the department, which ASSESSMENT shall include THE effects upon  
22 wetland benefits and the effects upon the water quality, flow,  
23 and levels, and the wildlife, fish, and vegetation within a con-  
24 tiguous lake, river, or stream.

25       (2) For the purposes of subsection (1), a proposed use or  
26 development of a wetland shall be considered as a single permit  
27 application under this ~~act~~ PART if the scope, extent, and

1 purpose of a use or development are made known at the time of the  
2 application for the permit.

3       Sec. ~~8~~ 30307. (1) Within 60 days after receipt of the  
4 completed application and fee, the department may hold a  
5 hearing. If a hearing is held, it shall be held in the county  
6 where the wetland on which the permit is to apply is located.  
7 Notice of the hearing shall be made in the same manner as for the  
8 promulgation of rules under the administrative procedures act of  
9 1969, Act No. 306 of the Public Acts of 1969, ~~as amended,~~ being  
10 sections 24.201 to 24.328 of the Michigan Compiled Laws. The  
11 department may approve or disapprove a permit application without  
12 a public hearing unless a person requests a hearing in writing  
13 within 20 days after the mailing of notification of the permit  
14 application as required by subsection (3) ~~—~~ or UNLESS the  
15 department determines that the permit application is of signifi-  
16 cant impact to warrant a public hearing.

17       (2) If a hearing is not held, the department shall approve  
18 or disapprove the permit application within 90 days after the  
19 completed permit application is filed with the department. If a  
20 hearing is held, the department shall approve or disapprove the  
21 permit application within 90 days after the conclusion of the  
22 hearing. The department may approve a permit application,  
23 request modifications in the application, or deny the permit  
24 application. If the department approves the permit application,  
25 the department shall prepare and send the permit to the  
26 applicant. If the department denies, or requests a modification  
27 of, the permit application, the department shall send notice of

1 the denial or modification request ~~—~~ and the reasons for the  
2 denial or the modifications requested to the applicant.  
3 Department approval may include the issuance of a permit contain-  
4 ing conditions necessary for compliance with this ~~act~~ PART. If  
5 the department does not approve or disapprove the permit applica-  
6 tion within the time provided by this subsection, the permit  
7 application shall be considered approved, and the department  
8 shall be considered to have made the determinations required by  
9 section ~~9-~~ 30311. The action taken by the department may be  
10 appealed pursuant to Act No. 306 of the Public Acts of 1969. ~~—~~  
11 ~~as amended.~~ A property owner may, after exhaustion of adminis-  
12 trative remedies, bring appropriate legal action in a court of  
13 competent jurisdiction.

14 (3) A person who desires notification of pending permit  
15 applications may make a written request to the department accom-  
16 panied by an annual fee of \$25.00, which shall be credited to the  
17 general fund of the state. The department shall prepare a  
18 biweekly list of the applications made during the previous 2  
19 weeks and shall promptly mail copies of the list for the remain-  
20 der of the calendar year to the persons who requested notice.  
21 The biweekly list shall state the name and address of each appli-  
22 cant, the location of the wetland in the proposed use or  
23 development, including the size of both the proposed use or  
24 development and of the wetland affected, and a summary statement  
25 of the purpose of the use or development.

26 (4) A ~~municipality~~ LOCAL UNIT OF GOVERNMENT may regulate  
27 wetland within its boundaries, by ordinance, only as provided

1 under this ~~act~~ PART. This subsection is supplemental to the  
2 existing authority of a ~~municipality~~ LOCAL UNIT OF GOVERNMENT.  
3 An ordinance adopted by a ~~municipality~~ LOCAL UNIT OF GOVERNMENT  
4 pursuant to this subsection shall comply with all of the  
5 following:

6 (a) The ordinance shall not provide a different definition  
7 of wetland than is provided in this ~~act~~ PART, except that a  
8 wetland ordinance may regulate wetland of less than 5 acres in  
9 size.

10 (b) If the ordinance regulates wetland that is smaller than  
11 2 acres in size, the ordinance shall comply with section ~~8b~~  
12 30309.

13 (c) The ordinance shall comply with sections ~~8a~~ 30308 and  
14 ~~8c~~ 30310.

15 (d) The ordinance shall not require a permit for uses that  
16 are authorized without a permit under section ~~6~~ 30305, and  
17 shall otherwise comply with this ~~act~~ PART.

18 (5) Each ~~municipality~~ LOCAL UNIT OF GOVERNMENT that adopts  
19 an ordinance regulating wetlands under subsection (4) shall  
20 notify the department.

21 (6) A ~~municipality~~ LOCAL UNIT OF GOVERNMENT that adopts an  
22 ordinance regulating wetlands shall use an application form sup-  
23 plied by the department, and each person applying for a permit  
24 shall make application directly with the ~~municipality~~ LOCAL  
25 UNIT OF GOVERNMENT. Upon receipt, the ~~municipality~~ LOCAL UNIT  
26 OF GOVERNMENT shall forward a copy of each application to the  
27 department. The department shall begin reviewing the application

1 as provided in this ~~act~~ PART. The ~~municipality~~ LOCAL UNIT OF  
2 GOVERNMENT shall review the application pursuant to its ordinance  
3 and shall modify, approve, or deny the application within 90 days  
4 after receipt. The denial of a permit shall be accompanied by a  
5 written reason for denial. The failure to supply complete infor-  
6 mation with a permit application may be reason for denial of a  
7 permit. The department shall inform any interested person  
8 whether or not a ~~municipality~~ LOCAL UNIT OF GOVERNMENT has an  
9 ordinance regulating wetlands. If the department receives an  
10 application with respect to a wetland which is located in a  
11 ~~municipality~~ LOCAL UNIT OF GOVERNMENT which has an ordinance  
12 regulating wetlands, the department immediately shall forward the  
13 application to the ~~municipality~~ LOCAL UNIT OF GOVERNMENT, which  
14 shall modify, deny, or approve the application under this  
15 subsection. The ~~municipality~~ LOCAL UNIT OF GOVERNMENT shall  
16 notify the department of its decision. The department shall pro-  
17 ceed as provided in this ~~act~~ PART.

18 (7) If a ~~municipality~~ LOCAL UNIT OF GOVERNMENT does not  
19 have an ordinance regulating wetlands, the department shall  
20 promptly send a copy of the permit application to the  
21 ~~municipality~~ LOCAL UNIT OF GOVERNMENT where the wetland is  
22 located. The ~~municipality~~ LOCAL UNIT OF GOVERNMENT may review  
23 the application; may hold a hearing on the application; and may  
24 recommend approval, modification, or denial of the application to  
25 the department. The recommendations of the ~~municipality~~ LOCAL  
26 UNIT OF GOVERNMENT shall be made and returned to the department  
27 within 45 days after the ~~municipality's~~ LOCAL UNIT OF

1 GOVERNMENT'S receipt of the permit application. The department  
2 shall approve, modify, or deny the application as provided in  
3 this ~~act~~ PART.

4 (8) In addition to the requirements of subsection (7), the  
5 department shall notify the ~~municipality~~ LOCAL UNIT OF  
6 GOVERNMENT that the department has issued a permit under this  
7 ~~act~~ PART within the jurisdiction of that ~~municipality~~ LOCAL  
8 UNIT OF GOVERNMENT within 15 days of issuance of the permit. The  
9 department shall enclose a copy of the permit with the notice.

10 Sec. ~~8a~~ 30308. (1) Prior to the effective date of an  
11 ordinance authorized under section ~~8(4)~~ 30307(4), a  
12 ~~municipality~~ LOCAL UNIT OF GOVERNMENT that wishes to adopt such  
13 an ordinance shall complete and make available to the public at a  
14 reasonable cost an inventory of all wetland within the  
15 ~~municipality~~ LOCAL UNIT OF GOVERNMENT, except that a  
16 ~~municipality~~ LOCAL UNIT OF GOVERNMENT located in a county that  
17 has a population of less than 100,000 is not required to include  
18 public lands on its map. A ~~municipality~~ LOCAL UNIT OF  
19 GOVERNMENT shall make a draft of the inventory map available to  
20 the public, shall provide for public notice and comment opportu-  
21 nity prior to finalizing the inventory map, and shall respond in  
22 writing to written comments received by the ~~municipality~~ LOCAL  
23 UNIT OF GOVERNMENT regarding the contents of the inventory. A  
24 ~~municipality~~ LOCAL UNIT OF GOVERNMENT that has a wetland ordi-  
25 nance on ~~the effective date of this section~~ DECEMBER 18, 1992  
26 has ~~18 months from that date~~ UNTIL JUNE 18, 1994 to complete an  
27 inventory map and to otherwise comply with this ~~act~~ PART, or



1 the ~~municipality~~ LOCAL UNIT OF GOVERNMENT shall not continue to  
2 enforce that ordinance. Upon completion of an inventory map or  
3 upon a subsequent amendment of an inventory map, the  
4 ~~municipality~~ LOCAL UNIT OF GOVERNMENT shall notify each record  
5 owner of property on the property tax roll of the ~~municipality~~  
6 LOCAL UNIT OF GOVERNMENT that the inventory maps exist or have  
7 been amended, where the maps may be reviewed, that the owner's  
8 property may be designated as a wetland on the inventory map, and  
9 that the ~~municipality~~ LOCAL UNIT OF GOVERNMENT has an ordinance  
10 regulating wetland. The notice shall also inform the property  
11 owner that the inventory map does not necessarily include all of  
12 the wetlands within the ~~municipality~~ LOCAL UNIT OF GOVERNMENT  
13 that may be subject to the wetland ordinance. The notice may be  
14 given by including the required information with the annual  
15 notice of the property owner's property tax assessment. A wet-  
16 land inventory map does not create any legally enforceable pre-  
17 sumptions regarding whether property that is or is not included  
18 on the inventory map is or is not ~~in fact~~ a wetland.

19 (2) A ~~municipality~~ LOCAL UNIT OF GOVERNMENT that adopts a  
20 wetland ordinance shall process wetland use applications in a  
21 manner that ensures that the same entity makes decisions on site  
22 plans, plats, and related matters, and wetland determinations,  
23 and that the applicant is not required to submit to a hearing on  
24 the application before more than 1 ~~municipal~~ LOCAL UNIT OF  
25 GOVERNMENT decision making body. This requirement does not apply  
26 to either of the following:

1 (a) A preliminary review by a planning department, planning  
2 consultant, or planning commission, prior to submittal to the  
3 decision making body if required by an ordinance.

4 (b) An appeal process that is provided for appeal to the  
5 legislative body or other body designated to hear appeals.

6 Sec. ~~8b~~ 30309. A ~~municipality~~ LOCAL UNIT OF GOVERNMENT  
7 that has adopted an ordinance under section ~~8(4)~~ 30307(4) that  
8 regulates wetland within its jurisdiction that is less than 2  
9 acres in size shall comply with this section. Upon application  
10 for a wetland use permit in a wetland that is less than 2 acres  
11 in size, the ~~municipality~~ LOCAL UNIT OF GOVERNMENT shall  
12 approve the permit unless the ~~municipality~~ LOCAL UNIT OF  
13 GOVERNMENT determines that the wetland is essential to the pre-  
14 servation of the natural resources of the ~~municipality~~ LOCAL  
15 UNIT OF GOVERNMENT and ~~provide~~ PROVIDES these findings, in  
16 writing, to the permit applicant stating the reasons for this  
17 determination. In making this determination, the ~~municipality~~  
18 LOCAL UNIT OF GOVERNMENT must find that 1 or more of the follow-  
19 ing exist at the particular site:

20 (a) The site supports state or federal endangered or threat-  
21 ened plants, fish, or wildlife appearing on a list specified in  
22 section ~~6 of the endangered species act of 1974, Act No. 203 of~~  
23 ~~the Public Acts of 1974, being section 299.226 of the Michigan~~  
24 ~~Compiled Laws~~ 36505.

25 (b) The site represents what is identified as a locally rare  
26 or unique ecosystem.

1 (c) The site supports plants or animals of an identified  
2 local importance.

3 (d) The site provides groundwater recharge documented by a  
4 public agency.

5 (e) The site provides flood and storm control by the hydro-  
6 logic absorption and storage capacity of the wetland.

7 (f) The site provides wildlife habitat by providing breed-  
8 ing, nesting, or feeding grounds or cover for forms of wildlife,  
9 waterfowl, including migratory waterfowl, and rare, threatened,  
10 or endangered wildlife species.

11 (g) The site provides protection of subsurface water  
12 resources and provision of valuable watersheds and recharging  
13 groundwater supplies.

14 (h) The site provides pollution treatment by serving as a  
15 biological and chemical oxidation basin.

16 (i) The site provides erosion control by serving as a sedi-  
17 mentation area and filtering basin, absorbing silt and organic  
18 matter.

19 (j) The site provides sources of nutrients in water food  
20 cycles and nursery grounds and sanctuaries for fish.

21 Sec. ~~8c~~ 30310. (1) A ~~municipality~~ LOCAL UNIT OF  
22 GOVERNMENT that adopts an ordinance authorized under  
23 section ~~8(4)~~ 30307(4) shall include in the ordinance a provi-  
24 sion that allows a landowner to request a revaluation of the  
25 affected property for assessment purposes to determine its fair  
26 market value under the use restriction if a permit is denied by a  
27 ~~municipality~~ LOCAL UNIT OF GOVERNMENT for a proposed wetland

1 use. A landowner who is aggrieved by a determination, action, or  
2 inaction under this subsection may protest and appeal that deter-  
3 mination, action, or inaction pursuant to the general property  
4 tax act, Act No. 206 of the Public Acts of 1893, being sections  
5 211.1 to 211.157 of the Michigan Compiled Laws.

6 (2) If a permit applicant is aggrieved by a determination,  
7 action, or inaction by the ~~municipality~~ LOCAL UNIT OF  
8 GOVERNMENT regarding the issuance of a permit, that person may  
9 seek judicial review in the same manner as provided in the admin-  
10 istrative procedures act of 1969, Act No. 306 of the Public Acts  
11 of 1969, being sections 24.201 to 24.328 of the Michigan Compiled  
12 Laws.

13 (3) This section does not limit the right of a wetland owner  
14 to institute proceedings in any circuit of the circuit court of  
15 the state against any person when necessary to protect the wet-  
16 land owner's rights.

17 Sec. ~~9~~ 30311. (1) A permit for an activity listed in sec-  
18 tion ~~5~~ 30304 shall not be approved unless the department deter-  
19 mines that the issuance of a permit is in the public interest,  
20 that the permit is necessary to realize the benefits derived from  
21 the activity, and that the activity is otherwise lawful.

22 (2) In determining whether the activity is in the public  
23 interest, the benefit which reasonably may be expected to accrue  
24 from the proposal shall be balanced against the reasonably fore-  
25 seeable detriments of the activity. The decision shall reflect  
26 the national and state concern for the protection of natural

1 resources from pollution, impairment, and destruction. The  
2 following general criteria shall be considered:

3 (a) The relative extent of the public and private need for  
4 the proposed activity.

5 (b) The availability of feasible and prudent alternative  
6 locations and methods to accomplish the expected benefits from  
7 the activity.

8 (c) The extent and permanence of the beneficial or detrimen-  
9 tal effects ~~which~~ THAT the proposed activity may have on the  
10 public and private uses to which the area is suited, including  
11 the benefits the wetland provides.

12 (d) The probable impact of each proposal in relation to the  
13 cumulative effect created by other existing and anticipated  
14 activities in the watershed.

15 (e) The probable impact on recognized historic, cultural,  
16 scenic, ecological, or recreational values and on the public  
17 health or fish or wildlife.

18 (f) The size of the wetland being considered.

19 (g) The amount of remaining wetland in the general area.

20 (h) Proximity to any waterway.

21 (i) Economic value, both public and private, of the proposed  
22 land change to the general area.

23 (3) In considering a permit application, the department  
24 shall give serious consideration to findings of necessity for the  
25 proposed activity which have been made by other state agencies.

26 (4) A permit shall not be issued unless it is shown that an  
27 unacceptable disruption will not result to the aquatic

1 resources. In determining whether a disruption to the aquatic  
2 resources is unacceptable, the criteria set forth in section ~~3-~~  
3 30302 and subsection (2) shall be considered. A permit shall not  
4 be issued unless the applicant also shows either of the  
5 following:

6 (a) The proposed activity is primarily dependent upon being  
7 located in the wetland.

8 (b) A feasible and prudent alternative does not exist.

9 Sec. ~~+0-~~ 30312. (1) The department, after notice and  
10 opportunity for a public hearing, may issue general permits on a  
11 state or county basis for a category of activities if the depart-  
12 ment determines that the activities are similar in nature, will  
13 cause only minimal adverse environmental effects when performed  
14 separately, and will have only minimal cumulative adverse effect  
15 on the environment. A general permit issued under this subsec-  
16 tion shall be based on the requirements of this ~~act~~ PART and  
17 the rules promulgated under this ~~act~~ PART, and shall set forth  
18 the requirements and standards ~~which~~ THAT shall apply to an  
19 activity authorized by the general permit.

20 (2) The department may impose conditions on a permit for a  
21 use or development if the conditions are designed to remove an  
22 impairment to the wetland benefits, to mitigate the impact of a  
23 discharge of fill material, or to otherwise improve the water  
24 quality.

25 (3) The department may establish a reasonable time when the  
26 construction, development, or use is to be completed or

1 terminated. A general permit shall not be valid for more than 5  
2 years.

3       Sec. ~~++~~ 30313. (1) A general permit may be revoked or  
4 modified if, after opportunity for a public hearing or a con-  
5 tested case hearing under THE ADMINISTRATIVE PROCEDURES ACT OF  
6 1969, Act No. 306 of the Public Acts of 1969, ~~as amended~~ BEING  
7 SECTIONS 24.201 TO 24.328 OF THE MICHIGAN COMPILED LAWS, the  
8 department determines that the activities authorized by the gen-  
9 eral permit have an adverse impact on the environment or the  
10 activities would be more appropriately authorized by an individ-  
11 ual permit.

12       (2) A permit may be terminated or modified for cause,  
13 including:

14       (a) A violation of a condition of the permit.

15       (b) Obtaining a permit by misrepresentation or failure to  
16 fully disclose relevant facts.

17       (c) A change in a condition that requires a temporary or  
18 permanent change in the activity.

19       Sec. ~~+2~~ 30314. (1) The department shall require the  
20 holder of a permit to provide information the department reason-  
21 ably requires to obtain compliance with this ~~act~~ PART.

22       (2) Upon reasonable cause or obtaining a search warrant, the  
23 department may enter on, upon, or through the premises on which  
24 an activity listed in section ~~-5~~ 30304 is located or on which  
25 information required to be maintained under subsection (1) is  
26 located.

1           Sec. ~~+3-~~ 30315. (1) If, on the basis of information  
2 available to the department, the department finds that a person  
3 is in violation of this ~~-act-~~ PART or a condition set forth in a  
4 permit issued under section ~~-9-~~ 30311 or ~~+0-~~ 30312, the depart-  
5 ment shall issue an order requiring the person to comply with the  
6 prohibitions or conditions or the department shall request the  
7 attorney general to bring a civil action under section ~~+4(+)-~~  
8 30316(1).

9           (2) An order issued under subsection (1) shall state with  
10 reasonable specificity the nature of the violation and shall  
11 specify a time for compliance, not to exceed 30 days, which the  
12 department determines is reasonable, taking into account the  
13 seriousness of the violation and good faith efforts to comply  
14 with applicable requirements.

15           Sec. ~~+4-~~ 30316. (1) The attorney general may commence a  
16 civil action for appropriate relief, including injunctive relief  
17 upon request of the department under section ~~+3(+)-~~ 30315(1).  
18 An action under this subsection may be brought in the circuit  
19 court for the county of Ingham or for a county in which the  
20 defendant is located, resides, or is doing business. The court  
21 has jurisdiction to restrain the violation and to require compli-  
22 ance with this ~~-act-~~ PART. In addition to any other relief  
23 granted under this section, the court may impose a civil fine of  
24 not more than \$10,000.00 per day of violation. A person who vio-  
25 lates an order of the court ~~-shall be-~~ IS subject to a civil fine  
26 not to exceed \$10,000.00 for each day of violation.



1 (2) A person who violates this ~~act~~ PART is guilty of a  
2 misdemeanor, punishable by a fine of not more than \$2,500.00.

3 (3) A person who ~~wilfully~~ WILLFULLY or recklessly violates  
4 a condition or limitation in a permit issued by the department  
5 under this ~~act~~ PART, or a corporate officer who has knowledge  
6 of or is responsible for a violation, is guilty of a misdemeanor,  
7 punishable by a fine of not less than \$2,500.00 nor more than  
8 \$25,000.00 per day of violation, or by imprisonment for not more  
9 than 1 year, or both. A person who violates this section a  
10 second or subsequent time is guilty of a felony, punishable by a  
11 fine of not more than \$50,000.00 for each day of violation, or by  
12 imprisonment for not more than 2 years, or both.

13 (4) In addition to the penalties provided under subsections  
14 (1), (2), and (3), the court may order a person who violates this  
15 ~~act~~ PART to restore as nearly as possible the wetland ~~which~~  
16 THAT was affected by the violation ~~to~~ to its original condition  
17 immediately before the violation. The restoration may include  
18 the removal of fill material deposited in the wetland or the  
19 replacement of soil, sand, or minerals.

20 Sec. ~~+5~~ 30317. The fees and civil fines collected under  
21 this ~~act~~ PART shall be deposited in the general fund of the  
22 state. Other than criminal fines, funds collected by a  
23 ~~municipality~~ LOCAL UNIT OF GOVERNMENT under an ordinance autho-  
24 rized under section ~~8(4),~~ 30307(4) shall be deposited in the  
25 general fund of the ~~municipality~~ LOCAL UNIT OF GOVERNMENT.

26 Sec. ~~+6~~ 30318. If a permit is denied for a proposed  
27 wetland activity, the landowner may request a revaluation of the

1 affected property for assessment purposes to determine its fair  
2 market value under the use restriction.

3       Sec. ~~+7~~ 30319. (1) The department shall promulgate and  
4 enforce rules to implement this ~~act pursuant to Act No. 306 of~~  
5 ~~the Public Acts of 1969, as amended~~ PART.

6       (2) If a person is aggrieved by any action or inaction of  
7 the department, the person may request a formal hearing on the  
8 matter involved. The hearing shall be conducted by the depart-  
9 ment pursuant to THE ADMINISTRATIVE PROCEDURES ACT OF 1969, Act  
10 No. 306 of the Public Acts of 1969, ~~as amended~~ BEING  
11 SECTIONS 24.201 TO 24.328 OF THE MICHIGAN COMPILED LAWS.

12       (3) A determination, action, or inaction by the department  
13 following the hearing ~~shall be~~ IS subject to judicial review as  
14 provided in Act No. 306 of the Public Acts of 1969. ~~as~~  
15 ~~amended.~~

16       (4) This section does not limit the right of a wetland owner  
17 to institute proceedings in any circuit of the circuit court of  
18 the state against any person when necessary to protect the wet-  
19 land owner's rights.

20       Sec. ~~+8~~ 30320. (1) As inventories of wetland are com-  
21 pleted, the inventories shall be used as 1 of the criteria by the  
22 department in issuing permits. The inventories shall be periodi-  
23 cally updated. The maps, ground surveys, and descriptions of  
24 wetlands included in the inventories shall be submitted to the  
25 respective county register of deeds and shall become a public  
26 document available to review by any member of the public.

1 (2) Aerial photographs and satellite telemetry data  
2 reproductions shall be made available to the respective county  
3 register of deeds for cost as determined by the department.

4 Sec. ~~19~~ 30321. (1) The department shall make or cause to  
5 be made a preliminary inventory of all wetland in this state on a  
6 county by county basis and file the inventory with the agricul-  
7 tural extension office, register of deeds, and county clerk.

8 (2) At least 2 hearings shall be held in each state planning  
9 and development region created by Executive Directive  
10 No. 1973-1. The hearing shall be held by the department after  
11 publication and due notice so that interested parties may comment  
12 on the inventory. After the hearings, the department shall issue  
13 a final inventory which shall be sent and kept by the agricul-  
14 tural extension office, register of deeds, and county clerk.  
15 Legislators shall receive an inventory of a county or regional  
16 classification for their districts including both preliminary and  
17 final inventories unless the legislators request not to receive  
18 the materials.

19 (3) Before an inventory is made of a county, interested per-  
20 sons may request the department to inspect property, and the  
21 department shall make a written wetland determination. The  
22 determination shall be made within a reasonable time after the  
23 request. Completion of the inventory shall not delay implementa-  
24 tion of this ~~act~~ PART.

25 Sec. ~~20~~ 30322. As wetland inventories are completed as  
26 specified in section ~~19~~ 30321, owners of record as identified  
27 by the current property tax roll shall be notified of the

1 possible change in the status of their property. Notification  
2 shall be printed on the next property tax bill mailed to property  
3 owners in the county. It shall contain information specifying  
4 that a wetland inventory has been completed and is on file with  
5 the agricultural extension office, register of deeds, and county  
6 clerk, and that property owners may be subject to regulation  
7 under this ~~act~~ PART.

8       Sec. ~~21~~ 30323. (1) This ~~act~~ PART shall not be construed  
9 to abrogate rights or authority otherwise provided by law.

10       (2) For the purposes of determining if there has been a  
11 taking of property without just compensation under state law, an  
12 owner of property who has sought and been denied a permit from  
13 the state or from a ~~municipality~~ LOCAL UNIT OF GOVERNMENT that  
14 adopts an ordinance pursuant to section ~~8(4)~~ or 30307(4), WHO  
15 has been made subject to modifications or conditions in the  
16 permit under this ~~act~~ PART, or WHO HAS BEEN MADE SUBJECT TO the  
17 action or inaction of the department pursuant to this ~~act~~ PART  
18 or THE ACTION OR INACTION OF a ~~municipality~~ LOCAL UNIT OF  
19 GOVERNMENT that adopts an ordinance pursuant to section ~~8(4)~~  
20 30307(4) may file an action in a court of competent  
21 jurisdiction.

22       (3) If the court determines that an action of the department  
23 or a ~~municipality~~ LOCAL UNIT OF GOVERNMENT pursuant to this  
24 ~~act~~ PART or an ordinance authorized pursuant to section ~~8(4)~~  
25 30307(4) constitutes a taking of the property of a person, then  
26 the court shall order the department or the ~~municipality~~ LOCAL  
27 UNIT OF GOVERNMENT, at the department's or the ~~municipality's~~

1 LOCAL UNIT OF GOVERNMENT'S option, as applicable, to do 1 or more  
2 of the following:

3 (a) Compensate the property owner for the full amount of the  
4 lost value.

5 (b) Purchase the property in the public interest as deter-  
6 mined before its value was affected by this ~~act~~ PART or the  
7 local ordinance authorized under section ~~8(4)~~ 30307(4) or the  
8 action or inaction of the department pursuant to this ~~act~~ PART  
9 or the ~~municipality~~ LOCAL UNIT OF GOVERNMENT pursuant to its  
10 ordinance.

11 (c) Modify its action or inaction with respect to the prop-  
12 erty so as to minimize the detrimental affect to the property's  
13 value.

14 (4) For the purposes of this section, the value of the prop-  
15 erty may not exceed that share ~~which the area in dispute occu-~~  
16 ~~pies in the total parcel of land,~~ of the state equalized  
17 ~~evaluation~~ VALUATION of the total parcel THAT THE AREA IN DIS-  
18 PUTE OCCUPIES OF THE TOTAL PARCEL OF LAND, multiplied by 2, as  
19 determined by an inspection of the most recent assessment roll of  
20 the township or city in which the parcel is located.

21 ~~Sec. 22. This act shall take effect October 1, 1980.~~

22 ~~Part 305. Natural Rivers~~

23 PART 305 NATURAL RIVERS

24 ~~Sec. 1. This act shall be known and may be cited as the~~  
25 ~~"natural river act of 1970".~~

26 Sec. ~~2~~ 30501. As used in this ~~act~~ PART:

1 ~~(a) "Commission" means the natural resources commission.~~

2 (A) ~~(c)~~ "Free flowing" means existing or flowing in  
3 natural condition without impoundment, diversion, straightening,  
4 riprapping, or other modification.

5 (B) ~~(f)~~ "Natural river" means a river ~~which~~ THAT has  
6 been designated by the ~~commission~~ DEPARTMENT for inclusion in  
7 the wild, scenic, and recreational rivers system.

8 (C) ~~(b)~~ "River" means a flowing body of water or a portion  
9 or tributary ~~thereof~~ OF A FLOWING BODY OF WATER, including  
10 streams, creeks, or impoundments and small lakes thereon.

11 ~~(d) "Person" means an individual, partnership, firm, corpo-~~  
12 ~~ration, association or other entity.~~

13 (D) ~~(e)~~ "System" means all of those rivers or portions  
14 ~~thereof~~ OF RIVERS designated under this ~~act~~ PART.

15 Sec. ~~3~~ 30502. The ~~commission~~ DEPARTMENT, in the inter-  
16 est of the people of the state and future generations, may desig-  
17 nate a river or portion ~~thereof,~~ OF A RIVER as a natural river  
18 area for the purpose of preserving and enhancing its values for  
19 water conservation, its free flowing condition, and its fish,  
20 wildlife, boating, scenic, aesthetic, ~~flood plain~~ FLOODPLAIN,  
21 ecologic, historic, and recreational values and uses. The area  
22 shall include adjoining or related lands as appropriate to the  
23 purposes of the designation. The ~~commission~~ DEPARTMENT shall  
24 prepare and adopt a long-range comprehensive plan for a desig-  
25 nated natural river area ~~which shall set~~ THAT SETS forth the  
26 purposes of the designation, proposed uses of lands and waters,  
27 and management measures designed to accomplish the purposes.

1 State land within the designated area shall be administered and  
2 managed in accordance with the plan, and state management of  
3 fisheries, streams, waters, wildlife, and boating shall take cog-  
4 nizance of the plan. The ~~commission~~ DEPARTMENT shall publicize  
5 and inform private and public landowners or agencies as to the  
6 plan and its purposes, so as to encourage their cooperation in  
7 the management and use of their land in a manner consistent with  
8 the plan ~~and~~ and the purposes of the designation. The  
9 ~~commission~~ DEPARTMENT shall cooperate with federal agencies  
10 administering any federal program concerning natural river areas,  
11 and with any watershed council established under ~~Act No. 253 of~~  
12 ~~the Public Acts of 1964, being sections 323.301 to 323.320 of the~~  
13 ~~Compiled Laws of 1948~~ PART 311, when such cooperation ~~will~~  
14 ~~further~~ FURTHERS the interest of the state.

15       Sec. ~~4~~ 30503. A river qualifying for designation as a  
16 natural river area shall possess 1 or more of the natural or out-  
17 standing existing values cited in section ~~3~~ 30502 and shall be  
18 permanently managed for the preservation or enhancement of such  
19 values. Categories of natural rivers shall be defined and estab-  
20 lished by the ~~commission~~ DEPARTMENT, based on the characteris-  
21 tics of the waters and the adjoining lands and their uses, both  
22 as existing and as proposed, including such categories as wild,  
23 scenic, and recreational. The categories shall be specified in  
24 the designation and the long-range comprehensive plan.

25       Sec. ~~5~~ 30504. The ~~commission~~ DEPARTMENT may acquire  
26 lands or interests in lands adjacent to a designated natural  
27 river for the purpose of maintaining or improving the river and

1 its environment in conformance with the purposes of the  
2 designation and the plan. Interests ~~which~~ THAT may be acquired  
3 include, but are not limited to, easements designed to provide  
4 for preservation and to limit development, without providing  
5 public access and use. Lands or interests in lands shall be  
6 acquired under this ~~act~~ PART only with THE consent of the  
7 owner.

8       Sec. ~~6~~ 30505. (1) The ~~commission~~ DEPARTMENT may admin-  
9 ister federal financial assistance programs for natural river  
10 areas.

11       (2) The ~~commission~~ DEPARTMENT may enter into a lease or  
12 agreement with any person or political subdivision to administer  
13 all or part of their lands in a natural river area.

14       (3) The ~~commission~~ DEPARTMENT may expend funds for works  
15 designed to preserve and enhance the values and uses of a natural  
16 river area and for construction, management, maintenance, and  
17 administration of facilities in a natural river area conforming  
18 to the purposes of the designation, ~~when~~ IF the funds are ~~so~~  
19 appropriated by the legislature.

20       Sec. ~~7~~ 30506. Before designating a river as a natural  
21 river area, the ~~commission~~ DEPARTMENT shall conduct public  
22 hearings in the county seat of any county in which a portion of  
23 the designated natural river area is located. Notices of the  
24 hearings shall be advertised at least twice, not less than 30  
25 days before the hearing, in a newspaper having general circula-  
26 tion in each such county and in at least 1 newspaper having



1 general circulation in the state and 1 newspaper published in the  
2 Upper Peninsula.

3       Sec. ~~8~~ 30507. After designation of a river or portion of  
4 a river as a natural river area and following the preparation of  
5 the long-range comprehensive plan, the ~~commission~~ DEPARTMENT  
6 may determine that the uses of land along the river, except  
7 within the limits of an incorporated municipality, shall be con-  
8 trolled by zoning contributing to accomplishment of the purposes  
9 of this ~~act~~ PART and the natural river plan. County and town-  
10 ship governments are encouraged to establish these zoning con-  
11 trols and ~~such~~ additional controls as may be appropriate,  
12 including, but not limited to, building and subdivision  
13 controls. The ~~commission~~ DEPARTMENT may provide advisory,  
14 planning, and cooperative assistance in the drafting of ordi-  
15 nances to establish ~~such~~ THESE controls. If the local unit  
16 does not, within 1 year after notice from the ~~commission~~  
17 DEPARTMENT, have in full force and effect a zoning ordinance or  
18 interim zoning ordinance established under authority of the acts  
19 cited in section ~~11~~ 30510, the ~~commission~~ DEPARTMENT, on its  
20 own motion, may promulgate a zoning rule in accordance with sec-  
21 tion ~~13~~ 30512. A zoning rule may also be promulgated if the  
22 ~~commission~~ DEPARTMENT finds that an adopted or existing zoning  
23 ordinance fails to meet adequately guidelines consistent with  
24 this ~~act~~ PART as provided by the ~~commission~~ DEPARTMENT and  
25 transmitted to the local units concerned, does not take full cog-  
26 nizance of the purposes and objectives of this ~~act~~ PART, or is

1 not in accord with the purposes of designation of the river as  
2 established by the ~~commission~~ DEPARTMENT.

3       Sec. ~~9~~ 30508. A zoning ordinance adopted by a local unit  
4 of government or a zoning rule promulgated by the ~~commission~~  
5 DEPARTMENT shall provide for the protection of the river and its  
6 related land resources consistent with the preservation and  
7 enhancement of their values and the objectives set forth in sec-  
8 tion ~~3~~ 30502. The ordinance or rule shall protect the interest  
9 of the people of the state as a whole. It shall take cognizance  
10 of the characteristics of the land and water concerned, surround-  
11 ing development, and existing uses and provide for conservation  
12 of soil, water, stream bed and banks, ~~flood plains~~ FLOODPLAINS,  
13 and adjoining uplands.

14       Sec. ~~10~~ 30509. The ordinance or rule shall establish  
15 zoning districts within which such uses of land as for agricul-  
16 ture, forestry, recreation, residence, industry, commerce, and  
17 additional uses may be encouraged, regulated, or prohibited. It  
18 may limit or prohibit the placement of structures of any class or  
19 designate their location with relation to the water's edge, to  
20 property or subdivision lines, and to flood flows and may limit  
21 the subdivision of lands for platting purposes. It may control  
22 the location and design of highways and roads and of public util-  
23 ity transmission and distribution lines, except on lands or other  
24 interests in real property owned by the utility on January 1,  
25 1971. It may prohibit or limit the cutting of trees or other  
26 vegetation, but such limits shall not apply for a distance of  
27 more than 100 feet from the river's edge. It may specifically

1 prohibit or limit mining and drilling for oil and gas, but such  
2 limits shall not apply for a distance of more than 300 feet from  
3 the river's edge. It may contain other provisions necessary to  
4 accomplish the objectives of this ~~act~~ PART. A zoning rule  
5 promulgated by the ~~commission~~ DEPARTMENT shall not control  
6 lands more than 400 feet from the river's edge.

7       Sec. ~~++~~ 30510. A local unit of government, in establish-  
8 ing a zoning ordinance, in addition to the authority and require-  
9 ments of this ~~act~~ PART, shall conform to THE TOWNSHIP RURAL  
10 ZONING ACT, Act No. 184 of the Public Acts of 1943, ~~as amended,~~  
11 being sections 125.271 to 125.301 of the MICHIGAN Compiled Laws,  
12 ~~of 1948,~~ or THE COUNTY RURAL ZONING ENABLING ACT, Act No. 183  
13 of the Public Acts of 1943, ~~as amended,~~ being sections 125.201  
14 to 125.232 of the MICHIGAN Compiled Laws. ~~of 1948.~~ Any conflict  
15 shall be resolved in favor of the provisions of this ~~act~~ PART.  
16 The powers ~~herein~~ granted UNDER THIS PART shall be liberally  
17 construed in favor of the local unit or the ~~commission~~  
18 DEPARTMENT exercising them, in such manner as to promote the  
19 orderly preservation or enhancement of the values of the rivers  
20 and related land resources and their use in accordance with a  
21 long-range comprehensive general plan to ~~insure~~ ENSURE the  
22 greatest benefit to the state as a whole.

23       Sec. ~~+2~~ 30511. Upon adoption of a zoning ordinance or  
24 rule, certified copies of the maps showing districts shall be  
25 filed with the local tax assessing officer and the state tax  
26 commission. In establishing true cash value of property within  
27 the districts zoned, the assessing officer shall take cognizance

1 of the effect of limits on use established by the ordinance or  
2 rule.

3       Sec. ~~+3-~~ 30512. (1) The ~~commission~~ DEPARTMENT shall pre-  
4 scribe ~~such~~ administrative procedures and rules and provide  
5 ~~such~~ personnel as it ~~may deem~~ CONSIDERS necessary for the  
6 enforcement of a zoning ordinance or rule enacted in accordance  
7 ~~herewith~~ WITH THIS PART. A circuit court, upon petition and a  
8 showing by the ~~commission~~ DEPARTMENT that there exists a viola-  
9 tion of a rule properly promulgated under this ~~act~~ PART, shall  
10 issue any necessary order to the defendant to correct the viola-  
11 tion or to restrain the defendant from further violation of the  
12 rule.

13       (2) ~~A~~ THE DEPARTMENT SHALL PROMULGATE A zoning rule ~~of~~  
14 ~~the commission shall be promulgated in accordance with and~~  
15 ~~subject to the provisions of Act No. 306 of the Public Acts of~~  
16 ~~1969, as amended, being sections 24.201 to 24.315 of the Compiled~~  
17 ~~Laws of 1948~~ TO IMPLEMENT THIS PART. The rule shall include  
18 procedures for receiving and acting upon applications from local  
19 units of government or landowners for change of boundaries or  
20 change in permitted uses in accordance with sections 71 to 87 of  
21 THE ADMINISTRATIVE PROCEDURES ACT OF 1969, Act No. 306 of the  
22 Public Acts of 1969, BEING SECTIONS 24.271 TO 24.287 OF THE  
23 MICHIGAN COMPILED LAWS. An aggrieved party may seek judicial  
24 review in accordance with and subject to the provisions of sec-  
25 tions 101 to 106 of Act No. 306 of the Public Acts of 1969, BEING  
26 SECTIONS 24.301 TO 24.306 OF THE MICHIGAN COMPILED LAWS.

1 (3) The lawful use of any building or structure and of any  
2 land or premise as existing and lawful at the time of enactment  
3 of a zoning ordinance or rule or of an amendment ~~thereof~~ OF A  
4 ZONING ORDINANCE OR RULE may be continued although ~~such~~ THE use  
5 does not conform with ~~the provisions of~~ the ordinance, rule, or  
6 amendment. The ordinance or rule shall provide for the comple-  
7 tion, restoration, reconstruction, extension, or substitution of  
8 nonconforming uses upon ~~such~~ reasonable terms as ~~may be~~ set  
9 forth in the zoning ordinance or rule.

10 Sec. ~~14~~ 30513. ~~Nothing in this act shall~~ THIS PART DOES  
11 NOT preclude a component of the system from becoming a part of  
12 the national wild and scenic river system under the ~~federal~~  
13 wild and scenic rivers act, Public Law 90-542, ~~approved October~~  
14 ~~27, 1968~~ 16 U.S.C. 1271 TO 1287. The ~~commission~~ DEPARTMENT may  
15 enter into written cooperative agreements for joint federal-state  
16 administration of rivers ~~which~~ THAT may be designated under  
17 ~~Public Law 90-542~~ THE WILD AND SCENIC RIVERS ACT.

18 Sec. ~~15~~ 30514. The ~~commission~~ DEPARTMENT shall approve  
19 preliminary and final plans for site or route location,  
20 construction, or enlargement of utility transmission lines, pub-  
21 licly provided recreation facilities, access sites, highways,  
22 roads, bridges, or other structures and for publicly developed  
23 water management projects, within a designated natural river  
24 area, except within the limits of a city or incorporated  
25 village. ~~It~~ THE DEPARTMENT may require any measure necessary  
26 to control damaging erosion or flow alteration during or in  
27 consequence of construction. ~~Rules~~ THE DEPARTMENT SHALL

1 PROMULGATE RULES concerning ~~such~~ THE approvals and requirements  
2 ~~shall be promulgated under the provisions of Act No. 306 of the~~  
3 ~~Public Acts of 1969, as amended~~ PROVIDED FOR IN THIS SECTION.

4 Sec. ~~16~~ 30515. This ~~act may not be construed to~~ PART  
5 DOES NOT prohibit a reasonable and lawful use of any other natu-  
6 ral resource ~~which will benefit~~ THAT BENEFITS the general wel-  
7 fare of the people of this state and ~~which~~ THAT is not incon-  
8 sistent with the purpose of this ~~act~~ PART.

9 ~~Part 307. Inland Lake Level~~

10 PART 307 INLAND LAKE LEVELS

11 ~~Sec. 1. This act shall be known and may be cited as the~~  
12 ~~"inland lake level act of 1961".~~

13 Sec. ~~2~~ 30701. As used in this ~~act~~ PART:

14 (a) "Commissioner" means the county drain commissioner or  
15 the county road commission in counties not having a drain commis-  
16 sioner, and, if more than 1 county is involved, each of the drain  
17 commissioners or drain commissioner and road commission in coun-  
18 ties having no drain commissioner.

19 (b) "County board" means the county board of commissioners,  
20 and if more than 1 county is involved, the boards of commission-  
21 ers of each of those counties.

22 (c) "Court" means a circuit court, and if more than 1 judi-  
23 cial circuit is involved, the circuit court designated by the  
24 county board or otherwise authorized by law to preside over an  
25 action.

1 (d) "Dam" means an artificial barrier, structure, or  
 2 facility, and appurtenant works, used to regulate or maintain the  
 3 level of an inland lake.

4 (e) "Delegated authority" means the county drain commis-  
 5 sioner or any other person designated by the county board to per-  
 6 form duties required under this ~~act~~ PART.

7 ~~(f) "Department" means the department of natural~~  
 8 ~~resources.~~

9 (F) ~~(g)~~ "Inland lake" means a natural or artificial lake,  
 10 pond, impoundment, or a part of 1 of those bodies of water.  
 11 Inland lake does not include the Great Lakes or Lake St. Clair.

12 (G) ~~(h)~~ "Interested person" means THE DEPARTMENT AND a  
 13 person who has a record interest in the title to, right of  
 14 ingress to, or reversionary right to land ~~which~~ THAT would be  
 15 affected by a permanent change in the natural or normal level of  
 16 an inland lake. ~~; and the department.~~

17 (H) ~~(i)~~ "Normal level" means the level or levels of the  
 18 water of an inland lake that provide the most benefit to the  
 19 public; that best protect the public health, safety, and welfare;  
 20 that best preserve the natural resources of the state; and that  
 21 best preserve and protect the value of property around the lake.  
 22 A normal level shall be measured and described as an elevation  
 23 based on national geodetic vertical datum.

24 Sec. ~~3~~ 30702. (1) The county board of a county in which  
 25 an inland lake is located may upon the board's own motion, or  
 26 shall within 45 days following receipt of a petition to the board  
 27 of 2/3 of the owners of lands abutting the inland lake, initiate

1 action to take the necessary steps to cause to be determined the  
2 normal level of the inland lake.

3 (2) Unless required to act by resolution as provided in this  
4 ~~act~~ PART, the county board may delegate powers and duties under  
5 this ~~act~~ PART to that county's commissioner, road commission,  
6 or other delegated authority.

7 (3) If a court-determined normal level is established pursu-  
8 ant to this ~~act~~ PART, the delegated authority of the county or  
9 counties in which the lake is located shall maintain that normal  
10 level.

11 Sec. ~~4~~ 30703. (1) Before proceeding on a motion made or a  
12 petition filed under section ~~3~~ 30702, the county board may  
13 require that a preliminary study be conducted by a licensed pro-  
14 fessional engineer. The county board, by resolution, may require  
15 a cash payment from the petitioners sufficient to cover the  
16 actual preliminary study costs or OF \$10,000.00, whichever is  
17 less.

18 (2) A preliminary study shall include all of the following:

19 (a) The feasibility of a project to establish and maintain a  
20 normal level of the inland lake.

21 (b) The expediency of the normal level project.

22 (c) Feasible and prudent alternative methods and designs for  
23 controlling the normal level.

24 (d) The estimated costs of construction and maintenance of  
25 the normal level project.

26 (e) A method of financing initial costs.



1 (f) The necessity of a special assessment district and the  
2 tentative boundaries if a district is necessary.

3 (g) Other information ~~which~~ THAT the county board resolves  
4 is necessary.

5 Sec. ~~5~~ 30704. (1) If the county board, based on the pre-  
6 liminary study, finds it expedient TO HAVE and resolves to have  
7 determined and established the normal level of an inland lake,  
8 the county board shall direct the prosecuting attorney or other  
9 legal counsel of the county to initiate A PROCEEDING by proper  
10 petition in the court of that county ~~a proceeding~~ for determi-  
11 nation of the normal level for that inland lake and for estab-  
12 lishing a special assessment district if the county board deter-  
13 mines by resolution that one is necessary as provided in  
14 section ~~5~~ 30711.

15 (2) If the waters of an inland lake are located in 2 or more  
16 counties, the normal level of the lake may be determined in the  
17 same manner if the county boards of all counties involved, by  
18 resolution, direct the prosecuting attorney or other legal coun-  
19 sel of 1 or more of the counties to institute proceedings. All  
20 counties may make a single preliminary study.

21 (3) The department may join a proceeding initiated under  
22 this section.

23 Sec. ~~6~~ 30705. (1) The special assessment district may  
24 issue bonds or lake level orders in anticipation of special  
25 assessments. All proceedings relating to the making, levying,  
26 and collection of special assessments authorized by this ~~act~~  
27 PART and the issuance of bonds or lake level orders in

1 anticipation of the collection of bonds or orders shall conform  
2 as ~~near as may be~~ NEARLY AS POSSIBLE to the proceedings for  
3 levying special assessments and issuing special assessment bonds  
4 or lake level orders as set forth in the drain code of 1956, Act  
5 No. 40 of the Public Acts of 1956, ~~as amended,~~ being sections  
6 280.1 to 280.630 of the Michigan Compiled Laws.

7 (2) The special assessment district may issue notes in  
8 anticipation of special assessments made against lands in the  
9 special assessment district or public corporation at large. The  
10 final maturity of the notes shall be not later than 10 years from  
11 their date. The notes shall not be considered to be obligations  
12 within the meaning of the municipal finance act, Act No. 202 of  
13 the Public Acts of 1943, being sections 131.1 to 139.3 of the  
14 Michigan Compiled Laws, unless the principal amount exceeds  
15 \$500,000.00.

16 (3) A county board by a vote of 2/3 of its members may  
17 pledge the full faith and credit of a county for payment of bonds  
18 or notes issued by a special assessment district.

19 Sec. ~~8~~ 30706. If the department finds it expedient to  
20 have the normal level of an inland lake determined, the ~~director~~  
21 ~~of the~~ department may initiate ~~a~~ BY civil action on behalf of  
22 the state, in the court of any county in which the lake is  
23 located, a proceeding for determination of the normal level.

24 Sec. ~~10~~ 30707. (1) Upon filing of a civil action under  
25 this ~~act~~ PART, the court shall set a day for a hearing. The  
26 prosecuting attorney or other legal counsel of the county or  
27 counties or the department shall give notice of the hearing by

1 publication in 1 or more newspapers of general circulation in the  
2 county and, if the waters of the inland lake are situated in 2 or  
3 more counties, in 1 or more newspapers of general circulation in  
4 each of the counties in which the inland lake is located. The  
5 notice shall be published at least once each week for 3 succes-  
6 sive weeks before the date set for the hearing.

7 (2) The commissioner shall serve a copy of the published  
8 notice of hearing by first-class mail at least 3 weeks prior to  
9 the date set for the hearing to each person whose name appears  
10 upon the latest city or township tax assessment roll as owning  
11 land within a tentative special assessment district at the  
12 address shown on the roll; to the governing body of each politi-  
13 cal subdivision of the state in which the lake is located; and to  
14 the governing body of each affected political subdivision of the  
15 state. If an address does not appear on the roll, then a notice  
16 need not be mailed to the person. The commissioner shall make an  
17 affidavit of mailing. The failure to receive a notice properly  
18 mailed shall not constitute a jurisdictional defect invalidating  
19 proceedings under this ~~act~~ PART.

20 (3) The prosecuting attorney or the legal counsel of the  
21 county shall serve notice on the department at least 21 days  
22 prior to the date of the hearing.

23 (4) In a determination of the normal level of an inland  
24 lake, the court shall consider all of the following:

25 (a) Past lake level records, including the ordinary  
26 high-water mark and seasonal fluctuations.

1 (b) The location of septic tanks, drain fields, sea walls,  
2 docks, and other pertinent physical features.

3 (c) Government surveys and reports.

4 (d) The hydrology of the watershed.

5 (e) Downstream flow requirements and impacts on downstream  
6 riparians.

7 (f) Fisheries and wildlife habitat protection and  
8 enhancement.

9 (g) Upstream drainage.

10 (h) Rights of riparians.

11 (i) Testimony and evidence offered by all interested  
12 persons.

13 (j) Other pertinent facts and circumstances.

14 (5) The court shall determine the normal level to be estab-  
15 lished and maintained, shall have continuing jurisdiction, and  
16 may provide for departure from the normal level as necessary to  
17 accomplish the purposes of this ~~act~~ PART. The court shall con-  
18 firm the special assessment district boundaries within 60 days  
19 following the lake level determination. The court may determine  
20 that the normal level shall vary seasonally.

21 Sec. ~~++~~ 30708. (1) After the court determines the normal  
22 level of an inland lake in a proceeding initiated by the county,  
23 the delegated authority of any county or counties in which the  
24 inland lake is located shall provide for and maintain that normal  
25 level.

26 (2) A county may acquire, in the name of the county, by  
27 gift, grant, purchase, or condemnation proceedings, an existing

1 dam ~~which~~ THAT may affect the normal level of the inland lake,  
2 sites for dams, or rights in land needed or convenient in order  
3 to ~~carry out the purposes of~~ IMPLEMENT this ~~act~~ PART. A  
4 county may enter into a contract for operation and maintenance of  
5 an existing dam. The county may construct and maintain a dam  
6 that is determined by the delegated authority to be necessary for  
7 the purpose of maintaining the normal level. A dam may be  
8 acquired, constructed, or maintained in a county adjoining the  
9 county in which the lake is located.

10 (3) For the purpose of maintaining the normal level, a dele-  
11 gated authority may drill wells or pump water from another source  
12 to supply an inland lake with additional water, may lower the  
13 level of the lake by pumping water from the lake, and may pur-  
14 chase power to operate pumps, wells, or other devices installed  
15 as part of a normal level project.

16 Sec. ~~+2-~~ 30709. (1) After the court determines the normal  
17 level of an inland lake in a proceeding initiated by the depart-  
18 ment, the department may provide for and maintain that normal  
19 level.

20 (2) In a proceeding initiated by the department, the depart-  
21 ment has the same powers in connection with a normal level  
22 project as a county has under sections ~~++~~ 30708, ~~+6a-~~ 30713,  
23 and ~~+8-~~ 30718.

24 Sec. ~~+4-~~ 30710. If the department or the delegated author-  
25 ity determines that it is necessary to condemn private property  
26 for the purpose of this ~~act~~ PART, the department or county may  
27 condemn the property in accordance with the uniform condemnation

1 procedures act, Act No. 87 of the Public Acts of 1980, being  
2 sections 213.51 to 213.77 of the Michigan Compiled Laws.

3       Sec. ~~+5~~ 30711. (1) The county board may determine by res-  
4 olution that the whole or a part of the cost of a project to  
5 establish and maintain a normal level for an inland lake shall be  
6 defrayed by special assessments against the following ~~which~~  
7 THAT are benefited by the project: privately owned parcels of  
8 land, political subdivisions of the state, and state owned lands  
9 under the jurisdiction and control of the department. If the  
10 county board determines that a special assessment district is to  
11 be established, the delegated authority shall compute the cost of  
12 the project and prepare a special assessment roll.

13       (2) If the revenues raised pursuant to the special assess-  
14 ment are insufficient to meet the computation of cost included in  
15 section ~~+6~~ 30712, or if these revenues are insufficient to meet  
16 bond obligations, the special assessment district may be reas-  
17 sessed without hearing using the same apportioned percentage used  
18 for the original assessment.

19       Sec. ~~+6~~ 30712. (1) Computation of the cost of a normal  
20 level project shall include the cost of all of the following:

21       (a) The preliminary study.

22       (b) Surveys.

23       (c) Establishing a special assessment district, including  
24 preparation of assessment rolls and levying assessments.

25       (d) Acquiring land and other property.

1 (e) Locating, constructing, operating, repairing, and  
2 maintaining a dam or works of improvement necessary for  
3 maintaining the normal level.

4 (f) Legal fees, including estimated costs of appeals if  
5 assessments are not upheld.

6 (g) Court costs.

7 (h) Interest on bonds and other financing costs for the  
8 first year, if the project is so financed.

9 (i) Any other costs necessary for the project which can be  
10 specifically itemized.

11 (2) The delegated authority may add as a cost not more than  
12 15% of the sum calculated under subsection (1) to cover contin-  
13 gent expenses.

14 Sec. ~~+6a-~~ 30713. The delegated authority of a county in  
15 which an inland lake is located may contract with a state or fed-  
16 eral government agency ~~—~~ or a public or private corporation ~~—~~  
17 in connection with a project for the establishment and mainte-  
18 nance of a normal level. The contract may specify that the  
19 agency or corporation will pay the whole or a part of the cost of  
20 the project or will perform the whole or a part of the work con-  
21 nected with the project. The contract may provide that payment  
22 made or work done relieves the agency or corporation in whole or  
23 in part from assessment for the cost of establishment and con-  
24 struction of the project.

25 Sec. ~~+7-~~ 30714. (1) A special assessment roll shall  
26 describe the parcels of land to be assessed, ~~—~~ the name of the

1 owner of each parcel, if known, ~~—~~ and the dollar amount of the  
2 assessment against each parcel.

3 (2) The delegated authority shall set a time and place for a  
4 public hearing or hearings on the project cost and the special  
5 assessment roll. Notice of a hearing shall be by both of the  
6 following:

7 (a) By publication of notice at least twice prior to the  
8 hearing in a newspaper ~~—which—~~ THAT circulates in the special  
9 assessment district, the first publication to be at least 10 days  
10 before the hearing.

11 (b) As provided in Act No. 162 of the Public Acts of 1962,  
12 being sections 211.741 to 211.746 of the Michigan Compiled Laws.

13 (3) At or after a public hearing, the delegated authority  
14 may approve or revise the cost of the project or the special  
15 assessment roll. Before construction of a project is begun, the  
16 county board shall approve the cost and the special assessment  
17 roll by resolution.

18 (4) The special assessment roll with the assessments listed  
19 shall be final and conclusive unless appealed in a court within  
20 15 days after county board approval.

21 Sec. ~~—7a—~~ 30715. (1) The county board may provide that  
22 assessments under this ~~—act—~~ PART are payable in installments.

23 (2) Assessment payments shall be sufficient to meet bond and  
24 note obligations of the special assessment district.

25 (3) Special assessments under this ~~—act—~~ PART shall be  
26 spread upon the county tax rolls, and shall be subject to the



1 same interest and penalty charges and shall be collected in the  
2 same manner as county taxes.

3 (4) From the date of approval of the special assessment roll  
4 by the county board, a special assessment under this ~~act~~ PART  
5 shall constitute a lien on the parcel assessed. The lien shall  
6 be of the same character and effect as a lien created for county  
7 taxes.

8 (5) A payment for the cost of the preliminary study under  
9 section ~~4~~ 30703 shall be credited against an assessment for the  
10 amount of the payment made by the person assessed.

11 Sec. ~~17b~~ 30716. With approval of the county board and,  
12 except as provided in section ~~17c~~ 30717, subject to the municipi-  
13 pal finance act, Act No. 202 of the Public Acts of 1943, being  
14 sections 131.1 to 139.3 of the Michigan Compiled Laws, the dis-  
15 trict may issue bonds or notes that shall be payable by special  
16 assessments under this ~~act~~ PART. Bonds or notes shall not be  
17 issued exceeding the cost of the lake level project that is being  
18 financed.

19 Sec. ~~17c~~ 30717. The delegated authority may accept the  
20 advance of work, material, or money in connection with a normal  
21 level project. The obligation to repay an advance out of special  
22 assessments under this ~~act~~ PART may be evidenced by a note or  
23 contract. If the principal amount of all notes or contracts  
24 issued under this section for a single normal level project is  
25 not more than \$500,000.00, a contract or note shall not be con-  
26 sidered an obligation within the meaning of THE MUNICIPAL FINANCE

1 ACT, Act No. 202 of the Public Acts of 1943, BEING SECTIONS 131.1  
2 TO 139.3 OF THE MICHIGAN COMPILED LAWS.

3       Sec. ~~18~~ 30718. Plans and specifications for a dam con-  
4 structed or maintained under this ~~act~~ PART shall be prepared by  
5 a licensed professional engineer under the direction of the dele-  
6 gated authority. The plans and specifications shall be approved  
7 by the department before construction begins. The department  
8 shall review and approve or reject the plans and specifications  
9 within 30 days after they are received by the department. If the  
10 plans and specifications are rejected, the department shall pro-  
11 pose changes in the plans and specifications that would result in  
12 their approval by the department. Bids for doing the work may be  
13 advertised in the manner the delegated authority directs. The  
14 contract shall be let to the lowest responsible bidder giving  
15 adequate security for the performance of the contract, but the  
16 delegated authority may reserve the right to reject any and all  
17 bids. The county may erect and maintain a dam as a work relief  
18 project in accordance with the ~~provisions of the~~ law applicable  
19 to a work relief project.

20       Sec. ~~21~~ 30719. (1) The department may require that a new  
21 dam that is proposed to be constructed be equipped with an under-  
22 spill device for the release of cold bottom waters for the pro-  
23 tection of downstream fish habitats.

24       (2) The department may require the installation of a fish  
25 ladder or other device to permit the free passage of fish.

26       Sec. ~~22~~ 30720. A person who is not authorized by a  
27 delegated authority or the department to operate a dam or other

1 normal level control facility and who changes, or causes to  
2 change, the level of an inland lake, the normal level of which  
3 has been established under this ~~act,~~ PART or any previous act  
4 governing lake levels, and for which the delegated authority or  
5 the department has taken steps to maintain the normal level, is  
6 guilty of a misdemeanor punishable by a fine of not more than  
7 \$1,000.00 or imprisonment for not more than 1 year, or both, and  
8 shall be required to pay the actual cost of restoration or  
9 replacement of the dam and any other property including any natu-  
10 ral resource that is damaged or destroyed as a result of the  
11 violation.

12       Sec. ~~23~~ 30721. A normal level shall not be established  
13 for an inland lake in either of the following cases:

14       (a) The inland lake is used as a reservoir for a municipal  
15 water supply system, unless a normal level determination is peti-  
16 tioned for by the governing body of the municipality.

17       (b) The state has title, flowage rights, or easements to all  
18 riparian land surrounding the inland lake, unless a normal level  
19 determination is petitioned for by the department.

20       Sec. ~~24~~ 30722. (1) The delegated authority of a county  
21 shall cause an inspection to be made of each dam on an inland  
22 lake within the county which has a normal level established under  
23 this ~~act~~ PART or under any previous act governing lake levels.  
24 The inspection shall be conducted by a licensed professional  
25 engineer. The inspection shall take place every third year from  
26 the date of completion of a new dam or every third year from the  
27 determination of a normal level for an existing dam. An

1 inspection report shall be submitted promptly to the ~~director of~~  
2 ~~the~~ department in the form and manner the ~~director~~ DEPARTMENT  
3 prescribes.

4 (2) If a report discloses a need for repairs or a change in  
5 condition of the dam that relates to the dam's safety or danger  
6 to natural resources, the department shall conduct an inspection  
7 to confirm the report. If the report is confirmed and the public  
8 safety or natural resources are endangered by the risk of failure  
9 of the dam, the department may require the county either to  
10 repair or TO replace the dam. Plans and specifications for the  
11 repairs or replacement shall be prepared by a licensed profes-  
12 sional engineer under the direction of the delegated authority.  
13 The plans and specifications shall be approved by the department  
14 before construction begins. The department shall review and  
15 approve or reject the plans and specifications within 30 days  
16 after they are received by the department. If the plans and  
17 specifications are rejected, the department shall propose changes  
18 in the plans and specifications that would result in their  
19 approval by the department. If the dam is in imminent danger of  
20 failure, the department may order an immediate lowering of the  
21 lake level until necessary repair or replacement is complete.

22 (3) A person failing to comply with this section, or falsely  
23 representing dam conditions, is guilty of misconduct in office.

24 (4) If an inspection discloses the necessity for maintenance  
25 or repair, the delegated authority, without approval of the  
26 county board, may spend not more than \$10,000.00 annually for  
27 maintenance and repair of each lake level project. An

1 expenditure of more than \$10,000.00 annually shall be approved by  
2 resolution of the county board.

3       Sec. ~~25~~ 30723. This ~~amendatory act shall not be con-~~  
4 ~~strued to~~ PART DOES NOT abrogate the requirements of other state  
5 statutes.

6       ~~Sec. 26. Act No. 377 of the Public Acts of 1921, being~~  
7 ~~sections 281.1 to 281.30 of the Compiled Laws of 1948, Act No. 39~~  
8 ~~of the Public Acts of 1937, being sections 281.51 to 281.57 of~~  
9 ~~the Compiled Laws of 1948, Act No. 194 of the Public Acts of~~  
10 ~~1939, as amended, being sections 281.101 to 281.121 of the~~  
11 ~~Compiled Laws of 1948, Act No. 319 of the Public Acts of 1941,~~  
12 ~~being sections 281.151 to 281.157 of the Compiled Laws of 1948~~  
13 ~~and Act No. 276 of the Public Acts of 1945, as amended, being~~  
14 ~~sections 281.201 to 281.227 of the Compiled Laws of 1948, are~~  
15 ~~hereby repealed, except that actions and petitions to establish~~  
16 ~~and maintain an inland lake level now in process may be concluded~~  
17 ~~under those acts or commenced under this act.~~

18       ~~Part 309. Inland Lake Improvement~~

19                   PART 309 INLAND LAKE IMPROVEMENTS

20       ~~Sec. 1. This act shall be known and may be cited as the~~  
21 ~~"inland lake improvement act of 1966".~~

22       Sec. ~~2~~ 30901. As used in this ~~act~~ PART:

23       (A) ~~(i)~~ "Benefit" or "benefits" means advantages resulting  
24 from a project to public corporations, the inhabitants of public  
25 corporations, the inhabitants of this state, and property within  
26 public corporations. ~~The term~~ BENEFIT includes benefits  
27 ~~which~~ THAT result from elimination of pollution and elimination

1 of flood damage, elimination of water conditions ~~which~~ THAT  
 2 jeopardize the public health or safety; increase of the value or  
 3 use of lands and property arising from improving a lake or lakes  
 4 as a result of the lake project and the improvement or develop-  
 5 ment of a lake for conservation of fish and wildlife and the use,  
 6 improvement, or development of a lake for fishing, wildlife,  
 7 boating, swimming, or any other recreational, agricultural, or  
 8 conservation uses.

9 (B) ~~(c)~~ "Inland lake" means a public inland lake or a pri-  
 10 vate inland lake.

11 (C) ~~(d)~~ "Interested person" means ~~any~~ A person who has a  
 12 record interest in the title to, right of ingress to, or rever-  
 13 sionary right to a piece or parcel of land ~~which~~ THAT would be  
 14 affected by a permanent change in the ~~bottom land~~ BOTTOMLAND of  
 15 a natural or artificial, public or private inland lake, or adja-  
 16 cent ~~swampland~~ WETLAND. In all cases, whether having such AN  
 17 interest or not, the department ~~of conservation shall be~~ IS an  
 18 interested person.

19 ~~(e) "Conservation department" means the state department of~~  
 20 ~~conservation.~~

21 ~~(f) "Local unit" means a city, village, township or county.~~

22 (D) ~~(g)~~ "Local governing body" means the legislative body  
 23 of ~~any~~ A local unit OF GOVERNMENT.

24 (E) ~~(h)~~ "Preliminary costs" ~~include~~ INCLUDES costs of  
 25 the engineering feasibility report, economic study, estimate of  
 26 total cost, and cost of setting up the assessment district.

1 (F) ~~(b)~~ "Private inland lake" means ~~any~~ AN inland lake  
2 other than a public inland lake.

3 (G) ~~(a)~~ "Public inland lake" means ~~any~~ A lake ~~which~~  
4 THAT is accessible to the public ~~via~~ BY publicly owned lands or  
5 highways contiguous ~~thereto,~~ TO PUBLICLY OWNED LANDS or ~~via~~  
6 BY the bed of a stream, except the Great Lakes and connecting  
7 waters.

8 Sec. ~~3~~ 30902. (1) The local governing body of any local  
9 unit OF GOVERNMENT in which the whole or any part of the waters  
10 of any public inland lake is situated, upon its own motion or by  
11 petition of 2/3 of the freeholders owning lands abutting the  
12 lake, for the protection of the public health, welfare, and  
13 safety and the conservation of the natural resources of this  
14 state, or to preserve property values around a lake, may provide  
15 for the improvement of a lake, or adjacent ~~swampland~~ WETLAND,  
16 and may take steps necessary to remove and properly dispose of  
17 undesirable accumulated materials from the bottom of the lake or  
18 ~~swamp~~ WETLAND by dredging, ditching, digging, or other related  
19 work.

20 (2) Upon receipt of the petition or upon its own motion, the  
21 local governing body ~~of a local unit~~ within 60 days shall set  
22 up a lake board as provided in section ~~4 which~~ 30903 THAT shall  
23 proceed with the necessary steps for improving the lake or to  
24 void the proposed project.

25 Sec. ~~4~~ 30903. (1) The lake board shall consist of all of  
26 the following:

1 (a) A member of the county board of commissioners appointed  
2 by the chairperson of the county board of commissioners of each  
3 county affected by the lake improvement project; a representative  
4 of each local unit OF GOVERNMENT appointed by the legislative  
5 body of ~~the~~ EACH local unit OF GOVERNMENT, other than a county,  
6 affected by the project; the county drain commissioner, or a  
7 member of the county road commission in counties not having a  
8 drain commissioner; and a representative of the department. ~~of~~  
9 ~~natural resources.~~

10 (b) A member elected by the members of the lake board serv-  
11 ing pursuant to subdivision (a) at the first meeting of the board  
12 or at any time a vacancy exists under this subdivision. Only a  
13 person who has an interest in a land contract or a record inter-  
14 est in the title to a piece or parcel of land that abuts the lake  
15 to be improved is eligible to be elected and to serve under this  
16 subdivision. An organization composed of and representing the  
17 majority of lakefront property owners on the affected lake may  
18 submit up to 3 names to the board, from which the board shall  
19 make its selection. The terms served by this member shall be 4  
20 years in length.

21 (2) The lake board shall elect a chairperson and a  
22 secretary. A majority of the members of the lake board ~~shall~~  
23 ~~constitute~~ CONSTITUTES a quorum. The concurrence of a majority  
24 in any matter within the duties of the board shall be required  
25 for the determination of a matter.

26 (3) The department, ~~of natural resources,~~ upon request of  
27 the lake board, shall provide whatever technical data it has



1 available and make recommendations in the interests of  
2 conservation.

3       Sec. ~~5~~ 30904. Action may be initiated under section ~~3~~  
4 30902 relating to any private inland lake only upon petition of  
5 2/3 of the freeholders owning lands abutting the lake.

6       Sec. ~~6~~ 30905. The county board of ~~supervisors~~  
7 COMMISSIONERS may provide for a revolving fund to pay for the  
8 preliminary costs of improvement projects within the county. The  
9 preliminary costs shall be assessed to the property owners in the  
10 assessment district by the lake board after notice of the hearing  
11 is given pursuant to Act No. 162 of the Public Acts of 1962, ~~as~~  
12 ~~amended~~ BEING SECTIONS 211.741 TO 211.746 OF THE MICHIGAN  
13 COMPILED LAWS, and shall be repaid to the fund where the project  
14 is not finally constructed.

15       Sec. ~~7~~ 30906. (1) Whenever a local governing body, in  
16 accordance with section ~~3~~ 30902, ~~deems~~ CONSIDERS it expedient  
17 to have a lake improved, it, by resolution, shall direct the lake  
18 board to institute proceedings as prescribed in this ~~act~~ PART.

19       (2) When the waters of any inland lake are situated in 2 or  
20 more local units OF GOVERNMENT, the improvement of ~~such~~ THE  
21 lake may be determined jointly in the same manner as provided in  
22 this ~~act~~ PART, if the local governing ~~body~~ BODIES of all  
23 local units OF GOVERNMENT involved ~~determines~~ DETERMINE it to  
24 be expedient in accordance with section ~~3~~ 30902 and, by resolu-  
25 tion, ~~directs~~ DIRECT the lake board to institute proceedings as  
26 ~~hereinafter~~ prescribed IN THIS PART. Where local ordinances

1 and charters conflict, ~~the provisions of~~ this ~~act~~ PART shall  
2 govern.

3       Sec. ~~8~~ 30907. If the ~~conservation~~ department ~~deems~~  
4 CONSIDERS it expedient, in accordance with section ~~3~~ 30902, to  
5 have a lake dredged or improved, the ~~director~~ DEPARTMENT may  
6 petition the local governing body or governing bodies in which  
7 the lake is located for an improvement of the lake. The  
8 ~~conservation~~ department may ~~likewise~~ ALSO join with the local  
9 governing body of any local unit OF GOVERNMENT in instituting  
10 proceedings for improvements as set forth in this ~~act~~ PART.

11       Sec. ~~9~~ 30908. The lake board, when instructed by resolu-  
12 tion of the local governing body, shall determine the scope of  
13 the project and SHALL establish a special assessment district,  
14 including ~~therein~~ WITHIN THE SPECIAL ASSESSMENT DISTRICT all  
15 parcels of land and local units which will be benefited by the  
16 improvement of the lake. The local governing body may delegate  
17 to the lake board ~~such~~ other ministerial duties including prep-  
18 aration, assembling, and computation of statistical data for use  
19 by the board and the superintending, construction, and mainte-  
20 nance of any project under this ~~act~~ PART, as ~~it may be~~ THE  
21 LOCAL GOVERNING BODY CONSIDERS necessary.

22       Sec. ~~10~~ 30909. (1) The lake board shall retain a  
23 ~~registered~~ LICENSED professional engineer to prepare an engi-  
24 neering feasibility report, an economic study report, and an  
25 estimate of cost. The report shall include, when applicable,  
26 recommendations for normal lake levels and the methods for  
27 maintaining ~~such~~ THOSE levels.

1 (2) The engineering feasibility report shall include the  
2 methods proposed to ~~carry out~~ IMPLEMENT the recommended  
3 improvements, such as dredging, removal, disposal, and disposal  
4 areas for undesirable materials from the lake. The report shall  
5 include an investigation of the ~~ground water~~ GROUNDWATER condi-  
6 tions and possible effects on lake levels from removal of bottom  
7 materials. A study of existing nutrients and an estimate of pos-  
8 sible future conditions shall be included. Estimate of costs of  
9 right-of-way shall be included.

10 (3) The estimate of ~~costs~~ COST PREPARED UNDER  
11 SUBSECTION (1) shall show probable assessments for the project.  
12 The economic report shall analyze the existing local tax struc-  
13 ture and the effects of the proposed assessments on the local  
14 units OF GOVERNMENT involved. A copy of the report shall be fur-  
15 nished to each member of the lake board.

16 Sec. ~~++~~ 30910. Within 60 days after his OR HER receipt of  
17 the reports, the ~~chairman~~ CHAIRPERSON shall hold a meeting of  
18 the lake board to review the reports required under section ~~+0~~  
19 30909 and to determine the practicability of the project. The  
20 hearing shall be public, and notice of the hearing shall be pub-  
21 lished twice in a newspaper of general circulation in each local  
22 unit OF GOVERNMENT to be affected. The first publication shall  
23 be not less than 20 days prior to the time of the hearing. The  
24 board shall determine the practicability of the project within 10  
25 days after the hearing unless it is determined at the hearing  
26 that more information is needed before the determination can be

1 made. ~~Upon~~ IMMEDIATELY UPON receipt of ~~such~~ THE additional  
2 information, the board shall make its determination. ~~forthwith.~~

3 Sec. ~~+2~~ 30911. The county board of ~~supervisors~~  
4 COMMISSIONERS may provide up to 25% of the cost of a lake  
5 improvement project on any public inland lake.

6 Sec. ~~+3~~ 30912. If the lake board PASSES A RESOLUTION IN  
7 WHICH IT determines the project to be practicable, ~~by resolu-~~  
8 ~~tion, it~~ THE LAKE BOARD shall determine to proceed with the  
9 project, ~~and~~ shall approve the plans and estimate of costs as  
10 originally presented or as revised, corrected, amended, or  
11 changed, and shall ~~also~~ determine the sufficiency of the peti-  
12 tion for the improvement. The resolution shall be published once  
13 in a newspaper of general circulation in each local unit OF  
14 GOVERNMENT to be affected. After the resolution has been pub-  
15 lished, the sufficiency of the petition shall not ~~thereafter~~ be  
16 subject to attack except in an action brought in a court of com-  
17 petent jurisdiction within 30 days after publication. The lake  
18 board, after finally accepting the special assessment district,  
19 shall ~~make out~~ PREPARE an assessment roll based upon THE bene-  
20 fits to be derived from the proposed lake improvement, and ~~it~~  
21 THE LAKE BOARD shall direct the assessing official of each local  
22 unit OF GOVERNMENT to be affected to join in making an assessment  
23 roll in which shall be entered and described all the parcels of  
24 land to be assessed, with the names of the respective owners  
25 ~~thereof~~ OF THE PARCELS OF LAND, if known, and the total amount  
26 to be assessed against each parcel of land and against each local  
27 unit OF GOVERNMENT to be affected, which amount shall be such

1 relative portion of the whole sum to be levied against all  
2 parcels of land and local units OF GOVERNMENT in the special  
3 assessment district as the benefit to such parcel of land and  
4 local unit OF GOVERNMENT bears to the total benefit to all par-  
5 cels of land and local units OF GOVERNMENT in the special assess-  
6 ment district. When the assessment roll has been completed, each  
7 assessing official shall affix ~~thereto~~ TO THE ASSESSMENT ROLL  
8 his OR HER certificate stating that it was made pursuant to a  
9 resolution of the lake board adopted on a specified date, and  
10 that in making the assessment roll he OR SHE has, according to  
11 his OR HER best judgment, conformed in all respects to the direc-  
12 tions contained in ~~such~~ THE resolution and the statutes of the  
13 state.

14       Sec. ~~14~~ 30913. The assessment roll shall be reported to  
15 the lake board by the assessing official of the local unit or  
16 units OF GOVERNMENT initiating the proceeding and filed in the  
17 office of the clerk of each local unit OF GOVERNMENT to be  
18 affected. Before confirming the assessment roll, the lake board  
19 shall appoint a time and place when it will meet and review the  
20 ~~same~~ ASSESSMENT ROLL and hear any objections ~~thereto~~ TO THE  
21 ASSESSMENT ROLL, and shall publish notice of the hearing and the  
22 filing of the assessment roll twice prior to the hearing in a  
23 newspaper of general circulation in each local unit OF GOVERNMENT  
24 to be affected, the first publication to be at least 10 days  
25 before the hearing. Notice of the hearing shall also be given in  
26 accordance with Act No. 162 of the Public Acts of 1962, being  
27 sections 211.741 to ~~211.745~~ 211.746 of the MICHIGAN Compiled

1 Laws. ~~of 1948.~~ The hearing may be adjourned from time to time  
2 without further notice. Any person or local unit OF GOVERNMENT  
3 objecting to the assessment roll shall file his OR HER objection  
4 ~~thereto~~ in writing with the ~~chairman~~ CHAIRPERSON before the  
5 close of the hearing or within such further time PERIOD as the  
6 lake board may grant. After the hearing, the lake board may con-  
7 firm the special assessment roll as reported to it or as amended  
8 or corrected by it, ~~or~~ may refer it back to the assessing offi-  
9 cials for revision, or may annul it and direct a new roll to be  
10 made. When a special assessment roll has been confirmed, the  
11 clerk of each local unit OF GOVERNMENT shall ~~indorse thereon~~  
12 ENDORSE ON THE ASSESSMENT ROLL the date of the confirmation.  
13 After confirmation, the special assessment roll and all assess-  
14 ments ~~thereon~~ ON THE ASSESSMENT ROLL shall be final and conclu-  
15 sive unless attacked in a court of competent jurisdiction within  
16 30 days after notice of confirmation has been published in the  
17 same manner as the notice of hearing.

18       Sec. ~~+5-~~ 30914. Upon the confirmation of the assessment  
19 roll, the lake board may provide that the ~~same shall~~  
20 ASSESSMENTS be payable in 1 or more approximately equal annual  
21 installments, not exceeding 30. The amount of each installment,  
22 if more than 1, need not be extended upon the special assessment  
23 roll until after confirmation. The first installment of a spe-  
24 cial assessment shall be due on or before such time after confir-  
25 mation as the board shall ~~fix~~ ESTABLISH, and the several subse-  
26 quent installments shall be due at intervals of 12 months from  
27 the due date of the first installment or from such other date as

1 the board shall ~~fix~~ ESTABLISH. All unpaid installments, prior  
2 to their transfer to the tax roll of each local unit OF  
3 GOVERNMENT involved, shall bear interest, payable annually on  
4 each installment due date, at a rate to be set by the board, not  
5 exceeding 6% per annum, from such date as ~~shall be fixed~~  
6 ESTABLISHED by the board. Future due installments of an assess-  
7 ment against ~~any~~ A parcel of land may be paid to the treasurer  
8 of each local unit OF GOVERNMENT at any time in full, with inter-  
9 est accrued to the due date of the next installment. If any  
10 installment of a special assessment is not paid when due, then it  
11 shall be ~~deemed~~ CONSIDERED to be delinquent and there shall be  
12 collected ~~thereon~~ ON THE INSTALLMENT, in addition to interest  
13 as above provided, a penalty at the rate of 1/2 of 1% for each  
14 month ~~or~~ or fraction ~~thereof~~ OF A MONTH that it remains  
15 unpaid before being reported to the township board for reassess-  
16 ment upon the tax roll.

17 Sec. ~~16~~ 30915. All special assessments contained in any  
18 special assessment roll, including any part ~~thereof deferred as~~  
19 ~~to~~ OF THE SPECIAL ASSESSMENT payment THAT IS DEFERRED, ~~shall~~  
20 constitute a lien, from the date of confirmation of ~~such~~ THE  
21 roll, upon the respective parcels of land assessed. The lien  
22 shall be of the same character and effect as the lien created for  
23 taxes in each local unit OF GOVERNMENT and shall include accrued  
24 interest and penalties. ~~No~~ A judgment, ~~or~~ decree, or any act  
25 of the board vacating a special assessment ~~shall~~ DOES NOT  
26 destroy or impair the lien upon the premises assessed for ~~such~~  
27 THE amount of the assessment as may be equitably charged against

1 the ~~same~~ PREMISES, or as by a regular mode of proceeding might  
2 be lawfully assessed ~~thereon~~ ON THE PREMISES.

3       Sec. ~~+7-~~ 30916. When any special assessment roll ~~shall~~  
4 ~~be~~ IS confirmed, the lake board shall direct the assessments  
5 made ~~therein~~ IN THE ROLL to be collected. The clerk of each  
6 local unit OF GOVERNMENT involved shall ~~thereupon~~ THEN deliver  
7 to the treasurer of each local unit OF GOVERNMENT the special  
8 assessment roll, to which he OR SHE shall attach his OR HER war-  
9 rant commanding the treasurer to collect the assessments  
10 ~~therein~~ IN THE ROLL in accordance with the directions of the  
11 lake board. ~~in respect thereto.~~ The warrant shall further  
12 require the treasurer, on September 1 following the date when any  
13 assessments or any part ~~thereof~~ OF AN ASSESSMENT have become  
14 due, to submit to the lake board a sworn statement setting forth  
15 the names of ~~the~~ DELINQUENT persons, ~~delinquent,~~ if known, a  
16 description of the parcels of land upon which there are delin-  
17 quent assessments, and the amount of ~~such~~ THE delinquency,  
18 including accrued interest and penalties computed to September 1  
19 of ~~such~~ THE year. Upon receiving the special assessment roll  
20 and warrant, the treasurer shall collect the ~~several~~ amounts  
21 assessed ~~therein~~ as they become due.

22       Sec. ~~+8-~~ 30917. If the treasurer reports as delinquent any  
23 assessment or part ~~thereof~~ OF AN ASSESSMENT, the lake board  
24 shall certify the ~~same~~ DELINQUENCY to the assessing official of  
25 each local unit OF GOVERNMENT, who shall reassess, on the annual  
26 tax roll of ~~such~~ THE local unit ~~OF~~ OF GOVERNMENT of ~~such~~  
27 THAT year, in a column headed "special assessments", the



1 DELINQUENT sum, ~~so delinquent,~~ with interest and penalties to  
2 September 1 of ~~such~~ THAT year, and an additional penalty of 6%  
3 of the total amount. Thereafter, the statutes relating to taxes  
4 shall be applicable to ~~such~~ THE reassessments in each local  
5 unit OF GOVERNMENT.

6 Sec. ~~+9-~~ 30918. If any parcel of land is divided after a  
7 special assessment ~~thereon~~ ON THE LAND has been confirmed and  
8 before the collection ~~thereof~~ OF THE ASSESSMENT, the lake board  
9 may require the assessment official to apportion the uncollected  
10 amounts between the ~~several~~ divisions ~~thereof~~ OF THE PARCEL  
11 OF LAND, and the report of the apportionment when confirmed by  
12 the lake board shall be conclusive upon all parties. If the  
13 interested parties do not agree in writing to the apportionment,  
14 then, before confirmation, notice of hearing shall be given to  
15 all the interested parties, either by personal service or by pub-  
16 lication as provided in THE case of an original assessment roll.

17 Sec. ~~-20-~~ 30919. If the assessments in any special assess-  
18 ment roll prove insufficient for any reason, including the non-  
19 collection ~~thereof~~ OF THE ASSESSMENT, to pay for the improve-  
20 ment for which they were made or to pay the principal and inter-  
21 est on the bonds issued in anticipation of the collection  
22 ~~thereof~~ OF THE ASSESSMENT, then the lake board shall make addi-  
23 tional pro rata assessments to supply the deficiency, but the  
24 total amount assessed against any parcel of land shall not exceed  
25 the value of the benefits received from the improvement.

26 Sec. ~~-21-~~ 30920. Whenever, in the opinion of the lake  
27 board, any special assessment is invalid by reason of

1 irregularities or informalities in the proceedings, or if any  
2 court of competent jurisdiction adjudges such assessment illegal,  
3 the lake board, whether the improvement has been made or not ~~—~~  
4 AND whether any part of the assessment has been paid or not, may  
5 proceed from the last step at which the proceedings were legal  
6 and cause a new assessment to be made for the same purpose for  
7 which the former assessment was made. All proceedings on ~~such~~  
8 THAT reassessment and for the collection ~~thereof~~ OF THE  
9 ASSESSMENT shall be conducted in the same manner as provided for  
10 the original assessment. Whenever an assessment or any part  
11 ~~thereof~~ OF AN ASSESSMENT levied upon any premises has been ~~so~~  
12 set aside, if the ~~same~~ ASSESSMENT OR PART OF AN ASSESSMENT has  
13 been paid and not refunded, the payment ~~so made~~ shall be  
14 applied upon the reassessment.

15       Sec. ~~22~~ 30921. The governing body of any department of  
16 the state or any of its political subdivisions, municipalities,  
17 school districts, townships, OR counties, whose lands are exempt  
18 by law, MAY by resolution ~~—, may~~ agree to pay the special  
19 assessments against ~~such~~ THE lands, in which case the assess-  
20 ment, including all the installments ~~thereof~~ OF THE ASSESSMENT,  
21 shall be a valid claim against the local unit OF GOVERNMENT.

22       Sec. ~~23~~ 30922. The lake board may borrow money and issue  
23 lake level orders or the bonds of the special assessment district  
24 therefor in anticipation of the collection of special assessments  
25 to defray the cost of any improvement made under this ~~act~~ PART  
26 after the special assessment roll has been confirmed. The bonds  
27 or lake level orders shall not exceed the amount of the special

1 assessments in anticipation of the collection of which they are  
2 issued and shall bear interest at a rate not exceeding 5% per  
3 annum. Collections on special assessments to the extent pledged  
4 for the payment of bonds or lake level orders shall be set aside  
5 in a special fund for the payment of the bonds or lake level  
6 orders. The issuance of special assessments bonds or lake level  
7 orders shall be governed by the ~~provisions of the~~ general laws  
8 of the state applicable ~~thereto~~ TO THE ISSUANCE OF SPECIAL  
9 ASSESSMENTS BONDS OR LAKE LEVEL ORDERS and in accordance with THE  
10 MUNICIPAL FINANCE ACT, Act No. 202 of the Public Acts of 1943,  
11 ~~as amended,~~ being sections 131.1 to ~~+38.2-~~ 139.3 of the  
12 MICHIGAN Compiled Laws. ~~of 1948.~~ Bonds or lake level orders may  
13 be issued in anticipation of the collection of special assess-  
14 ments levied in respect to 2 or more public improvements, but no  
15 special assessment district shall be compelled to pay the obliga-  
16 tion of any other special assessment district. The local govern-  
17 ing body may pledge the full faith and credit of a local unit OF  
18 GOVERNMENT for the prompt payment of the principal of and inter-  
19 est on the bonds or lake level orders as they become due. The  
20 pledge of full faith and credit of the local unit OF GOVERNMENT  
21 shall be included within the total limitation prescribed by sec-  
22 tion 5 of chapter 5 of Act No. 202 of the Public Acts of 1943,  
23 ~~as amended,~~ being section 135.5 of the MICHIGAN Compiled Laws.  
24 ~~of 1948.~~ Bonds and lake level orders issued under this ~~act~~  
25 PART shall be executed by the ~~chairman~~ CHAIRPERSON and secre-  
26 tary of the lake board, and the interest coupons to be attached  
27 ~~thereto~~ TO THE BONDS AND ORDERS shall be executed by the

1 officials causing their facsimile signatures to be affixed  
2 thereto.

3       Sec. ~~24~~ 30923. Whenever the lake board determines by  
4 proper resolution that it is necessary to condemn private prop-  
5 erty for the purpose of this ~~act~~ PART, the condemnation pro-  
6 ceedings shall be commenced and conducted in accordance with Act  
7 No. 149 of the Public Acts of 1911, ~~as amended,~~ being sections  
8 213.21 to ~~213.41~~ 213.25 of the MICHIGAN Compiled Laws. ~~of~~  
9 ~~1948.~~

10       Sec. ~~25~~ 30924. (1) The lake board may receive and accept  
11 gifts or grants-in-aid ~~—~~ for the purpose of ~~carrying out the~~  
12 ~~provisions of~~ IMPLEMENTING this ~~act~~ PART.

13       (2) The lake board may contract or make agreement with the  
14 federal government or any ~~agencies thereof~~ AGENCY OF THE FED-  
15 ERAL GOVERNMENT whereby the federal government will pay the whole  
16 or any part of the costs of a project or will perform all or any  
17 part of the work connected ~~therewith~~ WITH THE PROJECT. The  
18 contract or agreement may include any specific terms required by  
19 act of congress or federal regulation as a condition for THE par-  
20 ticipation ~~on the part~~ of the federal government.

21       Sec. ~~26~~ 30925. The ~~conservation~~ department in carrying  
22 out the purposes of this ~~act~~ PART may receive and accept, on  
23 behalf of the state, gifts and grants-in-aid.

24       Sec. ~~27~~ 30926. (1) Except as provided in subsection (2),  
25 the chairperson of the lake board shall advertise for bids. A  
26 contract shall be let to the lowest bidder giving adequate

1 security for the performance of the contract, but the lake board  
2 shall reserve the right to reject any and all bids.

3 (2) The lake board may let a contract with a local, incorpo-  
4 rated, nonprofit homeowner association, ~~whose~~ THE membership OF  
5 WHICH is open ON A NONDISCRIMINATORY BASIS to all residents  
6 within the geographic area to be assessed or serviced, ~~on a non-~~  
7 ~~discriminatory basis,~~ without advertising for public bids. The  
8 homeowner association shall give adequate security for the per-  
9 formance of the contract.

10 (3) The local governing body may improve a lake as a work  
11 relief project pursuant to applicable provisions of law.

12 Sec. ~~28~~ 30927. (1) Within 10 days after the letting of  
13 contracts ~~;~~ or, in case of an appeal, then ~~forthwith~~  
14 IMMEDIATELY after the appeal has been decided, the lake board  
15 shall make a computation of the entire cost of a project under  
16 this ~~act, which shall include~~ PART THAT INCLUDES all prelimi-  
17 nary costs and engineering and inspection costs incurred AND ALL  
18 OF THE FOLLOWING:

19 (A) ~~(1) the~~ THE fees and expenses of special  
20 commissioners. ~~;~~ ~~(2) the~~

21 (B) THE compensation to be paid the board. ~~;~~ ~~(3) the~~

22 (C) THE contracts for dredging ~~;~~ or other work to be done  
23 on the project. ~~;~~ ~~(4) the~~

24 (D) THE estimated cost of an appeal if the apportionment  
25 made by the lake board is not sustained. ~~;~~ ~~(5) the~~

26 (E) THE estimated cost of inspection. ~~;~~ ~~(6) the~~

1 (F) THE cost of publishing all notices required. ~~, (7) all~~

2 (G) ALL costs of the circuit court. ~~, (8) attorney~~

3 (H) ATTORNEY fees for legal services in connection with the  
4 project. ~~, and (9) interest~~

5 (I) INTEREST on bonds for the first year, if bonds are to be  
6 issued.

7 (2) ~~The~~ IN ADDITION TO THE AMOUNTS COMPUTED UNDER SUBSEC-  
8 TION (1), THE lake board may add not less than 10% ~~nor~~ OR more  
9 than 15% of the gross sum to cover contingent expenses, including  
10 additional necessary hydrological studies by the department, ~~of~~  
11 ~~conservation,~~ and the entire sum so ascertained shall be  
12 ~~deemed~~ CONSIDERED to be the cost of the lake improvement  
13 project.

14 Sec. ~~29~~ 30928. Whenever a public inland lake is to be  
15 improved, the ~~conservation~~ department may intervene for the  
16 protection and conservation of the natural resources of the  
17 state.

18 ~~Sec. 30. Act No. 140 of the Public Acts of 1961, being~~  
19 ~~sections 281.701 to 281.718 of the Compiled Laws of 1948, is~~  
20 ~~repealed.~~

21 ~~Part 311. Local River Management~~

22 PART 311 LOCAL RIVER MANAGEMENT

23 ~~Sec. 1. This act shall be known and may be cited as the~~  
24 ~~"local river management act".~~

25 Sec. ~~2~~ 31101. As used in this ~~act~~ PART:

1 (A) ~~(c)~~ "Board" means a river management board created as  
2 the governing body of a river management district in accordance  
3 with ~~the terms of~~ this ~~act~~ PART.

4 (B) ~~(a)~~ "Council" means a watershed council created under  
5 ~~the terms of~~ this ~~act~~ PART.

6 (C) ~~(b)~~ "District" means a river management district  
7 established under ~~the terms of~~ this ~~act~~ PART.

8 ~~(d) "Commission" means the state water resources~~  
9 ~~commission.~~

10 (D) ~~(i)~~ "Level of stream flow" means a measure of water  
11 quantity including the amount of water passing a designated point  
12 over a designated period and the levels of lakes ~~which~~ THAT are  
13 an integral part of the surface drainage system of the  
14 watershed.

15 (E) ~~(g)~~ "Local agencies" means local ~~governments~~ UNITS  
16 OF GOVERNMENT, special districts, or other legally constituted  
17 agencies of local UNITS OF government exercising powers ~~which~~  
18 THAT may affect water resources.

19 ~~(f) "Local governments" means cities, villages, counties,~~  
20 ~~townships and charter townships.~~

21 (F) ~~(h)~~ "River management" means the control of river flow  
22 by the operation of dams, reservoirs, conduits, and other  
23 ~~man made~~ HUMAN-MADE devices in order to improve and expand the  
24 uses of the river for those who depend upon it for a variety of  
25 private and public benefits.

26 (G) ~~(e)~~ "Watershed" means the drainage area of a stream.

1       Sec. ~~3~~ 31102. (1) To promote cooperation among local  
2 ~~governments~~ UNITS OF GOVERNMENT in river management, a  
3 watershed council shall be established by the ~~commission~~  
4 DEPARTMENT upon a petition from 3 or more local ~~governments~~  
5 UNITS OF GOVERNMENT lying wholly or partially in the watershed as  
6 defined in the petition. The petition shall provide a statement  
7 of necessity, a description of general purposes and functions to  
8 be performed, a description of the area, including a map, and a  
9 list of all local ~~governmental units,~~ UNITS OF GOVERNMENT lying  
10 wholly or partly within the watershed, which shall be eligible  
11 for membership on the watershed council.

12       (2) Upon finding that the petition is in conformance with  
13 this ~~statute~~ PART, the ~~commission~~ DEPARTMENT shall ~~adopt an~~  
14 ~~order establishing~~ ESTABLISH the council, schedule an organiza-  
15 tional meeting, and notify all local ~~governments~~ UNITS OF  
16 GOVERNMENT eligible for membership by registered mail. The date  
17 for ~~such~~ THE meeting shall be not less than 60 ~~nor~~ OR more  
18 than 90 days after the date of mailing the notice.

19       Sec. ~~4~~ 31103. (1) The watershed council shall be composed  
20 of representatives of local ~~governments~~ UNITS OF GOVERNMENT  
21 within the watershed who ~~shall be~~ ARE appointed TO and maintain  
22 membership in the council in the following manner:

23       (a) Each local UNIT OF government using the river for water  
24 supply or waste disposal shall appoint 1 representative for each  
25 20,000 population or fraction thereof. The governing body of  
26 each local UNIT OF government shall determine the method by which  
27 its representatives ~~shall be~~ ARE selected.



1 (b) Each county having 15% or more of its area in the  
2 watershed shall appoint 1 representative, and 1 additional repre-  
3 sentative for each 20,000 population or fraction thereof, which  
4 aggregate total shall be computed from THE population of eligible  
5 townships not otherwise represented. ~~Such~~ THESE townships  
6 shall be eligible under this section if they ~~shall~~ have 15% or  
7 more of their respective areas in the basin. The methods by  
8 which the county representatives are selected shall be determined  
9 by the county board of ~~supervisors~~ COMMISSIONERS.

10 (c) Any local agency wholly or partly within the basin may  
11 appoint a representative to the council upon a finding by the  
12 council that the agency is so affected by or concerned with the  
13 use and development of water resources in the basin as to warrant  
14 representation. If any township is represented under this subdi-  
15 vision, its population shall not be counted in determining the  
16 eligible total representatives of its county.

17 (2) Representatives on the watershed council shall be  
18 appointed for 2 years, but ~~shall be~~ ARE subject to replacement  
19 at the pleasure of the appointing authority. ~~No~~ A representa-  
20 tive ~~shall be~~ IS NOT eligible to vote on the council unless the  
21 local government he OR SHE represents has met its financial obli-  
22 gations to the council.

23 (3) Representatives to the watershed council may also repre-  
24 sent their local ~~governments~~ UNITS OF GOVERNMENT, if so desig-  
25 nated ~~thereby~~ BY THEIR LOCAL UNITS OF GOVERNMENT, on river man-  
26 agement boards established in accordance with this ~~act~~ PART.

1       Sec. ~~5~~ 31104. In carrying out its authorized functions,  
2 the council shall DO ALL OF THE FOLLOWING:

3       (a) Adopt bylaws ~~which shall~~ THAT govern its operations.

4       (b) Prepare an annual operating budget, including apportion-  
5 ment of costs to member governments.

6       (c) Hold an annual meeting at which time it shall elect a  
7 ~~chairman~~ CHAIRPERSON, ~~vice chairman~~ VICE-CHAIRPERSON, and  
8 secretary-treasurer, submit an annual report to the member  
9 governments, and adopt an annual budget ~~which~~ THAT constitutes  
10 the council's authorization of activities for the year.

11       Sec. ~~6~~ 31105. A watershed council may ~~perform~~ DO 1 OR  
12 MORE OF the following:

13       (a) Conduct, or cause to be conducted, studies of the water  
14 resources of the watershed, including investigations of water  
15 uses, water quality, and the reliability of the water resource.

16       (b) Prepare periodic reports concerning, among other things,  
17 trends in water use and availability, emerging water problems,  
18 and recommendations for appropriate public policies and programs  
19 necessary to maintain adequate water resources for the watershed  
20 area.

21       (c) Request the ~~commission~~ DEPARTMENT to survey the water-  
22 shed for the purpose of determining minimum levels of stream flow  
23 necessary for health, welfare, and safety as provided in sections  
24 ~~+3~~ 31112 through ~~+8~~ 31117.

25       (d) Recommend the creation of a river management district or  
26 districts under the provisions of sections ~~7~~ 31106 through ~~+2~~

1 31111 when the need for river management seems to warrant such an  
2 action.

3 (e) Advise agencies of federal, state, and local  
4 ~~governments~~ UNITS OF GOVERNMENT as to the council's view of the  
5 watershed's problems and needs.

6 (f) Cooperate with federal, state, and local agencies in  
7 providing stream gauges, water quality sampling stations, or  
8 other water resource data-gathering facilities or programs that  
9 aid the council in its responsibility for studying and reporting  
10 on water conditions.

11 (g) Employ an executive secretary and such other profession-  
12 al, administrative, or clerical staff, including consultants, as  
13 may be provided for in an approved budget.

14 (h) Establish such subcommittees or advisory committees as  
15 are ~~deemed~~ CONSIDERED helpful in the discharge of its  
16 functions.

17 (i) Establish special project funds as needed to finance  
18 special studies outside its annual budget capacity. ~~and for~~ FOR  
19 this purpose, the council may accept gifts and grants from  
20 ~~private individuals, corporations and local, state or federal~~  
21 ~~governments~~ ANY PERSON.

22 Sec. ~~7~~ 31106. (1) The governing bodies of ~~any two~~ 2 or  
23 more local ~~governments~~ UNITS OF GOVERNMENT may petition the  
24 ~~water resources commission~~ DEPARTMENT to establish a river man-  
25 agement district in order to provide an agency for the acquisi-  
26 tion, construction, operation, and financing of water storage and  
27 other river control facilities necessary for river management.

1 The petition shall be accompanied by a statement of necessity, a  
2 description of the district purposes, functions, and operating  
3 procedures, which shall include methods of financing capital  
4 improvements and of apportioning benefit charges, and a general  
5 plan of development. Not later than 60 days following receipt of  
6 such a petition, the ~~commission~~ DEPARTMENT shall ~~fix~~  
7 ESTABLISH the time and place for a public hearing ~~thereon~~ ON  
8 THE PETITION and shall publish notice of the hearing. The notice  
9 shall be published twice in each county involved in at least 1  
10 newspaper of general circulation in the county. At the hearing,  
11 the applicant and any other interested party may appear, present  
12 witnesses, and submit evidence. Following the hearing, the  
13 ~~commission~~ DEPARTMENT may ~~adopt an order establishing~~  
14 ESTABLISH the district and publish notice ~~thereof~~ OF THE  
15 ESTABLISHMENT in the manner provided for publication of notice of  
16 hearing, upon finding the following conditions:

17 (A) ~~(1)~~ That the proposal is consistent with the public  
18 interest in the conservation, development, and use of water  
19 resources, and the proposed district is geographically suitable  
20 to effectuation of the district purposes.

21 (B) ~~(2)~~ That the establishment and operation of the dis-  
22 trict will not unreasonably impair the interests of the public or  
23 of riparians in lands or waters or the beneficial public use  
24 ~~thereof~~ OF LANDS OR WATERS, and will not endanger public health  
25 or safety.

26 (2) ~~No~~ A management district shall NOT be created ~~which~~  
27 THAT affects any city now or hereafter having a population of

1 more than 1,500,000, except with the concurrence of the governing  
2 body of ~~this~~ THAT city.

3 (3) Prior to approving the establishment of a district con-  
4 sisting of a portion of a river basin, the ~~commission~~  
5 DEPARTMENT shall determine the feasibility of establishing the  
6 district to include the entire river basin or as large a portion  
7 of the basin as ~~is~~ possible. Approval of districts consisting  
8 of a portion of a river basin shall be on the basis that ~~at such~~  
9 ~~time as~~ WHEN in the judgment of the ~~commission~~ DEPARTMENT it  
10 becomes feasible to form a district including the entire river  
11 basin, the river ~~managements~~ MANAGEMENT boards shall initiate  
12 proceedings to combine the smaller districts into larger dis-  
13 tricts or into an entire watershed-wide district.

14 (4) Any plans for a river management district shall be coor-  
15 dinated with plans of adjacent river basins, organizations, or  
16 agencies and with any comprehensive regional master programs for  
17 river management.

18 Sec. ~~8~~ 31107. (1) Within 60 days after ~~the adoption of~~  
19 ~~an order~~ establishing a district, the ~~commission~~ DEPARTMENT  
20 shall schedule an organizational meeting of the district board  
21 and shall provide notice ~~thereof~~ OF THE MEETING by registered  
22 mail to the governing bodies of all local ~~governments~~ UNITS OF  
23 GOVERNMENT comprising the district. The date for ~~such~~ THE  
24 meeting shall be not less than 60 ~~nor~~ OR more than 90 days  
25 after the date of mailing the notice. At the meeting, the  
26 ~~executive secretary of the water resources commission~~  
27 DEPARTMENT shall serve as temporary ~~chairman~~ CHAIRPERSON. The

1 board shall elect a ~~chairman~~ CHAIRPERSON, ~~vice chairman~~  
 2 VICE-CHAIRPERSON, secretary, and treasurer and adopt ~~by laws~~  
 3 BYLAWS.

4 (2) A district shall be governed by a river management board  
 5 composed of representatives of local ~~governments~~ UNITS OF  
 6 GOVERNMENT within the district. The representation of each local  
 7 UNIT OF government on the board may be provided as part of the  
 8 operating procedures submitted to the ~~commission~~ DEPARTMENT in  
 9 the petition of local ~~governments~~ UNITS OF GOVERNMENT made in  
 10 accordance with section ~~7~~ 31106. If the composition of the  
 11 board is not so designated, representation shall be established  
 12 under ~~the provisions of~~ section ~~4~~ 31103.

13 (3) Representatives on the river management board shall be  
 14 appointed for 2 years but ~~shall be~~ ARE subject to replacement  
 15 at the pleasure of the appointing authority. ~~No~~ A representa-  
 16 tive ~~shall be~~ IS NOT eligible to vote on the board unless the  
 17 local government he OR SHE represents has met its financial obli-  
 18 gations to the district.

19 (4) Representatives to the river management board may also  
 20 serve as representatives of their local ~~governments~~ UNITS OF  
 21 GOVERNMENT, if so designated ~~thereby~~ BY THEIR LOCAL UNITS OF  
 22 GOVERNMENT, on the watershed council.

23 Sec. ~~9~~ 31108. A river management board may ~~perform~~ DO  
 24 any of the following:

25 (a) Conduct A continuing study of river use requirements and  
 26 needs for river management within its area of jurisdiction;  
 27 analyze alternative methods of meeting needs; and develop and

1 adopt a river management program, including plans for  
2 constructing, operating, and financing water storage and river  
3 control structures and negotiating coordinated policies and pro-  
4 grams relating to river use among local ~~governments~~ UNITS OF  
5 GOVERNMENT within the district.

6 (b) Impound and control the waters of the river system  
7 within the district, subject to minimum levels of stream flow  
8 established pursuant to sections ~~+3-~~ 31112 and ~~+4-~~ 31113,  
9 through acquisition, construction, maintenance, and/or operation  
10 of water storage reservoirs, dams, or other river control struc-  
11 tures as necessary to assure adequate quantity, quality, and sta-  
12 bility of river flow to protect the public health, welfare, and  
13 safety. A river management district shall not release water in  
14 such an amount as to produce or increase flooding or otherwise  
15 damage downstream interests.

16 (c) Contract with or enter into agreement with the federal  
17 government or any agency or department ~~thereof~~ OF THE FEDERAL  
18 GOVERNMENT or with other governmental agencies or with private  
19 individuals or corporations ~~which~~ THAT may maintain and operate  
20 reservoirs and control structures or ~~which~~ THAT may construct,  
21 maintain, and operate new reservoirs and control structures as  
22 necessary to carry out the purposes of this ~~act~~ PART.

23 (d) Perform, with respect to the area within the district,  
24 the functions assigned to a watershed council by sections ~~-3-~~  
25 31102 through ~~-6-~~ 31105 whenever a relevant watershed council has  
26 not been formed, or if the appropriate watershed council's  
27 failure to act impairs the functions and programs of a district.

1       Sec. ~~+0~~ 31109. A district formed under this ~~act~~ PART is  
2 a body corporate with powers to contract; to sue and be sued; to  
3 exercise the right of eminent domain; to apportion administrative  
4 costs and benefit charges for river management and related facil-  
5 ities among the local UNITS OF government members, which costs  
6 shall be payable from general funds or taxes raised by the local  
7 ~~governments~~ UNITS OF GOVERNMENT; to collect revenues for serv-  
8 ices rendered by the exercise of its functions; to issue bonds;  
9 to apply for and receive grants, gifts, and other devises from  
10 any governmental agency ~~or~~ or from the federal government; and  
11 to exercise ~~such~~ other powers as necessary to ~~carry out the~~  
12 ~~purposes of~~ IMPLEMENT this ~~act~~ PART. The river management  
13 district shall NOT have ~~no~~ direct taxing power.

14       Sec. ~~++~~ 31110. A river management board shall DO ALL OF  
15 THE FOLLOWING:

16       (a) Adopt bylaws to govern its operations.

17       (b) Prepare an annual operating budget and levy an annual  
18 assessment of local UNIT OF government members to cover costs of  
19 organizing, developing plans, and maintaining general overhead  
20 administration.

21       (c) Adopt and maintain a schedule of benefit assessments  
22 upon local ~~governments~~ UNITS OF GOVERNMENT in the district  
23 levied to help defray the costs of capital improvements, which  
24 schedule ~~shall constitute~~ CONSTITUTES a legal obligation upon  
25 those assessed.



1 (d) Hold an annual meeting at which it shall report to its  
2 members and to the watershed council, elect officers, and adopt  
3 an annual budget.

4 (e) Maintain a public record of its transactions.

5 (f) Do all other things necessary for the operation of the  
6 district.

7 Sec. ~~+2-~~ 31111. The executive secretary of a watershed  
8 council may serve as executive secretary to the river management  
9 board. If ~~no~~ A relevant watershed council ~~exists~~ DOES NOT  
10 EXIST, or if the executive secretary of a watershed council is  
11 otherwise unavailable, the board may employ an executive  
12 secretary. In addition, the board may employ ~~such~~ additional  
13 staff as it ~~may determine~~ DETERMINES APPROPRIATE within its  
14 approved budget.

15 Sec. ~~+3-~~ 31112. Upon request of a council or a board, the  
16 ~~commission~~ DEPARTMENT shall determine, within the watershed  
17 subject to the council, the minimum level of stream flow neces-  
18 sary to safeguard the public health, welfare, and safety, but  
19 ~~no~~ A determination or order shall NOT prevent any industry  
20 along the stream from using water from the stream for industrial  
21 use sufficient for the industry's requirement if all the water  
22 ~~so~~ used is returned to the stream within 72 hours of the  
23 taking.

24 Sec. ~~+4-~~ 31113. In carrying out its authority to determine  
25 minimum levels of stream flow, the ~~commission~~ DEPARTMENT, after  
26 public hearing, shall ~~adopt~~ ISSUE an order of determination  
27 setting forth minimum levels at ~~such~~ locations as necessary to

1 carry out the purposes of this ~~act~~ PART. Notice of ~~such~~ THE  
2 order of determination shall be published and the order may be  
3 reviewed in the circuit court in accordance with THE ADMINISTRA-  
4 TIVE PROCEDURES ACT OF 1969, Act No. ~~+97-~~ 306 of the Public Acts  
5 of ~~+952-~~ 1969, BEING SECTIONS 24.201 TO 24.328 OF THE MICHIGAN  
6 COMPILED LAWS, upon petition filed by any person within 15 days  
7 following the last date of ~~such~~ THE publication.

8       Sec. ~~+5-~~ 31114. A river management board may request a  
9 watershed council to seek a determination of minimum levels of  
10 stream flow in accordance with sections ~~+3-~~ 31112 and ~~+4-~~  
11 31113, or the board may request the ~~commission~~ DEPARTMENT to  
12 make ~~such~~ THE determinations ~~whenever no~~ IF A watershed coun-  
13 cil has NOT been formed for the larger watershed of which the  
14 district is a part, or when an appropriately established council  
15 fails to act within 90 days upon the district's request.

16       Sec. ~~+6-~~ 31115. The ~~commission~~ DEPARTMENT may maintain  
17 ~~such~~ gauges and sampling devices to measure stream flow, lake  
18 levels, and water quality as ~~are~~ necessary to ~~carry out the~~  
19 ~~purposes of~~ IMPLEMENT this ~~act~~ PART, and may enter at all rea-  
20 sonable times in or upon any public property for the purpose of  
21 inspecting and investigating conditions relating to ~~carrying out~~  
22 ~~the provisions of~~ IMPLEMENTING this ~~act~~ PART.

23       Sec. ~~+7-~~ 31116. The ~~commission~~ DEPARTMENT may cooperate  
24 and negotiate with ~~any government, unit of government, agency~~  
25 ~~thereof, or with~~ any person in establishing and maintaining  
26 gauges and sampling devices to measure stream flow, lake levels,  
27 or water quality or in ~~carrying out~~ IMPLEMENTING any other

1 provision of this ~~act~~ PART. When requested by a council or  
2 board, the ~~commission~~ DEPARTMENT shall provide technical advice  
3 and assistance in the preparation of a river management plan of  
4 the district. ~~No~~ A river management plan shall NOT be placed  
5 into effect until it ~~shall have~~ HAS been approved by the  
6 ~~commission~~ DEPARTMENT as conforming to the stated objectives of  
7 the petition. The ~~commission~~ DEPARTMENT shall maintain super-  
8 vision over the functioning of the district to the extent it  
9 ~~deems~~ CONSIDERS necessary for the purpose of ~~insuring~~  
10 ENSURING conformance with the plan in the public interest.

11 Sec. ~~+8~~ 31117. The ~~commission~~ DEPARTMENT shall ~~make~~  
12 PROMULGATE rules ~~and regulations in accordance with the provi-~~  
13 ~~sions of Act No. 88 of the Public Acts of 1943, as amended, being~~  
14 ~~sections 24.71 to 24.82 of the Compiled Laws of 1948, and subject~~  
15 ~~to Act No. 197 of the Public Acts of 1952, as amended, being sec-~~  
16 ~~tions 24.101 to 24.110 of the Compiled Laws of 1948~~ TO IMPLEMENT  
17 THIS PART.

18 Sec. ~~+9~~ 31118. ~~Nothing in this act shall be construed so~~  
19 ~~as to~~ THIS PART DOES NOT abridge the authority vested in the  
20 ~~commission~~ DEPARTMENT by ~~Act No. 245 of the Public Acts of~~  
21 ~~1929, as amended, being sections 323.1 to 323.12 of the Compiled~~  
22 ~~Laws of 1948~~ PART 31. Permits granted by the ~~commission~~  
23 DEPARTMENT in accordance with ~~Act No. 143 of the Public Acts of~~  
24 ~~1959, being sections 323.251 to 323.258 of the Compiled Laws of~~  
25 ~~1948 shall~~ PART 35 ARE not ~~be~~ affected by this ~~act~~ PART.  
26 The granting of future permits under ~~Act No. 143 of the Public~~



1 (f) "Surplus water" means ~~that~~ water ~~which~~ THAT may be  
2 impounded without decreasing the flow of a river or stream below  
3 its optimum flow.

4 Sec. ~~3~~ 31302. Any board or group of boards or local unit  
5 or units acting singly or in concert may request the ~~commission~~  
6 DEPARTMENT to undertake a survey of the water in a river basin or  
7 watershed located or partially located in ~~such~~ THE county or  
8 counties or in THE local unit or units of government to determine  
9 whether there is surplus water ~~which~~ THAT may be available and,  
10 if so, how it may be best impounded, utilized, and conserved.  
11 All studies, surveys, and reports made by public and other compe-  
12 tent authorities may be utilized by the ~~commission~~ DEPARTMENT  
13 in making ~~such determinations~~ THIS DETERMINATION.

14 Sec. ~~4~~ 31303. If it appears to the ~~commission~~  
15 DEPARTMENT, after a review of the request, that a feasible plan  
16 for the impoundment, utilization, and conservation of surplus  
17 water will involve the water in counties or local units other  
18 than those making the request, the ~~commission~~ DEPARTMENT shall  
19 so inform the requestors. If the request ~~were~~ WAS originally  
20 made by a local unit only, the board of the county in which the  
21 local unit is situated shall be informed of ~~such~~ THE decision  
22 ~~by~~ OF the ~~commission~~ DEPARTMENT; and unless the board joins  
23 in the request and becomes an originator of the request, the  
24 ~~commission~~ DEPARTMENT shall discontinue any further work on the  
25 survey. The requesting board may then request the other boards  
26 to join in the request so that a complete survey of the surplus  
27 water located in all affected counties may be made. Refusal on

1 the part of any of the other boards to join in the request shall  
2 be reported to the ~~commission~~ DEPARTMENT, and if the  
3 ~~commission~~ DEPARTMENT believes that the plan can be effectuated  
4 without the cooperation of the refusing boards, ~~it~~ THE  
5 DEPARTMENT shall enter a decision to that effect ~~in its minutes~~  
6 and the boards requesting the survey may proceed in accordance  
7 with ~~the provisions of~~ this ~~act~~ PART.

8       Sec. ~~5~~ 31304. (1) Upon receipt of a request, the  
9 ~~commission~~ DEPARTMENT shall determine the optimum flow for  
10 ~~such~~ THE rivers and streams ~~which~~ THAT may be substantially  
11 affected by the impounding and releasing of surplus water and  
12 upon its completion shall require the boards to prepare and  
13 submit to the ~~commission~~ DEPARTMENT a plan for the impoundment,  
14 best utilization, and conservation of the surplus water in  
15 accordance with ~~the purposes of~~ this ~~act~~ PART. The  
16 ~~commission~~ DEPARTMENT shall cooperate and collaborate with the  
17 boards in THE preparation of the plan. The plan shall specify  
18 the persons who may make use of the water and the terms,  
19 conditions, and restrictions under which the water may be used.

20       (2) In making the determination of optimum flow and in pre-  
21 paring the plan, the ~~commission~~ DEPARTMENT and boards shall  
22 consider the following factors:

23       (a) The range of stream flow variation.

24       (b) The uses that are being made of the water from the  
25 stream or ~~which~~ THAT may be made in the foreseeable future by  
26 any riparian owner.

1 (c) The stream's waste assimilation capacity ~~—~~ and its  
2 practical utility for domestic use, fish and wildlife habitat,  
3 recreation, municipal and industrial water supply, commercial and  
4 recreational navigation, including portages, public and private  
5 utilities, and water storage purposes.

6 (d) ~~Such other~~ OTHER factors ~~which~~ THAT appear to the  
7 ~~commission~~ DEPARTMENT TO BE necessary TO adequately ~~to~~ pro-  
8 tect and preserve the rights of riparians on the streams  
9 involved.

10 (3) ~~No~~ A plan shall NOT permit the impounding of water  
11 ~~when~~ IF the flow is below the optimum flow. This ~~act shall~~  
12 PART DOES not ~~be construed to~~ authorize the diversion of water  
13 from ~~one~~ 1 watershed to another.

14 Sec. ~~6~~ 31305. (1) Before making a determination of opti-  
15 mum flow, the ~~commission~~ DEPARTMENT shall hold a public hearing  
16 ~~thereon~~ ON THE ISSUE. The ~~commission~~ DEPARTMENT shall ~~fix~~  
17 SET the time and place for the public hearing and shall publish  
18 notice ~~thereof~~ OF THE HEARING. The hearing shall be held not  
19 less than 180 days after the date of the first publication. The  
20 notice shall be published once during each of 2 separate weeks in  
21 at least 1 newspaper of general circulation in each county  
22 ~~which~~ THAT requested the survey or later joined ~~therein~~ IN  
23 THE SURVEY. Notice shall be given by first-class mail to each  
24 owner or party in interest of upper and lower riparian property  
25 ~~which~~ THAT will be affected by the ~~aforsaid~~ determination  
26 and whose name appears upon the most recent local tax assessment  
27 records. The notice shall be mailed at least 60 days prior to

1 the date of the hearing ~~at~~ TO the address shown on the tax  
2 records. At the hearing, any interested person may appear,  
3 present witnesses, and submit evidence.

4 (2) Upon the completion of the PUBLIC hearing PURSUANT TO  
5 SUBSECTION (1), the ~~commission~~ DEPARTMENT, if it believes it to  
6 ~~be in the furtherance of~~ FURTHER the public interest, shall  
7 enter an order making a determination of optimum flow. The order  
8 shall become final 30 days after the mailing of a copy of it by  
9 certified mail to those interested persons who appeared and tes-  
10 tified or filed a written statement at the hearing. The order  
11 ~~shall be~~ IS subject to review as to questions of law only by a  
12 writ of superintending control in an action in the nature of cer-  
13 tiorari brought before the order becomes final. Only an owner or  
14 party in interest of upper or lower riparian property affected by  
15 the order who appeared, testified, or filed a written statement  
16 at the hearing, ~~considering~~ WHO CONSIDERS himself OR HERSELF  
17 aggrieved by the order, ~~shall have~~ HAS the right to file a  
18 petition for a writ of superintending control in the nature of  
19 certiorari in the circuit court for the county of Ingham or in  
20 the circuit court for any county ~~which~~ THAT requested the  
21 survey or joined ~~therein~~ IN THE SURVEY.

22 (3) After the order of determination ~~has become~~ BECOMES  
23 final, the ~~commission~~ DEPARTMENT shall hold a public hearing on  
24 the proposed plan as submitted by the board. The ~~commission~~  
25 DEPARTMENT shall ~~fix~~ SET the time and place for the public  
26 hearing and shall publish notice in the manner provided in  
27 subsection (1). The hearing shall be held not less than 30 days



1 after the date of the first publication. Notice shall be given  
2 by first-class mail to ~~such~~ THE persons and in ~~such~~ THE  
3 manner ~~as is~~ provided in subsection (1) and shall be mailed at  
4 least 30 days prior to the date of the hearing. At the hearing,  
5 any interested person may appear, present witnesses, and submit  
6 evidence. If the ~~commission~~ DEPARTMENT finds that the proposed  
7 plan is in the public interest and in compliance with ~~the provi-~~  
8 ~~sions of~~ this ~~act~~ PART, it shall enter an order approving the  
9 plan. The order shall become final 30 days after the mailing of  
10 a copy of it by certified mail to those interested persons who  
11 appeared and testified or filed a written statement at the  
12 hearing. The order ~~shall be~~ IS subject to review as is pro-  
13 vided in subsection (2).

14 Sec. ~~7~~ 31306. (1) When the order has become final, the  
15 ~~commission~~ DEPARTMENT shall transmit the plan to all OF the  
16 boards involved, and, if THE PLAN IS adopted by ~~them~~ THE BOARDS  
17 INVOLVED, the boards may construct, operate, and maintain, either  
18 singly or jointly, the dams necessary to impound the surplus  
19 waters and to make use or disposition of the surplus water in  
20 accordance with the plan. The ~~commission~~ DEPARTMENT shall  
21 maintain supervision over the execution of the plan to the extent  
22 it considers necessary ~~for the purpose of protecting~~ TO PROTECT  
23 the public interest of the state.

24 (2) For the ~~carrying out~~ IMPLEMENTATION and effectuation  
25 of the plan, the boards, either singly or jointly, may establish  
26 ~~such~~ A governmental agency or commission as may be necessary,  
27 may hire ~~such~~ employees or assistants as may be required, and

1 may enter into ~~such~~ contracts with each other and any person as  
 2 may be necessary to ~~carry out the purposes of~~ IMPLEMENT this  
 3 ~~act~~ PART. The boards constructing, maintaining, or operating  
 4 the dams shall be responsible for the proper construction,  
 5 maintenance, and operation of the dams, and they shall be in full  
 6 and complete charge ~~thereof~~ OF THE DAMS and of the impoundments  
 7 created ~~thereby~~ BY THE DAMS.

8       Sec. ~~8~~ 31307. For the purpose of ~~carrying out the provi-~~  
 9 ~~sions of~~ IMPLEMENTING this ~~act~~ PART, the boards may receive  
 10 and accept in the name of the county gifts and grants of land and  
 11 other property and grants-in-aid from ~~persons, corporations, the~~  
 12 ~~federal government, and any state or federal governmental unit-~~  
 13 ANY PERSON, and may buy, sell, exchange, or condemn land and  
 14 other property or property interests, including the rights of  
 15 riparian owners to surplus waters, in any county where the land  
 16 and property ~~may be~~ ARE located. The ~~commission~~ DEPARTMENT,  
 17 if direct acceptance by the boards is not possible, may accept  
 18 the gifts or grants on their behalf. The boards shall not use  
 19 any ~~moneys~~ MONEY of the county ~~for the purpose of carrying~~  
 20 ~~out~~ TO IMPLEMENT the terms and provisions of this ~~act~~ PART,  
 21 but shall finance the construction, operation, and maintenance of  
 22 the dams wholly and solely from ~~such~~ gifts or grants-in-aid  
 23 that may be received and from ~~such~~ fees and charges as may be  
 24 made for the use of the surplus water.

25       Sec. ~~9~~ 31308. The ~~commission~~ DEPARTMENT, in carrying  
 26 out the purposes of this ~~act~~ PART, may receive and accept ~~—~~  
 27 on behalf of the state ~~—~~ gifts and grants-in-aid from ~~the~~

1 ~~federal government, persons, corporations and other governmental~~  
2 ~~units~~ ANY PERSON.

3       Sec. ~~10~~ 31309. All increased flowage resulting from oper-  
4 ation of a plan shall be available for nonconsumptive use to all  
5 riparians. ~~No~~ A person shall NOT utilize for waste assimila-  
6 tion, or divert from the stream, any surplus water created by  
7 release from dams operated under ~~the provisions of~~ this ~~act~~  
8 PART, except in accordance with the plan. The amount of surplus  
9 water released from any impoundment shall be determined by the  
10 ~~commission~~ DEPARTMENT by the use of well-recognized engineering  
11 computations. The boards may charge users of the surplus water  
12 for waste assimilation or consumptive use, except those making an  
13 incidental, noncommercial, or recreational use, a reasonable fee  
14 or rate for the quantity of water or for the benefits they  
15 receive. Those users who contribute to the construction,  
16 maintenance, or operation of the dams may be charged a reduced  
17 fee or no fee, but the fees and rates charged by the boards shall  
18 be sufficient at all times to defray all costs, expenses, and  
19 other financial burdens assumed by the boards in the construc-  
20 tion, maintenance, and operation of the dams.

21       Sec. ~~11~~ 31310. ~~Nothing in this act shall be construed so~~  
22 ~~as to~~ THIS PART DOES NOT abridge the authority of the  
23 ~~commission~~ DEPARTMENT as it presently exists. Permits granted  
24 by the ~~commission~~ DEPARTMENT in accordance with ~~Act No. 143 of~~  
25 ~~the Public Acts of 1959, being sections 323.251 to 323.258 of the~~  
26 ~~Compiled Laws of 1948, shall~~ PART 35 ARE not ~~be~~ affected by  
27 this ~~act~~ PART. The granting of future permits under ~~Act~~

1 ~~No. 143 of the Public Acts of 1959~~ PART 35 shall proceed without  
2 regard to anything contained in this ~~act~~ PART.

3       Sec. ~~+2~~ 31311. The ~~commission~~ DEPARTMENT shall ~~make~~  
4 PROMULGATE rules ~~and regulations in accordance with the provi-~~  
5 ~~sions of Act No. 88 of the Public Acts of 1943, as amended, being~~  
6 ~~sections 24.71 to 24.82 of the Compiled Laws of 1948, and subject~~  
7 ~~to Act No. 197 of the Public Acts of 1952, as amended, being sec-~~  
8 ~~tions 24.101 to 24.110 of the Compiled Laws of 1948~~ TO IMPLEMENT  
9 THIS PART.

10       Sec. ~~+3~~ 31312. After a determination or plan has been in  
11 effect for 5 years, any riparian owner may petition the  
12 ~~commission~~ DEPARTMENT for a redetermination of the optimum flow  
13 or modification of the plan, and upon a showing of substantial  
14 changes in conditions, the ~~commission~~ DEPARTMENT shall hold  
15 hearings as provided in section ~~6~~ 31305 and may redetermine the  
16 optimum flow or modify the plan.

17       Sec. ~~+4~~ 31313. Any person knowingly violating ~~any of the~~  
18 ~~provisions of~~ this ~~act~~ PART, or any rule ~~or regulation~~  
19 promulgated ~~by the commission~~ UNDER THIS PART, or any written  
20 order of the ~~commission~~ DEPARTMENT in pursuance ~~thereof~~ OF  
21 THIS PART, is guilty of a misdemeanor.

22       Sec. ~~+5~~ 31314. This ~~act shall~~ PART DOES not apply  
23 within the boundaries of any river management district created  
24 under ~~the local river management act~~ PART 311.

25       ~~Part 315. Dam Safety~~

## PART 315 DAM SAFETY

1

2 ~~Sec. 1. This act shall be known and may be cited as the~~  
3 ~~"dam safety act".~~

4 Sec. ~~3~~ 31501. For purposes of this ~~act~~ PART, the words  
5 and phrases defined in sections ~~5~~ 31502 to ~~11~~ 31505 have the  
6 meanings ascribed to them in those sections.

7 Sec. ~~5~~ 31502. (1) "Abandonment" means an affirmative act  
8 on the part of an owner to discontinue maintenance or operation  
9 of a dam.

10 (2) "Administrative procedures act of 1969" means Act  
11 No. 306 of the Public Acts of 1969, being sections 24.201 to  
12 24.328 of the Michigan Compiled Laws.

13 (3) "Alteration" means a change in the design of an existing  
14 dam that directly affects or may directly affect the structural  
15 integrity of a dam.

16 (4) "Appurtenant works" means the structure or machinery  
17 incident to or annexed to a dam that is built to operate and  
18 maintain a dam, including spillways, either in a dam or separate  
19 from the dam; low level outlet works; and water conduits such as  
20 tunnels, pipelines, or penstocks, located either through the dam  
21 or through the abutments of the dam.

22 (5) "Auxiliary spillway" means a secondary spillway which is  
23 operational at all times and does not require stoplog removal or  
24 gate manipulation.

25 (6) "Dam" means an artificial barrier, including dikes,  
26 embankments, and appurtenant works, that impounds, diverts, or is  
27 designed to impound or divert water ~~—~~ or A COMBINATION OF water

1 and any other liquid or material in the water; ~~and~~ that is or  
2 will ~~BE~~ when complete ~~be~~ 6 feet or more in height; and  
3 that has or will have an impounding capacity at design flood ele-  
4 vation of 5 surface acres or more. Dam does not include a stor-  
5 age or processing tank or standpipe constructed of steel or con-  
6 crete, a roadway embankment not designed to impound water, or a  
7 dug pond where there is no impoundment of water or waste materi-  
8 als containing water at levels above adjacent natural grade  
9 levels.

10 (7) "Days" means calendar days, including Sundays and  
11 holidays.

12 ~~(8) "Department" means the department of natural~~  
13 ~~resources.~~

14 (8) ~~(9)~~ "Design flood" means the design ~~flowrate~~ FLOW  
15 RATE for spillway capacity and dam height design.

16 (9) ~~(10)~~ "Design flood elevation" means the maximum flood  
17 elevation that is considered in the design of the spillway capac-  
18 ity and freeboard for a dam.

19 ~~(11) "Director" means the director of the department of~~  
20 ~~natural resources.~~

21 (10) ~~(12)~~ "Downstream toe elevation" means the elevation  
22 of the lowest point of intersection between the downstream slope  
23 of an earthen embankment and the natural ground.

24 Sec. ~~7~~ 31503. (1) "Emergency action plan" means a plan  
25 developed by the owner that establishes procedures for notifica-  
26 tion of the department, public off-site authorities, and other

1 agencies of the emergency actions to be taken prior to and  
2 following an impending or actual failure of a dam.

3 (2) "Enlargement" means any change in or addition to an  
4 existing dam which raises or may raise the design flood elevation  
5 of the water impounded by the dam.

6 (3) "Failed dam" means a dam not capable of impounding water  
7 at its intended level due to a structural deficiency.

8 (4) "Failure" means an incident resulting in an unplanned or  
9 uncontrolled release of water from a dam.

10 (5) "Flood of record" means the greatest flow rate deter-  
11 mined by the department to have occurred at a particular  
12 location.

13 (6) "Freeboard" means the vertical distance between the  
14 design flood elevation and the lowest point of the top of the  
15 dam.

16 (7) "Half probable maximum flood" means the largest flood  
17 ~~which~~ THAT may reasonably occur over a watershed, ~~which~~ AND  
18 is derived from the combination of hydrologic runoff parameters  
19 and the half probable maximum storm ~~which~~ THAT produces the  
20 maximum runoff.

21 (8) "Half probable maximum storm" means the spatial and tem-  
22 poral distribution of the probable maximum precipitation, divided  
23 by 2, ~~which~~ THAT produces the maximum volume of precipitation  
24 over a watershed.

25 (9) "Hazard potential classification" means a reference to  
26 the potential for loss of life, property damage, and

1 environmental damage in the area downstream of a dam in the event  
2 of failure of the dam or appurtenant works.

3 (10) "Height" means the difference in elevation measured  
4 vertically between the natural bed of a stream or watercourse at  
5 the downstream toe of the dam, or, if it is not across a stream  
6 channel or watercourse, from the lowest elevation of the down-  
7 stream toe of the dam, to the design flood elevation or to the  
8 lowest point of the top of the dam, whichever is less.

9 (11) "High hazard potential dam" means a dam located in an  
10 area where a failure may cause serious damage to inhabited homes,  
11 agricultural buildings, campgrounds, recreational facilities,  
12 industrial or commercial buildings, public utilities, main  
13 highways, or class I carrier railroads, or where environmental  
14 degradation would be significant, or where danger to individuals  
15 exists with the potential for loss of life.

16 Sec. ~~9~~ 31504. (1) "Impoundment" means the water held back  
17 by a dam.

18 ~~(2) "Local unit of government" means a city, village, town-~~  
19 ~~ship, or county.~~

20 (2) ~~(3)~~ "Low hazard potential dam" means a dam located in  
21 an area where failure may cause damage limited to agriculture,  
22 uninhabited buildings, structures, or township or county roads,  
23 where environmental degradation would be minimal, and WHERE  
24 danger to individuals is slight or nonexistent.

25 (3) ~~(4)~~ "Maintenance" means the upkeep of a dam and its  
26 appurtenant works but does not include alterations or repairs.



1 (4) ~~(5)~~ "One-hundred year flood" means a flood ~~which~~  
2 THAT has a 1% chance of being equaled or exceeded in any given  
3 year.

4 (5) ~~(6)~~ "Owner" means a person who owns, leases, controls,  
5 operates, maintains, manages, or proposes to construct a dam.

6 ~~(7) "Person" means an individual, partnership, corporation,~~  
7 ~~association, political subdivision of the state, the department~~  
8 ~~or other instrumentality or agency of the state, or other legal~~  
9 ~~entity.~~

10 (6) ~~(8)~~ "Probable maximum precipitation" means the theo-  
11 retically greatest depth of precipitation for a given duration  
12 that is physically possible over a given size storm area at a  
13 particular geographic location at a certain time of year.

14 Sec. ~~++~~ 31505. (1) "Removal" means the physical elimina-  
15 tion of a dam or impoundment.

16 (2) "Repair" means to substantially restore a dam to its  
17 original condition and includes only such restoration as may  
18 directly affect the structural integrity of the dam.

19 (3) "Riparian owner" means a person who has riparian  
20 rights.

21 (4) "Riparian rights" means rights which accrue by operation  
22 of law to a landowner on the banks of an inland lake or stream.

23 ~~(5) "Rule" means a rule promulgated pursuant to the admin-~~  
24 ~~istrative procedures act of 1969.~~

25 (5) ~~(6)~~ "Significant hazard potential dam" means a dam  
26 located in an area where its failure may cause damage limited to  
27 isolated inhabited homes, agricultural buildings, structures,

1 secondary highways, short line railroads, or public utilities,  
2 where environmental degradation may be significant, or where  
3 danger to individuals exists.

4 (6) ~~(7)~~ "Spillway" means a waterway in or about a dam  
5 designed for the discharge of water.

6 (7) ~~(8)~~ "Spillway capacity" means the maximum rate of dis-  
7 charge ~~which~~ THAT will pass through a spillway at design flood  
8 elevation.

9 (8) ~~(9)~~ "Two-hundred year flood" means a flood ~~which~~  
10 THAT has a 0.5% chance of being equaled or exceeded in any given  
11 year.

12 Sec. ~~+3~~ 31506. (1) Except as otherwise provided in sub-  
13 sections (2) and (3), dams and impoundments in the state are  
14 under the jurisdiction of the department.

15 (2) The following are exempt from this ~~act~~ PART:

16 (a) Projects licensed, projects that have preliminary per-  
17 mits, or projects for which an application for licensure has been  
18 filed under the federal power act, chapter 285, 41 Stat. 1063, 16  
19 U.S.C. 791a to 793, 796 to 797, 798 to 818, 820 to 824a, and 824b  
20 to 825r, if federal dam safety inspection provisions apply during  
21 the license period and the inspection reports are provided to the  
22 department.

23 (b) Projects located on boundary waters under the jurisdic-  
24 tion and supervision of the United States army corps of  
25 engineers.

26 (c) Impoundments licensed pursuant to ~~the solid waste~~  
27 ~~management act, Act No. 641 of the Public Acts of 1978, being~~

1 ~~sections 299.401 to 299.437 of the Michigan Compiled Laws,~~  
2 PART 115 that contain or are designed to contain type III wastes  
3 as defined in rules promulgated under that ~~act~~ PART.

4 ~~(3) For 3 years commencing December 28, 1988, a permit~~  
5 ~~shall not be required under this act for the repair, reconstruc-~~  
6 ~~tion, or improvement of a dam located in Everett township,~~  
7 ~~Newaygo county, and/or a dam located in the village of Luther,~~  
8 ~~Lake county, which is 75 years old if the dam was damaged or~~  
9 ~~destroyed by an act of God in 1986. However, a person who is~~  
10 ~~performing a project for the repair, reconstruction, or improve-~~  
11 ~~ment of a dam that is exempt from obtaining a permit under this~~  
12 ~~subsection shall submit to the department and the joint capital~~  
13 ~~outlay committee plans and specifications for the project. These~~  
14 ~~plans and specifications shall be prepared by a licensed profes-~~  
15 ~~sional engineer and shall meet acceptable standards in the indus-~~  
16 ~~try and must be approved by the joint capital outlay committee in~~  
17 ~~order for a dam to be repaired, reconstructed, or improved. In~~  
18 ~~reviewing for approval plans and specifications for the project,~~  
19 ~~the joint capital outlay committee may require environmental con-~~  
20 ~~siderations to protect water quality such as underspill devices,~~  
21 ~~minimum flow releases and removal of contaminated sediments that~~  
22 ~~may be resuspended in the water column upon impoundment. Such~~  
23 ~~contaminated sediments shall be disposed of in accordance with~~  
24 ~~state law.~~

25 Sec. ~~+5-~~ 31507. (1) A person shall not construct, enlarge,  
26 repair, reconstruct, alter, remove, or abandon any dam except in  
27 a manner provided for in this ~~act~~ PART.

1 (2) This section does not apply to maintenance performed on  
2 a dam that does not affect the structural integrity of the dam.

3 Sec. ~~17~~ 31508. (1) Except as otherwise provided in sub-  
4 section (2), a licensed professional engineer shall prepare all  
5 plans and specifications, except for minor projects undertaken  
6 pursuant to section ~~27~~ 31513.

7 (2) A person who is not a licensed professional engineer may  
8 prepare plans and specifications only for repairs or alterations  
9 to a dam where the application is made by a nonprofit organiza-  
10 tion under the following circumstances:

11 (a) The nonprofit organization has assets of less than  
12 \$30,000.00, ~~and~~ is exempt from taxation under section 501(c)(3)  
13 of the internal revenue code OF 1986, 26 U.S.C. 501, and is not  
14 ~~comprised~~ COMPOSED primarily of the owners of property adjacent  
15 to or contiguous to an impoundment.

16 (b) The proposed repairs or alterations have a projected  
17 total cost of less than \$25,000.00.

18 (c) The impoundment is open to the public and a notice of  
19 public access is posted.

20 Sec. ~~19~~ 31509. (1) Except as otherwise provided in this  
21 ~~act~~ PART, a person shall not begin any of the following activi-  
22 ties unless that person has a valid permit issued by the depart-  
23 ment under this ~~act~~ PART:

24 (a) Construction of a new dam.

25 (b) Enlargement of a dam or an impoundment.

26 (c) Repair of a dam.

1 (d) Alteration of a dam.

2 (e) Removal of a dam.

3 (f) Abandonment of a dam.

4 (g) Reconstruction of a failed dam.

5 (2) A person desiring to perform any of the activities  
6 listed in subsection (1) shall apply to the department on a form  
7 prescribed by the department and shall provide information that  
8 the department determines is necessary for the administration of  
9 this ~~act~~ PART. If a project includes activities at multiple  
10 locations, 1 application may be filed for the combined  
11 activities.

12 (3) An application for a permit for construction of a new  
13 dam, reconstruction of a failed dam, or enlargement of a dam  
14 shall be accompanied by the following fees:

15 (a) For a dam with a height of 6 feet or more but less than  
16 10 feet, \$500.00.

17 (b) For a dam with a height of 10 feet or more but less than  
18 20 feet, \$1,000.00.

19 (c) For a dam with a height of 20 feet or more, \$3,000.00.

20 (4) An application for a permit for the repair, alteration,  
21 removal, or abandonment of a dam shall be accompanied by a fee of  
22 \$200.00, and an application for a permit for a minor project pur-  
23 suant to section ~~27(+)~~ 31513(1) shall be accompanied by a fee  
24 of \$100.00.

25 (5) The department shall waive the fees under this section  
26 for applications from state agencies, department sponsored

1 projects located on public lands, and organizations of the type  
2 described in section ~~17(2)(a)~~ 31508(2)(A) through (c).

3 (6) The department shall forward fees collected under this  
4 section to the state treasurer for deposit in the land and water  
5 management permit fee fund created in section ~~16 of the inland~~  
6 ~~lakes and streams act of 1972, Act No. 346 of the Public Acts of~~  
7 ~~1972, being section 281.966 of the Michigan Compiled Laws~~  
8 30113.

9 Sec. ~~21~~ 31510. (1) A person who wants to be notified of  
10 pending applications for permits issued under this ~~act~~ PART may  
11 make a written request to the department, accompanied by an  
12 annual fee of \$25.00. The fee shall be deposited in the state  
13 treasury and credited to the general fund.

14 (2) The department shall prepare a biweekly list of the  
15 applications made during the previous biweekly period and shall  
16 promptly mail copies of the list for the remainder of the calen-  
17 dar year to the persons who have requested notice and paid the  
18 fee under this section.

19 (3) The biweekly list shall state the name and address of  
20 each applicant, the legal description of the lands included in  
21 the applicant's project, and a summary statement of the purpose  
22 of the project.

23 Sec. ~~23~~ 31511. (1) Upon receipt of an application for a  
24 permit under this ~~act~~ PART, the department shall submit copies  
25 of the application accompanied by a statement indicating that the  
26 department may act upon the application without a public hearing  
27 unless a written request is filed with the department within 20

1 days after the submission for review. The department shall  
2 submit copies of the application to all of the following:

3 (a) The local unit of government where the project is to be  
4 located.

5 (b) The adjacent riparian owners.

6 (c) Any person considered appropriate by the department.

7 (d) Any person who requests copies.

8 (e) A watershed council, organized pursuant to ~~the local~~  
9 ~~river management act, Act No. 253 of the Public Acts of 1964,~~  
10 ~~being sections 323.301 to 323.320 of the Michigan Compiled Laws~~  
11 PART 311, of the watershed within which the project is located or  
12 IS to be located.

13 (2) The department may hold a public hearing upon the writ-  
14 ten request of any of the following:

15 (a) An applicant.

16 (b) A riparian owner.

17 (c) A person or local unit of government that is entitled to  
18 receive a copy of the application pursuant to subsection (1).

19 (3) A public hearing held pursuant to this section shall be  
20 held in compliance with the open meetings act, Act No. 267 of the  
21 Public Acts of 1976, being sections 15.261 to 15.275 of the  
22 Michigan Compiled Laws. Public notice of the time, date, and  
23 place of the hearing shall be given in the manner provided by  
24 that act. Additionally, the department shall mail copies of the  
25 public notice to the persons who have requested the biweekly list  
26 pursuant to section ~~21~~ 31510, the person requesting the  
27 hearing, and the persons and local units of government ~~which~~

1 THAT are entitled to receive a copy of the application pursuant  
2 to subsection (1).

3       Sec. ~~-25-~~ 31512. (1) The department shall grant or deny a  
4 permit within 60 days after the submission of a complete applica-  
5 tion, or within 120 days after the submission of a complete  
6 application if a public hearing is held. If a permit is denied,  
7 the department shall provide to the applicant a concise written  
8 statement of the reasons for the denial of the permit. If it  
9 appears that a minor modification of the application would result  
10 in the granting of the permit, the nature of the modification  
11 shall be included in the written statement.

12       (2) When immediate action is necessary to protect the struc-  
13 tural integrity of a dam, the department may issue a permit  
14 before the expiration of the 20-day period referred to in section  
15 ~~-23(+)-~~ 31511(1). This subsection does not prohibit an owner  
16 from taking action necessary to mitigate emergency conditions if  
17 imminent danger of failure exists.

18       (3) A person applying for a permit to reconstruct a failed  
19 dam shall file a complete application not less than 1 year after  
20 the date of the failure. If such an application is filed more  
21 than 1 year after the date of the failure, the department shall  
22 consider the application to be an application to construct a new  
23 dam.

24       Sec. ~~-27-~~ 31513. (1) The department shall promulgate rules  
25 to establish minor project categories for alterations and repairs  
26 that have minimal effect on the structural integrity of a dam.  
27 The department may act upon an application and grant a permit for



1 an activity or project within a minor project category, after an  
2 on-site inspection of the dam, without providing public notice.

3 (2) All other provisions of this ~~act~~ PART shall be appli-  
4 cable to minor projects, except that a final inspection by the  
5 department or certification of the project by a licensed profes-  
6 sional engineer shall not be required for a project completed  
7 under a permit granted pursuant to subsection (1).

8 Sec. ~~29~~ 31514. The department shall not issue a permit to  
9 construct a new dam, reconstruct a failed dam for which a com-  
10 plete application to reconstruct has been submitted more than  
11 1 year after the date of the failure, or enlarge the surface area  
12 of an impoundment by more than 10% unless it determines, after a  
13 review of the application submitted, that the proposed activity  
14 for which a permit is requested will not have a significant  
15 adverse effect on public health, safety, welfare, property, or  
16 natural resources or the public trust in those natural  
17 resources.

18 Sec. ~~31~~ 31515. (1) Except as otherwise provided in this  
19 section, a permit issued by the department under this ~~act~~ PART  
20 shall require that plans and specifications be approved by the  
21 department before construction begins. The department shall  
22 approve or reject complete plans and specifications within 60  
23 days after their receipt. The permitted activity shall be com-  
24 pleted within a specified time not to exceed 2 years after the  
25 date of issuance of the permit. Upon the written application of  
26 the permittee, and for good cause shown, the department may  
27 extend the time for completing construction. The permittee shall

1 notify the department at least 10 days before beginning  
2 construction and shall otherwise notify the department as the  
3 department may require.

4 (2) A change in approved plans and specifications shall not  
5 be implemented unless the department gives its prior approval.  
6 The department shall approve or reject changes in plans and spec-  
7 ifications within 30 days after the request for the changes.

8 (3) A permit is effective for the length of time specified  
9 in the permit unless it is revoked pursuant to this ~~act~~ PART.  
10 The department may renew a permit.

11 (4) A permit to alter, repair, or construct a new dam,  
12 reconstruct a failed dam, or enlarge the surface area of an  
13 impoundment by more than 10% may specify the terms and conditions  
14 including, but not limited to, requirements for minimum flows,  
15 cold water release, impoundment fluctuations, portage, contin-  
16 gency plans, and conditions under which the work is to be  
17 performed. The terms and conditions of a permit shall be effec-  
18 tive for the life of the project. The department may consider,  
19 in issuing a permit, any mitigating measures in conjunction with  
20 the permitted activities and may make recommendations as to fish  
21 passage that may be required by ~~Act No. 123 of the Public Acts~~  
22 ~~of 1929~~ PART 483.

23 (5) A permit to construct a new dam or reconstruct a failed  
24 dam may require a performance bond to assure completion of the  
25 project or to provide for complete or partial restoration of the  
26 project site, as determined by the department in rules  
27 promulgated by the department.

1 (6) A permit may be suspended, revoked, annulled, withdrawn,  
2 recalled, canceled, or amended after a hearing for a violation of  
3 any of its provisions, a violation of this ~~act~~ PART, a viola-  
4 tion of a rule promulgated under this ~~act~~ PART, or any misrep-  
5 resentation contained in the application. Hearings shall be con-  
6 ducted by the department in accordance with the provisions for  
7 contested cases in the administrative procedures act of 1969.

8 Sec. ~~33~~ 31516. (1) Spillway capacity shall meet the fol-  
9 lowing minimum criteria:

10 (a) Low hazard potential dams shall be capable of passing  
11 the 100-year flood, or the flood of record, whichever is  
12 greater.

13 (b) Significant hazard potential dams shall be capable of  
14 passing the 200-year flood, or the flood of record, whichever is  
15 greater.

16 (c) High hazard potential dams, less than 40 feet in height,  
17 as measured from the 200-year design flood elevation to the  
18 lowest downstream toe elevation, shall be capable of passing the  
19 200-year flood, or the flood of record, whichever is greater.

20 (d) High hazard potential dams, 40 feet or greater in  
21 height, as measured from the 200-year design flood elevation to  
22 the lowest downstream toe elevation, shall be capable of passing  
23 the half probable maximum flood. The half probable maximum flood  
24 criterion may be reduced to not less than the 200-year flood,  
25 with proper documentation evidencing a failure of a dam under  
26 half probable maximum flood conditions will not cause additional  
27 flood damage or loss of life.

1 (e) Spillway design capacity shall not be less than the  
2 flood of record.

3 (2) Freeboard shall be considered when determining spillway  
4 capacity.

5 (3) If a dam cannot pass the design flood, an auxiliary  
6 spillway must be provided. The owner must document, to the sat-  
7 isfaction of the department, that the dam has sufficient spillway  
8 capacity, and that proper means are available to operate the  
9 spillway or spillways during the design flood.

10 Sec. ~~35~~ 31517. (1) Except for minor projects authorized  
11 pursuant to section ~~27~~ 31513, the owner shall do both of the  
12 following:

13 (a) Within 10 days after the completion of a new, recon-  
14 structed, enlarged, repaired, or altered dam, notify the depart-  
15 ment of its completion.

16 (b) Within 20 days after submitting the notice of comple-  
17 tion, file with the department as-built plans and a statement  
18 signed by a licensed professional engineer certifying that the  
19 project was constructed in conformance with plans and specifica-  
20 tions approved by the department.

21 (2) The department shall inspect the project and shall pro-  
22 vide the owner with written notice of final approval if the  
23 project is determined to have been completed in accordance with  
24 approved plans, specifications, and permit conditions.

25 (3) If the project is determined not to be completed in  
26 accordance with plans and specifications approved by the  
27 department and permit conditions, the department shall provide

1 notice to the ~~permittee~~ PERMITTEE as to the specific reasons the  
2 department determines the project not to be completed in accord-  
3 ance with those plans, specifications, or conditions. The  
4 department may then take enforcement action as provided in this  
5 ~~act~~ PART.

6 Sec. ~~37~~ 31518. (1) An owner shall submit to the depart-  
7 ment inspection reports ~~that are~~ prepared by a licensed profes-  
8 sional engineer ~~which~~ THAT evaluate the condition of the dam.  
9 The inspection report shall be submitted as follows:

10 (a) Not less than once every 3 years for high hazard poten-  
11 tial dams.

12 (b) Not less than once every 4 years for significant hazard  
13 potential dams.

14 (c) Not less than once every 5 years for low hazard poten-  
15 tial dams.

16 (2) The department shall determine the hazard potential  
17 classification of all dams and shall establish an inspection  
18 schedule. The inspection schedule shall require annual submis-  
19 sion of inspection reports for approximately 1/3 of all high  
20 hazard potential dams, 1/4 of all significant hazard potential  
21 dams, and 1/5 of all low hazard potential dams. The department  
22 shall notify owners in writing when inspection reports are due.  
23 The department may order additional inspection reports following  
24 an event or change in condition that could threaten a dam.

25 (3) An inspection report required by this section shall  
26 include, at a minimum, all of the following:

1 (a) An evaluation of the dam's condition, spillway capacity,  
2 operational adequacy, and structural integrity.

3 (b) A determination of whether deficiencies exist that could  
4 lead to the failure of the dam.

5 (c) Recommendations for maintenance, repair, and alterations  
6 of a dam as are necessary to eliminate any deficiencies.

7 (4) Instead of engaging a licensed professional engineer to  
8 prepare an inspection report, local units of government or an  
9 organization of the type described in section ~~17(2)(a)~~  
10 31508(2)(A) through (c) may request the department to conduct a  
11 visual inspection of a dam owned by that local unit of government  
12 and prepare a report on the condition of the dam in accordance  
13 with subsection (3). The department shall notify a requesting  
14 local unit of government as to when the inspection is to occur.

15 (5) If an inspection report discloses the need for a more  
16 detailed investigation or evaluation of certain dam features for  
17 the purpose of determining the condition of the dam, the depart-  
18 ment may order the completion and submission of ~~such a~~ THAT  
19 detailed investigation or evaluation at the expense of the  
20 owner. An investigation or evaluation required under this sub-  
21 section shall be conducted under the supervision of a licensed  
22 professional engineer.

23 (6) If an owner does not submit an inspection report as  
24 required by subsection (1) or CONDUCT additional investigations  
25 if required by subsection (5), the department or any person who  
26 would have life or property threatened by a breach of the dam may  
27 ~~cause such~~ HAVE a report ~~to be~~ prepared and recover the costs

1 of preparing the report in a civil action commenced in a court of  
2 competent jurisdiction. This subsection ~~shall~~ DOES not ~~be~~  
3 ~~interpreted to~~ limit the right of any person to bring a cause of  
4 action in a court of proper jurisdiction to compel an owner to  
5 comply with the requirements of this ~~act~~ PART.

6 (7) If, based on the findings and recommendations of the  
7 inspection report and an inspection by the department, the  
8 department finds that a condition exists which endangers a dam,  
9 it shall order the owner to take actions that the department con-  
10 sider necessary to alleviate the danger.

11 Sec. ~~39~~ 31519. (1) Where significant damage to the public  
12 health, safety, welfare, property, and natural resources or the  
13 public trust in those natural resources or damage to persons or  
14 property occurs or is anticipated to occur due to the operation  
15 of a dam, the department may order the owner to limit dam  
16 operations. These orders may include, but are not limited to,  
17 cold water release, minimum flow releases from dams, impoundment  
18 fluctuation restrictions, or requirements for run-of-the-river  
19 operation. In issuing these orders, the department shall take  
20 into account social, economic, and public trust values.

21 (2) Where significant damage to persons, property, or natu-  
22 ral resources or the public trust in those natural resources  
23 occurs as a result of the condition or existence of a dam, the  
24 department may order the removal of the dam following a determi-  
25 nation by the department that, due to the continued condition or  
26 existence of the dam, the dam is likely to continue to cause  
27 significant damage. In issuing a removal order, the department

1 shall take into account social and economic values, ~~and~~ the  
2 natural resources, and the public trust in those natural  
3 resources and shall not issue a removal order when those factors  
4 exceed adverse impacts on natural resources or PRESENT danger to  
5 persons or property. The department shall not issue a removal  
6 order involving a dam subject to the regulatory authority of the  
7 Michigan public service commission or the federal energy regula-  
8 tory commission unless that commission has concurred in writing  
9 with the order.

10 (3) Prior to finalizing ~~such~~ an order under this section,  
11 the department shall provide an owner an opportunity for a hear-  
12 ing pursuant to the administrative procedures act of 1969.

13 Sec. ~~41~~ 31520. (1) The owner ~~or~~ or his or her agent ~~or~~  
14 shall advise the department and the affected off-site public  
15 authorities and safety agencies of any sudden or unprecedented  
16 flood or unusual or alarming circumstance or occurrence existing,  
17 or anticipated that may affect the safety of the dam within 24  
18 hours of the flood, circumstance, or occurrence.

19 (2) The owner shall notify the department as soon as possi-  
20 ble of any necessary emergency drawdowns, repairs, breaching, or  
21 other action being taken in response to an emergency condition.

22 Sec. ~~43~~ 31521. (1) The ~~director~~ DEPARTMENT may issue  
23 emergency orders as provided in this section. The ~~director~~  
24 DEPARTMENT may, by written notice, order an owner to immediately  
25 repair, draw down, breach, or cease operation of a dam where a  
26 dam is in imminent danger of failure and is causing or  
27 threatening to cause harm to public health, safety, welfare,



1 property, or the natural resources or the public trust in those  
2 natural resources. If an owner fails to comply with an order, or  
3 is unavailable or unable to be contacted, then the department may  
4 undertake immediate repair, drawdown, breaching, or cessation of  
5 operation, as may be necessary to alleviate the danger, and may  
6 recover FROM THE OWNER the costs incurred ~~from the owner~~ in a  
7 civil action commenced in a court of competent jurisdiction. The  
8 ~~director~~ DEPARTMENT may terminate an emergency order upon a  
9 determination in writing that all necessary emergency actions  
10 have been complied with by the owner and that an emergency no  
11 longer exists.

12 (2) When ordering emergency actions under subsection (1),  
13 the department may specify maximum drawdown level and discharge  
14 rates and require sediment surveys, water quality sampling, moni-  
15 toring, or any other action determined necessary by the depart-  
16 ment to ~~insure~~ ENSURE adequate protection of the public health,  
17 safety, welfare, property, or natural resources or the public  
18 trust in those natural resources. The department may modify the  
19 requirements of an emergency order if, during the conduct of  
20 ordered actions, it determines that the modification is necessary  
21 to protect the public health, safety, welfare, property, or natu-  
22 ral resources or the public trust in those natural resources.

23 (3) Upon the issuance of an emergency order, the department  
24 shall provide the owner with an opportunity for a hearing pursu-  
25 ant to the administrative procedures act of 1969 within 15 days  
26 of the date of its issuance. At the hearing, the department  
27 shall determine, based on information and fact, if the emergency

1 order shall be continued, modified, or suspended as necessary to  
2 protect public health, safety, welfare, property, or natural  
3 resources or the public trust in those natural resources.

4       Sec. ~~45~~ 31522. The department may make, or cause to be  
5 made, hydrologic or other investigations and studies as may be  
6 required to facilitate its decisions regarding the structural  
7 integrity and operation of a dam.

8       Sec. ~~47~~ 31523. (1) An owner shall prepare, and keep cur-  
9 rent, emergency action plans for all high and significant hazard  
10 potential dams owned by that person.

11       (2) Emergency action plans shall be submitted to the  
12 department.

13       (3) The applicable county or local emergency management  
14 coordinators shall review for consistency emergency action plans  
15 with the county or local emergency operations plan prior to sub-  
16 mission of those plans to the department.

17       (4) An emergency action plan shall be consistent with the  
18 applicable provisions of the affected county or local emergency  
19 operations plans and the Michigan emergency preparedness plan as  
20 developed pursuant to the emergency preparedness act, Act No. 390  
21 of the Public Acts of 1976, being sections 30.401 to 30.420 of  
22 the Michigan Compiled Laws.

23       (5) Emergency action plans shall include, but not be limited  
24 to, the name, address, and telephone number of the person, and OF  
25 an alternate person, responsible for operation of the dam; the  
26 name and telephone number of local emergency management  
27 coordinators; ~~—~~ and a listing of occupied facilities,

1 buildings, and residences ~~which~~ THAT may be threatened with  
2 flooding due to a failure of the dam.

3       Sec. ~~49~~ 31524. (1) If the department determines that a  
4 person is in violation of this ~~act~~ PART, a rule promulgated  
5 under this ~~act~~ PART, or a condition set forth in a permit  
6 issued under this ~~act~~ PART, the department may issue an order  
7 requiring the person to comply with the conditions or to restore  
8 the site affected by the violation as nearly as practicable to  
9 its original condition. Restoration may include, but is not  
10 limited to, removing fill material deposited ~~or~~ or ~~replacement~~  
11 ~~of~~ REPLACING soil, sand, or minerals.

12       (2) An order shall state the nature of the violation ~~or~~ AND  
13 the required remedial action, and shall specify a time for com-  
14 pliance ~~which~~ THAT the department determines is reasonable,  
15 taking into account the seriousness of the violation and the  
16 nature of any threat to public health, safety, welfare, property,  
17 or natural resources, or the public trust in those natural  
18 resources, that may be involved.

19       (3) If the department determines that a person is in viola-  
20 tion of this ~~act~~ PART, a rule promulgated under this ~~act~~  
21 PART, an order issued by the ~~director~~ DEPARTMENT, or a permit,  
22 the department, after notice and opportunity for hearing pursuant  
23 to the administrative procedures act of 1969, may suspend,  
24 modify, or revoke a permit. The remedies under this section and  
25 section ~~54~~ 31525 are cumulative and do not prevent the depart-  
26 ment from imposing other penalties available under this ~~act~~

1 PART, a rule promulgated under this ~~act~~ PART, or an order of  
2 the ~~director~~ DEPARTMENT.

3 (4) If the department determines that a person is in viola-  
4 tion of this ~~act~~ PART, a rule promulgated under this ~~act~~  
5 PART, an order issued by the ~~director~~ DEPARTMENT pursuant to  
6 this ~~act~~ PART, or a permit issued pursuant to this ~~act~~ PART,  
7 the department may bring a civil action in the circuit court.

8 Sec. ~~51~~ 31525. (1) The attorney general may commence a  
9 civil action for appropriate relief, including injunctive relief,  
10 upon request of the department under section ~~49~~ 31524.

11 (2) Any civil action under this section may be brought in  
12 the circuit court for the county of Ingham or for the county in  
13 which the dam is located.

14 (3) In addition to any other relief granted under this sec-  
15 tion, the court may impose a civil fine of not more than  
16 \$10,000.00 for each day of violation of this ~~act~~ PART, a rule  
17 promulgated under this ~~act~~ PART, or a permit issued under this  
18 ~~act~~ PART.

19 (4) A person found guilty of contempt of court for the vio-  
20 lation of an order of the court shall be subject to a civil fine  
21 not to exceed \$10,000.00 for each day of violation.

22 (5) A person who willfully or recklessly violates this ~~act~~  
23 PART, a rule promulgated under this ~~act~~ PART, an order issued  
24 by the ~~director~~ DEPARTMENT, or a condition in a permit issued  
25 under this ~~act~~ PART, ~~that~~ WHICH VIOLATION places or may place  
26 a person in imminent danger of death or serious bodily injury ~~or~~  
27 or ~~which~~ may cause serious property damage or serious damage to

1 natural resources, or a person who has knowledge of or is  
2 responsible for such a violation, is guilty of a misdemeanor,  
3 punishable by imprisonment for not more than 1 year or a fine of  
4 not less than \$2,500.00 ~~nor~~ OR more than \$25,000.00 for each  
5 day of violation, or both. A person who violates this section a  
6 second or subsequent time is guilty of a felony, punishable by  
7 imprisonment for not more than 2 years or a fine of not less than  
8 \$10,000.00 for each day of violation, or both.

9 (6) A person required to obtain a permit for activity regu-  
10 lated under this ~~act~~ PART who does not obtain ~~such a~~ THAT  
11 permit shall be fined not less than twice the fee charged for the  
12 appropriate permit application.

13 (7) In addition to the orders of compliance and penalties  
14 provided under this ~~act~~ PART, the court may order a person who  
15 violates this ~~act~~ PART, a rule promulgated under this ~~act~~  
16 PART, or a permit issued under this ~~act~~ PART to restore the  
17 site affected by the violation as nearly as practicable to its  
18 original condition. Restoration may include, but is not limited  
19 to, removing fill material deposited or replacing soil, sand, or  
20 minerals.

21 (8) The department may establish, by rule, a schedule of  
22 administrative monetary penalties for minor violations of this  
23 ~~act~~ PART, a rule promulgated under this ~~act~~ PART, a permit  
24 issued pursuant to this ~~act~~ PART, or an order issued by the  
25 ~~director~~ DEPARTMENT pursuant to this ~~act~~ PART.

26 Sec. ~~53~~ 31526. (1) A person aggrieved by any action or  
27 inaction of the department under this ~~act~~ PART or rules

1 promulgated under this ~~act~~, PART may request a hearing on the  
2 matter involved. The hearing shall be conducted by the depart-  
3 ment in accordance with the provisions for contested cases in the  
4 administrative procedures act of 1969.

5 (2) A determination of action or inaction by the department  
6 following the hearing may be subject to judicial review as pro-  
7 vided in the administrative procedures act of 1969.

8 Sec. ~~55~~ 31527. The ~~director or his or her authorized~~  
9 ~~representative~~ DEPARTMENT may enter in or upon any private or  
10 public property anytime where the public safety may be in danger  
11 and at all reasonable times, after attempting to contact the  
12 owner before entering the site and having shown proper identifi-  
13 cation, for the purpose of inspecting or investigating conditions  
14 relating to the construction, operation, or safety of a dam and  
15 for the purpose of determining compliance with the terms, condi-  
16 tions, and requirements of permits, orders, or notices of  
17 approval issued under this ~~act~~ PART and rules promulgated under  
18 this ~~act~~ PART.

19 Sec. ~~57~~ 31528. The department shall promulgate rules as  
20 ~~are~~ necessary to implement and enforce this ~~act pursuant to~~  
21 ~~the administrative procedures act of 1969~~ PART.

22 Sec. ~~59~~ 31529. (1) This ~~act shall~~ PART DOES not ~~be~~  
23 ~~construed to~~ abrogate requirements of ~~the inland lakes and~~  
24 ~~streams act of 1972, Act No. 346 of the Public Acts of 1972,~~  
25 ~~being sections 281.951 to 281.965 of the Michigan Compiled Laws,~~  
26 ~~the Goemaere Anderson wetland protection act, Act No. 203 of the~~  
27 ~~Public Acts of 1979, being sections 281.701 to 281.722 of the~~

1 ~~Michigan Compiled Laws, the inland lake level act of 1961, Act~~  
 2 ~~No. 146 of the Public Acts of 1961, being sections 281.61 to~~  
 3 ~~281.86 of the Michigan Compiled Laws, the natural river act of~~  
 4 ~~1970, Act No. 231 of the Public Acts of 1970, being sections~~  
 5 ~~281.761 to 281.776 of the Michigan Compiled Laws, the soil ero-~~  
 6 ~~sion and sedimentation control act of 1972, Act No. 347 of the~~  
 7 ~~Public Acts of 1972, being sections 282.101 to 282.125 of the~~  
 8 ~~Michigan Compiled Laws, Act No. 123 of the Public Acts of 1929,~~  
 9 ~~being sections 307.1 to 307.7 of the Michigan Compiled Laws, Act~~  
 10 ~~No. 245 of the Public Acts of 1929, being sections 323.1 to~~  
 11 ~~323.13 of the Michigan Compiled Laws, PARTS 31, 91, 301, 303,~~  
 12 ~~305, 307, AND 483 or other applicable law.~~

13 (2) This ~~act shall~~ PART DOES not ~~be construed to~~ relieve  
 14 an owner of any legal duty, obligation, or liability incident to  
 15 the ownership or operation of a dam or impoundment.

16 (3) This ~~act shall~~ PART DOES not ~~be construed to~~ deprive  
 17 an owner of any legal remedy to which he or she may be entitled  
 18 under the laws of this state.

19 ~~Sec. 63. This act shall take effect June 1, 1990.~~

20 ~~Sec. 65. Act No. 184 of the Public Acts of 1963, being sec-~~  
 21 ~~tions 281.131 to 281.135 of the Michigan Compiled Laws, is~~  
 22 ~~repealed.~~

23 ~~THE GREAT LAKES~~

24 ~~Part 321. The Great Lakes Compact~~

25 THE GREAT LAKES

## 1 PART 321 GREAT LAKES COMPACT AUTHORIZATION

2 Sec. ~~+~~ 32101. So that the state of Michigan can consult  
3 and cooperate with the other states bordering on the Great Lakes  
4 and the province of Ontario in regard to all matters and things  
5 affecting the rights and interests of this state and such other  
6 states and province, in the management, control and supervision  
7 of the waters of the Great Lakes including the marine life there-  
8 in, the governor of the state of Michigan is hereby authorized  
9 and empowered for and in the name of the state of Michigan to  
10 execute an agreement or agreements with any or all the other  
11 states bordering on the Great Lakes and the province of Ontario,  
12 in conformity with the terms, conditions and provisions contained  
13 in this ~~act~~ PART.

14 Sec. ~~2~~ 32102. Such compact shall become operative whenever,  
15 in addition to Michigan, any 3 of the states of Wisconsin,  
16 Illinois, Indiana, Ohio, Pennsylvania, New York and Minnesota  
17 shall have ratified it and congress has given its consent, if  
18 needed. The province of Ontario may become a party to this com-  
19 pact by taking such action as its laws and the laws of the  
20 Dominion of Canada may prescribe for ratification.

21 Sec. ~~3~~ 32103. In addition to other pertinent and neces-  
22 sary provisions which are in consonance with the expressed pur-  
23 poses of the compact as herein provided, such a compact shall  
24 contain the following terms, conditions and provisions: Said  
25 compact shall authorize the compacting parties to do all things  
26 reasonably necessary for carrying out the purposes of this ~~act~~  
27 PART but such a compact shall be entered into solely for the



1 purpose of empowering the duly appointed representatives of said  
2 states and the province of Ontario to meet, consult with and make  
3 recommendations to their respective governors, legislative bodies  
4 or governmental agencies and to the international joint commis-  
5 sion established under the treaty of 1909 between the United  
6 States and Great Britain with respect to the management, control  
7 and supervision of the waters of the Great Lakes including the  
8 marine life therein. However, it is distinctly provided that any  
9 such recommendation and any decision or agreement arrived at  
10 among the compacting parties shall at no time have any force of  
11 law or be binding on any compacting party.

12       Sec. ~~4~~ 32104. Each compacting party shall have the right  
13 to designate 5 representatives to such interstate compact commis-  
14 sion to be known as the Great Lakes compact commission. ~~For the~~  
15 ~~state of Michigan the attorney general, the director of conserva-~~  
16 ~~tion, and the executive secretary of the water resources commis-~~  
17 ~~sion shall be members of the Michigan representation by virtue of~~  
18 ~~their offices; the governor shall appoint, with the advice and~~  
19 ~~consent of the senate, the remaining 2 members who shall come~~  
20 ~~from groups or organizations interested in or affected by the~~  
21 ~~Great Lakes, which members shall serve at his pleasure and who,~~  
22 ~~before entering upon the performance of their office, shall take~~  
23 ~~and subscribe to the constitutional oath of office.~~ THE REPRE-  
24 SENTATIVES FROM THIS STATE SHALL BE AS PROVIDED IN SECTION 32202.

25       Sec. ~~5~~ 32105. The compact herein provided shall become  
26 effective upon the adoption of laws by the states referred to in  
27 section 2 in conformity with the provisions of this ~~act~~ PART.

1 When, in addition to Michigan, any 3 of the states of Wisconsin,  
2 Illinois, Indiana, Ohio, Pennsylvania, New York, and Minnesota  
3 have adopted such laws and the congress of the United States has  
4 given its consent, if needed, the designated representatives of  
5 the Great Lakes compact commission shall meet upon the call of  
6 any governor of any of the ratifying states or the legally desig-  
7 nated governmental official of the province of Ontario. At such  
8 meeting or at any subsequent meeting the duly designated repre-  
9 sentatives shall adopt a compact agreement not inconsistent in  
10 any way with this ~~act~~ PART and containing the necessary provi-  
11 sions for enabling the commission to carry out the purposes of  
12 this ~~act~~ PART. At such meeting or at subsequent meetings, the  
13 representatives composing such commission shall select a chairman  
14 and a secretary from among their numbers and such other officers  
15 as to them may seem expedient and shall prescribe the duties of  
16 such officers. A 2/3 majority of all representatives designated  
17 shall be sufficient to form a quorum for the transaction of  
18 business. Said commission shall meet from time to time or at  
19 such places or locations as it shall seem necessary and proper or  
20 shall meet upon the call of the chairman and such call shall des-  
21 ignate the time and place of meeting and the purpose thereof.

22       Sec. ~~6~~ 32106. Said commission shall keep a written record  
23 of its meetings and proceedings and shall annually make a report  
24 thereof to be submitted to the duly designated official of each  
25 compacting party.

26       Sec. ~~7~~ 32107. Each compacting party shall pay for the  
27 expenses of its representatives on said commission and each

1 compacting party shall pay to the secretary of the commission a  
2 pro rata share of the expenses of said commission. No expendi-  
3 tures shall be authorized under the provisions of this ~~act~~ PART  
4 unless and until moneys shall be appropriated therefor by the  
5 legislature.

6                   PART 322 GREAT LAKES BASIN COMPACT

7           Sec. ~~+~~ 32201. The great lakes basin compact is hereby  
8 ratified, enacted into law, and entered into by this state as a  
9 party thereto with any other state or province which, pursuant to  
10 article II of said compact, has legally joined therein in the  
11 form substantially as follows:

12                   GREAT LAKES BASIN COMPACT

13           The party states solemnly agree:

14                   Article I. Purpose

15           The purposes of this compact are, through means of joint or  
16 cooperative action:

17           1. To promote the orderly, integrated, and comprehensive  
18 development, use, and conservation of the water resources of the  
19 Great Lakes Basin (hereinafter called the Basin).

20           2. To plan for the welfare and development of the water  
21 resources of the Basin as a whole as well as for those portions  
22 of the Basin which may have problems of special concern.

23           3. To make it possible for the states of the Basin and their  
24 people to derive the maximum benefit from utilization of public  
25 works, in the form of navigational aids or otherwise, which may  
26 exist or which may be constructed from time to time.

1           4. To advise in securing and maintaining a proper balance  
2 among industrial, commercial, agricultural, water supply, resi-  
3 dential, recreational, and other legitimate uses of the water  
4 resources of the Basin.

5           5. To establish and maintain an intergovernmental agency to  
6 the end that the purposes of this compact may be accomplished  
7 more effectively.

8                           Article II. Enactment and Effective Date

9           A. This compact shall enter into force and become effective  
10 and binding when it has been enacted by the legislatures of any 4  
11 of the states of Illinois, Indiana, Michigan, Minnesota, New  
12 York, Ohio, Pennsylvania, and Wisconsin and thereafter shall  
13 enter into force and become effective and binding as to any other  
14 of said states when enacted by the legislature thereof.

15           B. The Province of Ontario and the Province of Quebec, or  
16 either of them, may become states party to this compact by taking  
17 such action as their laws and the laws of the government of  
18 Canada may prescribe for adherence thereto. For the purpose of  
19 this compact the word "state" shall be construed to include a  
20 Province of Canada.

21                           Article III. The Basin

22           The Great Lakes Commission created by Article IV of this  
23 compact shall exercise its powers and perform its functions in  
24 respect to the Basin which, for the purposes of this compact,

1 shall consist of so much of the following as may be within the  
2 party states:

3 1. Lakes Erie, Huron, Michigan, Ontario, St. Clair,  
4 Superior, and the St. Lawrence River, together with any and all  
5 natural or man-made water interconnections between or among  
6 them.

7 2. All rivers, ponds, lakes, streams, and other watercourses  
8 which, in their natural state or in their prevailing condition,  
9 are tributary to Lakes Erie, Huron, Michigan, Ontario, St. Clair,  
10 and Superior or any of them or which comprise part of any water-  
11 shed draining into any of said lakes.

12 Article IV. The Commission

13 A. There is hereby created an agency of the party states to  
14 be known as The Great Lakes Commission (hereinafter called the  
15 Commission). In that name the Commission may sue and be sued,  
16 acquire, hold and convey real and personal property and any  
17 interest therein. The Commission shall have a seal with the  
18 words "The Great Lakes Commission" and such other design as it  
19 may prescribe engraved thereon by which it shall authenticate its  
20 proceedings. Transactions involving real or personal property  
21 shall conform to the laws of the state in which the property is  
22 located, and the Commission may by bylaws provide for the execu-  
23 tion and acknowledgment of all instruments in its behalf.

24 B. The Commission shall be composed of not less than 3 com-  
25 missioners nor more than 5 commissioners from each party state  
26 designated or appointed in accordance with the law of the state

1 which they represent and serving and subject to removal in  
2 accordance with such law.

3 C. Each state delegation shall be entitled to 3 votes in the  
4 Commission. The presence of commissioners from a majority of the  
5 party states shall constitute a quorum for the transaction of  
6 business at any meeting of the Commission. Actions of the  
7 Commission shall be by a majority of the votes cast except that  
8 any recommendations made pursuant to Article VI of this compact  
9 shall require an affirmative vote of not less than a majority of  
10 the votes cast from each of a majority of the states present and  
11 voting.

12 D. The commissioners of any 2 or more party states may meet  
13 separately to consider problems of particular interest to their  
14 states but no action taken at any such meeting shall be deemed an  
15 action of the Commission unless and until the Commission shall  
16 specifically approve the same.

17 E. In the absence of any commissioner, his OR HER vote may  
18 be cast by another representative or commissioner of his OR HER  
19 state provided that said commissioner or other representative  
20 casting said vote shall have a written proxy in proper form as  
21 may be required by the Commission.

22 F. The Commission shall elect annually from among its mem-  
23 bers a chairman and vice-chairman. The Commission shall appoint  
24 an Executive Director who shall also act as secretary-treasurer,  
25 and who shall be bonded in such amount as the Commission may  
26 require. The Executive Director shall serve at the pleasure of  
27 the Commission and at such compensation and under such terms and

1 conditions as may be fixed by it. The Executive Director shall  
2 be custodian of the records of the Commission with authority to  
3 affix the Commission's official seal and to attest to and certify  
4 such records or copies thereof.

5 G. The Executive Director, subject to the approval of the  
6 Commission in such cases as its bylaws may provide, shall appoint  
7 and remove or discharge such personnel as may be necessary for  
8 the performance of the Commission's functions. Subject to the  
9 aforesaid approval, the Executive Director may fix their compen-  
10 sation, define their duties, and require bonds of such of them as  
11 the Commission may designate.

12 H. The Executive Director, on behalf of, as trustee for, and  
13 with the approval of the Commission, may borrow, accept, or con-  
14 tract for the services of personnel from any state or government  
15 or any subdivision or agency thereof, from any intergovernmental  
16 agency, or from any institution, person, firm or corporation; and  
17 may accept for any of the Commission's purposes and functions  
18 under this compact any and all donations, gifts, and grants of  
19 money, equipment, supplies, materials, and services from any  
20 state or government or any subdivision or agency thereof or  
21 intergovernmental agency or from any institution, person, firm or  
22 corporation and may receive and utilize the same.

23 I. The Commission may establish and maintain 1 or more  
24 offices for the transacting of its business and for such purposes  
25 the Executive Director, on behalf of, as trustee for, and with  
26 the approval of the Commission, may acquire, hold and dispose of

1 real and personal property necessary to the performance of its  
2 functions.

3 J. No tax levied or imposed by any party state or any polit-  
4 ical subdivision thereof shall be deemed to apply to property,  
5 transactions, or income of the Commission.

6 K. The Commission may adopt, amend and rescind bylaws, rules  
7 and regulations for the conduct of its business.

8 L. The organization meeting of the Commission shall be held  
9 within 6 months from the effective date of this compact.

10 M. The Commission and its Executive Director shall make  
11 available to the party states any information within its posses-  
12 sion and shall always provide free access to its records by duly  
13 authorized representatives of such party states.

14 N. The Commission shall keep a written record of its meet-  
15 ings and proceedings and shall annually make a report thereof to  
16 be submitted to the duly designated official of each party  
17 state.

18 O. The Commission shall make and transmit annually to the  
19 legislature and governor of each party state a report covering  
20 the activities of the Commission for the preceding year and  
21 embodying such recommendations as may have been adopted by the  
22 Commission. The Commission may issue such additional reports as  
23 it may deem desirable.

#### 24 Article V. Finance

25 A. The members of the Commission shall serve without  
26 compensation, but the expenses of each commissioner shall be met



1 by the state which he OR SHE represents in accordance with the  
2 law of that state. All other expenses incurred by the Commission  
3 in the course of exercising the powers conferred upon it by this  
4 compact unless met in some other manner specifically provided by  
5 this compact, shall be paid by the Commission out of its own  
6 funds.

7 B. The Commission shall submit to the executive head or des-  
8 igned officer of each party state a budget of its estimated  
9 expenditures for such period as may be required by the laws of  
10 that state for presentation to the legislature thereof.

11 C. Each of the Commission's budgets of estimated expendi-  
12 tures shall contain specific recommendations of the amount or  
13 amounts to be appropriated by each of the party states. Detailed  
14 commission budgets shall be recommended by a majority of the  
15 votes cast, and the costs shall be allocated equitably among the  
16 party states in accordance with their respective interests.

17 D. The Commission shall not pledge the credit of any party  
18 state. The Commission may meet any of its obligations in whole  
19 or in part with funds available to it under Article IV (H) of  
20 this compact, provided that the Commission takes specific action  
21 setting aside such funds prior to the incurring of any obliga-  
22 tions to be met in whole or in part in this manner. Except where  
23 the Commission makes use of funds available to it under Article  
24 IV (H) hereof, the Commission shall not incur any obligations  
25 prior to the allotment of funds by the party states adequate to  
26 meet the same.

1 E. The Commission shall keep accurate accounts of all  
2 receipts and disbursements. The receipts and disbursements of  
3 the Commission shall be subject to the audit and accounting pro-  
4 cedures established under the bylaws. However, all receipts and  
5 disbursements of funds handled by the Commission shall be audited  
6 yearly by a qualified public accountant and the report of the  
7 audit shall be included in and become a part of the annual report  
8 of the Commission.

9 F. The accounts of the Commission shall be open at any rea-  
10 sonable time for inspection by such agency, representative or  
11 representatives of the party states as may be duly constituted  
12 for that purpose and by others who may be authorized by the  
13 Commission.

14 Article VI. Powers of Commission

15 The Commission shall have power to:

16 A. Collect, correlate, interpret, and report on data relat-  
17 ing to the water resources and the use thereof in the Basin or  
18 any portion thereof.

19 B. Recommend methods for the orderly, efficient, and bal-  
20 anced development, use, and conservation of the water resources  
21 of the Basin or any portion thereof to the party states and to  
22 any other governments or agencies having interests in or juris-  
23 diction over the Basin or any portion thereof.

24 C. Consider the need for and desirability of public works  
25 and improvements relating to the water resources in the Basin or  
26 any portion thereof.

1 D. Consider means of improving navigation and port  
2 facilities in the Basin or any portion thereof.

3 E. Consider means of improving and maintaining the fisheries  
4 of the Basin or any portion thereof.

5 F. Recommend policies relating to water resources including  
6 the institution and alteration of flood plain and other zoning  
7 laws, ordinances and regulations.

8 G. Recommend uniform or other laws, ordinances, or regula-  
9 tions relating to the development, use and conservation of the  
10 Basin's water resources to the party states or any of them and to  
11 other governments, political subdivisions, agencies, or intergov-  
12 ernmental bodies having interests in or jurisdiction sufficient  
13 to affect conditions in the Basin or any portion thereof.

14 H. Consider and recommend amendments or agreements supple-  
15 mentary to this compact to the party states or any of them, and  
16 assist in the formulation and drafting of such amendments or sup-  
17 plementary agreements.

18 I. Prepare and publish reports, bulletins, and publications  
19 appropriate to this work and fix reasonable sale prices  
20 therefor.

21 J. With respect to the water resources of the Basin or any  
22 portion thereof, recommend agreements between the governments of  
23 the United States and Canada.

24 K. Recommend mutual arrangements expressed by concurrent or  
25 reciprocal legislation on the part of Congress and the Parliament  
26 of Canada including but not limited to such agreements and mutual  
27 arrangements as are provided for by Article XIII of the Treaty of

1 1909 Relating to Boundary Waters and Questions Arising Between  
2 the United States and Canada. (Treaty Series, No. 548).

3 L. Cooperate with the governments of the United States and  
4 of Canada, the party states and any public or private agencies or  
5 bodies having interests in or jurisdiction sufficient to affect  
6 the Basin or any portion thereof.

7 M. At the request of the United States, or in the event that  
8 a Province shall be a party state, at the request of the govern-  
9 ment of Canada, assist in the negotiation and formulation of any  
10 treaty or other mutual arrangement or agreement between the  
11 United States and Canada with reference to the Basin or any por-  
12 tion thereof.

13 N. Make any recommendation and do all things necessary and  
14 proper to carry out the powers conferred upon the Commission by  
15 this compact; provided that no action of the Commission shall  
16 have the force of law in, or be binding upon, any party state.

17 Article VII. State Action

18 Each party state agrees to consider the action the  
19 Commission recommends in respect to:

20 A. Stabilization of lake levels.

21 B. Measures for combating pollution, beach erosion, floods,  
22 and shore inundation.

23 C. Uniformity in navigation regulations within the constitu-  
24 tional powers of the states.

25 D. Proposed navigation aids and improvements.

1 E. Uniformity or effective coordinating action in fishing  
2 laws and regulations and cooperative action to eradicate  
3 destructive and parasitical forces endangering the fisheries,  
4 wild life and other water resources.

5 F. Suitable hydroelectric power developments.

6 G. Cooperative programs for control of soil and bank erosion  
7 for the general improvement of the Basin.

8 H. Diversion of waters from and into the Basin.

9 I. Other measures the Commission may recommend to the states  
10 pursuant to Article VI of this compact.

#### 11 Article VIII. Renunciation

12 This compact shall continue in force and remain binding upon  
13 each party state until renounced by act of the legislature of  
14 such state, in such form and manner as it may choose and as may  
15 be valid and effective to repeal a statute of said state; pro-  
16 vided that such renunciation shall not become effective until 6  
17 months after notice of such action shall have been officially  
18 communicated in writing to the executive head of the other party  
19 states.

#### 20 Article IX. Construction and Severability

21 It is intended that the provisions of this compact shall be  
22 reasonably and liberally construed to effectuate the purposes  
23 thereof. The provisions of this compact shall be severable and  
24 if any phrase, clause, sentence or provision of this compact is  
25 declared to be contrary to the constitution of any party state or

1 of the United States, or in the case of a Province, to the  
2 British North America Act of 1867 as amended, or the applicabil-  
3 ity thereof to any state, agency, person or circumstance is held  
4 invalid, the constitutionality of the remainder of this compact  
5 and the applicability thereof to any state, agency, person or  
6 circumstance shall not be affected thereby, provided further that  
7 if this compact shall be held contrary to the constitution of the  
8 United States, or in the case of a Province, to the British North  
9 America Act of 1867 as amended, or of any party state, the com-  
10 pact shall remain in full force and effect as to the remaining  
11 states and in full force and effect as to the state affected as  
12 to all severable matters.

13       Sec. ~~2~~ 32202. (1) For purposes of this section ~~and sec-~~  
14 ~~tions 2~~ through ~~6~~ SECTION 32206, "commission" means the Great  
15 Lakes commission established in the compact entered into by this  
16 ~~act~~ PART.

17       (2) In pursuance of article IV of the compact, there shall  
18 be 5 commissioners on the Great Lakes commission from this  
19 state. Each commissioner shall have all of the powers conferred  
20 on a commissioner by the compact or which shall be necessary or  
21 incidental to the performance of his or her functions as a  
22 commissioner. For this state, the governor, or the governor's  
23 designee, the attorney general, or the attorney general's desig-  
24 nee, an appointee of the majority leader of the senate, and an  
25 appointee of the speaker of the house of representatives shall be  
26 members of the Michigan representation. In addition, the  
27 governor shall appoint, with the advice and consent of the

1 senate, the remaining 1 member who shall come from groups or  
2 organizations interested in or affected by the Great Lakes, which  
3 member shall serve at the governor's pleasure. The appointees of  
4 the governor, the majority leader of the senate, and of the  
5 speaker of the house of representatives, before entering upon the  
6 performance of their office, shall take and subscribe to the con-  
7 stitutional oath of office. Each commissioner shall receive nec-  
8 essary expenses incurred in the performance of his or her  
9 duties. Each commissioner shall have the right to cast 3/5 of a  
10 vote whenever a vote is required by the terms of the compact.

11       Sec. ~~3~~ 32203. All officers of this state are hereby  
12 authorized and directed to do all things falling within their  
13 respective jurisdictions necessary to or incidental to the carry-  
14 ing out of said compact in every particular, it being hereby  
15 declared to be the policy of this state to perform and carry out  
16 the said compact and to accomplish the purposes thereof. All  
17 officers, bureaus, departments, and persons of and in the state  
18 government or administration of this state are hereby authorized  
19 and directed at reasonable times and upon request of said commis-  
20 sion to furnish the said commission with information and data  
21 possessed by them or any of them and to aid said commission by  
22 loan of personnel or other means lying within their legal powers  
23 respectively.

24       Sec. ~~4~~ 32204. The budget of the estimated expenditures of  
25 the commission shall be submitted to the director ~~of the depart-~~  
26 ~~ment of natural resources~~ and to the director of the department  
27 of commerce for such period and in form as shall be required by

1 them. Neither the compact nor this ~~act~~ PART shall be construed  
 2 to commit, or authorize the expenditure of, any funds of the  
 3 state except in pursuance of appropriations made by the  
 4 legislature.

5       Sec. ~~5~~ 32205. The governor is hereby authorized and  
 6 directed to transmit a duly authenticated copy of this ~~act~~ PART  
 7 and the compact contained herein to each jurisdiction now party  
 8 to the compact and to each jurisdiction which IS OR subsequently  
 9 shall become party to the compact.

10       Sec. ~~6~~ 32206. The commissioners who represent this state  
 11 shall request the commission to consider and recommend amendments  
 12 or agreements supplementary to the Great Lakes basin compact that  
 13 would give the party states the authority to limit diversions of  
 14 the waters of the Great Lakes.

15       ~~Part 323. Shorelands Protection and Management~~

16               PART 323 SHORELANDS PROTECTION AND MANAGEMENT

17       ~~Sec. 1. This act shall be known and may be cited as the~~  
 18 ~~"shorelands protection and management act of 1970".~~

19       Sec. ~~2~~ 32301. As used in this ~~act~~ PART:

20       ~~(a) "Commission" means the water resources commission.~~

21       (A) ~~(b)~~ "Connecting waterway" means the St. Marys river,  
 22 Detroit river, St. Clair river, or Lake St. Clair.

23       ~~(c) "Department" means the department of natural~~  
 24 ~~resources.~~

25       (B) ~~(d)~~ "Environmental area" means an area of the shore-  
 26 land determined by the department on the basis of studies and



1 surveys to be necessary for the preservation and maintenance of  
2 fish and wildlife.

3 (C) ~~(e)~~ "High-risk area" means an area of the shoreland  
4 ~~which~~ THAT is determined by the ~~commission~~ DEPARTMENT on the  
5 basis of studies and surveys to be subject to erosion.

6 (D) ~~(f)~~ "Land to be zoned or regulated" OR "LAND TO BE  
7 ZONED" means the land in this state ~~which~~ THAT borders or is  
8 adjacent to a Great Lake or a connecting waterway and ~~which~~  
9 THAT except for flood risk areas ~~are~~ IS situated within 1,000  
10 feet landward from the ordinary high-water mark as defined in  
11 section ~~2 of Act No. 247 of the Public Acts of 1955, as amended,~~  
12 ~~being section 322.702 of the Michigan Compiled Laws 32501, and~~  
13 ~~those lands~~ LAND bordering or adjacent to waters affected by  
14 levels of the Great Lakes landward of the ordinary high-water  
15 mark as defined by section ~~2(h) of Act No. 346 of the Public~~  
16 ~~Acts of 1972, as amended, being sections 281.951 to 281.965 of~~  
17 ~~the Michigan Compiled Laws 30101(F), and those lands~~ LAND  
18 between the ordinary high-water mark and the water's edge.

19 ~~(g) "Local agency" means a county, city, village, or~~  
20 ~~township.~~

21 (E) ~~(h)~~ "Shoreland" means the land, water, and land  
22 beneath the water ~~which~~ THAT is in close proximity to the  
23 shoreline of a Great Lake or a connecting waterway.

24 (F) ~~(i)~~ "Shoreline" means that area of the shorelands  
25 where land and water meet.

26 (G) ~~(j)~~ "Flood risk area" means the area of the shoreland  
27 ~~which~~ THAT is determined by the ~~commission~~ DEPARTMENT on the

1 basis of studies and surveys to be subject to flooding from  
2 effects of levels of the Great Lakes and is not limited to 1,000  
3 feet.

4       Sec. ~~3~~ 32302. ~~Within 1 year after the effective date of~~  
5 ~~this act~~ BY APRIL 1, 1972, the ~~commission~~ DEPARTMENT shall  
6 make or cause to be made an engineering study of the shoreland to  
7 determine ALL OF THE FOLLOWING:

8       (a) The high-risk areas.

9       (b) The areas of the shorelands ~~which~~ THAT are platted or  
10 have buildings or structures and ~~which~~ THAT require protection  
11 from erosion.

12       (c) The type of protection ~~which~~ THAT is best suited for  
13 an area determined in subdivision (b).

14       (d) A cost estimate of the construction and maintenance for  
15 each type of protection determined in subdivision (c).

16       Sec. ~~3a~~ 32303. Before January 1, 1975, the ~~commission~~  
17 DEPARTMENT shall make or cause to be made an engineering study of  
18 the shoreland to determine:

19       (a) Flood risk areas.

20       (b) The frequency with which a flood risk area can be  
21 expected to be flooded.

22       (c) Appropriate rules necessary to prevent damage or  
23 destruction to property.

24       Sec. ~~4~~ 32304. ~~Within 1 year after the effective date of~~  
25 ~~this act~~ BY APRIL 1, 1972, the department shall make or cause to  
26 be made an environmental study of the shoreland to determine ALL  
27 OF THE FOLLOWING:

1 (a) The environmental areas.

2 (b) The areas of marshes along and adjacent to the  
3 shorelands.

4 (c) The marshes and fish and wildlife habitat areas ~~which~~  
5 THAT should be protected by shoreland zoning or regulation.

6 Sec. ~~5~~ 32305. The ~~commission~~ DEPARTMENT pursuant to  
7 section ~~3~~ 32302 shall determine if the use of a high-risk area  
8 shall be regulated to prevent property loss or if suitable  
9 methods of protection shall be installed to prevent property  
10 loss. The ~~commission~~ DEPARTMENT shall notify a local ~~agency~~  
11 UNIT OF GOVERNMENT, ~~the department of licensing and regulation,~~  
12 the department of labor, the department of treasury, and the  
13 department of commerce or other affected state agencies of its  
14 determinations and recommendations relative to a high-risk area  
15 ~~which~~ THAT is in a local ~~agency~~ UNIT OF GOVERNMENT.

16 Sec. ~~5a~~ 32306. The ~~commission~~ DEPARTMENT pursuant to  
17 section ~~3a~~ 32303 shall determine if the use of a flood risk  
18 area shall be regulated to prevent property loss or if suitable  
19 methods of protection shall be installed to prevent property  
20 loss. The ~~commission~~ DEPARTMENT shall notify a local ~~agency~~  
21 UNIT OF GOVERNMENT, ~~the department of licensing and regulation,~~  
22 the department of labor, the department of treasury, and the  
23 department of commerce or other affected state agencies of its  
24 determinations and recommendations relative to a flood risk area  
25 ~~which~~ THAT is in a local ~~agency~~ UNIT OF GOVERNMENT.

26 Sec. ~~6~~ 32307. The department in accordance with section  
27 ~~4~~ 32304 shall notify a local ~~agency~~ UNIT OF GOVERNMENT of the

1 existence of any environmental area ~~which~~ THAT is in a local  
2 ~~agency~~ UNIT OF GOVERNMENT and shall ~~recommend to the~~  
3 ~~commission~~ FORMULATE appropriate use regulations necessary to  
4 protect an environmental area.

5       Sec. ~~7~~ 32308. Until July 1, 1975, a county, pursuant to  
6 rules promulgated under section ~~+2~~ 32313 and THE COUNTY RURAL  
7 ZONING ENABLING ACT, Act No. 183 of the Public Acts of 1943, ~~as~~  
8 ~~amended,~~ being sections 125.201 to 125.232 of the Michigan  
9 Compiled Laws, may zone any shoreland and land to be zoned  
10 ~~which~~ THAT is in the county.

11       Sec. ~~8~~ 32309. Until July 1, 1975, a city or village, pur-  
12 suant to rules promulgated under section ~~+2~~ 32313 and Act  
13 No. 207 of the Public Acts of 1921, ~~as amended,~~ being sections  
14 125.581 to ~~+25.591~~ 125.592 of the Michigan Compiled Laws, may  
15 zone any shoreland and land to be zoned ~~which~~ THAT is in the  
16 city or village.

17       Sec. ~~9~~ 32310. Until July 1, 1975, a township, pursuant to  
18 rules promulgated under section ~~+2~~ 32313 and THE TOWNSHIP RURAL  
19 ZONING ACT, Act No. 184 of the Public Acts of 1943, ~~as amended,~~  
20 being sections 125.271 to 125.301 of the Michigan Compiled Laws,  
21 may zone any shoreland and land to be zoned ~~which~~ THAT is in  
22 the township.

23       Sec. ~~+0~~ 32311. An existing zoning ordinance or a zoning  
24 ordinance or a modification or amendment ~~thereto which~~ TO A  
25 ZONING ORDINANCE THAT regulates a high-risk area, a flood risk  
26 area, or an environmental area shall be submitted to the  
27 ~~commission~~ DEPARTMENT for approval or disapproval. The

1 ~~commission~~ DEPARTMENT shall determine if the ordinance,  
2 modification, or amendment adequately prevents property damage or  
3 prevents damage to an environmental area, a high-risk area, or a  
4 flood risk area. If an ordinance, modification, or amendment is  
5 disapproved by the ~~commission~~ DEPARTMENT, it shall not have  
6 force or effect until modified by the local ~~agency~~ UNIT OF  
7 GOVERNMENT and approved by the ~~commission~~ DEPARTMENT.

8       Sec. ~~++~~ 32312. (1) The ~~commission~~ DEPARTMENT, in order  
9 to regulate the uses and development of high-risk areas, flood  
10 risk areas, and environmental areas and to implement the purposes  
11 of this ~~act~~ PART, shall promulgate rules. ~~pursuant to the~~  
12 ~~administrative procedures act of 1969, Act No. 306 of the Public~~  
13 ~~Acts of 1969, as amended, being sections 24.201 to 24.328 of the~~  
14 ~~Michigan Compiled Laws.~~ Until October 1, 1995, if permits are  
15 required pursuant to rules promulgated under this ~~act~~ PART, a  
16 fee of \$500.00 shall be submitted to the department with each  
17 application for a commercial or multi-family residential project,  
18 a fee of \$100.00 shall be submitted with each application for a  
19 single-family home construction, and a fee of \$50.00 shall be  
20 submitted with each application for an addition to an existing  
21 single-family home or for a project that has a minor impact on  
22 fish and wildlife resources in environmental areas as determined  
23 by the department.

24       (2) A project that requires review and approval under this  
25 ~~act~~ PART and UNDER 1 or more of the following ~~acts~~ is subject  
26 to only the single highest permit fee required under this ~~act~~  
27 PART or the following: ~~acts:~~

1           (a) ~~The Goemaere Anderson wetland protection act, Act~~  
2 ~~No. 203 of the Public Acts of 1979, being sections 281.701 to~~  
3 ~~281.722 of the Michigan Compiled Laws~~ PART 303.

4           (b) ~~The Great Lakes submerged lands act, Act No. 247 of the~~  
5 ~~Public Acts of 1955, being sections 322.701 to 322.715 of the~~  
6 ~~Michigan Compiled Laws~~ PART 325.

7           (c) ~~The inland lakes and streams act of 1972, Act No. 346~~  
8 ~~of the Public Acts of 1972, being sections 281.951 to 281.965 of~~  
9 ~~the Michigan Compiled Laws~~ PART 301.

10          (d) ~~Section 2a of Act No. 245 of the Public Acts of 1929,~~  
11 ~~being section 323.2a of the Michigan Compiled Laws~~ 3104.

12          (3) The department shall forward fees collected under this  
13 section to the state treasurer for deposit in the land and water  
14 management permit fee fund created in section ~~16 of Act No. 346~~  
15 ~~of the Public Acts of 1972, being section 281.966 of the Michigan~~  
16 ~~Compiled Laws~~ 30113.

17          (4) A circuit court, upon petition and a showing by the  
18 ~~commission~~ DEPARTMENT that a violation of a rule promulgated  
19 under subsection (1) exists, shall issue any necessary order to  
20 the defendant to correct the violation or to restrain the  
21 defendant from further violation of the rule.

22          Sec. ~~12~~ 32313. (1) ~~Within 18 months after the effective~~  
23 ~~date of this act~~ BY OCTOBER 1, 1972, the ~~commission~~ DEPARTMENT  
24 shall, in compliance with the purposes of this ~~act~~ PART, pre-  
25 pare a plan for the use and management of shoreland. The plan  
26 shall include but not be limited to ALL OF THE FOLLOWING:

1 (a) An inventory and identification of the use and  
2 development characteristics of the shoreland; the general  
3 physical and man-influenced shoreline features; the existing and  
4 proposed municipal and industrial water intakes and sewage and  
5 industrial waste outfalls; and high-risk areas and environmental  
6 areas.

7 (b) An inventory of existing federal, state, regional, and  
8 local plans for the management of the shorelands.

9 (c) An identification of problems associated with shoreland  
10 use, development, conservation, and protection.

11 (d) A provision for a continuing inventory of shoreland and  
12 estuarine resources.

13 (e) Provisions for further studies and research pertaining  
14 to shoreland management.

15 (f) Identification of the high-risk and environmental areas  
16 ~~which~~ THAT need protection.

17 (g) Recommendations ~~which shall~~ THAT DO ALL OF THE  
18 FOLLOWING:

19 (i) Provide procedures for the resolution of conflicts aris-  
20 ing from multiple use.

21 (ii) Foster the widest variety of beneficial uses.

22 (iii) Provide for the necessary enforcement powers to assure  
23 compliance with plans and to resolve conflicts in uses.

24 (iv) Provide criteria for the protection of shorelands from  
25 erosion or inundation, for aquatic recreation, for shore growth  
26 and cover, for low-lying lands, and for fish and game  
27 management.

1 (v) Provide criteria for shoreland layout for residential,  
2 industrial, and commercial development, and shoreline alteration  
3 control.

4 (vi) Provide for building setbacks from the water.

5 (vii) Provide for the prevention of shoreland littering,  
6 blight harbor development, and pollution.

7 (viii) Provide for the regulation of mineral exploration and  
8 production.

9 (ix) Provide the basis for necessary future legislation per-  
10 taining to efficient shoreland management.

11 (2) Upon completion of the plan, the ~~commission~~ DEPARTMENT  
12 shall hold regional public hearings on the recommendations of the  
13 plan. Copies of the plan shall be submitted with the hearing  
14 records to the governor and the legislature.

15 Sec. ~~13~~ 32314. The department ~~and commission~~ may enter  
16 into an agreement ~~jointly or separately~~ or ~~to~~ make contracts  
17 with the federal government, other state agencies, local  
18 ~~agencies~~ UNITS OF GOVERNMENT, or private agencies for the pur-  
19 poses of making studies and plans for the efficient use, develop-  
20 ment, preservation, or management of the state's shoreland  
21 resources. Any study, plan, or recommendation shall be available  
22 to a local ~~agency~~ UNIT OF GOVERNMENT in this state ~~which~~ THAT  
23 has shoreland. The recommendations and policies set forth in the  
24 studies or plans shall serve as a basis and guideline for estab-  
25 lishing zoning ordinances and developing shoreland plans by local  
26 ~~agencies~~ UNITS OF GOVERNMENT and the ~~commission~~ DEPARTMENT.



1       Sec. ~~14~~ 32315. For the purposes of this ~~act~~ PART, the  
 2 department ~~and the commission~~ may receive, obtain, or accept  
 3 ~~any moneys~~ MONEY, grants, or grants-in-aid for the purpose of  
 4 research, planning, or management of shoreland.

5       ~~Part 325. Great Lakes Submerged Lands~~

6                   PART 325 GREAT LAKES SUBMERGED LANDS

7       ~~Sec. 1. This act shall be known as the "Great Lakes sub-~~  
 8 ~~merged lands act".~~

9       SEC. 32501. AS USED IN THIS PART, "MARINA PURPOSES" MEANS  
 10 AN OPERATION MAKING USE OF SUBMERGED BOTTOMLANDS OR FILLED-IN  
 11 BOTTOMLANDS OF THE GREAT LAKES FOR THE PURPOSE OF SERVICE TO BOAT  
 12 OWNERS OR OPERATORS, WHICH OPERATION MAY RESTRICT OR PREVENT THE  
 13 FREE PUBLIC USE OF THE AFFECTED BOTTOMLANDS OR FILLED-IN LANDS.

14       Sec. ~~2~~ 32502. The lands covered and affected by this  
 15 ~~act~~ PART are all of the unpatented lake bottomlands and unpat-  
 16 ented made lands in the Great Lakes, including the bays and har-  
 17 bors ~~thereof~~ OF THE GREAT LAKES, belonging to the state or held  
 18 in trust by it, including those lands ~~which~~ THAT have  
 19 ~~heretofore~~ been artificially filled in. The waters covered and  
 20 affected by this ~~act~~ PART are all of the waters of the Great  
 21 Lakes within the boundaries of the state. This ~~act~~ PART shall  
 22 be construed so as to preserve and protect the interests of the  
 23 general public in the ~~aforsaid~~ lands and waters ~~and~~  
 24 DESCRIBED IN THIS SECTION, to provide for the sale, lease,  
 25 exchange, or other disposition of unpatented lands and the pri-  
 26 vate or public use of waters over patented and unpatented lands,  
 27 and to permit the filling in of patented submerged lands whenever

1 it is determined by the department ~~of conservation~~ that the  
2 private or public use of ~~such~~ THOSE lands and waters will not  
3 substantially affect the public use ~~thereof~~ OF THOSE LANDS AND  
4 WATERS for hunting, fishing, swimming, pleasure boating, or navi-  
5 gation or that the public trust in the state will not be impaired  
6 by ~~such~~ THOSE agreements for use, sales, lease, or other  
7 disposition. The word "land" or "lands" ~~whenever~~ AS used in  
8 this ~~act shall refer~~ PART REFERS to the aforesaid described  
9 unpatented lake bottomlands and unpatented made lands and  
10 patented lands in the Great Lakes and the bays and harbors  
11 ~~thereof~~ OF THE GREAT LAKES lying below and lakeward of the nat-  
12 ural ordinary high-water mark, but ~~the act shall not be con-~~  
13 ~~strued as affecting~~ THIS PART DOES NOT AFFECT property rights  
14 secured by virtue of a swamp land grant or ~~such~~ rights ~~as may~~  
15 ~~be~~ acquired by accretions occurring through natural means or  
16 reliction. For purposes of this ~~act~~ PART, the ordinary  
17 high-water mark shall be ~~deemed to be~~ at the following eleva-  
18 tions above sea level, international Great Lakes datum of 1955:  
19 Lake Superior, 601.5 feet; Lakes Michigan and Huron, 579.8 feet;  
20 Lake St. Clair, 574.7 feet; and Lake Erie, 571.6 feet.

21       Sec. ~~3~~ 32503. (1) Except as otherwise provided in this  
22 section, the department, ~~of natural resources, hereinafter~~  
23 ~~referred to as the "department",~~ after finding that the public  
24 trust in the waters will not be impaired or substantially affect-  
25 ed, may enter into agreements pertaining to waters over and the  
26 filling in of submerged patented lands, or to lease or deed  
27 unpatented lands, after approval of the state administrative

1 board. Quitclaim deeds, leases, or agreements COVERING  
2 UNPATENTED LANDS may be issued or entered into by the department  
3 with any person, ~~firm, or corporation, public or private, cover-~~  
4 ~~ing unpatented lands,~~ and shall contain such terms, ~~and~~  
5 conditions, and requirements ~~that~~ AS the department determines  
6 to be just and equitable and in ~~conformity~~ CONFORMANCE with the  
7 public trust. The department shall reserve to the state ~~of~~  
8 ~~Michigan~~ all mineral rights, including, but not limited to,  
9 coal, oil, gas, sand, gravel, stone, and other materials or prod-  
10 ucts located or found in those lands, except where lands are  
11 occupied or to be occupied for residential purposes at the time  
12 of conveyance.

13 (2) A riparian owner shall obtain a permit from the depart-  
14 ment before dredging or placing spoil or other materials on  
15 bottomland.

16 (3) The department shall not enter into a lease or deed of  
17 unpatented lands that permits drilling operations for the taking  
18 of oil or gas, unless all drilling operations originate from  
19 locations above and inland of the ordinary high-water mark. The  
20 department shall not enter into a lease or deed of unpatented  
21 lands that permits drilling for exploration purposes unless the  
22 drilling operations originate from locations above and inland of  
23 the ordinary high-water mark.

24 (4) An agreement, lease, or deed entered into under this  
25 ~~act~~ PART by the department with the United States shall be  
26 entered into and executed pursuant to the property rights

1 acquisition act, Act No. 201 of the Public Acts of 1986, being  
2 section 3.251 to 3.262 of the Michigan Compiled Laws.

3       Sec. ~~4~~ 32504. ~~(a)~~ (1) Application for a deed or lease  
4 to unpatented lands or agreement for use of water areas over  
5 patented lands shall be on forms provided by the department.  
6 ~~Such~~ AN application shall include a surveyed description of the  
7 lands or water area applied for, together with a surveyed  
8 description of the riparian or littoral property lying adjacent  
9 and contiguous to the lands or water area, certified to by a reg-  
10 istered land surveyor. The description shall show the location  
11 of the water's edge at the time it was prepared and ~~such~~ other  
12 information that ~~shall be~~ IS required by the department. The  
13 applicant shall be a riparian or littoral owner or owners of  
14 property touching or situated opposite the unpatented land or  
15 water area over patented lands applied for or an occupant of  
16 ~~said~~ THAT land. The application shall include the names and  
17 mailing addresses of all persons in possession or occupancy or  
18 having ~~any~~ AN interest in the adjacent or contiguous riparian  
19 or littoral property or having riparian or littoral rights or  
20 interests in the lands or water areas applied for, and ~~such~~ THE  
21 application shall be accompanied by the written consent of all  
22 persons having an interest in the lands or water areas applied  
23 for in the application.

24       (2) ~~(b)~~ Before an application ~~can be~~ IS acted upon by  
25 the department, the applicant shall secure approval of or permis-  
26 sion for his OR HER proposed use of such lands or water area from  
27 any federal agency as provided by law, the DEPARTMENT WITH THE

1 ADVICE OF THE Michigan waterways commission, and the legislative  
2 body of the local unit or units of government within which such  
3 land or water area is or will be included, or to which it is con-  
4 tiguous or adjacent. ~~No~~ A deed, lease, or agreement shall NOT  
5 be issued or entered into by the department without such approv-  
6 als or permission. The department may also require the applicant  
7 to furnish an abstract of title and ownership, and a 20-year tax  
8 history on the riparian or littoral property ~~which~~ THAT is con-  
9 tiguous or adjacent to the lands or water area applied for, as  
10 well as on the lands applied for, if available.

11 (3) ~~(c)~~ The department shall require the applicant to  
12 deposit a fee of not less than \$50.00 for each application filed.  
13 ~~which~~ THE fee shall be deposited with the state treasurer to  
14 the credit of the state's general fund. ~~Should~~ IF a deed,  
15 lease, or other agreement ~~be~~ IS approved by the department, the  
16 applicant ~~shall be~~ IS entitled to credit for the fee against  
17 the consideration ~~which shall be~~ THAT IS paid for ~~such~~ THE  
18 deed, lease, or other agreement.

19 Sec. ~~5~~ 32505. (1) ~~Should~~ IF the department ~~determine~~  
20 DETERMINES that it is in the public interest to grant an appli-  
21 cant a deed or lease to such lands or enter into an agreement to  
22 permit use and improvements in the waters or to enter into any  
23 other agreement in regard thereto, the department shall determine  
24 the amount of consideration to be paid to the state by ~~such~~ THE  
25 applicant for the conveyance or lease of unpatented lands.

26 (2) ~~(a)~~ The department may permit, by lease or agreement,  
27 the filling in of patented and unpatented submerged lands and

1 permit permanent improvements and structures after finding that  
2 the public trust will not be impaired or substantially injured.

3 (3) The department may issue deeds or may enter into leases  
4 if the unpatented lands applied for have been artificially filled  
5 in or are proposed to be changed from the condition that exists  
6 on ~~the effective date of this act~~ OCTOBER 14, 1955 by filling,  
7 sheet piling, shoring, or by any other means, and such lands are  
8 used or to be used or occupied in whole or in part for uses other  
9 than existing, lawful riparian or littoral purposes. The consid-  
10 eration to be paid to the state for the conveyance or lease of  
11 unpatented lands by ~~such~~ THE applicant shall be not less than  
12 the fair, cash market value of the lands determined as of the  
13 date of the filing of ~~such~~ THE application, minus any improve-  
14 ments placed ~~thereon~~ ON THE LANDS, but ~~in no case shall~~ the  
15 sale price SHALL NOT be less than 30% of the value of the land.  
16 In determining the fair, cash market value of the lands applied  
17 for, the department may give due consideration to the fact that  
18 ~~such~~ THE lands are connected with the riparian or littoral  
19 property belonging to the applicant, ~~if such is the case,~~ and  
20 to the uses, including residential and commercial, being made or  
21 which can be made of ~~said~~ THE lands.

22 (4) ~~(b)~~ Agreements for the lands or water area described  
23 in section ~~2~~ 32502 may be granted to or entered into with local  
24 units of government for public purposes and containing ~~such~~  
25 THOSE terms and conditions ~~which~~ THAT may be ~~deemed~~  
26 CONSIDERED just and equitable in view of the public trust

1 involved and may include the granting of permission to make such  
2 fills as may be necessary.

3 (5) ~~(c)~~ If the unpatented lands applied for have not been  
4 filled in ~~, nor~~ OR in any way substantially changed from their  
5 natural character at the time the application is filed with the  
6 department, and the application is filed for the purpose of flood  
7 control, shore erosion control, drainage and sanitation control,  
8 or to straighten irregular shore lines, THEN the consideration to  
9 be paid to the state by the applicant shall be the fair, cash  
10 value of such land, giving due consideration to its being adja-  
11 cent to and connected with the riparian or littoral property  
12 owned by the applicant.

13 (6) ~~(d)~~ Leases or agreements covering unpatented lands may  
14 be granted or entered into with riparian or littoral proprietors  
15 for commercial marina purposes or for marinas operated by persons  
16 ~~, corporations, clubs or associations~~ for ~~such~~ consideration  
17 and containing ~~such~~ terms and conditions ~~which~~ THAT are  
18 ~~deemed~~ CONSIDERED by the ~~conservation~~ department to be just  
19 and equitable. ~~Such~~ THE leases may include either filled or  
20 unfilled lake bottomlands, or both. Rental shall commence as of  
21 the date of use of ~~such~~ THE unpatented lands for the marina  
22 operations. Dockage and other uses by marinas in waters over  
23 patented lands on ~~the effective date of this act~~ OCTOBER 14,  
24 1955 shall be ~~deemed~~ CONSIDERED to be lawful riparian use.

25 ~~The term "marina purposes" as used in this act shall be~~  
26 ~~construed as an operation making use of Great Lakes submerged~~  
27 ~~bottomlands or filled in bottomlands for the purpose of service~~

1 ~~to boat owners or operators which may restrict or prevent the~~  
2 ~~free public use of the affected bottomlands or filled in lands.~~

3 (7) ~~(e)~~ If the department after investigation determines  
4 that an applicant has ~~wilfully~~ WILLFULLY and knowingly filled  
5 in or in any way substantially changed the lands applied for with  
6 an intent to defraud, or if the applicant has acquired such lands  
7 with knowledge of such A fraudulent intent and is not an innocent  
8 purchaser, the sale price shall be the fair cash market value of  
9 the land. An applicant may request a hearing of ~~any~~ A determi-  
10 nation made ~~hereunder~~ UNDER THIS SUBSECTION. The department  
11 shall grant a hearing if requested.

12 Sec. ~~6~~ 32506. The fair, cash market value of lands  
13 approved for sale under ~~the provisions of~~ this ~~act~~ PART shall  
14 be determined by the department. ~~In no instance shall the~~  
15 ~~consideration~~ CONSIDERATION paid to the state SHALL NOT be less  
16 than \$50.00. If the applicant is not satisfied with the value  
17 determined by the department, within 30 days after the receipt of  
18 ~~such~~ THE determination he OR SHE may submit a petition in writ-  
19 ing to the circuit court of the county in which ~~such~~ THE lands  
20 are located, and the court shall appoint an appraiser or apprais-  
21 ers as the court shall determine for an appraisal of ~~said~~ THE  
22 lands. ~~Decision~~ THE DECISION of the court ~~shall be~~ IS  
23 final.

24 Sec. ~~7~~ 32507. (1) All money received by the department  
25 from the sale, lease, or other disposition of land and water  
26 areas under this ~~act~~ PART shall be forwarded to the state  
27 treasurer and be credited to the land and water management permit



1 fee fund created in section ~~16 of the inland lakes and streams~~  
 2 ~~act of 1972, Act No. 346 of the Public Acts of 1972, being~~  
 3 ~~section 281.966 of the Michigan Compiled Laws 30113.~~

4 (2) The department shall comply with the accounting laws of  
 5 this state and the requirements with respect to submission of  
 6 budgets. The department may hire employees, assistants, and  
 7 services that may be necessary within the appropriation made by  
 8 the legislature and may delegate this authority as may be neces-  
 9 sary to ~~carry out the terms of~~ IMPLEMENT this ~~act~~ PART.

10 Sec. ~~8~~ 32508. All lands conveyed or leased under this  
 11 ~~act shall be~~ PART ARE subject to taxation and the general prop-  
 12 erty tax laws and other laws as other real estate used and taxed  
 13 by the governmental unit or units within which the land is or may  
 14 be included.

15 Sec. ~~9~~ 32509. The department ~~is hereby authorized and~~  
 16 ~~empowered to~~ MAY promulgate ~~and adopt such~~ rules, ~~and~~  
 17 ~~regulations,~~ in accordance with the requirements of law, consis-  
 18 tent with this ~~act~~ PART, that may be necessary to ~~carry out~~  
 19 ~~its provisions~~ IMPLEMENT THIS PART. ~~Such rules and regulations~~  
 20 ~~shall be adopted and promulgated in accordance with Act No. 88 of~~  
 21 ~~the Public Acts of 1943, as amended, being sections 24.71 to~~  
 22 ~~24.82, inclusive, of the Compiled Laws of 1948, and Act No. 197~~  
 23 ~~of the Public Acts of 1952, as amended, being sections 24.101 to~~  
 24 ~~24.110, inclusive, of the Compiled Laws of 1948.~~

25 Sec. ~~10~~ 32510. (1) Except as provided in subsection (2),  
 26 a person who excavates or fills ~~—~~ or in any manner alters or  
 27 modifies any of the land or waters subject to this ~~act~~ PART

1 without the approval of the department is guilty of a  
2 misdemeanor, ~~and upon conviction shall be fined not more than~~  
3 ~~\$1,000.00 or imprisoned~~ PUNISHABLE BY IMPRISONMENT FOR not more  
4 than 1 year OR A FINE OF NOT MORE THAN \$1,000.00, or both. ~~such~~  
5 ~~fine and imprisonment.~~ Land altered or modified in violation of  
6 this ~~act~~ PART shall not be sold to any person convicted under  
7 this section at less than fair, cash market value.

8 (2) A person who commits a minor offense is guilty of a mis-  
9 demeanor, punishable by a fine of not more than \$500.00 for each  
10 violation. A law enforcement officer may issue and serve an  
11 appearance ticket upon a person for a minor offense pursuant to  
12 sections 9a to 9g of chapter IV of the code of criminal proce-  
13 dure, Act No. 175 of the Public Acts of 1927, being sections  
14 764.9a to 764.9g of the Michigan Compiled Laws.

15 (3) As used in this section, "minor offense" means either of  
16 the following violations of this ~~act~~ PART if the department  
17 determines that restoration of the affected property is not  
18 required:

19 (a) The failure to obtain a permit under this ~~act~~ PART.

20 (b) A violation of a permit issued under this ~~act~~ PART.

21 Sec. ~~---~~ 32511. A riparian owner may apply to the depart-  
22 ment for a certificate suitable for recording indicating the  
23 location of his OR HER lakeward boundary or indicating that the  
24 land involved has accreted to his OR HER property as a result of  
25 natural accretions or placement of a lawful, permanent  
26 structure. The application shall be accompanied by a fee of  
27 \$200.00 and proof of upland ownership.

1       Sec. ~~+2-~~ 32512. Unless a permit has been granted by the  
2 department or authorization has been granted by the legislature,  
3 or except as to boat wells and slips facilitating private, non-  
4 commercial, recreational boat use, not exceeding 50 feet in  
5 length where the spoil is not disposed of below the ordinary  
6 high-water mark of the body of water to which it is connected,  
7 ~~it is unlawful to~~ A PERSON SHALL NOT do any of the following:

8       (a) ~~To construct~~ CONSTRUCT, dredge, commence, or do any  
9 work with respect to an artificial canal, channel, ditch, lagoon,  
10 pond, lake, or similar waterway where the purpose is ultimate  
11 connection of the waterway with any of the Great Lakes, including  
12 Lake St. Clair.

13       (b) ~~To connect~~ CONNECT any natural or artificially con-  
14 structed waterway, canal, channel, ditch, lagoon, pond, lake, or  
15 similar waterway with any of the Great Lakes, including Lake  
16 St. Clair, for navigation or any other purpose.

17       (c) ~~To dredge~~ DREDGE or place spoil or other material on  
18 bottomland.

19       (d) ~~To construct~~ CONSTRUCT a marina.

20       Sec. ~~+3-~~ 32513. (1) Before any work or connection speci-  
21 fied in section ~~+2-~~ 32512 is undertaken, a person shall file an  
22 application with the department setting forth the following:

23       (a) The name and address of the applicant.

24       (b) The legal description of the lands included in the  
25 project.

26       (c) A summary statement of the purpose of the project.

1 (d) A map or diagram showing the proposal on an adequate  
2 scale with contours and cross-section profiles of the waterway to  
3 be constructed.

4 (e) Other information required by the department.

5 (2) Except as provided in subsections (3) and (4), an appli-  
6 cation for a permit under this section shall be accompanied by a  
7 fee according to the following schedule:

8 (a) Until October 1, 1995:

9 (i) For activities included in the minor project category as  
10 described in rules promulgated under this ~~act~~ PART, \$50.00.

11 (ii) For construction or expansion of a marina, a fee of:

12 (A) \$50.00 for an expansion of 1-10 slips to an existing  
13 permitted marina.

14 (B) \$100.00 for a new marina with 1-10 proposed marina  
15 slips.

16 (C) \$250.00 for an expansion of 11-50 slips to an existing  
17 permitted marina, plus \$10.00 for each slip over 50.

18 (D) \$500.00 for a new marina with 11-50 proposed marina  
19 slips, plus \$10.00 for each slip over 50.

20 (E) \$1,500.00 if an existing permitted marina proposes main-  
21 tenance dredging of 10,000 cubic yards or more or the addition of  
22 seawalls, bulkheads, or revetments of 500 feet or more.

23 (iii) For major projects other than a project described in  
24 subparagraph (ii)(E), involving any of the following, a fee of  
25 \$2,000.00:

26 (A) Dredging of 10,000 cubic yards or more.

1 (B) Filling of 10,000 cubic yards or more.

2 (C) Seawalls, bulkheads, or revetment of 500 feet or more.

3 (D) Filling or draining of 1 acre or more of coastal  
4 wetland.

5 (E) New dredging or upland boat basin excavation in areas of  
6 suspected contamination.

7 (F) New breakwater or channel jetty.

8 (G) Shore protection, such as groins and underwater stabi-  
9 lizers, that extend 150 feet or more on Great Lakes bottomlands.

10 (H) New commercial dock or wharf of 300 feet or more in  
11 length.

12 (iv) For all other projects not listed in subparagraphs (i)  
13 through (iii), \$500.00.

14 (b) Beginning October 1, 1995, a fee of \$50.00 for any  
15 project listed in subdivision (a).

16 (3) A project that requires review and approval under this  
17 ~~act~~ PART and 1 or more of the following ~~acts~~ is subject to  
18 only the single highest permit fee required under this ~~act~~ PART  
19 or the following: ~~acts:~~

20 (a) ~~The inland lakes and streams act of 1972, Act No. 346~~  
21 ~~of the Public Acts of 1972, being sections 281.951 to 281.966 of~~  
22 ~~the Michigan Compiled Laws~~ PART 301.

23 (b) ~~The Goemaere Anderson wetland protection act, Act~~  
24 ~~No. 203 of the Public Acts of 1979, being sections 281.701 to~~  
25 ~~281.722 of the Michigan Compiled Laws~~ PART 303.

1           (c) ~~The shorelands protection and management act of 1970,~~  
2 ~~Act No. 245 of the Public Acts of 1970, being sections 281.631 to~~  
3 ~~281.644 of the Michigan Compiled Laws~~ PART 323.

4           (d) ~~Section 2a of Act No. 245 of the Public Acts of 1929,~~  
5 ~~being section 323.2a of the Michigan Compiled Laws~~ 3104.

6           (e) Section 117 of the subdivision control act of 1967, Act  
7 No. 288 of the Public Acts of 1967, being section 560.117 of the  
8 Michigan Compiled Laws.

9           (4) If work has been done in violation of a permit require-  
10 ment under this ~~act~~ PART and restoration is not ordered by the  
11 department, the department may accept an application for a permit  
12 if the application is accompanied by a fee equal to 2 times the  
13 permit fee required under this section.

14           (5) The department shall forward all fees collected under  
15 this section to the state treasurer for deposit into the land and  
16 water management permit fee fund created in section ~~16 of Act~~  
17 ~~No. 346 of the Public Acts of 1972, being section 281.966 of the~~  
18 ~~Michigan Compiled Laws~~ 30113.

19           Sec. ~~14~~ 32514. Upon receipt of the application, the  
20 department shall mail copies to the ~~state~~ department of public  
21 health, THE clerks of the county, city, village, and township,  
22 and THE drain commissioner of the county or, if none, the road  
23 commissioner of the county, in which the project or body of water  
24 affected is located, and to the adjacent riparian owners, accom-  
25 panied by a statement that unless a written objection is filed  
26 with the department within 20 days after the mailing of the  
27 copies, the department may take action to grant the application.

1 The department may set the application for public hearing. At  
 2 least 10 days' notice of the hearing shall be given by publica-  
 3 tion in a newspaper circulated in the county and by mailing  
 4 copies of the notice to the persons named in this section.

5 Sec. ~~+5-~~ 32515. If the department finds that the project  
 6 will not injure the public trust or interest including fish and  
 7 game habitat, that the project conforms to the requirements of  
 8 law for sanitation, and that no material injury to the rights of  
 9 any riparian owners on any body of water affected will result,  
 10 the department shall issue a permit authorizing enlargement of  
 11 the waterway affected. The permit shall provide that the artifi-  
 12 cial waterway shall be a public waterway, except intake or dis-  
 13 charge canals or channels on property owned, controlled, and used  
 14 by a public utility. The department may impose further condi-  
 15 tions in the permit that it finds reasonably necessary to protect  
 16 the public health, safety, welfare, trust, and interest, and pri-  
 17 vate rights and property. The existing and future owners of land  
 18 fronting on the artificial waterway are liable for maintenance of  
 19 the waterway in accordance with the conditions of the permit.

20 ~~Part 327. Great Lakes Preservation~~

21 PART 327 GREAT LAKES PRESERVATION

22 ~~Sec. 1. This act shall be known and may be cited as the~~  
 23 ~~"Great Lakes preservation act".~~

24 Sec. ~~-2a-~~ 32701. As used in this ~~-act-~~ PART:

25 (a) "Agricultural purpose" means the agricultural production  
 26 of forestry, livestock, food, feed, or fiber.

1 (b) "Consumptive use" means that portion of water withdrawn  
2 or withheld from the Great Lakes basin and assumed to be lost or  
3 otherwise not returned to the Great Lakes basin due to evapora-  
4 tion, incorporation into products, or other processes.

5 ~~(c) "Department" means the department of natural~~  
6 ~~resources.~~

7 (C) ~~(d)~~ "Great Lakes basin" means the watershed of the  
8 Great Lakes and the St. Lawrence river.

9 (D) ~~(e)~~ "Great Lakes charter" means the document estab-  
10 lishing the principles for the cooperative management of the  
11 Great Lakes water resources, signed by the governors and premiers  
12 of the Great Lakes region on February 11, 1985.

13 (E) ~~(f)~~ "Great Lakes region" means the geographic region  
14 composed of the states of Illinois, Indiana, Michigan, Minnesota,  
15 New York, Ohio, and Wisconsin, the commonwealth of Pennsylvania,  
16 and the provinces of Ontario and Quebec, Canada.

17 (F) ~~(g)~~ "Industrial or processing facility" means an oper-  
18 ating plant or other entity, including a thermoelectric power  
19 generation plant, carrying on a common manufacturing activity,  
20 trade, or business on a common site, including similar plants or  
21 entities under common ownership or control located on contiguous  
22 properties. Plants or entities under common ownership or control  
23 located on separate sites shall be considered separate  
24 facilities. Industrial or processing facility does not include  
25 an irrigation facility.

26 (G) ~~(h)~~ "Irrigation facility" means all wells, pumps,  
27 intakes, gates, tanks, pipes, or other equipment under common



1 ownership or control and located either on the same site or on  
2 separate sites, ~~that~~ WHICH are used to withdraw, convey, or  
3 distribute water for the purposes of irrigating golf courses,  
4 parks, recreational areas, or other grounds, but not including  
5 irrigation for an agricultural purpose.

6 ~~(i) "Person" means an individual, partnership, corporation,~~  
7 ~~association, governmental entity, or any other legal entity~~  
8 ~~whatsoever.~~

9 (H) ~~(j)~~ "Public water supply system" means a water system  
10 that provides water for human consumption or other purposes to  
11 persons other than the supplier of water.

12 (I) ~~(k)~~ "Registrant" means any industrial or processing  
13 facility or irrigation facility registered under this ~~act~~  
14 PART.

15 ~~(l) "Rule" means a rule promulgated pursuant to the admin-~~  
16 ~~istrative procedures act of 1969, Act No. 306 of the Public Acts~~  
17 ~~of 1969, being sections 24.201 to 24.328 of the Michigan Compiled~~  
18 ~~Laws.~~

19 (J) ~~(m)~~ "Water of the Great Lakes basin" means the Great  
20 Lakes and all streams, rivers, lakes, connecting channels, and  
21 other bodies of water, including groundwater, within the Great  
22 Lakes basin.

23 (K) ~~(n)~~ "Withdrawal" means the removal of water from its  
24 source for any purpose, other than for hydroelectric generation  
25 at sites certified, licensed, or permitted by the federal energy  
26 regulatory commission.

1       Sec. ~~2~~ 32702. The legislature finds and declares that:

2       (a) A diversion of water out of the basin of the Great Lakes  
3 may impair or destroy the Great Lakes. The legislature further  
4 finds that a limitation on such diversions is authorized by and  
5 is consistent with the mandate of section 52 of article IV of the  
6 state constitution of 1963 that the legislature provide for the  
7 protection of the air, water, and other natural resources of the  
8 state from pollution, impairment, and destruction.

9       (b) Water use registration and reporting are essential, to  
10 implementing the principles of the Great Lakes charter ~~—~~ AND  
11 necessary to support the state's opposition to diversion of  
12 waters of the Great Lakes basin ~~—~~ and TO provide a source of  
13 information on water use to protect Michigan's rights when pro-  
14 posed water losses affect the level, flow, use, or quality of  
15 waters of the Great Lakes basin.

16       (c) The waters of the state are valuable public natural  
17 resources held in trust by the state, and the state has a duty as  
18 trustee to manage its waters effectively for the use and enjoy-  
19 ment of present and future residents and for the protection of  
20 the environment.

21       (d) The waters of the Great Lakes basin are a valuable  
22 public natural resource, and the states and provinces of the  
23 Great Lakes region and Michigan share a common interest in the  
24 preservation of that resource.

25       (e) Any new diversion of waters of the Great Lakes basin for  
26 use outside of the Great Lakes basin will have significant

1 economic and environmental impact adversely affecting the use of  
2 this resource by the Great Lakes states and Canadian provinces.

3 (f) The continued availability of water for domestic, munic-  
4 ipal, industrial, and agricultural water supplies, navigation,  
5 hydroelectric power and energy production, recreation, and the  
6 maintenance of fish and wildlife habitat and a balanced ecosystem  
7 are vital to the future economic health of the states and prov-  
8 inces of the Great Lakes region.

9 (g) Future interbasin diversions and consumptive uses of  
10 waters of the Great Lakes basin may have significant adverse  
11 impacts upon the environment, economy, and welfare of the Great  
12 Lakes region and of ~~Michigan~~ THIS STATE.

13 (h) The states and provinces of the Great Lakes region have  
14 a duty to protect, conserve, and manage their shared water  
15 resources for the use and enjoyment of present and future  
16 residents.

17 Sec. ~~3~~ 32703. Subject to section ~~4~~ 32704, the waters of  
18 the Great Lakes within the boundaries of this state shall not be  
19 diverted out of the drainage basin of the Great Lakes.

20 Sec. ~~4~~ 32704. Section ~~3 shall~~ 32703 DOES not apply to a  
21 diversion of the waters of the Great Lakes out of the drainage  
22 basin of the Great Lakes existing on September 30, 1985.

23 ~~Sec. 5. This act shall not take effect unless Senate Bill~~  
24 ~~No. 46 of the 83rd Legislature is enacted into law.~~

25 Sec. ~~7~~ 32705. (1) A person shall register with the  
26 department by December 31, 1991 on a form provided by the

1 department if, during the year 1990 or 1991, the person does  
2 either of the following:

3 (a) Owns an industrial or processing facility that has the  
4 capacity to withdraw over 100,000 gallons of water per day aver-  
5 age in any consecutive 30-day period from the waters of the Great  
6 Lakes basin.

7 (b) Owns an irrigation facility that has the capacity to  
8 withdraw over 100,000 gallons of water per day average in any  
9 consecutive 30-day period from the waters of the Great Lakes  
10 basin.

11 (2) Beginning January 1, 1992, a person who meets the  
12 requirements of subsection (1)(a) or (b) shall register with the  
13 department during the calendar year in which the withdrawal  
14 occurred.

15 (3) In calculating the total amount of an existing or pro-  
16 posed withdrawal for the purpose of this section, a person shall  
17 combine all separate withdrawals that the person makes or pro-  
18 poses to make, whether or not these withdrawals are for a single  
19 purpose or are for related but separate purposes.

20 Sec. ~~8~~ 32706. (1) Each registration under this ~~act~~ PART  
21 shall consist of a statement and supporting documentation that  
22 includes all of the following:

23 (a) The place and source of the proposed or existing  
24 withdrawal.

25 (b) The location of any discharge or return flow.

26 (c) The location and nature of the proposed or existing  
27 water user.

1 (d) The actual or estimated average annual and monthly  
2 volumes and rate of withdrawal.

3 (e) The actual or estimated average annual and monthly vol-  
4 umes and rates of consumptive use from the withdrawal.

5 (2) Each registration under this ~~act~~ PART concerning a  
6 withdrawal that will result in a consumptive use averaging in  
7 excess of 2,000,000 gallons per day in any consecutive 30-day  
8 period shall also provide a statement and supporting documen-  
9 tation that includes all of the following:

10 (a) The operating capacity of the withdrawal system identi-  
11 fied in the registration.

12 (b) If the registration includes a proposed withdrawal  
13 increase, the total new or increased operating capacity of the  
14 withdrawal system.

15 (c) The estimated average annual and monthly rates of dis-  
16 charge or return flow.

17 (d) A list of all federal, state, and local approvals, per-  
18 mits, licenses, and other authorizations required for the exist-  
19 ing or proposed withdrawal.

20 Sec. ~~9~~ 32707. (1) Except as provided in subsection (2), a  
21 person who owns an industrial or processing facility or an irri-  
22 gation facility registered under this section shall file a report  
23 annually with the department on a form provided by the  
24 department. The first report shall be submitted to the depart-  
25 ment by March 31, 1992. Subsequent reports shall be submitted  
26 within 3 months after the end of each calendar year. Reports  
27 shall include the following information:

1 (a) Amount and rate of water withdrawn on an annual and  
2 monthly basis.

3 (b) Source or sources of water supply.

4 (c) Use or uses of water.

5 (d) Amount of consumptive water use.

6 (e) Other information specified by rule of the department.

7 (2) If a person reports the information required by this  
8 section to the department in conjunction with a permit or for any  
9 other purpose, that reporting, upon approval of the department,  
10 shall satisfy the reporting requirements of this section.

11 (3) The department shall, upon request from a person  
12 required to report under this section, accept a formula or model  
13 that provides to the department's satisfaction the information  
14 required in subsection (1).

15 (4) The department shall develop forms for reporting under  
16 this section that minimize paperwork and allow for a notification  
17 to the department instead of a report if the annual amount of  
18 water withdrawn by a person required to report under this section  
19 is within 4% of the amount last reported and the other informa-  
20 tion required in subsection (1) has not changed since the last  
21 year in which a report was filed.

22 Sec. ~~10~~ 32708. The department and the department of agri-  
23 culture in consultation with the cooperative extension service  
24 and the soil conservation districts shall develop a formula or  
25 model to determine the amount of water withdrawn for agricultural  
26 purposes consistent with the objectives of section ~~9~~ 32707.  
27 For a period of not more than 5 years after ~~the effective date~~

1 ~~of this section~~ DECEMBER 21, 1990, a person using water for an  
2 agricultural purpose ~~—~~ who withdraws over 100,000 gallons of  
3 water per day average in any consecutive 30-day period for irri-  
4 gation ~~—~~ shall provide the location of the irrigation water  
5 source or sources and other information as needed by the depart-  
6 ment in the calculations of the formula or model as provided in  
7 this section.

8       Sec. ~~++~~ 32709. The department may contract for the prepa-  
9 ration and distribution of informational materials to persons who  
10 withdraw water for irrigation or industrial purposes regarding  
11 the purposes, benefits, and requirements of this ~~act~~ PART, and  
12 may also provide information on complying with the registration  
13 program and on any general or applicable methods for calculating  
14 or estimating water withdrawals or consumptive uses.

15       Sec. ~~+2~~ 32710. The department shall do all of the  
16 following:

17       (a) Cooperate with the states and provinces in the Great  
18 Lakes region to develop and maintain a common base of information  
19 on the use and management of the water of the Great Lakes basin  
20 and to establish systematic arrangements for the exchange of this  
21 information.

22       (b) Collect and maintain information regarding the loca-  
23 tions, types, and quantities of water use, including water with-  
24 drawals and consumptive uses, in a form that the department  
25 determines is comparable to the form used by other states and  
26 provinces in the Great Lakes region.

1 (c) Collect, maintain, and exchange information on current  
2 and projected future water needs with the other states and  
3 provinces in the Great Lakes region.

4 (d) Cooperate with other states and provinces in the Great  
5 Lakes region in developing a long-range plan for developing, con-  
6 serving, and managing the water of the Great Lakes basin.

7 (e) Participate in the development of a regional consulta-  
8 tion procedure for use in exchanging information on the effects  
9 of proposed water withdrawals and consumptive uses from the Great  
10 Lakes basin.

11 (f) Develop procedures for notifying water users and poten-  
12 tial water users of the requirements of this ~~act~~ PART.

13 Sec. ~~+3~~ 32711. A public water supply system that is  
14 required to report water withdrawals under the safe drinking  
15 water act, Act No. 399 of the Public Acts of 1976, being  
16 sections 325.1001 to 325.1023 of the Michigan Compiled Laws, is  
17 exempt from the requirements of this ~~act~~ PART.

18 Sec. ~~+4~~ 32712. This ~~act shall~~ PART DOES not ~~be con-~~  
19 ~~strued to~~ authorize the department to impose or collect fees, to  
20 mandate any permit, or to regulate the withdrawal of water cov-  
21 ered under this ~~act~~ PART.

22 Sec. ~~+5~~ 32713. The department may request the attorney  
23 general to commence a civil action for appropriate relief,  
24 including a permanent or temporary injunction, for a violation of  
25 this ~~act~~ PART or a rule promulgated under this ~~act~~ PART. An  
26 action under this ~~subsection~~ SECTION shall be brought in the  
27 circuit court for the county of Ingham or for the county in which



1 the defendant is located, resides, or is doing business. The  
 2 court has jurisdiction to restrain the violation and to require  
 3 compliance. In addition to any other relief granted, the court  
 4 may impose a civil fine of not more than \$1,000.00. In addition  
 5 to a fine, the attorney general may file a suit in a court of  
 6 competent jurisdiction to recover the full value of the costs of  
 7 surveillance and enforcement by the state resulting from the  
 8 violation.

9 ~~Part 329. Great Lakes Protection~~

10 PART 329 GREAT LAKES PROTECTION

11 ~~Sec. 1. This act shall be known and may be cited as the~~  
 12 ~~"Great Lakes protection act".~~

13 Sec. ~~2a~~ 32901. As used in this ~~act~~ PART:

14 (a) "Board" means the Michigan Great Lakes protection fund  
 15 technical advisory board created in section ~~8~~ 32908.

16 (b) "Fund" means the Michigan Great Lakes protection fund  
 17 created in section ~~5~~ 32905.

18 Sec. ~~2~~ 32902. The legislature finds that:

19 (a) The Great Lakes are a valuable resource providing an  
 20 important source of food, fresh water, recreation, beauty, and  
 21 enjoyment.

22 (b) The ecosystems of the Great Lakes, which provide suste-  
 23 nance and recreation to the people of this state and other states  
 24 and nations, have been severely affected and are continually  
 25 threatened by the introduction of foreign species into the lakes  
 26 and by pollution of the Great Lakes waters.

1 (c) Careful management of the Great Lakes will permit the  
2 rehabilitation and protection of the lakes, their waters, and  
3 their ecosystems, while continuing and expanding their use for  
4 industry, food production, transportation, and recreation.

5 (d) This state, because it is surrounded by the Great Lakes  
6 and because the Great Lakes contribute in innumerable ways to the  
7 state's economy, recreation, and way of life, must act as a stew-  
8 ard for the protection, enhancement, and wise utilization of the  
9 Great Lakes.

10 Sec. ~~3~~ 32903. The office of the Great Lakes is estab-  
11 lished within the department of natural resources and is desig-  
12 nated as the lead agency within state government for the develop-  
13 ment of policies, programs, and procedures to protect, enhance,  
14 and manage the Great Lakes. The office of the Great Lakes shall  
15 do all of the following:

16 (a) Advise the governor, the director, ~~of the department of~~  
17 ~~natural resources,~~ and the directors of other appropriate state  
18 departments on appropriate steps needed to coordinate state  
19 policy and state actions on the Great Lakes and to implement an  
20 ecosystem approach to this state's Great Lakes policies.

21 (b) Provide representation at the national level for this  
22 state's Great Lakes interests.

23 (c) Represent this state before Great Lakes policy develop-  
24 ment bodies such as the international joint commission.

25 (d) Ensure adequate research and staff work to maintain this  
26 state's regional leadership in resolving Great Lakes problems.

1 (e) Promote the wise use of the ports of this state and  
2 Great Lakes water transportation.

3 (f) Promote the Great Lakes tourism industry.

4 (g) Advocate the interests of this state in actions, poli-  
5 cies, and legislation affecting the Great Lakes proposed in other  
6 Great Lakes states, Canadian provinces, Great Lakes policy devel-  
7 opment bodies, and the federal government.

8 Sec. ~~4~~ 32904. The governor, with the assistance of the  
9 office of the Great Lakes, shall prepare and submit to the legis-  
10 lature the following:

11 (a) An annual report, submitted by December 31 of each year,  
12 on the state of the Great Lakes.

13 (b) A comprehensive analysis, in the governor's annual  
14 budget message, of all the funds from state and federal sources  
15 that the governor recommends be expended for the protection,  
16 enhancement, and management of the Great Lakes.

17 (c) A comprehensive inventory, submitted ~~within 1 year~~  
18 ~~after the effective date of this act~~ BY AUGUST 2, 1986, of all  
19 state, federal, interstate, and international agencies, programs,  
20 and projects associated with the protection, enhancement, and  
21 management of the Great Lakes.

22 (d) A report, submitted ~~within 18 months after the effec-~~  
23 ~~tive date of this act~~ BY FEBRUARY 2, 1987, on the status of the  
24 agreement between the United States and Canada known as the Great  
25 Lakes water quality agreement of 1978, and recommending steps to  
26 be taken to execute the state's obligations in that agreement and

1 to promote the state's role and objectives in the renegotiation  
2 of that agreement.

3 (e) A report, submitted ~~within 2 years after the effective~~  
4 ~~date of this act~~ BY AUGUST 2, 1987, listing the priority  
5 research needs with respect to the Great Lakes.

6 Sec. ~~-5-~~ 32905. (1) The Michigan Great Lakes protection  
7 fund is created in the state treasury.

8 (2) The fund shall receive money from the following  
9 sources:

10 (a) Money received by the state from the Great Lakes protec-  
11 tion fund authorized in ~~the Great Lakes protection fund authori-~~  
12 ~~zation act~~ PART 331.

13 (b) Gifts and contributions to the fund.

14 (c) Other sources provided by law.

15 (3) The state treasurer shall direct the investment of the  
16 fund. Interest and earnings of the fund shall be credited to the  
17 fund. Money in the fund at the end of the fiscal year shall  
18 remain in the fund and shall not revert to the general fund.

19 (4) The state treasurer shall annually report to the board  
20 and the ~~water resources commission~~ DEPARTMENT on the amount of  
21 money in the fund.

22 Sec. ~~-6-~~ 32906. The state treasurer shall credit all money  
23 the state receives from the Great Lakes protection fund as autho-  
24 rized in ~~the Great Lakes protection fund authorization act~~  
25 PART 331 to the fund.

26 Sec. ~~-7-~~ 32907. Money in the fund shall be used only for  
27 programs or grants to supplement existing Great Lakes research

1 and protection programs consistent with the purposes of ~~the~~  
2 ~~Great Lakes protection fund authorization act~~ PART 331 includ-  
3 ing, but not limited to, the following:

4 (a) Research on the economic, environmental, and human  
5 health effects of contamination in the Great Lakes.

6 (b) The collection and analysis of data on the Great Lakes.

7 (c) The development of new or improved environmental cleanup  
8 technologies.

9 (d) Research to assess the effectiveness of pollution con-  
10 trol policies.

11 (e) The assessment of the health of Great Lakes fish, water-  
12 fowl, and other organisms.

13 (f) Other programs consistent with the purposes of ~~the~~  
14 ~~Great Lakes protection fund authorization act~~ PART 331.

15 Sec. ~~8-~~ 32908. (1) The Michigan Great Lakes protection  
16 fund technical advisory board is created within the ~~water~~  
17 ~~resources commission~~ DEPARTMENT. The board shall consist of the  
18 following members:

19 (a) ~~A citizen member of the water resources commission or~~  
20 ~~an~~ AN individual appointed by the ~~water resources commission~~  
21 DEPARTMENT who has knowledge or expertise in Great Lakes water  
22 issues.

23 (b) ~~A citizen member of the air pollution control commis-~~  
24 ~~sion or an~~ AN individual appointed by the ~~air pollution control~~  
25 ~~commission~~ DEPARTMENT who has knowledge or expertise in the  
26 effects of air pollution on the Great Lakes.

1 (c) Six individuals appointed by the ~~commission of natural~~  
2 ~~resources~~ DEPARTMENT as follows:

3 (i) One individual from an environmental organization.

4 (ii) One individual from a business or industry related to  
5 the Great Lakes.

6 (iii) One individual who has performed research related to  
7 the water quality of the Great Lakes.

8 (iv) One individual who has performed research related to  
9 public health concerns associated with the Great Lakes.

10 (v) One individual who has knowledge or expertise in the  
11 demographics of the Great Lakes region or the climatology of the  
12 Great Lakes region.

13 (vi) One individual who represents the hazardous substance  
14 research center.

15 (2) A member of the board shall serve for a term of 3  
16 years. However, of the first appointments to the board by the  
17 ~~commission of natural resources~~ DEPARTMENT under  
18 subsection (1)(c), 3 shall be appointed to serve 2-year terms and  
19 3 shall be appointed to serve 1-year terms.

20 (3) A member of the board may be removed for inefficiency,  
21 neglect of duty, or malfeasance in office by the body that  
22 appointed him or her.

23 (4) The board shall elect a chairperson from among its  
24 members. The board shall meet at the call of the chairperson at  
25 least annually. A meeting of the board shall be held in compli-  
26 ance with the open meetings act, Act No. 267 of the Public Acts  
27 of 1976, being sections 15.261 to 15.275 of the Michigan Compiled

1 Laws. Public notice of the time, date, and place of the meeting  
2 shall be given in the manner required by that act.

3 (5) A member of the board shall not receive a grant under  
4 this ~~act~~ PART.

5 Sec. ~~9~~ 32909. The board shall do both of the following:

6 (a) Advise this state's representatives on the board of  
7 directors of the Great Lakes protection fund authorized in ~~the~~  
8 ~~Great Lakes protection fund authorization act~~ PART 331.

9 (b) Consult with the technical advisory committee of the  
10 Great Lakes protection fund.

11 Sec. ~~10~~ 32910. (1) The board shall annually ~~determine~~  
12 ADVISE THE DEPARTMENT ON the programs or grants that should be  
13 funded under this ~~act~~ PART and shall submit a list of these  
14 programs or grants to the ~~water resources commission~~ DEPARTMENT  
15 for its approval. This list shall be compiled in order of  
16 priority. Upon approval of the list, the ~~water resources~~  
17 ~~commission~~ DEPARTMENT shall submit the list to the legislature  
18 in January of each year.

19 (2) The ~~water resources commission~~ DEPARTMENT and the  
20 board shall include with each list submitted under subsection (1)  
21 ~~—~~ a statement of the guidelines used in listing and assigning  
22 the priority of the proposed programs or grants.

23 (3) The legislature shall annually appropriate money from  
24 the Michigan Great Lakes protection fund and from the Great Lakes  
25 spill prevention research fund for programs or grants pursuant to  
26 this ~~act~~ PART.

1       Sec. ~~32911~~ 32911. (1) The Great Lakes spill prevention  
2 research fund is created in the state treasury.

3       (2) The research fund may receive money as appropriated by  
4 the legislature, from gifts and contributions to the fund, and as  
5 otherwise provided by law. The state treasurer shall direct the  
6 investment of the research fund. Interest and earnings of the  
7 research fund shall be credited to the research fund. Money in  
8 the research fund at the close of the fiscal year shall remain in  
9 the research fund and shall not revert to the general fund.

10       (3) Money in the research fund shall be used only for the  
11 following purposes:

12       (a) Research into the prevention of spills during the trans-  
13 portation of hazardous materials on the Great Lakes and major  
14 tributaries of the Great Lakes.

15       (b) Research on selected pollution incidents to determine  
16 causal factors in spills of hazardous materials on the Great  
17 Lakes and major tributaries of the Great Lakes.

18       (c) Research into a total systems approach to address Great  
19 Lakes pollution problems that include human factors and  
20 socio-technical considerations.

21       (d) Research into the role of human factors in spills of  
22 hazardous materials on the Great Lakes and major tributaries of  
23 the Great Lakes, including human factors in pollution alarms,  
24 pollution monitoring systems, and instrumentation.

25       (e) Research into the deployment of existing and new tech-  
26 nology related to transportation of hazardous materials on the  
27 Great Lakes and major tributaries of the Great Lakes and the



1 appropriate allocation of functions between individuals and  
2 machines.

3 (f) Research to determine the relative contribution of  
4 spills of hazardous materials into the Great Lakes and major  
5 tributaries of the Great Lakes to the total pollution of the  
6 Great Lakes basin.

7 (g) Research on and modeling of spills to determine their  
8 effect on water intakes.

9 (4) As used in this section:

10 (a) "Great Lakes" means the Great Lakes and their connecting  
11 waterways over which the state has jurisdiction.

12 (b) "Hazardous material" means a chemical or other material  
13 which is or may become injurious to the public health, safety, or  
14 welfare, or to the environment.

15 (c) "Major tributary of the Great Lakes" means a river that  
16 flows into the Great Lakes that has a drainage area in excess of  
17 700 square miles or has a drainage area that contains a popula-  
18 tion of 1,000,000 or more individuals.

19 (d) "Research fund" means the Great Lakes spill prevention  
20 research fund created in subsection (1).

21 (e) "Spill" means any leaking, pumping, pouring, emptying,  
22 emitting, discharging, escaping, leaching, or disposing of a haz-  
23 ardous material in a quantity which is or may become injurious to  
24 the public health, safety, OR welfare ~~—~~ or to the environment.

25 ~~Part 331. State Great Lakes Protection Fund~~

## 1 PART 331 REGIONAL GREAT LAKES PROTECTION FUND

2 ~~Sec. 1. This act shall be known and may be cited as the~~  
3 ~~"Great Lakes protection fund authorization act".~~

4 Sec. ~~3~~ 33101. As used in this ~~act~~ PART:

5 (a) "Agreement" means the document entitled "Great Lakes  
6 protection fund agreement" signed by the governor on February 26,  
7 1989.

8 (b) "Great Lakes protection fund" or "fund" means the Great  
9 Lakes protection fund approved in the agreement.

10 (c) "Great Lakes toxic substance control agreement" means  
11 the document entitled "Great Lakes toxic substance control  
12 agreement" signed by the governor on May 21, 1986.

13 (d) "Great Lakes water quality agreement of 1978" means the  
14 "Great Lakes water quality agreement of 1978" between the United  
15 States and Canada signed November 22, 1978, including the phos-  
16 phorous load reduction supplement signed October 7, 1983, and as  
17 amended by protocol signed November 18, 1987.

18 Sec. ~~2~~ 33102. The legislature finds and declares that:

19 (a) The Great Lakes protection fund has been created to  
20 advance the ~~principle~~ PRINCIPAL goals and objectives of the  
21 Great Lakes toxic substances control agreement and the Great  
22 Lakes water quality agreement of 1978.

23 (b) The Great Lakes protection fund has been created to  
24 finance and support state and regional projects for the protec-  
25 tion, research, and cleanup of the Great Lakes.

26 (c) There is a need for a stable and predictable funding  
27 commitment for the preservation of Great Lakes water quality.

1 (d) The protection of the Great Lakes is of paramount public  
2 concern in the interest of the health, safety, and general wel-  
3 fare of the citizens of the state and the participation of the  
4 state in the Great Lakes protection fund will assist in achieving  
5 this protection.

6 Sec. ~~4~~ 33103. (1) The governor, on behalf of this state,  
7 ~~is authorized to~~ MAY take all steps necessary to join with  
8 other states in the formation and operation of the Great Lakes  
9 protection fund provided that the fund does all of the  
10 following:

11 (a) Provides for the fund to receive money from each of the  
12 participating states and to expend only the interest and earnings  
13 of the fund for the purposes of subdivision (b).

14 (b) Provides for the funding of activities related to Great  
15 Lakes research and protection including but not limited to:

16 (i) Research on the economic, environmental, and human  
17 health effects of contamination in the Great Lakes.

18 (ii) The collection and analysis of data on the Great  
19 Lakes.

20 (iii) The development of new or improved environmental  
21 cleanup technologies.

22 (iv) Research to assess the effectiveness of pollution con-  
23 trol policies.

24 (v) The assessment of the health of Great Lakes fish, water-  
25 fowl, and other organisms.

26 (2) The governor shall do all things necessary to ~~carry~~  
27 ~~out~~ IMPLEMENT the agreement.

1 (3) The governor shall appoint members to the board of  
2 directors of the Great Lakes protection fund in accordance with  
3 the agreement.

4 Sec. ~~5~~ 33104. (1) If, by February 28, 1991, fewer than 4  
5 states whose representatives signed the agreement have enacted  
6 legislation and provided funding as required by the agreement to  
7 participate in the fund, the governor shall take all steps neces-  
8 sary to withdraw the participation of the state in the fund, to  
9 dissolve the fund, and to equitably distribute the assets of the  
10 fund.

11 (2) If 2/3 of the states whose representatives signed the  
12 agreement agree to extend the deadline provided in  
13 subsection (1), the governor shall not withdraw the participation  
14 of the state during the extension period.

15 Sec. ~~6~~ 33105. The governor may delegate his or her  
16 responsibilities under this ~~act~~ PART to the ~~director of the~~  
17 department. ~~of natural resources.~~

18 ~~Sec. 7. This act shall not take effect unless House Bill~~  
19 ~~No. 4709 of the 85th Legislature is enacted into law.~~

20 ~~Part 333. Coastal Beach Erosion~~

21 PART 333 COASTAL BEACH EROSION

22 Sec. ~~+~~ 33301. Any political subdivision of the state, by  
23 resolution of its legislative body adopted by a majority vote of  
24 its full membership, is ~~hereby~~ authorized to make expenditures  
25 from its general fund, contingent fund, or from any special funds  
26 available ~~therefor~~ FOR THE PURPOSES DESCRIBED IN THIS SECTION,  
27 to undertake, either independently or in cooperation with any

1 other political subdivision or with any agency of the state  
 2 ~~and/or~~ OR federal government, investigative or study functions  
 3 related to coastal beach erosion or protection.

4 ~~Part 335. Surplus Waters Management~~

5 ~~Part 337. Flood, Drainage, or Beach Erosion Control~~

6 PART 337 FLOOD, DRAINAGE, AND BEACH EROSION CONTROL

7 Sec. ~~+~~ 33701. The township board of any township, the  
 8 legislative body of any incorporated city or incorporated vil-  
 9 lage, or the board of county road commissioners of any county  
 10 when directed by the COUNTY board of ~~supervisors~~ COMMISSIONERS  
 11 of the county, pursuant to a resolution adopted by a 2/3 vote of  
 12 the members ~~thereof~~ OF THE COUNTY BOARD OF COMMISSIONERS, is  
 13 ~~hereby~~ authorized to acquire any and all interests in lands  
 14 necessary to any flood control, drainage, or beach erosion con-  
 15 trol project and is ~~hereby~~ authorized to contract with the fed-  
 16 eral government or any agency ~~thereof~~ OF THE FEDERAL  
 17 GOVERNMENT, whereby the federal government or ~~such~~ agency will  
 18 pay the whole or ~~any~~ A part of the cost of flood control,  
 19 drainage control, or beach erosion control projects ~~and/or~~ OR  
 20 will perform the whole or any part of the work connected  
 21 ~~therewith~~ WITH THE PROJECT, OR BOTH, which contract may include  
 22 any specific terms, including, but not ~~by way of limitation~~  
 23 LIMITED TO, the holding and saving of the United States free from  
 24 damages due to the construction works, required by act of con-  
 25 gress or federal regulation as a condition for ~~such~~ participa-  
 26 tion on the part of the federal government.

1       Sec. ~~2~~ 33702. ~~Such a~~ A contract ENTERED INTO UNDER  
2 SECTION 33701 may provide that ~~any~~ payments made or work done  
3 by the federal government or ~~such~~ agency ~~thereof shall~~  
4 ~~relieve~~ OF THE FEDERAL GOVERNMENT RELIEVES it in whole or in  
5 part from assessment for the cost of the project.

6       Sec. ~~3~~ 33703. ~~Such a~~ A contract ENTERED INTO UNDER SEC-  
7 TION 33701 may provide for the granting, without cost to the  
8 United States, of all lands, easements, and rights-of-way neces-  
9 sary for the construction of the project, except as otherwise  
10 provided by act of congress or federal regulation. Such a con-  
11 tract may also provide for the maintenance and operation of the  
12 project after completion in accordance with regulations pre-  
13 scribed by the secretary of the army.

14       Sec. ~~4~~ 33704. The township board of any township, the  
15 legislative body of any incorporated city or incorporated vil-  
16 lage, or the COUNTY board of ~~supervisors~~ COMMISSIONERS of any  
17 county, pursuant to a resolution adopted by a 2/3 vote of ~~the~~  
18 ITS members, ~~thereof,~~ is ~~hereby~~ authorized in connection with  
19 any ~~such~~ contract ENTERED INTO UNDER SECTION 33701 to make  
20 expenditures from its general fund, contingent fund or from any  
21 special funds available. ~~therefor.~~

22       Sec. ~~5~~ 33705. The township board of any township, the  
23 legislative body of any incorporated city or incorporated vil-  
24 lage, or the board of county road commissioners of any county  
25 when directed by the COUNTY board of ~~supervisors~~ COMMISSIONERS  
26 of the county, pursuant to a resolution adopted by a 2/3 vote of  
27 ~~the~~ ITS members, ~~thereof,~~ is ~~hereby~~ authorized to grant to

1 the United States ~~such~~ assurances as are required by federal  
2 flood control acts, ~~and~~ BY amendments ~~thereto~~ TO THOSE ACTS,  
3 and by such other federal acts existing, or which may be enacted  
4 in the future, authorizing expenditure of federal funds for flood  
5 control, drainage, or beach erosion control projects.

6       Sec. ~~6~~ 33706. The township board of any township, the  
7 legislative body of any incorporated city or incorporated vil-  
8 lage, or the board of county road commissioners of any county  
9 when directed by the COUNTY board of ~~supervisors~~ COMMISSIONERS  
10 of the county, may provide for joint participation and a joint  
11 contract or contracts in ~~carrying out the purposes of~~  
12 IMPLEMENTING this ~~act~~ PART.

13       Sec. ~~7~~ 33707. (1) Unless an exception from prior approval  
14 is available pursuant to subsection (2), ~~such~~ contracts ~~as may~~  
15 ~~be~~ entered into under this ~~act~~ PART shall have prior approval  
16 of the municipal finance commission or its successor agency as to  
17 the financial ability of the incorporated city, incorporated vil-  
18 lage, township, or county to meet all obligations and liabilities  
19 imposed by ~~any such~~ THE contracts as to cost of lands, ease-  
20 ments, rights-of-way, construction, or the maintenance and opera-  
21 tion costs of such project or projects. Any incorporated city,  
22 incorporated village, OR township, or the board of county road  
23 commissioners of any county when directed by the county board of  
24 commissioners, authorized to contract with the federal government  
25 or any agency ~~thereof~~ OF THE FEDERAL GOVERNMENT under this  
26 ~~act~~ PART, may borrow funds from the federal government or any  
27 agency ~~thereof for the purpose of carrying out~~ OF THE FEDERAL

1 GOVERNMENT TO IMPLEMENT this ~~act~~ PART, which borrowings shall  
2 be subject to ~~the provisions of~~ existing statutes and charter  
3 limitations ~~which~~ THAT are applicable to ~~such~~ THE borrowing.  
4 However, section 2 of chapter III of the municipal finance act,  
5 Act No. 202 of the Public Acts of 1943, ~~as amended,~~ being  
6 section 133.2 of the Michigan Compiled Laws, shall not apply to  
7 ~~any such~~ THOSE borrowings.

8 (2) The requirement of subsection (1) for obtaining the  
9 prior approval of the municipal finance commission or its succes-  
10 sor agency before entering into contracts under this ~~act shall~~  
11 ~~be~~ PART IS subject to sections 10 and 11 of chapter III of Act  
12 No. 202 of the Public Acts of 1943, being sections 133.10 and  
13 133.11 of the Michigan Compiled Laws, and the department of trea-  
14 sury ~~shall have~~ HAS the same authority as provided by  
15 section 11 of chapter III of Act No. 202 of the Public Acts of  
16 1943 to issue an order providing or denying an exception from the  
17 prior approval required by subsection (1) for contracts autho-  
18 rized by this ~~act~~ PART.

19 Sec. ~~8~~ 33708. For the accomplishment of the purposes of  
20 this ~~act~~ PART, any city, incorporated village, township, or  
21 board of county road commissioners ~~may~~ may acquire any interest  
22 in land necessary to any flood control, drainage, or beach ero-  
23 sion control project, or to preserve flood plains, by purchase,  
24 gift, exchange, condemnation, or otherwise. If an easement to  
25 preserve a flood plain is acquired, the acquiring agency, in any  
26 instrument conveying such right or in any eminent domain  
27 proceedings instituted therefor, may acquire the further right to



1 use the ~~lands~~ LAND subject to ~~such~~ THE easement, or any part  
 2 ~~thereof~~ OF THE EASEMENT, for any other public purpose, but only  
 3 to the extent that ~~such~~ THE other uses ~~shall be~~ ARE specifi-  
 4 cally enumerated in ~~said~~ THE conveyance or eminent domain  
 5 proceedings. The legislative body of any ~~such~~ city, incorpo-  
 6 rated village, or township, or the board of county road commis-  
 7 sioners of any county when directed by the COUNTY board of  
 8 ~~supervisors~~ COMMISSIONERS of the county, may institute and  
 9 prosecute proceedings under the power of eminent domain in  
 10 accordance with the laws of the state or any ~~provision of any~~  
 11 local charter relative to condemnation. ~~In the absence of any~~  
 12 ~~other applicable statute townships are expressly authorized to~~  
 13 ~~exercise the same powers vested in cities and villages by Act~~  
 14 ~~No. 124 of the Public Acts of 1883, being section 213.71 et seq.,~~  
 15 ~~Compiled Laws of 1948.~~ Two or more adjoining cities, villages,  
 16 or townships are authorized to maintain ~~such~~ proceedings in  
 17 accordance with the procedure prescribed by Act No. 81 of the  
 18 Public Acts of 1925, ~~section~~ BEING SECTIONS 123.71 ~~et seq.,~~  
 19 TO 123.73 OF THE MICHIGAN Compiled Laws. ~~of 1948.~~ The purposes  
 20 contemplated by this ~~act~~ PART are ~~hereby~~ declared to be  
 21 public purposes within the meaning of the constitution, state  
 22 laws, and charters relative to the power of eminent domain.

23 ~~Part 339. Control of Certain State Lands~~

24 PART 339 CONTROL OF CERTAIN STATE LANDS

25 Sec. ~~+~~ 33901. All of the unpatented overflowed lands,  
 26 made lands, and lake ~~bottom lands~~ BOTTOMLANDS belonging to  
 27 ~~the~~ THIS state ~~of Michigan~~ or held in trust by it ~~+~~ AS

1 PROVIDED IN THIS PART shall be held, leased, and controlled by  
2 the DEPARTMENT ~~state board of control, hereinafter referred to~~  
3 ~~as the board of control,~~ in the manner ~~hereinafter~~ provided IN  
4 THIS PART. ~~Said state board of control shall be comprised of~~  
5 ~~the secretary of state, the auditor general and the commissioner~~  
6 ~~of the state land office. Said board of control shall perform~~  
7 ~~the duties imposed on it under this act until the first day of~~  
8 ~~January, 1915, on which day all of the powers and duties of said~~  
9 ~~state board of control shall pass to and be devolved upon the~~  
10 ~~public domain commission, which shall be deemed the successor in~~  
11 ~~office and trust to the said state board of control. Whenever~~  
12 ~~the term "board of control" or the term "state board of control"~~  
13 ~~is used in this act, it shall be taken to include and mean said~~  
14 ~~public domain commission as successors to said state board of~~  
15 ~~control. Said board of control shall convene within 15 days~~  
16 ~~after this act shall take effect, and elect a chairman and secre-~~  
17 ~~tary who shall perform the duties usually incumbent upon such~~  
18 ~~officers and such other duties as may be imposed by vote of said~~  
19 ~~board, and shall meet regularly on the first Tuesday of each~~  
20 ~~month thereafter, special meetings of the board may be called at~~  
21 ~~any time by the chairman of the board upon reasonable notice to~~  
22 ~~the other members thereof. In all questions to be determined by~~  
23 ~~said board, a majority vote shall control and be the action of~~  
24 ~~the board.~~

25       Sec. ~~2~~ 33902. The department ~~of natural resources~~ shall  
26 not deed or convey the lands described in section ~~4~~ 33901  
27 except as provided in sections ~~2a~~ 33903 to ~~2i~~ 33911, but may

1 lease lands of the character described in section ~~+~~ 33901 to a  
 2 person ~~, firm, society, association, or corporation~~ for the  
 3 purposes and in the manner provided in this ~~act~~ PART. The  
 4 ~~commission of natural resources~~ DEPARTMENT may dedicate  
 5 unleased lands of the character described in section ~~+~~ 33901  
 6 for public hunting, fishing, and other recreational uses.

7       Sec. ~~2a~~ 33903. The department, ~~of conservation~~ upon  
 8 application of any person ~~, persons or corporations,~~ holding a  
 9 lease of any portion or portions of land from this state pursuant  
 10 to FORMER Act No. 326 of the Public Acts of 1913, ~~as amended,~~  
 11 ~~and Act No. 94 of the Public Acts of 1941~~ OR THIS PART, shall  
 12 execute and deliver to the applicant a deed conveying to him OR  
 13 HER all of the right, title, and interest of this state in and to  
 14 the lands ~~hereinafter~~ described IN THIS SECTION, subject to the  
 15 paramount rights of navigation, hunting, and fishing ~~which~~ THAT  
 16 remain in the general public and in the government as now exist-  
 17 ing and recognized by law. The deeds shall contain the same pro-  
 18 visions as to use and occupancy as now set forth in all leases  
 19 ~~heretofore~~ PREVIOUSLY granted under FORMER Act No. 326 of the  
 20 Public Acts of 1913. ~~, as amended.~~ The lands covered by this  
 21 section are that portion of the St. Clair Flats, township of  
 22 Clay, St. Clair county, Michigan, as surveyed under FORMER Act  
 23 No. 175 of the Public Acts of 1899, which front upon or are a  
 24 part of the south, middle, and Sni Bora channel sections as  
 25 follows:

26       ~~—~~ South channel section, lots 2-601 inclusive, excepting  
 27 therefrom portions described in Act No. 5 of the Public Acts of

1 1938 and already conveyed to the federal government pursuant to  
2 ~~said~~ THAT act.

3 Also any interior lands so-called, lying between lots  
4 452-601 inclusive, south channel section, and the highway known  
5 as M-154; and in addition thereto the lands leased under ~~the~~  
6 ~~provisions of Act No. 94 of the Public Acts of 1941~~ SECTION 11  
7 OF FORMER ACT NO. 326 OF THE PUBLIC ACTS OF 1913, and particu-  
8 larly described therein. ~~u~~

9 Also middle channel section, lots 29-34 inclusive, lots  
10 39-53 inclusive, lots 82 and 83 lying north of middle channel  
11 drive, lots 84-107 inclusive, lots 109 and 111, and lots 163-215  
12 inclusive, also Sni Bora channel section, lots 147-162 inclusive  
13 and lots 167-202 inclusive.

14 Sec. ~~2b~~ 33904. Before the department ~~of conservation~~  
15 ~~shall grant~~ GRANTS a deed, there shall be presented evidence  
16 that the applicant requesting ~~such~~ THE deed is the lessee of  
17 ~~such~~ THE land, that the land is part of the lands described in  
18 section ~~2a~~ 33903, and that all taxes on ~~said~~ THE land are  
19 paid. Upon presentation of evidence of these facts satisfactory  
20 to the department, together with a sum of money to be determined  
21 by the department, ~~of conservation, said~~ THE applicant shall be  
22 given a deed. All property so deeded ~~shall~~ IS thereafter ~~be~~  
23 subject to the ~~provisions of the~~ general property tax and  
24 recording laws.

25 Sec. ~~2c~~ 33905. Any of the lands described in section  
26 ~~2a,~~ 33903 THAT ARE not now or subsequently under lease may, in  
27 the discretion of the department, ~~of conservation,~~ be sold and

1 deeded in the same manner, in consideration of the payment of a  
 2 sum to be determined by the department ~~of conservation~~ by using  
 3 the method as provided by section ~~9 of Act No. 326 of the Public~~  
 4 ~~Acts of 1913: Provided, That should~~ 33918. HOWEVER, IF the  
 5 applicant ~~seek~~ SEEKS to use ~~said~~ THE lands for other than  
 6 residential purposes, ~~that~~ pending the enactment of zoning  
 7 ordinance by the township of Clay of the county of St. Clair,  
 8 such other use shall not be permitted unless the applicant ~~shall~~  
 9 ~~comply~~ COMPLIES with the usual requirements of the department  
 10 ~~of conservation~~ in such regard.

11 Sec. ~~2d~~ 33906. In all cases where there ~~shall be~~ IS a  
 12 contest or conflict between applicants for a deed to the same  
 13 piece or parcel of land growing out of errors of description,  
 14 overlapping descriptions, prior leases, or otherwise, ~~such~~ THE  
 15 conflicting claims shall be determined by the department ~~of~~  
 16 ~~conservation~~ at a ~~regular~~ meeting SCHEDULED BY THE DEPARTMENT  
 17 after notice to each of ~~said~~ THE claimants of the time and  
 18 place of hearing, and in such cases ~~—~~ depositions may be taken  
 19 by any claimant in the manner provided for in taking depositions  
 20 in the circuit courts of this state. Any party considering him-  
 21 self OR HERSELF aggrieved by any decision of the ~~said~~ depart-  
 22 ment ~~of conservation~~ refusing to grant him OR HER a deed under  
 23 ~~the provisions of~~ this ~~act~~ PART, whether in case of conflict,  
 24 contest, or otherwise, shall have a right of appeal to the cir-  
 25 cuit court for the county in which ~~such~~ THE land is situated,  
 26 and the proceedings to take ~~such~~ THE appeal and the trial  
 27 ~~thereof~~ OF THE APPEAL in any of ~~said~~ THE courts shall be in

1 accordance with the statutes providing for appeals from ~~justice~~  
2 DISTRICT courts of this state, or to take such other action at  
3 law or in equity as provided by the statutes and laws of the  
4 state of Michigan.

5 Sec. ~~2e~~ 33907. The department ~~of conservation is hereby~~  
6 ~~authorized and directed to make~~ MAY PROMULGATE and enforce ~~such~~  
7 ~~regulations~~ RULES as it ~~may deem~~ CONSIDERS necessary for the  
8 preservation and use of the paramount right of navigation,  
9 hunting, and fishing covering the entire St. Clair Flats area.

10 Sec. ~~2f~~ 33908. The consideration as received for the exe-  
11 cution and delivery of any of the deeds provided for in this  
12 ~~act~~ PART shall be credited to the general fund of ~~the~~ THIS  
13 state. ~~of Michigan.~~

14 Sec. ~~2g~~ 33909. The department, ~~of conservation,~~ upon  
15 application of any person holding a lease of any of the  
16 ~~hereinafter described~~ lands DESCRIBED IN THIS PART, shall exe-  
17 cute and deliver to the applicant a deed conveying to him OR HER  
18 all of the right, title, and interest of ~~the~~ THIS state, ~~of~~  
19 ~~Michigan,~~ subject to all the applicable conditions and provi-  
20 sions of sections ~~2~~ 33902 to ~~2f of this act, being sections~~  
21 ~~322.402 to 322.402f of the Compiled Laws of 1948~~ 33908, in and  
22 to lots 74, 75, 76, 77, 78, 83, 84, 87, 88, 92, 93, 96, 97, 100  
23 and 101 to 120, inclusive, lots 256 to 265 inclusive, and lots  
24 342 to 344 inclusive, of the St. Clair Flats survey, North  
25 Channel, Clay township, St. Clair county, Michigan.  
26 Notwithstanding any provision of the law to the contrary, ~~no~~ A  
27 sale shall NOT be made at less than the present appraised value

1 of the land as determined by the ~~state tax commission~~  
2 DEPARTMENT including no increase in the sale value because ~~such~~  
3 THE land may have been improved by dredging, leveling off, sheet  
4 piling, erecting docks, building structures of any kind, reduced  
5 by the value of the burden of leases outstanding, if any.

6 Sec. ~~2h~~ 33910. The department, ~~of conservation,~~ in its  
7 discretion, upon application of any person holding a lease or  
8 deed under this ~~act~~ PART to any lands lying contiguous to any  
9 water highway as surveyed under FORMER Act No. 175 of the Public  
10 Acts of 1899 and where it is determined that such highway is no  
11 longer needed for navigation, ingress, and egress to surveyed  
12 lots, or for any public use, whether dredged or not, may execute  
13 and deliver to the applicant a lease under ~~the provisions of~~  
14 section ~~3 of this act~~ 33912, or a deed subject to all the  
15 applicable conditions and provisions of sections ~~2~~ 33902 to ~~2g~~  
16 ~~of this act~~ 33909, to all of the right, title, and interest of  
17 the state in and to 1/2 of the surveyed width of that portion of  
18 the water highway as lies contiguous to land held under lease or  
19 deed by the applicant. Where a lease is issued, its term may be  
20 made to run concurrent with that of the lease held by the appli-  
21 cant for the contiguous land.

22 Sec. ~~2i~~ 33911. (1) Upon application of ~~an individual,~~  
23 ~~partnership, corporation, association, or other legal entity~~ A  
24 PERSON that holds a lease from this state of any portion or por-  
25 tions of the real property described in subsection (2), the  
26 department ~~of natural resources~~ may execute and deliver to the  
27 applicant a deed conveying all of the right, title, and interest

1 of this state in and to that real property, subject to the  
2 paramount rights of hunting, fishing, and navigation, which  
3 remain in the general public and in the government as recognized  
4 by law. The deeds shall contain the same provisions as to use  
5 and occupancy now set forth in all the leases previously granted  
6 under FORMER ACT NO. 326 OF THE PUBLIC ACTS OF 1913 OR UNDER this  
7 ~~act~~ PART.

8 (2) The real property to which this section applies are that  
9 portion of the St. Clair Flats, Township of Clay, St. Clair  
10 County, Michigan, as surveyed under former Act No. 175 of the  
11 Public Acts of 1899, that front upon or are a part of the North  
12 and Sni Bora channel section and middle channel section described  
13 as:

14 (a) Sni Bora Channel, the northeast one-half of lot 386.

15 (b) North Channel, lots 79 and 80.

16 (c) Sni Bora channel, lot 366.

17 (d) Lot 470, middle channel section.

18 (e) Lot 471, middle channel section.

19 (3) Notwithstanding subsections (1) and (2), the department  
20 shall not grant a deed under this section unless the structure  
21 and the lot subject to the deed, including seawalls where  
22 present, comply with the applicable township building code and  
23 county and state sanitation codes and the structure is located on  
24 a parcel of land that is adequately protected from erosion.

25 (4) A deed granted under this section shall not include a  
26 portion of the original lease that is submerged or lies below the  
27 ordinary high-water mark of Lake St. Clair, which is 574.5



1 international Great Lakes Datum (IGLD 1955). The department ~~of~~  
 2 ~~natural resources~~ shall perform a site inspection and set  
 3 stakes, if necessary, to identify the boundaries of the area of  
 4 the parcel to be deeded. The applicant may be required to pro-  
 5 vide a boundary survey that delineates the area of the real prop-  
 6 erty to be deeded.

7 (5) A deed shall not be granted under this section at less  
 8 than the fair market value of the real property in accordance  
 9 with the current department appraisal procedures for the eligible  
 10 parcels. The appraisal shall not include improvements such as  
 11 buildings, seawalls, and docks.

12 Sec. ~~3~~ 33912. Whenever any person ~~, firm or corporation~~  
 13 ~~or society shall be~~ IS entitled under ~~the terms of~~ this ~~act~~  
 14 PART to lease for the period of 99 years, ~~it shall be the duty~~  
 15 ~~of said board of control to~~ THE DEPARTMENT SHALL divide ~~said~~  
 16 THE term of 99 years into 2 periods of 50 and 49 years each, to  
 17 be known as rental valuation periods, and the consideration or  
 18 rental to be paid by the lessee for the first period of 50 years  
 19 is to be determined by the ~~said board of control~~ DEPARTMENT at  
 20 the time such lessee is adjudged entitled to ~~said~~ THE lease. ~~→~~  
 21 ~~and at~~ AT the expiration of ~~said~~ THE first period of 50 years,  
 22 ~~it shall be the duty of the public domain commission to~~  
 23 ~~re-determine~~ THE DEPARTMENT SHALL REDETERMINE the rental value  
 24 or consideration to be paid by the lessee for the next succeeding  
 25 rental period of 49 years until the expiration of the full term  
 26 of the lease. ~~— Provided, That~~ HOWEVER, the ~~said board of~~  
 27 ~~control~~ DEPARTMENT, in determining ~~said~~ THE rental value to be

1 ~~so~~ paid by the lessee, shall consider the value of the land  
 2 only and shall not increase the rental value or consideration for  
 3 any of ~~said~~ THE rental periods because of the improvements that  
 4 may have been made on any of ~~said~~ THE premises by a lessee. →  
 5 ~~Provided further, That in~~ IN determining the rental value or  
 6 consideration to be paid by the lessee for the second valuation  
 7 period of 49 years, ~~said public domain commission~~ THE  
 8 DEPARTMENT shall not increase ~~such~~ THE rental value or consid-  
 9 eration to any sum in excess of double the rental value or con-  
 10 sideration determined for the first valuation period of 50 years.  
 11 ~~→ Provided further, That the~~ THE consideration so fixed shall,  
 12 as applied to the claimants coming within the provisions of this  
 13 ~~act (section 3)~~ SECTION, be a gross sum and not an annual  
 14 rental.

15 Sec. ~~4~~ 33913. In all cases where any person ~~, firm, cor-~~  
 16 ~~poration or society shall apply~~ APPLIES for a lease of any of  
 17 the lands of the character described in section ~~→ of this act~~  
 18 33901 and there ~~shall not have~~ HAS NOT been expended ~~thereon~~  
 19 ~~→ \$100 dollars~~ ON THE LANDS \$100.00 or more for improvements, the  
 20 term of the lease may be in the discretion of the ~~said board of~~  
 21 ~~control~~ DEPARTMENT for any period not exceeding 99 years. →  
 22 ~~Provided, That~~ HOWEVER, in all such cases the ~~said~~ term shall  
 23 be divided into rental valuation periods of 10 years, such rental  
 24 valuation or consideration to be determined in the first instance  
 25 at the time ~~said~~ THE claimant is adjudged entitled to a lease,  
 26 and at the expiration of each 10 years thereafter during the  
 27 entire period of ~~said~~ THE lease ~~it shall be the duty of said~~

1 ~~board of control to~~ THE DEPARTMENT SHALL determine the rental  
 2 value or consideration to be paid by the lessee for the next suc-  
 3 ceeding 10 years.

4       Sec. ~~5~~ 33914. ~~It shall be the duty of the public domain~~  
 5 ~~commission at its~~ THE DEPARTMENT SHALL SCHEDULE regular meetings  
 6 ~~, to proceed to~~ AT WHICH IT SHALL hear and determine the valid-  
 7 ity of all the applications then on file made by applicants for  
 8 leases, and it shall keep a record of written evidence, if any,  
 9 which may be filed with each application, in a suitable record  
 10 book to be provided by ~~said public domain commission~~ THE  
 11 DEPARTMENT. Each claimant adjudged entitled to a lease shall  
 12 receive from the ~~public domain commission~~ DEPARTMENT, within 10  
 13 days after ~~such~~ THAT action has been taken by ~~said public~~  
 14 ~~domain commission~~ THE DEPARTMENT, a notification in writing of  
 15 ~~such~~ THE action by ~~said public domain commission~~ THE  
 16 DEPARTMENT and a certificate for ~~such~~ THE land, or ~~so~~ AS much  
 17 ~~thereof~~ OF THE LAND as ~~shall have~~ HAS been adjudged to ~~such~~  
 18 THE claimant ~~,~~ OR his OR HER heirs or assigns, in which shall  
 19 be certified the name of the claimant, ~~and~~ a description of the  
 20 land ~~so~~ adjudged to be leased to him OR HER, and the rental or  
 21 consideration therefor. ~~Said~~ THE notification shall include a  
 22 statement of the time when rental shall be due and the penalties  
 23 for failure to comply with ~~the provisions of~~ this ~~act~~ PART,  
 24 both as regards payment of rental and taxes, which rental consid-  
 25 eration shall be paid to the state treasurer in full at the time  
 26 ~~said~~ THE lease ~~shall be~~ IS executed by both parties ~~thereto~~  
 27 TO THE LEASE. ~~Such~~ THE certificate shall further state that

1 ~~such~~ THE claimant ~~,~~ OR his OR HER heirs or assigns shall,  
2 upon payment of the amount ~~therein~~ named IN THE LEASE, be enti-  
3 tled to a lease of ~~said~~ THE lands as provided in this ~~act~~  
4 PART to be executed by the ~~public domain commission~~ DEPARTMENT  
5 upon presentation and surrender of ~~such~~ THE certificate to the  
6 ~~public domain commission~~ DEPARTMENT, together with the receipt  
7 of the state treasurer showing the payment of ~~said~~ THE rental  
8 or consideration. ~~Provided, That~~ HOWEVER, if ~~said~~ THE  
9 lessee or applicant ~~shall neglect~~ NEGLECTS for a period of 90  
10 days ~~from and~~ after the date of ~~such~~ THE certificate to per-  
11 fect the lease to ~~such~~ THE lands as described in ~~such~~ THE  
12 certificate and to remit the rent as ~~in this act~~ provided IN  
13 THIS PART, ~~said public domain commission shall have~~ THE DEPART-  
14 MENT HAS the authority to cancel ~~such~~ THE determination and  
15 certificate ~~thereof~~ OF THE DETERMINATION, and all rights there-  
16 under shall be ~~deemed~~ CONSIDERED to be forfeited by ~~such~~ THE  
17 lessee or applicant. ~~And provided further, That if~~ IF any  
18 person ~~,~~ ~~firm or corporation~~ who has ~~prior to the time that~~  
19 ~~this amendment shall become operative~~ BY AUGUST 10, 1917  
20 obtained a lease to any of the lands described in section ~~+~~  
21 ~~hereof in accordance with the terms of~~ 33901 UNDER this ~~act,~~  
22 ~~and who has failed or neglected~~ PART OR FORMER ACT NO. 326 OF  
23 THE PUBLIC ACTS OF 1913 FAILS OR NEGLECTS to make the second and  
24 final payment of the rental consideration for the lands so leased  
25 ~~,~~ and the interest on ~~such~~ THOSE unpaid amounts for a period  
26 of 3 months from and after the date on which ~~such~~ THE payments  
27 become due, THEN THAT PERSON shall be notified BY THE DEPARTMENT

1 in writing of ~~such~~ HIS OR HER failure to pay, ~~by the public~~  
2 ~~domain commission,~~ and at the same time the ~~public domain~~  
3 ~~commission~~ DEPARTMENT shall also notify ~~such~~ THE delinquent  
4 leaseholder that a further failure or neglect upon his OR HER  
5 part to make ~~such~~ THAT payment within 90 days after the date of  
6 ~~such~~ THAT notification will be held as a forfeiture of his OR  
7 HER leasehold rights in ~~said~~ THE land ~~,~~ and that the ~~public~~  
8 ~~domain commission~~ DEPARTMENT will thereupon cancel the lease  
9 held by him OR HER and his OR HER rights ~~thereunder~~ UNDER THE  
10 LEASE shall be held as naught, and the ~~public domain commission~~  
11 DEPARTMENT shall hold such forfeited lands subject to lease by  
12 any party applying for the same under the terms of this ~~act~~  
13 PART. Immediately upon formal determination by the ~~public~~  
14 ~~domain commission~~ DEPARTMENT that a lease has been forfeited,  
15 ~~hereunder~~ a certificate of cancellation of the ~~same~~ LEASE  
16 shall be executed under the seal of the ~~commission~~ DEPARTMENT  
17 and shall be forwarded to the register of deeds of the county  
18 ~~wherein such~~ IN WHICH THE land is ~~situated~~ LOCATED. Upon  
19 receipt of such certificate, the register of deeds shall at once  
20 cause the same to be recorded in a suitable book provided  
21 ~~therefor~~ FOR THAT PURPOSE by said register. If the lease is of  
22 record in ~~said~~ THE office, the register shall note thereon the  
23 fact that ~~such~~ a certificate of cancellation has been issued  
24 and shall also note the citation to the record of ~~such~~ THE  
25 certificate.

26       Sec. ~~6~~ 33915. ~~Such applications as may be~~ APPLICATIONS  
27 filed under ~~the provisions of~~ this ~~act~~ PART, which satisfy

1 ~~its~~ THE requirements OF THIS PART and upon which there exists  
 2 no conflict of claims, shall of themselves be sufficient, without  
 3 additional written or verbal testimony, to entitle ~~such~~ THE  
 4 claimant to the certificate and lease provided for ~~herein~~ IN  
 5 THIS PART, which ~~said~~ certificate and lease shall thereupon be  
 6 executed in manner and form as provided for in this ~~act~~ PART.

7       Sec. ~~7~~ 33916. All persons ~~, firms or corporations~~ WHO,  
 8 having been in occupation or possession of lands of the character  
 9 named in section ~~4~~ 33901 for 1 ~~year or upwards,~~ OR MORE YEARS  
 10 prior to January 1, 1913, ~~failing~~ FAIL to make application for  
 11 a lease for the occupation and possession of the ~~same~~ LANDS as  
 12 provided for ~~herein~~ IN THIS PART, within 9 months after ~~this~~  
 13 ~~act takes effect~~ AUGUST 14, 1913, and all persons ~~, firms or~~  
 14 ~~corporations~~ who ~~shall~~ fail after the notification provided  
 15 for in section ~~6 of this act~~ 33915 to make payment of the con-  
 16 sideration fixed by the ~~said board of control~~ DEPARTMENT within  
 17 the time and in the manner specified in this ~~act~~ PART, shall be  
 18 ~~deemed~~ CONSIDERED trespassers, and an action may be brought in  
 19 the circuit court for the county in which ~~such~~ THOSE lands are  
 20 ~~situated~~ LOCATED, in the name of the people of ~~the~~ THIS  
 21 state, ~~of Michigan,~~ by the attorney general of ~~the~~ THIS  
 22 state, to recover possession of ~~said~~ THE lands.

23       Sec. ~~8~~ 33917. ~~It shall be the duty of the~~ THE attorney  
 24 general ~~to~~ SHALL prepare a blank form of lease, which shall be  
 25 used by the ~~commissioner of the state land office~~ DEPARTMENT in  
 26 all cases where ~~said board of control~~ THE DEPARTMENT has ~~at a~~  
 27 ~~regular meeting,~~ determined the rental value and the term of the

1 lease. Every lease shall be executed on behalf of the state ~~of~~  
 2 ~~Michigan~~ by the ~~commissioner of the state land office~~  
 3 DEPARTMENT, and shall be duly acknowledged and recorded in the  
 4 office of the register of deeds for the county in which ~~said~~  
 5 THE lands are ~~situated~~ LOCATED, and ~~such~~ THE register of  
 6 deeds shall be entitled to no fees for making ~~such~~ THE record.

7 Sec. ~~9~~ 33918. In fixing rental values, the ~~said board of~~  
 8 ~~control~~ DEPARTMENT shall determine present land values only and  
 9 shall not increase the rental value because ~~said~~ THE lands may  
 10 have been improved by dredging, leveling off, ~~sheat piling~~  
 11 SHEETPILING, erecting docks, buildings, or structures of any  
 12 kind.

13 Sec. ~~10~~ 33919. The ~~board of control~~ DEPARTMENT shall  
 14 lease or rent the lands of the character ~~herein~~ named IN THIS  
 15 PART to occupants and claimants in possession to the exclusion of  
 16 other persons, ~~firms or corporations,~~ provided such occupants  
 17 or claimants have made or shall make an application to lease  
 18 ~~said~~ THE lands so occupied, claimed, or improved within 9  
 19 months ~~next~~ after ~~this act takes effect~~ AUGUST 14, 1913, in  
 20 accordance with ~~the provisions hereof~~ THIS PART.

21 Sec. ~~11~~ 33920. The department ~~of conservation~~ shall  
 22 ~~have no power to~~ NOT lease to any person ~~, firm or~~  
 23 ~~corporation,~~ lands of the character described in section ~~1 of~~  
 24 ~~this act~~ 33901 that are now included by law of this state within  
 25 a public park. ~~Provided, however, That~~ HOWEVER, the depart-  
 26 ment ~~of conservation~~ may lease to the occupants thereof any  
 27 land on the so-called St. Clair flats lying between the lands

1 surveyed along the middle channel of the said St. Clair river  
2 under FORMER Act No. 175 of the Public Acts of 1899, and between  
3 the private claims on Harsens island and the Muscamoot bay, for  
4 which application is made prior to the first day of September,  
5 1924, whenever it shall be made to appear to the satisfaction of  
6 ~~said commission~~ THE DEPARTMENT that the person ~~, firm, or~~  
7 ~~corporation~~ applying for a lease of any such lands shall have  
8 been in occupation ~~thereof~~ OF THE LANDS either in person or by  
9 his OR HER or their grantors since the first day of January,  
10 1913, and has made valuable improvements ~~thereon: Provided~~  
11 ~~also, That in~~ ON THE LANDS. IN leasing ~~such~~ THE lands, the  
12 department ~~of conservation is hereby authorized and empowered~~  
13 ~~to~~ MAY make a survey ~~thereof,~~ OF THE LANDS and, upon the com-  
14 pletion of such survey, cause a duly prepared plat with the field  
15 notes of ~~such~~ THAT survey ~~,~~ to be filed in the office of the  
16 department. ~~of conservation.~~ A certified copy of ~~such~~ THE  
17 plat shall be filed with the register of deeds of the county of  
18 St. Clair. In leasing ~~such~~ THE lands, the department ~~of~~  
19 ~~conservation~~ shall be governed by the preceding sections of this  
20 ~~act: Provided further, That the~~ PART. THE department may  
21 lease to the leaseholder of the abutting property the made lands  
22 and lake ~~bottom lands~~ BOTTOMLANDS in the St. Clair flats,  
23 so-called, included in the following description: All that part  
24 of the Saint Clair flats, described as, commencing at the north  
25 west corner of lot 11, south channel section of the Saint Clair  
26 flats survey, thence south 40° 12' west 964.42 feet along the  
27 westerly line of lot 11 to the south west corner of lot 11,



1 thence north 26° 51' west 428.29 feet along the Ives highway  
 2 extended, thence north 66° 31' east 889.60 feet to the point of  
 3 beginning, also commencing at the north west corner of lot 10,  
 4 thence south 40° 12' west 234.57 feet to the south west corner of  
 5 lot 10, thence south 2° 26' east 328.59 feet to the north west  
 6 corner of lot 6, thence south 30° 55' 30" west 709.09 feet to the  
 7 south west corner of lot 2, thence north 58° 29' west 450.00 feet  
 8 along the northerly line of the Sampson highway extended, thence  
 9 north 28° 01' 10" east 1452.20 feet, thence south 26° 51' east  
 10 450.00 feet, along the Ives highway extended, to the point of  
 11 beginning and also the department may lease to the leaseholders  
 12 of the abutting properties the made lands and lake bottom lands  
 13 in the St. Clair flats, so-called, lying between lots 27, 29, 30  
 14 and 31, south channel section, St. Clair flats as surveyed, and  
 15 right of way of state highway trunk line M 154 (WPSO-280-A state  
 16 project 77-52), as surveyed, excepting therefrom however, all  
 17 land covered by the extensions to the above mentioned highway M  
 18 154 of Rushmere, Ruhl, Grummond and Bielman highways, St. Clair  
 19 flats, as surveyed under FORMER Act NO. 175 ~~P.A.~~ OF THE  
 20 PUBLIC ACTS OF 1899. ~~Said~~ THE lease shall be on ~~such~~ terms  
 21 and conditions as the department may prescribe ~~—~~ THAT ARE not  
 22 in conflict with the provisions of this ~~act~~ PART.

23       Sec. ~~+2~~ 33921. The rights of lessees under this ~~act~~  
 24 PART shall be subject to the paramount right of navigation,  
 25 hunting, and fishing, which rights are to remain in the general  
 26 public and in the government as now existing and recognized by  
 27 law.

1           Sec. ~~13~~ 33922. Any person ~~, firm or corporation~~ in  
2 possession or occupation of any land of the character described  
3 in section ~~1 of this act desiring~~ 33901 WHO DESIRES to lease  
4 the ~~same~~ LAND from the state ~~,~~ shall file with the  
5 ~~commissioner of the state land office~~ DEPARTMENT within 9  
6 months after ~~this act takes effect~~ AUGUST 14, 1913, a written  
7 application for ~~such~~ THE lease, which shall state the  
8 applicant's full name, ~~postoffice~~ POST OFFICE address, and all  
9 the facts relied upon to establish possession, occupancy, and  
10 improvement, and every claim so filed shall show the amount  
11 claimed to have been expended by ~~said~~ THE claimant upon ~~said~~  
12 THE land, ~~and~~ the length of time he OR SHE has been in posses-  
13 sion of ~~said~~ THE land, and the character of the improvements  
14 made and shall be signed and verified by ~~such~~ THE claimant, and  
15 ~~said~~ THE application shall not be ~~deemed~~ CONSIDERED invalid  
16 because of any technical inaccuracy or misdescription, but ~~the~~  
17 ~~same~~ INACCURACIES OR MISDESCRIPTONS may be permitted to be cor-  
18 rected at any time in the discretion of ~~said board of control~~:  
19 ~~Provided, That all~~ THE DEPARTMENT. ALL persons ~~, firms, corpo-~~  
20 ~~rations, societies or associations~~ that have ~~heretofore~~ PRIOR  
21 TO AUGUST 14, 1913 made application in accordance with FORMER Act  
22 No. 175 of the Public Acts of 1899, or FORMER Act No. 215 of the  
23 Public Acts of 1909, shall not be required to make any further or  
24 additional application, but the application so made shall have  
25 the same force as though made under the provisions of this ~~act~~  
26 PART.

1       Sec. ~~+4~~ 33923. Any person ~~, or persons, firm or~~  
2 ~~corporation or association,~~ claiming under this ~~act~~ PART and  
3 having been in occupancy of any of the land described in section  
4 ~~+ hereof~~ 33901 and having improved ~~said~~ THE land under the  
5 definition set forth ~~herein~~ IN THIS PART prior to January 1,  
6 1913, shall be entitled to a lease with valuation periods as  
7 ~~herein~~ provided IN THIS PART, for 99 years, of the land so  
8 claimed and improved, upon payment to the officer authorized to  
9 receive the same of such consideration as may be fixed by ~~said~~  
10 ~~board of control and it shall be the duty of said board of~~  
11 ~~control~~ THE DEPARTMENT. THE DEPARTMENT, and ~~of~~ the other  
12 officers specified in this ~~act, to~~ PART, SHALL issue all orders  
13 and certificates necessary and ~~to~~ lease to ~~said~~ THE person  
14 ~~or persons, firms or corporations or associations,~~ for a term  
15 of 99 years the land so applied for by ~~them: Provided, That~~  
16 ~~said persons, firms or corporations or associations have filed~~  
17 HIM OR HER. HOWEVER, THE PERSON SHALL FILE or ~~do~~ cause to be  
18 filed proper applications therefor, as required by ~~the provi-~~  
19 ~~sions of this act: And Provided further, That said board of~~  
20 ~~control~~ PART. THE DEPARTMENT may lease to any of ~~said~~ THE  
21 persons ~~, firms, corporations or associations,~~ any of ~~said~~  
22 THE lands applied for under ~~the provisions hereof~~ THIS PART for  
23 a term of years equal to or less than the full rental period  
24 ~~when so~~ IF requested by the lessor.

25       Sec. ~~+5~~ 33924. (1) The words "possession", ~~,~~  
26 "occupancy", and "improvement" as used in this ~~act shall be~~  
27 ~~construed to~~ PART include dredging or ditching, the throwing up

1 of embankments, ~~sheet piling~~ SHEETPILING, filling in, the  
2 erection of fences, a ~~boat house~~ BOATHOUSE, land made by dredg-  
3 ing and filling, or building structures.

4 (2) AS USED IN THIS PART, "PERSON" MEANS AN INDIVIDUAL,  
5 PARTNERSHIP, CORPORATION, ASSOCIATION, OR OTHER NONGOVERNMENTAL  
6 LEGAL ENTITY.

7 Sec. ~~+6-~~ 33925. The ~~board of control~~ DEPARTMENT shall  
8 not be compelled to give priority to any application for a lease  
9 of any lands where the improvements do not exceed in value ~~+00~~  
10 dollars. ~~Provided, That it shall not be unlawful for said board~~  
11 ~~of control to~~ \$100.00. HOWEVER, THE DEPARTMENT MAY give such an  
12 application priority over other applicants when in its judgment  
13 the facts warrant such a determination.

14 Sec. ~~+7-~~ 33926. In describing the lands that may be leased  
15 under ~~the terms of~~ this ~~act~~ PART, ~~said board of control~~ THE  
16 DEPARTMENT shall be governed by maps, plats, and field notes of  
17 surveys made by the United States surveyors or by ~~the~~ THIS  
18 state. ~~of Michigan.~~

19 Sec. ~~+8-~~ 33927. The ~~said board of control~~ DEPARTMENT  
20 shall ascertain and decide upon the rights of persons claiming  
21 the benefit of this ~~act~~ PART, and it ~~shall have power to~~ MAY  
22 hear and decide in a summary manner all matters respecting such  
23 applications or claims, except as ~~herein~~ otherwise provided IN  
24 THIS PART, and to that end MAY compel the attendance of witnesses  
25 and receive ~~such competent~~ testimony by deposition or otherwise  
26 as may be produced, and determine thereon, according to equity  
27 and justice, the validity and just extent of the claim and

1 respective rights of conflicting claimants making application for  
2 a lease. It shall cause minutes of the filing of such claims and  
3 all its proceedings to be entered in a book kept for that purpose  
4 and keep a record of the evidence from which its decisions are  
5 made, and it is authorized when it ~~deems~~ CONSIDERS it neces-  
6 sary, or upon request of any of the claimants, to employ a ste-  
7 nographer to assist ~~said board of control~~ THE DEPARTMENT. ~~And~~  
8 ~~each of the members of said board of control shall have power to~~  
9 THE DEPARTMENT MAY administer oaths, issue subpoenas, AND compel  
10 the attendance of witnesses and the production of papers upon any  
11 hearing before ~~said board of control~~ THE DEPARTMENT UNDER THIS  
12 PART. In case of disobedience on the part of any person or per-  
13 sons, or ~~wilful~~ WILLFUL failure to appear pursuant to any sub-  
14 poena issued by ~~said board of control or any of its members~~ THE  
15 DEPARTMENT, or upon refusal of any witnesses to testify regarding  
16 any matter pending before ~~said board of control~~ THE DEPARTMENT  
17 or to produce books and papers which he ~~shall be~~ OR SHE IS  
18 required by ~~said board of control or by any member thereof~~ THE  
19 DEPARTMENT to produce, ~~it shall be the duty of~~ the circuit  
20 court of any county in this state, ~~in which said board of con-~~  
21 ~~trol shall be in session or of a judge thereof,~~ upon the appli-  
22 cation of ~~said board of control or any member thereof,~~ to THE  
23 DEPARTMENT, SHALL compel obedience by attachment proceedings for  
24 contempt as in the case of disobedience of the requirements of a  
25 subpoena issued from such court or a refusal to testify therein,  
26 and in addition ~~said members of said board of control~~ THE  
27 DEPARTMENT shall have the powers vested in ~~justices of the peace~~

1 ~~and notaries public~~ THE CIRCUIT COURT to compel witnesses to  
2 testify to any matter pending before ~~said board of control~~ THE  
3 DEPARTMENT, and each witness who ~~shall appear~~ APPEARS before  
4 ~~said board of control~~ THE DEPARTMENT by its order or subpoena  
5 shall receive for his OR HER attendance the fees and mileage pro-  
6 vided witnesses in civil cases in circuit courts, said fees to be  
7 paid by the party calling such witnesses.

8       Sec. ~~49~~ 33928. In all cases where there ~~shall be~~ IS a  
9 contest or conflict between applicants for a lease to the same  
10 piece or parcel of land growing out of a prior occupation or  
11 improvements, such conflicting claims shall be determined by the  
12 ~~board of control~~ DEPARTMENT at a ~~regular~~ meeting SCHEDULED BY  
13 THE DEPARTMENT after notice to each of ~~said~~ THE claimants of  
14 the time and place of hearing, and in such cases depositions may  
15 be taken by any claimant in the manner provided for taking depo-  
16 sitions in the circuit courts of this state. Any party consider-  
17 ing himself OR HERSELF aggrieved by any decision of the ~~said~~  
18 ~~board of control~~ DEPARTMENT refusing to grant him OR HER a lease  
19 under the provisions of this ~~act~~ PART, whether in case of con-  
20 flict, contest, or otherwise, ~~shall have~~ HAS the right of  
21 appeal to the circuit court for the county in which ~~such~~ THE  
22 land is situated, and the proceedings to take ~~such~~ THE appeal  
23 and the trial ~~thereof~~ OF THE APPEAL in any of ~~said~~ THOSE  
24 courts shall be in accordance with the statutes providing for  
25 appeals from ~~justice~~ DISTRICT courts of this state, or ~~to~~ THE  
26 AGGRIEVED PARTY MAY take such other action at law or in equity as

1 provided by the statutes and laws of ~~the~~ THIS state. ~~of~~  
2 Michigan.

3       Sec. ~~20~~ 33929. All sales or transfers of leases shall  
4 contain a specific statement of the purpose for which the prop-  
5 erty leased is to be used by the purchaser or assignee, and no  
6 sale or transfer of any lease for other than club or residence  
7 purposes shall be valid, unless and until the sale or transfer is  
8 approved by ~~said board of control~~ THE DEPARTMENT. The ~~said~~  
9 ~~board of control~~ DEPARTMENT shall keep a book of record for the  
10 purpose of recording all sales or transfers of leases, and no  
11 sale or transfer of any lease by any lessee shall be valid unless  
12 and until the same is filed for record with ~~said board of~~  
13 ~~control~~ THE DEPARTMENT.

14       Sec. ~~21~~ 33930. Any lessee under this ~~act~~ PART may sell  
15 and assign the improvements on the premises so leased and his OR  
16 HER leasehold interest therein, if the rental is not in arrears  
17 and all taxes assessed and any lien thereon are fully paid. Any  
18 sale or assignment contrary to this ~~act~~ PART shall be void. If  
19 the lessee of any lot surveyed under FORMER Act No. 175 of the  
20 Public Acts of 1899 partitions or divides the lot into 5 or more  
21 lots, tracts, or parcels, he OR SHE shall plat the lot pursuant  
22 to the ~~provisions of Act No. 172 of the Public Acts of 1929, as~~  
23 ~~amended, being sections 560.1 to 560.80 of the Compiled Laws of~~  
24 ~~1948~~ SUBDIVISION CONTROL ACT OF 1967, ACT NO. 288 OF THE PUBLIC  
25 ACTS OF 1967, BEING SECTIONS 560.101 TO 560.293 OF THE MICHIGAN  
26 COMPILED LAWS. The department ~~of conservation~~ may join in the  
27 platting of leased lands.

1        Sec. ~~22~~ 33931. When any lease ~~shall expire~~ EXPIRES by  
2 limitation, the last lessee or his OR HER assignee, heirs, or  
3 personal representative or any mortgagee or person having a mort-  
4 gage interest therein shall have the first right for 60 days  
5 ~~next after such~~ IMMEDIATELY FOLLOWING THE expiration of limita-  
6 tion to re-lease ~~said~~ THE premises.

7        Sec. ~~23~~ 33932. All money received from the leasing of  
8 land described in section ~~+~~ 33901 shall be paid to the state  
9 treasurer and credited by the state treasurer as provided by  
10 law. The department ~~of natural resources shall have the power~~  
11 ~~to~~ MAY hire employees as in its judgment ~~shall be~~ ARE neces-  
12 sary to ~~carry out the provisions of~~ IMPLEMENT this ~~act~~ PART.

13        Sec. ~~24~~ 33933. The lessee's interest in all leases made  
14 under ~~the terms of~~ this ~~act~~ PART shall be assessed as real  
15 estate by the assessing officer of the township, city, or village  
16 in which the lands leased may be located, and the levy and col-  
17 lection of taxes so assessed on said lessee's interest shall be  
18 made and collected in the same manner and subject to the  
19 ~~provisions of~~ law now in force for the levy and collection of  
20 taxes upon real estate, and the assessing officers in determining  
21 the value of such leasehold interest for taxation purposes shall  
22 take into consideration the value of the land together with the  
23 improvements ~~thereon~~ ON THE LAND.

24        Sec. ~~25~~ 33934. In all cases where default is made in the  
25 payment of taxes to the treasurer of the township, city, or vil-  
26 lage ~~+~~ in which the lands leased ~~may be~~ ARE located, the same  
27 shall be returned to the county treasurer according to and



1 subject to the provisions of law for the return and collection of  
2 unpaid taxes assessed upon real estate. The treasurer of the  
3 township, city, or village, at the same time that he OR SHE makes  
4 returns to the county treasurer, shall make and transmit to the  
5 department ~~of conservation~~ a list of the lands so delinquent  
6 for taxes and the amount of taxes delinquent upon each descrip-  
7 tion in ~~said~~ THE list. The county treasurer shall, at the same  
8 time ~~when~~ he OR SHE makes his OR HER return of delinquent lands  
9 to the auditor general, make a similar return to the department  
10 ~~of conservation~~ of all such leasehold interests, the taxes upon  
11 which have not been collected, with a statement of the amount  
12 thereof. The county treasurer shall ~~have no authority to~~ NOT  
13 receive payment of the amount of any taxes assessed upon such  
14 leasehold interests; but such taxes when returned delinquent by  
15 the township treasurer shall be payable only to the department.  
16 ~~of conservation.~~ The department ~~of conservation~~ shall provide  
17 suitable books and enter in ~~the same~~ THOSE BOOKS the descrip-  
18 tion of every leasehold interest so returned and the taxes  
19 thereon. The person holding such interest in any parcel of said  
20 lands may pay to the department ~~of conservation~~ at any time  
21 within 1 year after the same becomes a lien on ~~said~~ THE  
22 premises, the taxes assessed thereon, with interest at the rate  
23 of 1/2 of 1% per month or fraction thereof, with 4% as a collec-  
24 tion fee, from the first day of March last preceding. →  
25 ~~Provided, That~~ HOWEVER, if ~~said~~ THE taxes are not paid within  
26 the time herein specified, said leasehold interest shall stand  
27 forfeited because of the ~~non payment~~ NONPAYMENT of such taxes,

1 and within its discretion the department ~~of conservation~~ may  
2 release said premises to any person for any term of years not  
3 exceeding 99 years, upon such person paying to ~~said~~ THE depart-  
4 ment ~~of conservation~~ all unpaid taxes thereon, together with  
5 such rental as may be determined upon under ~~the provisions of~~  
6 this ~~act~~ PART by the ~~said~~ department. ~~of conservation.~~  
7 ~~Provided further, That in~~ IN the event any such leasehold inter-  
8 est is owned by 2 or more persons, and any 1 or more of ~~said~~  
9 THE persons ~~shall~~ neglect or refuse to pay his OR HER or their  
10 proportionate share of the taxes assessed against ~~said~~ THE  
11 leasehold at the date when ~~said~~ THE taxes become due and pay-  
12 able, then any 1 or more of ~~such~~ THE owners may pay his OR HER  
13 or their proportionate share of the ~~said~~ taxes, and the county  
14 treasurer, in his OR HER return of delinquent lands to the ~~said~~  
15 department, ~~of conservation,~~ shall indicate said partial pay-  
16 ments of taxes credited to the owner or owners making them. Any  
17 owner not having made payment of his OR HER proportionate share  
18 of the taxes may, at any time within 1 year after the taxes have  
19 become a lien on the premises, pay to the ~~said~~ department ~~of~~  
20 ~~conservation~~ his OR HER proportionate share of the ~~said~~ taxes  
21 with interest at the rate of 1% per month or fraction thereof,  
22 from the first day of March last preceding. ~~Provided further,~~  
23 ~~That if~~ IF the proportionate share of taxes of any such owner is  
24 not paid within the time herein specified, the interest of ~~such~~  
25 THE owner in ~~said~~ THE leasehold shall stand forfeited because  
26 of the ~~non-payment~~ NONPAYMENT of such taxes, and thereafter  
27 within 30 days, such of the owners as have paid their

1 proportionate share of the taxes, upon payment to the ~~said~~  
2 department ~~of conservation~~ of the amount of the taxes remaining  
3 due with interest accrued to the date of forfeiture, shall be  
4 entitled to conveyances by the ~~said~~ department ~~of~~  
5 ~~conservation~~ of such interests in the leasehold as have been  
6 forfeited. The interest thus conveyed shall be allotted equally  
7 among those owners who shall pay the delinquent taxes with inter-  
8 est as ~~herein~~ provided ~~:- Provided further, That where~~ IN  
9 THIS SECTION. IF default is made by any lessee in the payment of  
10 taxes, he OR SHE shall be notified in writing by ~~said~~ THE  
11 department ~~of conservation,~~ at least 3 months before the date  
12 of final forfeiture of the amount due and the penalty for  
13 ~~non payment~~ NONPAYMENT and the date upon which forfeiture is to  
14 occur. ~~:- Provided further, That upon~~ UPON payment to ~~said~~  
15 THE department ~~of conservation~~ of taxes and interest as  
16 ~~herein~~ provided IN THIS SECTION, such amount shall be credited  
17 to the county in which such leasehold interests were assessed, in  
18 the same manner as taxes and interest are now credited to coun-  
19 ties on part-paid state lands. Immediately upon formal determi-  
20 nation by the department ~~of conservation~~ that a lease has been  
21 forfeited ~~hereunder~~ UNDER THIS PART, a certificate of cancella-  
22 tion of the same shall be executed under the seal of the depart-  
23 ment and shall be forwarded to the register of deeds of the  
24 county wherein such land is situated. Upon receipt of such  
25 certificate, the register of deeds shall at once cause the same  
26 to be recorded in a suitable book to be provided by said  
27 register. If the lease is of record in said office, the register

1 shall note thereon the fact that a certificate of cancellation  
2 has been issued and shall also note the citation to the record of  
3 such certificate.

4       Sec. ~~26~~ 33935. ~~It shall be the duty of the~~ THE several  
5 county treasurers ~~to make a~~ SHALL report to the ~~board of con-~~  
6 ~~trol of~~ DEPARTMENT all descriptions of ~~said~~ THE lands where  
7 the same have been returned for ~~non-payment~~ NONPAYMENT of taxes  
8 and such taxes have not been paid within 6 months after such  
9 return, the ~~said~~ report to be made by such treasurer within 30  
10 days after the said 6 months shall have expired.

11       Sec. ~~27~~ 33936. All of the unpatented overflowed lands,  
12 made lands, and lake ~~bottom lands~~ BOTTOMLANDS belonging to  
13 ~~the~~ THIS state ~~of Michigan~~ or held in trust by it ~~,~~ shall  
14 be subject to lease for the removal of metallic minerals, marl,  
15 stone, rock, sand, gravel, earth, oil, and gas from or under the  
16 beds thereof, and the ~~conservation~~ department ~~, as successor~~  
17 ~~to the public domain commission, is hereby empowered to~~ MAY  
18 enter into lease with persons ~~, firms, associations, and~~  
19 ~~corporations,~~ granting the right of drilling, mining, taking,  
20 and removing metallic minerals, marl, stone, rock, sand, gravel,  
21 earth, oil, and gas from or under these lands upon such condi-  
22 tions and for such consideration as may be ~~deemed~~ CONSIDERED  
23 fair and reasonable by ~~said conservation~~ THE department. ~~→~~  
24 ~~Provided, That~~ HOWEVER, all outstanding and existing oil and gas  
25 leases as herein provided, entered into by the ~~conservation~~  
26 department prior ~~hereto~~ TO SEPTEMBER 28, 1951, are ~~hereby~~  
27 confirmed and validated. ~~→. Provided further, That the~~ THE

1 owners, or lessees from the state, of lands fronting upon the  
2 ~~great lakes~~ GREAT LAKES and bays and harbors connected with  
3 ~~said~~ THE lakes shall have the exclusive right to enter into  
4 lease with the ~~conservation~~ department for the taking and  
5 removing of marl, stone, rock, sand, gravel, and earth from the  
6 lake bed adjoining and lying immediately in front of their  
7 respective lands, from the water's edge outward 1,000 feet on  
8 Lakes Michigan, Huron, and Superior, 500 feet on Lakes Erie and  
9 St. Clair, and 100 feet on the channels of the St. Clair Flats  
10 upon such conditions and for such consideration as may be  
11 ~~deemed~~ CONSIDERED fair and reasonable by ~~said conservation~~  
12 THE department, except where such exclusive right has been waived  
13 by reason of written consent given by ~~said~~ THE owners and les-  
14 sees from the state to any other person, ~~persons, firms, associ-~~  
15 ~~ations, or corporations~~ to take and remove said marl, stone,  
16 rock, sand, gravel, and earth from the lake bed adjoining and  
17 lying immediately in front of their respective lands. →  
18 ~~Provided further, That nothing herein contained~~ NOTHING IN THIS  
19 PART shall be construed as granting to surface or mineral owners,  
20 or lessees from the state, of lands fronting upon the ~~great~~  
21 ~~lakes~~ GREAT LAKES and bays and harbors connected with said lakes  
22 any preferential right to enter into leases with the  
23 ~~conservation~~ department for the drilling, mining, taking, and  
24 removing of metallic minerals or oil and gas from the subsurface  
25 area of the lands herein mentioned. → ~~Provided further, That~~  
26 ~~nothing~~ NOTHING herein contained ~~shall be construed to prevent~~  
27 PREVENTS the removal of obstructions and deposits at the mouths

1 of the several rivers and harbors of the state for the purpose of  
 2 maintaining and improving navigation ~~— Provided further, That~~  
 3 ~~the~~ IF THAT REMOVAL IS OTHERWISE IN COMPLIANCE WITH ALL OTHER  
 4 APPLICABLE REGULATORY CRITERIA AND REQUIREMENTS. THE rights of  
 5 ~~such~~ THE owners and lessees under this section shall be subject  
 6 to the paramount rights of navigation, hunting, and fishing,  
 7 which rights are to remain in the general public and the govern-  
 8 ment, as now existing and recognized by law.

9       Sec. ~~27a~~ 33937. All exploration for ~~—~~ OR development,  
 10 production, handling, or use ~~—~~ of oil or gas under any lease  
 11 authorized by FORMER ACT NO. 326 OF THE PUBLIC ACTS OF 1913 OR  
 12 this ~~act shall be~~ PART IS subject to the REGULATORY jurisdic-  
 13 tion and control of the supervisor of wells of ~~the~~ THIS state  
 14 ~~of Michigan~~ in accordance with ~~the provisions of~~ any statutes  
 15 of this state applicable to the REGULATION OF THE exploration  
 16 for, development, production, handling or use, of oil or gas, and  
 17 rules ~~and regulations~~ adopted pursuant thereto, including, but  
 18 not limited to, rules ~~and regulations~~ for the prevention of  
 19 pollution of water, and for the protection of navigation, hunt-  
 20 ing, fishing, and other public uses. ~~—, subject to the provisions~~  
 21 ~~of Act No. 88 of the Public Acts of 1943, as amended: Provided,~~  
 22 ~~That at~~ AT the time of the filing of the application for a  
 23 permit to drill, nothing ~~herein contained shall allow~~ IN THIS  
 24 PART ALLOWS the location of any well within less than 500 feet  
 25 outward from the water's edge of lands fronting on the ~~great~~  
 26 ~~lakes~~ GREAT LAKES and bays and harbors connected with ~~said~~ THE  
 27 lakes without the written consent of the littoral owner or owners

1 of property situated opposite and within 500 feet of ~~such~~ THE  
2 proposed well location SUBJECT TO COMPLIANCE WITH SECTION 33938  
3 AND ANY OTHER APPLICABLE REGULATORY CRITERIA AND REQUIREMENTS.

4 Sec. ~~28~~ 33938. (1) A person shall not remove metallic  
5 minerals, marl, stone, rock, sand, gravel, or earth from or under  
6 the beds of the Great Lakes or the bays and harbors connected  
7 with the Great Lakes without first obtaining a written lease from  
8 the department ~~of natural resources~~ granting the right to take  
9 the material.

10 (2) A person shall not conduct drilling operations for the  
11 removal of oil or gas from under the beds of the Great Lakes or  
12 connecting or connected bays, harbors, or waterways, unless all  
13 drilling operations originate from locations above and inland of  
14 the ordinary high-water mark and are conducted pursuant to the  
15 terms of a written lease obtained from the department. ~~of natu-~~  
16 ~~ral resources.~~ A person shall not conduct drilling operations  
17 for the purpose of exploring for oil and gas under the beds of  
18 the Great Lakes or connecting or connected bays, harbors, or  
19 waterways, unless all drilling operations originate from loca-  
20 tions above and inland of the high-water mark.

21 (3) A person who violates subsection (1) or (2) ~~shall be~~  
22 IS liable to this state for an amount equal to 3 times the value  
23 of the materials taken plus an amount equal to the cost of  
24 restoring the waters, beds, bottomlands, adjacent uplands, or any  
25 natural resource of the Great Lakes or connecting or connected  
26 bays, harbors, or waterways ~~which~~ THAT is damaged as a result  
27 of the violation.

1           Sec. ~~29~~ 33939. (1) In addition to the civil liability  
2 provided in section ~~28~~ 33938, a person violating section ~~28~~  
3 33938 for commercial purposes is guilty of a felony punishable by  
4 a fine not exceeding \$5,000.00 or imprisonment for not more than  
5 2 years, or both.

6           (2) A person violating section ~~28~~ 33938 may be prosecuted  
7 in the judicial circuit for the county in which ~~is located~~ the  
8 shores ARE LOCATED where the offense was committed.

9           (3) The director ~~of the department of natural resources~~  
10 and any special assistant or conservation officer appointed by  
11 the director shall have the same power to serve criminal process  
12 as sheriffs, and shall have the same right as sheriffs to require  
13 aid in executing criminal process. The director and any special  
14 assistant or conservation officer appointed by the director may  
15 arrest, without warrant, any person caught by the director, spe-  
16 cial assistant, or conservation officer in the act of violating  
17 section ~~28~~ 33938.

18           ~~Part 341. Irrigation Districts~~

19                                   PART 341 IRRIGATION DISTRICTS

20           Sec. ~~+~~ 34101. (1) This ~~act shall be~~ PART IS applicable  
21 in counties WITH A POPULATION of 400,000 ~~population~~ or less to  
22 the use of water from the Great Lakes only, which for the pur-  
23 poses of this ~~act shall include such~~ PART INCLUDE THOSE por-  
24 tions of ~~the~~ THOSE lakes and streams tributary ~~thereto~~ TO THE  
25 GREAT LAKES where the natural water levels are controlled by and  
26 at essentially the same water level as the Great Lake involved.



1 (2) Water shall not be withdrawn from the Great Lakes if it  
 2 is being used within the confines of an irrigation district under  
 3 ~~the provisions of~~ this ~~act~~ PART which cannot reasonably be  
 4 expected to benefit agricultural crops or other agricultural  
 5 operations for improvement of the food supply and water shall not  
 6 be withdrawn from the Great Lakes under ~~the provisions of~~ this  
 7 ~~act~~ PART at any place or at any time or in any amount or  
 8 amounts for a single irrigation district or for the sum of all  
 9 irrigation districts and water from the Great Lakes shall not be  
 10 stored or transmitted by or for any irrigation district, ~~herein~~  
 11 authorized to be created BY THIS PART, in any manner or by any  
 12 means or with the aid of any dam or other device ~~which~~ THAT  
 13 DOES 1 OR MORE OF THE FOLLOWING:

14 (A) ~~(1)~~ Will materially injure other users of the waters  
 15 of the Great Lakes and connecting channels. ~~, or~~

16 (B) ~~(2)~~ Will significantly affect the levels of the Great  
 17 Lakes and prejudice the state in its relations with other states  
 18 bordering on the Great Lakes. ~~, or~~

19 (C) ~~(3)~~ Will adversely affect the state in its development  
 20 and maintenance of fish and wildlife resources. ~~, or~~

21 (D) ~~(4)~~ Will be detrimental to the health and welfare of  
 22 the people of the state.

23 (3) The ~~water resources commission~~ DEPARTMENT shall  
 24 enforce and ~~carry out~~ IMPLEMENT the conditions and limitations  
 25 of this section in performing all duties placed upon it by the  
 26 terms of this ~~act~~ PART, and for this purpose the ~~water~~  
 27 ~~resources commission is authorized to~~ DEPARTMENT MAY call upon

1 any officer, board, department, school, university, or other  
2 state institution and the officers or employees ~~thereof~~ OF ANY  
3 OFFICER, BOARD, DEPARTMENT, SCHOOL, UNIVERSITY, OR OTHER STATE  
4 INSTITUTION for ~~any~~ assistance ~~deemed~~ CONSIDERED necessary to  
5 ~~the carrying out of~~ IMPLEMENT this ~~act~~ PART.

6       Sec. ~~2~~ 34102. ~~The provisions of this act~~ THIS PART  
7 shall be liberally construed to promote the public welfare by  
8 irrigating lands, improving the existing water supply for the  
9 lands or providing new means or methods of water supply, or con-  
10 structing and completing dams, reservoirs, canals, drains, struc-  
11 tures, mechanical devices, ~~levee~~ LEVEES, ~~dyke~~ DIKES, barriers  
12 and the use of any pumping equipment, pipelines, or other works  
13 or a combination of any or all of the same specified in the peti-  
14 tion to be utilized for the preservation or operation of any  
15 irrigation system constructed, or proposed to be constructed, for  
16 the purpose of irrigation.

17       Sec. ~~3~~ 34103. ~~Nothing in this act shall be construed as~~  
18 ~~to~~ THIS PART DOES NOT affect the validity of any district  
19 ~~heretofore~~ organized under the laws of this state PRIOR TO  
20 JULY 10, 1967, or its rights in or to property, or any of its  
21 rights or privileges of ~~whatsoever~~ ANY kind or nature; but the  
22 districts are subject to ~~the provisions of~~ this ~~act~~ PART so  
23 far as practicable. ~~nor~~ IN ADDITION, THIS PART shall ~~it~~  
24 ~~affect~~ NOT DO ANY OF THE FOLLOWING:

25       (A) AFFECT, impair, or discharge any contract, obligations,  
26 lien, or charge for, or upon which, ~~it~~ A DISTRICT was or might  
27 become liable or chargeable IF FORMER ACT NO. 205 OF THE PUBLIC

1 ACTS OF 1967 had not ~~this act~~ been passed. ~~nor shall it~~  
 2 ~~affect~~

3 (B) AFFECT the validity of any bonds which ~~have~~ HAD been  
 4 issued PRIOR TO JULY 10, 1967. ~~nor shall it affect~~

5 (C) AFFECT any action ~~which now may be~~ pending ON JULY 10,  
 6 1967.

7 Sec. ~~4~~ 34104. ~~Any~~ AN ESTABLISHED irrigation district  
 8 ~~heretofore or hereafter established~~ is a body corporate with  
 9 power to contract, to sue and ~~to~~ be sued, and to hold, manage,  
 10 and dispose of real and personal property, in addition to any  
 11 other powers conferred upon it by law, and shall continue in  
 12 existence until such time as the ~~same shall be~~ DISTRICT IS dis-  
 13 solved by operation of law. In addition, each established irri-  
 14 gation district may adopt and use a corporate seal, acquire the  
 15 right to use of water for irrigation purposes, under plans  
 16 approved by the ~~water resources commission~~ DEPARTMENT, acquire  
 17 sites for reservoirs ~~and~~ and rights-of-way for drains, canals,  
 18 and laterals, AND exercise the right of condemnation pursuant to  
 19 the provisions of Act No. 149 of the Public Acts of 1911, ~~as~~  
 20 ~~amended,~~ being sections 213.21 to ~~213.41~~ 213.25 of the  
 21 MICHIGAN Compiled Laws, ~~of 1948,~~ or under the applicable provi-  
 22 sions of sections 75 to 84 of THE DRAIN CODE OF 1956, Act No. 40  
 23 of the Public Acts of 1956, ~~as amended,~~ being sections 280.75  
 24 to 280.84 of the MICHIGAN Compiled Laws, ~~of 1948,~~ and shall be  
 25 ~~deemed~~ CONSIDERED to be a " state agency " as ~~the~~ THAT  
 26 term is used in ~~said~~ THAT act.

1       Sec. ~~5~~ 34105. ~~The irrigation district may contract with~~  
2 ~~the federal government, which term as~~ AS used in this section,  
3 ~~shall mean~~ "FEDERAL GOVERNMENT" MEANS the United States and  
4 ~~shall include~~ INCLUDES any and all agencies of the United  
5 States. THE IRRIGATION DISTRICT MAY CONTRACT WITH THE FEDERAL  
6 GOVERNMENT, whereby the federal government will pay the whole or  
7 part of the cost of the project or will perform the whole or any  
8 part of the work connected ~~therewith~~ WITH THE PROJECT, which  
9 contract may include any specific terms required by act of con-  
10 gress or federal regulation as a condition for ~~such~~ THE partic-  
11 ipation ~~on the part~~ of the federal government. The irrigation  
12 district may also contract with the state or any agency ~~thereof~~  
13 OF THE STATE or with any person ~~, private corporation or with~~  
14 ~~any public corporation~~ in respect to any matter connected with  
15 the construction, operation, or maintenance of any irrigation  
16 works or for ~~the improvement or~~ providing new means of water  
17 supply or the improvement of the existing water supply for the  
18 lands within the irrigation district. All contracts and agree-  
19 ments executed under ~~the provisions of~~ this section shall be  
20 subject to the approval of the ~~water resources commission~~  
21 DEPARTMENT. ~~No such contracts~~ SUCH A CONTRACT or ~~agreements~~  
22 AGREEMENT or anything in consequence ~~thereof~~ OF SUCH A CONTRACT  
23 OR AGREEMENT shall NOT in any manner infringe upon or invade the  
24 state's public trust in its waters.

25       Sec. ~~6~~ 34106. Subject to the written assignment, consent,  
26 and approval of the drain commissioner administering a county  
27 drainage district or the written assignment, consent, and

1 approval of the drainage board of an intercounty drainage  
 2 district, the county drain commissioner and the drainage board of  
 3 intercounty drainage districts may grant unto the United States  
 4 or to any irrigation district the right to use all the easements  
 5 and rights-of-way conveyed to their respective drainage district  
 6 or to any county lying wholly or in part in such districts for  
 7 the construction, use, and maintenance of any county or inter-  
 8 county drain by the United States or any irrigation district in  
 9 connection with any irrigation project undertaken by the irriga-  
 10 tion district, solely or in cooperation with the United States or  
 11 any other federal department or agency. Private rights of per-  
 12 sons acquired by reason of the establishment and construction of  
 13 the drain or part ~~thereof~~ OF THE DRAIN shall not be interfered  
 14 with or in any way impaired by the use of the drain for irriga-  
 15 tion purposes within the scope of this ~~act~~ PART.

16 Sec. ~~7~~ 34107. ~~No dams~~ A DAM for irrigation purposes  
 17 shall NOT be constructed unless the ~~same shall have been~~ DAM IS  
 18 approved in a manner provided by law.

19 Sec. ~~8~~ 34108. ~~Any~~ AN irrigation district may apply for  
 20 and accept grants or any aid which the United States government  
 21 or any agency ~~thereof or~~ OF THE UNITED STATES GOVERNMENT, the  
 22 state or any of its political subdivisions, or any ~~private~~  
 23 person ~~, corporation or trust~~ may authorize to be made or given  
 24 in aid of ~~any~~ AN irrigation project.

25 Sec. ~~9~~ 34109. (1) Whenever a majority of freeholders  
 26 owning lands in ~~any~~ A proposed irrigation district who  
 27 represent 1/3 or more of the area of lands within the district,

1 or whenever freeholders owning lands who represent more than 1/2  
2 the area of lands within the district, desire to provide for the  
3 irrigation of the ~~same, or~~ LANDS; to improve the existing water  
4 supply for the lands or provide a new water supply system for  
5 ~~said~~ THE lands; ~~or~~ to purchase, extend, operate, or maintain  
6 constructed irrigation works; or to cooperate with the United  
7 States for the assumption as principal or guarantor of indebted-  
8 ness to the United States on account of district lands, they may  
9 file in the office of the county drain commissioner of the county  
10 ~~which~~ THAT embraces the largest acreage of the district a peti-  
11 tion, hereinafter referred to as the "petition", which shall  
12 include ALL OF THE FOLLOWING:

13 (a) The name of the proposed irrigation district.

14 (b) The necessity of the proposed work, describing the  
15 necessity.

16 (c) The object and purpose of the system proposed to be con-  
17 structed, together with a general description ~~thereof~~ OF THE  
18 SYSTEM.

19 (d) A general description of the lands proposed to be  
20 included in the district, accompanying the petition shall be a  
21 preliminary engineering report on the feasibility of the project,  
22 including a report on the sufficiency of its water supply; the  
23 approximate area of irrigable land within the district, including  
24 an estimate of the cost of construction.

25 (e) The names of all freeholders owning lands in ~~said~~ THE  
26 proposed district, when known.

1 (f) Whether or not the petitioners desire and propose to  
2 cooperate with the United States.

3 (g) A general plea for the organization of the district.

4 (2) The petitions for the organization of the same district  
5 may be circulated ~~—~~ and may be filed in more than ~~one~~ 1 coun-  
6 terpart ~~—~~ and, when filed, shall together be regarded as a  
7 single petition having as many signers as there are separate  
8 signers on the several petitions filed. All petitions for the  
9 organization of the district filed prior to the hearing on the  
10 petition shall be considered by the irrigation board ~~—~~ the same  
11 as if filed with the first petition placed on file, and the sig-  
12 natures ~~thereon~~ contained ON THOSE PETITIONS shall be counted  
13 in determining whether sufficient persons have signed the  
14 petition.

15 Sec. ~~+0~~ 34110. The affidavit of 1 or more of the signers  
16 of the petition stating that they have examined it and are  
17 acquainted with the locality of the district and that the peti-  
18 tion is signed by a sufficient number of persons ~~or~~  
19 ~~corporations~~ owning lands in the district may be taken by the  
20 irrigation board as sufficient evidence of the facts ~~therein~~  
21 stated IN THE PETITION.

22 Sec. ~~++~~ 34111. The lands proposed to be included in any  
23 irrigation district need not be contiguous if the benefit of the  
24 proposed work in each part will exceed the costs of the proposed  
25 work in each part; and lands within any city, village, or town-  
26 ship may be included within the limits of any irrigation district  
27 if the creation of the irrigation district will benefit the lands

1 within the city, village, or township in any amount equal to or  
2 in excess of the amount of assessment for construction against  
3 the lands therein.

4       Sec. ~~+2-~~ 34112. (1) There is created for each irrigation  
5 district petitioned for under this ~~act~~ PART an irrigation board  
6 to consist of the drain commissioner of each county involved in  
7 the project in which the lands of the proposed irrigation dis-  
8 trict are located, the director of the department of agriculture,  
9 and the chairperson of the directors of each soil conservation  
10 district involved in the project ~~—~~ in which the lands of the  
11 proposed irrigation district are located. The director of the  
12 department of agriculture may designate a representative from the  
13 department of agriculture and the chairperson of the directors of  
14 each soil conservation district may designate a representative  
15 from the directors of the soil conservation district to serve in  
16 their place as members of the irrigation board. The county drain  
17 commissioner of the county in which the largest amount of irriga-  
18 tion district land is contained shall serve as chairperson of the  
19 irrigation board.

20       (2) A writing prepared, owned, used, in the possession of,  
21 or retained by the irrigation board in the performance of an  
22 official function shall be made available to the public in com-  
23 pliance with THE FREEDOM OF INFORMATION ACT, Act No. 442 of the  
24 Public Acts of 1976, being sections 15.231 to 15.246 of the  
25 Michigan Compiled Laws. The chairperson of the irrigation board  
26 shall keep minutes of the proceedings of the irrigation board,



1 and records and files of the board shall be kept in his or her  
2 office.

3 (3) A member of the irrigation board shall be known as a  
4 commissioner of irrigation. A commissioner of an irrigation dis-  
5 trict is a public officer. The presumption shall be in favor of  
6 the regularity and validity of the official act of a commissioner  
7 of irrigation. When a report of the commissioners of an irriga-  
8 tion district or action is contested, the burden of proof shall  
9 rest upon the contestant. This subsection shall not apply to an  
10 action brought with respect to a failure to comply with Act  
11 No. 442 of the Public Acts of 1976, as prescribed in subsection  
12 (2), or a failure to comply with THE OPEN MEETINGS ACT, Act  
13 No. 267 of the Public Acts of 1976, being sections 15.261 to  
14 15.275 of the Michigan Compiled Laws.

15 Sec. ~~+3~~ 34113. Before entering upon their duties, commis-  
16 sioners shall take and subscribe the constitutional oath of  
17 office. The commissioners shall make a true account of their  
18 activities to the ~~water resources commission~~ DEPARTMENT at  
19 least once annually.

20 Sec. ~~+4~~ 34114. (1) The ~~water resources commission~~  
21 DEPARTMENT shall maintain superintending control over withdrawals  
22 and operations of each irrigation district formed under ~~the pro-~~  
23 ~~visions of this act~~ PART and ~~is authorized to~~ MAY promulgate  
24 rules ~~and regulations~~ to ~~carry out~~ IMPLEMENT this authority.  
25 ~~in accordance with Act No. 88 of the Public Acts of 1943, as~~  
26 ~~amended, being sections 24.71 to 24.80 of the Compiled Laws of~~  
27 ~~1948, and subject to Act No. 197 of the Public Acts of 1952, as~~

1 ~~amended, being sections 24.101 to 24.110 of the Compiled Laws of~~  
2 ~~1948.~~

3       (2) The ~~commission is further authorized to~~ DEPARTMENT MAY  
4 enforce the limitations and conditions of section ~~+~~ 34101 by  
5 order prohibiting the further withdrawal of water or by taking  
6 ~~such~~ other action as is authorized by this PART or any other  
7 act or law. Each irrigation district shall reimburse the ~~water~~  
8 ~~resources commission~~ DEPARTMENT for any reasonable and necessary  
9 expense incurred by the ~~commission~~ DEPARTMENT in maintaining  
10 superintending control over that district.

11       Sec. ~~+5~~ 34115. (1) The business ~~which~~ THAT the irriga-  
12 tion board may perform shall be conducted at a public meeting of  
13 the irrigation board held in compliance with THE OPEN MEETINGS  
14 ACT, Act No. 267 of the Public Acts of 1976, ~~as amended~~ BEING  
15 SECTIONS 15.261 TO 15.275 OF THE MICHIGAN COMPILED LAWS. Public  
16 notice of the time, date, and place of the meeting shall be given  
17 in the manner required by Act No. 267 of the Public Acts of 1976.  
18 ~~, as amended.~~

19       (2) A meeting of the irrigation board may be called by the  
20 chairperson or by 2 members of the irrigation board. In addition  
21 to the notice prescribed in subsection (1), notice SETTING FORTH  
22 THE TIME AND PLACE OF THE MEETING shall be sent by certified mail  
23 to each member. ~~, setting forth the time and place of the~~  
24 ~~meeting.~~ That notice shall be mailed not less than 5 days before  
25 the meeting. The affidavit of the chairperson as to this mailing  
26 shall be conclusive proof of the mailing.

1 (3) The notice of a meeting prescribed in subsection (2)  
2 ~~shall~~ IS not ~~be~~ required if all members are present. A  
3 member of the board may waive the additional mailed notice of a  
4 meeting, either before or after the meeting.

5 (4) A majority of the members of the board ~~shall~~  
6 ~~constitute~~ CONSTITUTES a quorum for the transaction of business,  
7 but a lesser number may adjourn the meeting. Unless otherwise  
8 provided in this ~~act~~ PART, an action shall not be taken by the  
9 board except by a majority vote of the board's members. The  
10 adjournment of the hearing need not be advertised. Each order  
11 issued by the irrigation board shall be signed by the  
12 chairperson.

13 Sec. ~~16~~ 34116. (1) Upon receipt of a petition for the  
14 establishment of an irrigation district, the county drain commis-  
15 sioner shall call the first meeting of the irrigation board. A  
16 copy of ~~such~~ THE petition and duplicates of all maps and other  
17 papers filed with the ~~same~~ PETITION shall be filed ~~in the~~  
18 ~~office of the water resources commission~~ WITH THE DEPARTMENT at  
19 least 4 weeks before the date set for the public hearing on the  
20 petition. The ~~water resources commission~~ DEPARTMENT shall  
21 examine the petition, maps, and other papers and, if it ~~deems~~  
22 CONSIDERS it necessary, examine the proposed district, the irri-  
23 gation works proposed to be constructed, or the location of the  
24 irrigation works to be constructed, and prepare a report covering  
25 those features of the proposed irrigation project ~~as~~ THAT  
26 relate to ~~the provisions of~~ section ~~1~~ 34101 and ~~such~~ other  
27 matters as the ~~water resources commission deems~~ DEPARTMENT

1 CONSIDERS advisable. ~~and~~ THE DEPARTMENT shall submit the ~~same~~  
2 REPORT to the irrigation board at the meeting set for the hearing  
3 of the petition. All reasonable and necessary expenses incurred  
4 by the ~~water resources commission~~ DEPARTMENT in making the  
5 report shall be paid for by the persons signing the petition.

6 (2) Any additional compensation for services rendered on  
7 behalf of an irrigation district by members of the irrigation  
8 board in addition to official duties of the members shall be pro-  
9 vided by the respective governmental agencies from ~~whom~~ WHICH  
10 the original compensation for other various duties and services  
11 rendered are received.

12 Sec. ~~47~~ 34117. (1) The irrigation board at its first  
13 meeting shall consider the petition for the project, ~~and~~ make a  
14 tentative determination as to the sufficiency of the petition and  
15 the practicability of the proposed irrigation project, and ~~shall~~  
16 ~~also~~ make a tentative determination of the area to be assessed.  
17 The irrigation board shall give a name to the project and to the  
18 irrigation district.

19 (2) After the irrigation board has made the determination  
20 regarding sufficiency of the petition and practicability of the  
21 proposed project, it shall ~~fix~~ SET a time and place to hear  
22 objections to the proposed irrigation project and the petition  
23 for the project, and to consider the matter of assessing the cost  
24 of the irrigation project in the affected lands.

25 (3) In addition to the public notice prescribed in section  
26 ~~45(1)~~ 34115(1), additional notice of the hearing shall be  
27 published twice in the county in not less than 1 newspaper

1 published in the county and designated by the irrigation board,  
2 with the first publication ~~to be~~ not less than 20 days before  
3 the hearing. Notice of the hearing shall also be given to prop-  
4 erty owners in the assessment district pursuant to Act No. 162 of  
5 the Public Acts of 1962, being sections 211.741 to ~~211.745~~  
6 211.746 of the Michigan Compiled Laws. The irrigation board may  
7 provide a form to be substantially followed in ~~the giving of~~  
8 this notice.

9 (4) At the hearing, the ~~water resources commission~~  
10 DEPARTMENT shall submit its report on the petition, and any  
11 person ~~shall be~~ IS entitled to be heard. After the hearing,  
12 the irrigation board shall make a determination as to the suffi-  
13 ciency of the petition, the practicability of the irrigation  
14 project, and whether the irrigation project should be  
15 constructed. If the ~~commission~~ DEPARTMENT determines that the  
16 project should be constructed, it shall issue an appropriate  
17 final order of determination.

18 (5) A final order of determination establishing an irriga-  
19 tion district shall not be issued by the irrigation board until  
20 the board has been served with an order by the ~~water resources~~  
21 ~~commission~~ DEPARTMENT stating that the ~~commission~~ DEPARTMENT  
22 has determined that the proposed irrigation by the proposed irri-  
23 gation district, as set forth in the petition, supporting papers,  
24 and examinations specified in section ~~46~~ 34116, is feasible and  
25 within the purpose of this ~~act~~ PART and that the project can be  
26 constructed and operated in a manner that would not violate the  
27 conditions and limitations of section ~~4~~ 34101. If the ~~water~~

1 ~~resources commission~~ DEPARTMENT by its order determines that the  
2 proposed irrigation district cannot be established without vio-  
3 lating a condition or limitation of section ~~+~~ 34101, its order  
4 shall be final and further action for the formation of the pro-  
5 posed irrigation district shall not be taken by the irrigation  
6 board. Land in the irrigation district shall not be eliminated  
7 from or added to ~~those~~ THAT LAND tentatively determined to be  
8 assessed without a rehearing after notice, as provided in this  
9 section. The irrigation district ~~shall be considered to be~~ IS  
10 legally established after entry of the final order of  
11 determination.

12       Sec. ~~+8~~ 34118. The irrigation board shall proceed to  
13 secure from a competent engineer ~~+~~ plans and specifications and  
14 an estimate of THE cost of the proposed irrigation project which,  
15 when adopted by the board, shall be filed with the ~~chairman~~  
16 CHAIRPERSON.

17       Sec. ~~+9~~ 34119. The commissioners shall not be confined to  
18 the points of location, commencement, routes, or termini of the  
19 drains, reservoirs, dams, canals, ditches, ~~pump~~ PUMPS, or other  
20 work, or the number, extent, or size of the same, as proposed by  
21 the petitioners, but shall locate, design, lay out, and plan the  
22 same in ~~such~~ THE manner ~~as to them shall seem~~ THAT THEY  
23 DETERMINE IS best to promote the public welfare and to benefit  
24 the lands of the parties interested with the least damage and  
25 greatest benefit to all lands affected thereby. All alterations  
26 or deviations in the design plans of the irrigation works shall

1 have the final approval of the ~~water resources commission~~  
2 DEPARTMENT.

3       Sec. ~~20~~ 34120. The irrigation board shall proceed to  
4 secure the ~~necessary~~ lands or rights-of-way necessary for the  
5 irrigation project. If the ~~same~~ LANDS OR RIGHTS-OF-WAY cannot  
6 be secured by negotiation, then the irrigation board may proceed  
7 under ~~the provision of~~ section ~~4~~ 34104.

8       Sec. ~~21~~ 34121. The irrigation board shall advertise for  
9 bids for construction of the improvements requested in the  
10 petition. The contract shall be let to the lowest bidder in  
11 accordance with the statutory provisions applicable to award of  
12 public contracts, and the irrigation board ~~shall have~~ HAS the  
13 right to reject any and all bids and readvertise the ~~same~~  
14 BIDS.

15       Sec. ~~22~~ 34122. Within 10 days after the letting of con-  
16 tracts, or, in case of an appeal, then ~~forthwith~~ IMMEDIATELY  
17 after the appeal has been decided, the ~~chairman~~ CHAIRPERSON of  
18 the irrigation board shall make a computation of cost of a  
19 project under this ~~act~~ PART, which shall include all prelimi-  
20 nary costs, the cost of construction of the improvement, estab-  
21 lishment of the special assessment district, the preparation of  
22 the tax roll, notices, advertising, printing, financing, legal,  
23 professional, engineering, inspection, condemnation expenses,  
24 interest on the bonds for the first year if bonds are to be  
25 issued and an amount not to exceed 10% of the gross sum to cover  
26 contingent expenses, and all other administrative costs  
27 incidental to making of the improvement or establishment of the

1 irrigation special assessment district. The ~~chairman~~  
2 CHAIRPERSON shall submit the computation of ~~costs~~ COST to the  
3 irrigation board for its approval, and, when THE COMPUTATION OF  
4 COST IS approved by the board or amended and approved by the  
5 board, it shall become the final computation of cost for the  
6 irrigation district.

7       Sec. ~~23~~ 34123. The ~~chairman~~ CHAIRPERSON of the irriga-  
8 tion board, under the direction of the board, shall make out an  
9 assessment roll, entering and describing ~~therein~~ ON THE ASSESS-  
10 MENT ROLL all the lots, premises, and parcels of land to be  
11 assessed, including ~~therein~~ ON THE ASSESSMENT ROLL all lands  
12 benefited by the construction of the irrigation improvement. The  
13 assessments shall be based upon benefits to be derived from the  
14 proposed irrigation improvement. The irrigation board shall ten-  
15 tatively establish the percentage of the cost of the irrigation  
16 improvement which is to be borne by each of the parcels of land  
17 assessed on the special assessment roll. After the tentative  
18 apportionments and assessment roll is made, the irrigation board  
19 shall set a time and place when and where they will meet and hear  
20 any objections to the roll.

21       Sec. ~~24~~ 34124. Notice of hearing shall be given as pre-  
22 scribed in section ~~15(++)~~ 34115 and Act No. 162 of the Public  
23 Acts of 1962, BEING SECTIONS 211.741 TO 211.746 OF THE MICHIGAN  
24 COMPILED LAWS, and also by publication ~~for~~ at least ~~2~~  
25 ~~insertions~~ TWICE in a newspaper published and of general circu-  
26 lation in the county, the first publication to be at least 20  
27 days before the time of the hearing. The irrigation board shall



1 provide a form to be substantially followed in giving of the  
2 notice.

3       Sec. ~~25~~ 34125. At the hearing, the irrigation board shall  
4 hear the proofs and allegations of all parties interested, ~~and~~  
5 shall carefully reconsider and review the description of land  
6 comprised within the irrigation improvement special assessment  
7 district, the several descriptions, and THE apportionment of ben-  
8 efits, and SHALL define and equalize the ~~same~~ DISTRICT as may  
9 seem just and equitable.

10       Sec. ~~26~~ 34126. After the hearing, the irrigation board  
11 shall enter its final order of apportionment and order of confir-  
12 mation of the roll and shall make an ~~indorsement~~ ENDORSEMENT  
13 upon the roll showing the date of confirmation and when the  
14 amount to be raised is to be payable. If the amount is to be  
15 payable in more than 1 installment, ~~they~~ THE IRRIGATION BOARD  
16 shall enter ~~thereon~~ ON THE ROLL a memorandum of the install-  
17 ments ~~thereof~~ and of the years when the installments shall be  
18 spread and shall add a certificate in writing of the determina-  
19 tion whether the taxes assessed for benefits shall be paid in 1  
20 or more years. The special assessment rolls shall be dated and  
21 signed by the irrigation board and filed on or before the last  
22 Wednesday in September ~~in~~ OF each year in the office of the  
23 county clerk of the counties involved. When any improvement spe-  
24 cial assessment roll is confirmed by the irrigation board, it  
25 shall be final and conclusive.

26       Sec. ~~27~~ 34127. From the date of confirmation of the  
27 special assessment roll, ~~thereof,~~ all irrigation special

1 assessments ~~shall~~ constitute a lien upon the respective lots or  
2 parcels assessed ~~—~~ and, when assessed, shall be charged against  
3 the person to whom assessed until paid.

4       Sec. ~~28~~ 34128. The ~~chairman~~ CHAIRPERSON of the irriga-  
5 tion board, at the direction of the irrigation board, shall pre-  
6 pare a tax assessment roll in each year for the collection of  
7 taxes for the current year and shall certify it to the county  
8 clerk on or before the first day of the annual meeting of the  
9 COUNTY board of ~~supervisors~~ COMMISSIONERS. In each roll, he OR  
10 SHE shall add ~~—~~ to the amount to be collected ~~—~~ interest on  
11 all unpaid installments to the date of tax collection. To the  
12 roll for the last year, he OR SHE shall add ~~such~~ A further  
13 amount, if any, as may be necessary, together with outstanding  
14 uncollected taxes, to pay all outstanding bonds and interest  
15 ~~thereon~~ ON THE BONDS to maturity. If the roll is made payable  
16 in more than 1 installment, a permanent assessment roll may be  
17 maintained in the office of the county treasurer, subject to the  
18 direction of the board of county auditors, in counties having  
19 such a board, and of the COUNTY board of ~~supervisors~~  
20 COMMISSIONERS in other counties, showing the total cost, the  
21 number of installments, and the amount of each annual assessment,  
22 together with interest charges ~~thereon~~ ON THE ASSESSMENT, which  
23 shall be carried in a separate column. If the roll is made pay-  
24 able in more than 1 installment, and the total amount of any  
25 assessment is \$10.00 or less, exclusive of interest, then the  
26 assessment shall be payable in 1 installment; but if the  
27 assessment exceeds \$10.00 and is made payable in more than 1

1 installment, then no installment, exclusive of interest, shall be  
2 less than \$10.00, excepting the final installment, which shall be  
3 payable in the amount of the actual balance.

4       Sec. ~~29~~ 34129. The COUNTY board of ~~supervisors~~  
5 COMMISSIONERS of the counties involved shall order the spread of  
6 all irrigation special assessments on the local tax rolls by the  
7 local tax assessing officials pursuant to sections 36 to 38 of  
8 THE GENERAL PROPERTY TAX ACT, Act No. 206 of the Public Acts of  
9 1893, ~~as amended,~~ being sections 211.36 to 211.38 of the  
10 MICHIGAN Compiled Laws. ~~of 1948.~~

11       Sec. ~~30~~ 34130. The supervisor ~~—~~ OR THE village or city  
12 assessor shall spread on his OR HER roll the total amount of all  
13 irrigation special assessment taxes determined ~~upon~~ by the  
14 irrigation board and approved by the COUNTY board of  
15 ~~supervisors~~ COMMISSIONERS to be assessed upon the county, town-  
16 ship, city, or village tax roll for the year in which the same  
17 was assessed and extending the tax in the same column with the  
18 general county, township, city, or village tax. In villages or  
19 cities where the municipal taxes ~~therefor~~ are assessed and col-  
20 lected prior to the October meeting of the COUNTY board of  
21 ~~supervisors~~ COMMISSIONERS, all taxes ordered to be spread  
22 against ~~such~~ THE municipalities shall be spread during the cal-  
23 endar year following the action by the COUNTY board of  
24 ~~supervisors~~ COMMISSIONERS. The supervisor, assessor, or tax  
25 levying official shall spread upon the roll, separately ~~—~~ and  
26 immediately following the other descriptions, all tracts or  
27 parcels of land specified by the irrigation board to be assessed

1 for benefits, and shall place opposite each description, in a  
 2 column marked "(giving the name or number) ..... irri-  
 3 gation special assessment taxes", the amount of taxes apportioned  
 4 ~~thereon~~ ON THAT TRACT OR PARCEL OF LAND, as certified to him OR  
 5 HER by the county clerk.

6       Sec. ~~34~~ 34131. All irrigation special assessment taxes  
 7 assessed under ~~the provisions of~~ this ~~act~~ PART shall be  
 8 subject to the same interest and charges, and shall be collected  
 9 in the same manner, as state and other general taxes are col-  
 10 lected, and collecting officers are vested with the same power  
 11 and authority in the collection of ~~such~~ THE taxes as are or may  
 12 be conferred by law for collecting general taxes. Irrigation  
 13 special assessment taxes, when collected, shall be returned to  
 14 the county treasurer to be disbursed by him OR HER. ~~Where~~ IF A  
 15 suit is brought against the collector arising out of the collec-  
 16 tion of ~~any~~ AN irrigation special assessment tax, the county  
 17 shall defend the ~~officer~~ COLLECTOR in the same manner that he  
 18 OR SHE has ~~now~~ the right to be defended in the collection of  
 19 general taxes. ~~No~~ A suit shall NOT be instituted to recover  
 20 any special assessment tax or money paid or property sold there-  
 21 for, or for damages on account thereof, unless brought within 30  
 22 days from the time of payment of ~~such~~ THE money to, or sale of  
 23 ~~such~~ THE property by, the collecting officer. ~~and if~~ IF the  
 24 tax is paid under protest, the reasons ~~therefor~~ FOR THE PROTEST  
 25 shall be specified, and the same procedure observed as is  
 26 required by the general tax law. All taxes levied under ~~the~~  
 27 ~~provisions of~~ this ~~act~~ PART, with all lawful costs, interest,

1 and charges, shall be and remain a perpetual lien upon the lands  
2 upon which they are assessed, and a personal claim against the  
3 owner of the lands until they are paid. If the taxes levied by  
4 the special assessment irrigation district are not collected by  
5 the treasurer of a participating municipality, they shall be  
6 returned by him OR HER, together with the lands upon which they  
7 were levied, to the county treasurer in the same return, at the  
8 same time, and in the same manner, in every respect, naming in  
9 each case the particular irrigation district, as lands are  
10 returned for state, county, and township taxes, and the taxes  
11 shall follow the lands, the same as all other taxes, and all the  
12 general provisions of law for enforcing the payment of township,  
13 county, and state taxes ~~—~~ shall apply to irrigation special  
14 assessment taxes ~~—~~ and to the lands returned delinquent  
15 ~~therefor~~ FOR THOSE TAXES, in the same manner and with ~~like~~  
16 THE SAME effect.

17       Sec. ~~32~~ 34132. If the assessments in any special assess-  
18 ment roll prove insufficient for any reason, including the non-  
19 collection ~~thereof~~ OF THE ASSESSMENTS, to pay for the improve-  
20 ment for which they were made or to pay the principal and inter-  
21 est on the bonds issued in anticipation of the collection  
22 ~~thereof~~ OF THE ASSESSMENTS, then the irrigation board shall  
23 make additional pro rata assessments to supply the deficiency,  
24 but the total amount assessed against any parcel of land shall  
25 not exceed the value of the benefits received from the  
26 improvement.

1       Sec. ~~33~~ 34133. ~~Whenever~~ IF, in the opinion of the  
 2 irrigation board, ~~any~~ A special assessment is invalid by reason  
 3 of irregularities or informalities in the proceedings, or if any  
 4 court of competent jurisdiction adjudges an assessment illegal,  
 5 the irrigation board, whether the improvement has been made or  
 6 not ~~—~~ AND whether any part of the assessment has been paid or  
 7 not, may proceed from the last step at which the proceedings were  
 8 legal and cause a new assessment to be made for the same purpose  
 9 for which the former assessment was made. All proceedings on  
 10 ~~such~~ THE reassessment and for the collection ~~thereof~~ OF THE  
 11 REASSESSMENT shall be conducted in the same manner as provided  
 12 for the original assessment. Whenever an assessment or any part  
 13 ~~thereof~~ OF AN ASSESSMENT levied upon any premises has been ~~so~~  
 14 set aside IN SUCH A MANNER, if the ~~same~~ ASSESSMENT OR PART OF  
 15 AN ASSESSMENT has been paid and not refunded, the payment ~~so~~  
 16 made shall be applied upon the reassessment.

17       Sec. ~~34~~ 34134. The irrigation board of each special  
 18 assessment district may issue irrigation orders for the payment  
 19 of all charges reflected by the computation of costs upon the  
 20 irrigation fund of each particular district. ~~In no case shall~~  
 21 ~~irrigation~~ IRRIGATION taxes SHALL NOT be assessed for benefits  
 22 received ~~which~~ THAT are to be paid by irrigation orders in  
 23 excess of 10 annual installments. All irrigation orders for the  
 24 payment for easements or rights-of-way shall be paid out of the  
 25 first year's taxes, and the balance of ~~such~~ THE first year's  
 26 taxes shall be applied toward payment of the irrigation  
 27 construction contracts. For the balance due upon such contracts,

1 the irrigation board shall draw irrigation orders payable out of  
2 each succeeding year's assessment. ~~No~~ AN irrigation board  
3 shall NOT draw orders payable in any ~~one~~ 1 year for a larger  
4 amount than 90% of that year's assessment. Irrigation orders  
5 shall be ordered to be paid by the irrigation board only after a  
6 certification by the treasurer of the irrigation district that  
7 there are sufficient funds in the irrigation district fund to pay  
8 the order. The county ~~treasurer~~ TREASURERS of the counties  
9 involved in irrigation districts shall keep a record of all  
10 receipts and disbursements of all irrigation districts in their  
11 respective counties.

12 Sec. ~~35~~ 34135. The COUNTY board of ~~supervisors~~  
13 COMMISSIONERS of the county involved by a resolution adopted by A  
14 2/3 vote of its members ~~elect~~ may pledge the full faith and  
15 credit of the county for the prompt payment of the interest on  
16 the bonds or evidences of indebtedness issued by the respective  
17 irrigation districts ~~pursuant to the provisions of~~ UNDER this  
18 ~~act~~ PART.

19 Sec. ~~36~~ 34136. (1) The irrigation board shall operate and  
20 maintain the property of the irrigation district.

21 (2) The irrigation board may fix and collect water charges  
22 to cover the cost of the operation and maintenance of physical  
23 structures and administrative expenses of the district in connec-  
24 tion with the transportation, impoundment, and utilization of  
25 water for irrigation purposes. The charges shall be approved by  
26 the majority vote of the irrigation board and shall be made to  
27 each user of water.

1           (3) Charges for water services furnished to a user or to a  
2 landowner shall be a lien on the affected lands from the date the  
3 charges are due. Charges delinquent for 6 months or more shall  
4 be certified annually to the proper tax assessing officer or  
5 agency, who shall enter the charges upon the next tax roll  
6 against the premises to which the services have been rendered,  
7 and the charges shall be collected and the lien shall be enforced  
8 in the same manner as provided for the collection of taxes  
9 assessed upon the tax roll and the enforcement of the lien. The  
10 time and manner of certification and other procedures regarding  
11 the collection of the charges and the enforcement of the lien  
12 shall be prescribed by the irrigation board in cooperation with  
13 the governing bodies of the public corporations in which the  
14 lands are located. Instead of or in addition to levying water  
15 charges for the operation and maintenance of the properties of  
16 the irrigation district, the irrigation board, under the same  
17 conditions and for the same purpose, may exact connection, readi-  
18 ness to serve, availability, or service charges to be paid by the  
19 users ~~—~~ or owners of land utilizing irrigation water for irri-  
20 gation purposes.

21           (4) Future necessary expenses incurred in the administration  
22 and operation of the district and its properties may be assessed  
23 not less than once every 3 years on the basis of benefits derived  
24 after notice of the hearing on the maintenance assessment roll is  
25 given in compliance with THE OPEN MEETINGS ACT, Act No. 267 of  
26 the Public Acts of 1976, BEING SECTIONS 15.261 TO 15.275 OF THE  
27 MICHIGAN COMPILED LAWS, and Act No. 162 of the Public Acts of



1 1962, BEING SECTIONS 211.741 TO 211.746 OF THE MICHIGAN COMPILED  
2 LAWS.

3       Sec. ~~37~~ 34137. (1) Except as prescribed in subsection  
4 (2), the final order of determination, the order of apportionment  
5 of benefits, or the order confirming the special assessment roll  
6 shall not be subject to attack in a court except by proceedings  
7 by writ of superintending control brought within 20 days after  
8 the filing of the order in the office of the chairperson of the  
9 irrigation board issuing the order. If a proceeding is not  
10 brought within the time prescribed, the irrigation special  
11 assessment district and project shall be considered to have been  
12 legally established, and the legality of the irrigation special  
13 assessment district and project' and the assessments for the dis-  
14 trict and project shall not be questioned in an action at law or  
15 in equity.

16       (2) This section shall not prohibit the bringing of an  
17 action pursuant to THE OPEN MEETINGS ACT, Act No. 267 of the  
18 Public Acts of 1976, ~~as amended~~ BEING SECTIONS 15.261 TO 15.275  
19 OF THE MICHIGAN COMPILED LAWS.

20       Sec. ~~38~~ 34138. The irrigation board may, by the adoption  
21 of an appropriate order, provide for the suspension of water  
22 delivery to any land in the district upon which the irrigation  
23 taxes levied and assessed ~~thereon shall~~ remain due and unpaid  
24 for 2 years. The irrigation board shall make all arrangements  
25 for right-of-way for laterals from the main drain or canal to  
26 each tract of land subject to assessment, and when necessary the  
27 board shall condemn to procure right-of-way for laterals and make

1 such rules in regard to the payment for the right-of-way as it  
2 ~~may deem~~ CONSIDERS just and equitable.

3       Sec. ~~39~~ 34139. The irrigation board shall manage and con-  
4 duct the business affairs of the district, make and execute all  
5 necessary contracts, employ ~~such~~ agents, officers, and employ-  
6 ees as may be required and prescribe their duties, establish  
7 equitable orders ~~AND~~ rules ~~and regulations~~ for the distri-  
8 bution and use of water among owners of such lands, and generally  
9 ~~to~~ perform all ~~such~~ acts as ~~shall be~~ ARE necessary to fully  
10 ~~carry out the purposes of~~ IMPLEMENT this ~~act~~ PART. The  
11 orders ~~AND~~ rules ~~and regulations~~ with respect to the irri-  
12 gation district shall be printed in convenient form for distribu-  
13 tion to the freeholders in the irrigation district.

14       Sec. ~~40~~ 34140. The irrigation board ~~AND~~ its agents  
15 and employees ~~shall have the right to~~ MAY enter upon any land  
16 within the district to make surveys, and may locate the line of  
17 any drain or canal and the necessary branches of ~~such~~ THAT  
18 location. The irrigation board may acquire, either by purchase  
19 or condemnation, all lands and other property necessary for the  
20 construction, use, maintenance, repair, and improvement of any  
21 canal, drain or drains, and lands for reservoirs or dams, for the  
22 storage of water, and FOR all necessary appurtenances thereto.  
23 The board may acquire by purchase or condemnation any irrigation  
24 works, dams, drains, canals, pumping equipment, ~~pump~~ PUMPS, or  
25 reservoirs for the use of the district. The irrigation board may  
26 construct the necessary dams, reservoirs, and works for the  
27 storage or transfer of Great Lakes water for the district, and

1 ~~do~~ MAY PERFORM any lawful act necessary ~~to be done that~~ TO  
2 FURNISH water ~~may be furnished~~ TO each landowner in the dis-  
3 trict for irrigation purposes.

4 Sec. ~~41~~ 34141. Any ~~public or private corporation, firm~~  
5 ~~or individual~~ PERSON may advance ~~moneys~~ MONEY for the payment  
6 of any part of the cost of a project and shall be reimbursed by  
7 the irrigation special assessment district, with or without  
8 interest as may be agreed, when funds are available FOR THAT  
9 PURPOSE. ~~therefor.~~ The obligation of the irrigation special  
10 assessment district to make the reimbursement may be evidenced by  
11 a contract or note, which contract or note may pledge the full  
12 faith and credit of the irrigation special assessment district  
13 and may be made payable out of the assessments made against prop-  
14 erties in the irrigation special assessment district, ~~or~~ out of  
15 the proceeds of bonds issued by the irrigation special assessment  
16 district pursuant to this ~~act~~ PART, or out of any other avail-  
17 able funds, but the contract or note shall be ~~deemed~~ CONSIDERED  
18 to be an obligation within the meaning of the provisions of THE  
19 MUNICIPAL FINANCE ACT, Act No. 202 of the Public Acts of 1943,  
20 ~~as amended,~~ being sections 131.1 to ~~138.2~~ 139.3 of the  
21 MICHIGAN Compiled Laws. ~~of 1948.~~

22 Sec. ~~42~~ 34142. The county treasurers of the counties in  
23 which the irrigation district is located shall carry all accounts  
24 and items pertaining thereto as a separate account upon the books  
25 of their office. A record shall be kept of the amount of money  
26 paid from the irrigation district funds for the use and benefit  
27 of any irrigation district and, upon payment to the county

1 treasurer of taxes assessed by the irrigation district, the  
2 county treasurer shall pay for the outstanding interest on bonds  
3 issued out of the taxes received or shall transfer the excess of  
4 funds to the irrigation district fund for the use and benefit of  
5 the irrigation district.

6       Sec. ~~43~~ 34143. The irrigation district funds shall be  
7 deposited by the county treasurer in a bank of the county in  
8 accordance with the general laws of this state, and interest so  
9 received shall belong to the irrigation district fund. Money  
10 collected or appropriated for an individual irrigation special  
11 assessment district fund shall be used solely for the use and  
12 benefit of the irrigation district for which it was raised or  
13 received.

14       Sec. ~~44~~ 34144. The county treasurer shall be the custo-  
15 dian of the funds of the irrigation district. He OR SHE may des-  
16 ignate 1 or more of his OR HER deputies who may act for him OR  
17 HER in the performance of any of his OR HER duties under this  
18 section. The irrigation board may require the county treasurer  
19 and any deputy county treasurer, so designated, to furnish a bond  
20 payable to the irrigation district, in addition to any bond pay-  
21 able to the county, conditioned upon the faithful discharge of  
22 his OR HER duties in respect to ~~moneys~~ MONEY belonging to the  
23 irrigation district, the premium ~~thereon~~ ON THE BOND to be paid  
24 by the irrigation district. ~~Moneys~~ MONEY held by the treasurer  
25 shall be paid out only upon order of the irrigation board, except  
26 that ~~no such~~ AN order shall NOT be required for the payment of  
27 principal and interest on bonds.

1       Sec. ~~45~~ 34145. The county board of commissioners in which  
2 an irrigation district is proposed to be formed may provide for  
3 an appropriation to create a revolving fund to pay for the pre-  
4 liminary costs of irrigation improvement projects within the  
5 county. The preliminary costs shall be assessed to the property  
6 owners in the assessment district by the irrigation board after  
7 notice of the hearing is given as prescribed in section ~~+5(+)~~  
8 34115 and Act No. 162 of the Public Acts of 1962, BEING  
9 SECTIONS 211.741 TO 211.746 OF THE MICHIGAN COMPILED LAWS. The  
10 preliminary costs shall be repaid to the fund ~~where~~ IF the  
11 project is not finally constructed. The preliminary costs shall  
12 be repaid to the fund when a project is constructed out of the  
13 first bond proceeds, taxes, or assessments received.

14       Sec. ~~46~~ 34146. The irrigation board may borrow money and  
15 issue the bonds of the special assessment district ~~therefor~~ FOR  
16 THAT MONEY in anticipation of the collection of special assess-  
17 ments to defray the cost of any improvement made under this ~~act~~  
18 PART after the special assessment roll has been confirmed. The  
19 bonds shall not exceed the amount of the special assessments in  
20 anticipation of the collection of which they are issued and shall  
21 bear interest at a rate not exceeding 6% per annum. Collections  
22 on special assessments to the extent pledged for the payment of  
23 bonds shall be set aside in a special fund for the payment of the  
24 bonds. The issuance of special assessment bonds shall be gov-  
25 erned by ~~the provisions of~~ the general laws of the state appli-  
26 cable ~~thereto~~ TO THE ISSUANCE OF SPECIAL ASSESSMENT BONDS and  
27 in accordance with THE MUNICIPAL FINANCE ACT, Act No. 202 of the

1 Public Acts of 1943, ~~as amended~~ BEING SECTIONS 131.1 TO 139.3  
 2 OF THE MICHIGAN COMPILED LAWS. Bonds may be issued in anticipa-  
 3 tion of the collection of special assessments levied in respect  
 4 to 2 or more public improvements, but no special assessment dis-  
 5 trict shall be compelled to pay the obligation of any other spe-  
 6 cial assessment district.

7 ~~Part 343. Great Lakes Conservation~~

8 ~~LAND HABITATS~~

9 ~~Part 351. Wilderness and Natural Areas~~

10 LAND HABITATS

11 PART 351 WILDERNESS AND NATURAL AREAS

12 ~~Sec. 1. This act shall be known and may be cited as the~~

13 ~~"wilderness and natural areas act of 1972".~~

14 Sec. ~~2~~ 35101. As used in this ~~act~~ PART:

15 ~~(a) "Board" means the wilderness and natural areas advisory~~

16 ~~board created pursuant to section 3.~~

17 ~~(b) "Commission" means the commission of natural resources.~~

18 ~~(c) "Department" means the department of natural resources.~~

19 (A) ~~(f)~~ "Natural area" means a tract of state land or

20 water under control of the department and dedicated and regulated  
 21 by the ~~commission~~ DEPARTMENT pursuant to this ~~act~~ PART

22 which:

23 (i) Has retained or reestablished its natural character, or  
 24 has unusual flora and fauna or biotic, geologic, scenic, or other  
 25 similar features of educational or scientific value, but it need  
 26 not be undisturbed.

1       (ii) Has been identified and verified through research and  
2 study by qualified observers.

3       (iii) May be coextensive with or part of a wilderness area  
4 or wild area.

5       (B) ~~(e)~~ "Wild area" means a tract of undeveloped state  
6 land or water under control of the department and dedicated and  
7 regulated by the ~~commission~~ DEPARTMENT pursuant to this ~~act~~  
8 PART which:

9       (i) Is less than 3,000 acres of state land.

10       (ii) Has outstanding opportunities for personal exploration,  
11 challenge, or contact with natural features of the landscape and  
12 its biological community.

13       (iii) Possesses 1 or more of the characteristics of a wil-  
14 derness area.

15       (C) ~~(d)~~ "Wilderness area" means a tract of undeveloped  
16 state land or water under control of the department and dedicated  
17 and regulated by the ~~commission~~ DEPARTMENT pursuant to this  
18 ~~act~~ PART which:

19       (i) Has 3,000 or more acres of state land or is an island of  
20 any size.

21       (ii) Generally appears to have been affected primarily by  
22 forces of nature with the imprint of ~~man's~~ THE work OF HUMANS  
23 substantially unnoticeable.

24       (iii) Has outstanding opportunities for solitude or a primi-  
25 tive and unconfined type of recreation.

26       (iv) Contains ecological, geological, or other features of  
27 scientific, scenic, or historical value.

1       Sec. ~~3~~ 35102. ~~(1) The wilderness and natural areas~~  
2 ~~advisory board is created within the department of natural~~  
3 ~~resources. The board shall consist of 7 citizens of the state~~  
4 ~~who shall be appointed by the governor with the advice and con-~~  
5 ~~sent of the senate; 1 shall be from the Upper Peninsula; 1 shall~~  
6 ~~be from the Lower Peninsula north of townline 16; 3 members shall~~  
7 ~~possess experience in the evaluation and preservation of wilder-~~  
8 ~~ness or natural areas; 1 shall be trained and experienced in~~  
9 ~~wildlife biology; 1 shall be a registered forester, trained and~~  
10 ~~experienced in forest ecology, silviculture and protection of~~  
11 ~~forest land; 1 shall be qualified in outdoor education and nature~~  
12 ~~interpretation; and 1 shall represent those industries whose~~  
13 ~~basic resources come from the lands and forests. The board shall~~  
14 ~~elect 1 of its members as chairman. Members shall serve for~~  
15 ~~terms of 3 years each except that of the members first appointed,~~  
16 ~~2 shall be appointed for terms of 1 year, 2 for 2 years and 3 for~~  
17 ~~3 years. Members shall serve without compensation. (2) The~~  
18 ~~board~~ DEPARTMENT shall ~~make recommendations for the dedication~~  
19 ~~and administration of~~ IDENTIFY FOR DEDICATION, DEDICATE, AND  
20 ADMINISTER wilderness areas, wild areas, and natural areas in  
21 accordance with this ~~act~~ PART. The ~~board~~ DEPARTMENT shall  
22 enlist the voluntary cooperation and support of interested citi-  
23 zens and conservation groups.

24       Sec. ~~4~~ 35103. (1) ~~Within 6 months after the effective~~  
25 ~~date of this act~~ BY FEBRUARY 3, 1972, and each year thereafter,  
26 the department shall review all state land under its control and  
27 ~~shall~~ identify those tracts ~~which~~ THAT in its judgment best



1 exhibit the characteristics of a wilderness area, wild area, or  
2 natural area. The department shall ~~propose to the commission~~  
3 DETERMINE WHICH land ~~which~~ in its judgment is most suitable for  
4 dedication ~~by the commission~~ as wilderness areas, wild areas,  
5 or natural areas. The department shall administer the proposed  
6 land so as to protect its natural values.

7 (2) ~~The board or a~~ A citizen may propose to the  
8 ~~commission~~ DEPARTMENT land ~~which~~ THAT in ~~its~~ HIS OR HER  
9 judgment exhibits the characteristics of a wilderness area, wild  
10 area, or natural area and is suitable for dedication by the  
11 ~~commission~~ DEPARTMENT as such or may propose the alteration or  
12 withdrawal of previously dedicated areas. Land under control of  
13 the department ~~which~~ THAT has been dedicated or designated  
14 before ~~the effective date of this act~~ AUGUST 3, 1972 as a natu-  
15 ral area, nature study area, preserve, natural reservation, wil-  
16 derness, or wilderness study area shall be considered by the  
17 ~~board~~ DEPARTMENT and, if eligible, proposed for dedication.  
18 The proposals of the ~~board~~ DEPARTMENT shall be filed with both  
19 houses of the legislature.

20 (3) Within 90 days after land is proposed in accordance with  
21 subsections (1) or (2), the ~~commission, with prior approval of~~  
22 ~~the board,~~ DEPARTMENT shall make the dedication or issue a writ-  
23 ten statement of its principal reasons for denying the proposal.  
24 The ~~commission~~ DEPARTMENT shall dedicate a wilderness area,  
25 wild area, or natural area, or alter or withdraw the dedication,  
26 by promulgating a rule. ~~in accordance with and subject to Act~~  
27 ~~No. 306 of the Public Acts of 1969, as amended, being sections~~

1 ~~24.201 to 24.315 of the Compiled Laws of 1948.~~ The department  
2 shall hold a public hearing relative to the dedication in the  
3 county where the land to be dedicated is located before a rule  
4 making the dedication may be promulgated. Not more than 10% of  
5 state land under the control of the department shall be dedicated  
6 pursuant to this ~~act~~ PART. All persons who have notified the  
7 ~~commission~~ DEPARTMENT in writing during a calendar year of  
8 their interest in dedication of areas under this ~~act~~ PART shall  
9 be furnished by the ~~commission~~ DEPARTMENT with a notice of all  
10 areas pending dedication or alteration or withdrawal from dedica-  
11 tion during that calendar year.

12 (4) The ~~commission~~ DEPARTMENT may exchange dedicated land  
13 for the purpose of acquiring other land ~~which~~ THAT, in its  
14 judgment, ~~are~~ IS more suitable for the purposes of this ~~act~~  
15 PART.

16 Sec. ~~5~~ 35104. (1) The ~~commission~~ DEPARTMENT shall  
17 attempt to provide, ~~insofar as~~ TO THE EXTENT possible, wild  
18 areas and natural areas in relative proximity to urban centers of  
19 more than 100,000 population.

20 (2) Private land or land under the control of other govern-  
21 mental units may be designated BY THE DEPARTMENT in the same way  
22 as a wilderness area, wild area, or natural area ~~by the~~  
23 ~~commission~~ and administered by the department under a coopera-  
24 tive agreement between the owner and the ~~commission~~  
25 DEPARTMENT.

26 Sec. ~~6~~ 35105. The following are prohibited on state land  
27 in a wilderness area, wild area, or natural area or on state land

1 proposed by the department for dedication in 1 of these  
2 categories during the 90 days a dedication is pending pursuant to  
3 section ~~4~~ 35103:

4 (a) Removing, cutting, picking, or otherwise altering  
5 vegetation, except as necessary for appropriate public access,  
6 the preservation or restoration of a plant or wildlife species,  
7 or the documentation of scientific values and with written con-  
8 sent of the department.

9 (b) Granting an easement for any purpose.

10 (c) Exploration for or extraction of minerals.

11 (d) A commercial enterprise, utility or permanent road.

12 (e) A temporary road, landing of aircraft, use of motor  
13 vehicles, motorboats, or other form of mechanical transport, or  
14 any structure or installation, except as necessary to meet mini-  
15 mum emergency requirements for administration as a wilderness  
16 area, wild area, or natural area by the department.

17 (f) Trapping and hunting when recommended by the  
18 department.

19 Sec. ~~7~~ 35106. A person who lands an aircraft or operates  
20 a motor vehicle, motorboat, or other form of mechanical transport  
21 in a wilderness area, wild area, or natural area without the  
22 express written consent of the department is guilty of a  
23 misdemeanor.

24 Sec. ~~8~~ 35107. (1) State land in a wilderness area, wild  
25 area, or natural area shall be maintained or restored so as to  
26 preserve its natural values in a manner compatible with this  
27 ~~act~~ PART.

1 (2) Grasslands, forested lands, swamps, marshes, bogs, rock  
 2 outcrops, beaches, and wholly enclosed waters of this state  
 3 ~~which~~ THAT are an integral part of a wilderness area, wild  
 4 area, or natural area shall be included within and administered  
 5 as a part of the area.

6 Sec. ~~9~~ 35108. The department shall post signs in conspic-  
 7 uous locations along the borders of a wilderness area, wild area,  
 8 or natural area. The signs shall give notice of the area's dedi-  
 9 cation and shall state those activities which are prohibited pur-  
 10 suant to section ~~6~~ 35105 and those activities which are punish-  
 11 able as a misdemeanor pursuant to section ~~7~~ 35106.

12 Sec. ~~10~~ 35109. The department may acquire land through  
 13 purchase, gift, or bequest for inclusion in a wilderness area,  
 14 wild area, or natural area.

15 Sec. ~~11~~ 35110. The local taxing authority ~~shall be~~ IS  
 16 entitled to collect from the state a tax on a wilderness, wild,  
 17 or natural area within its jurisdiction at its ad valorem tax  
 18 rate or \$2.00 per acre, whichever is less. The department shall  
 19 audit the assessments of wilderness, wild, or natural areas regu-  
 20 larly to ~~insure~~ ENSURE that ~~such~~ THE properties are assessed  
 21 in the same ratio as similar properties in private ownership.  
 22 The legislature shall appropriate from the general fund for pay-  
 23 ments under this section.

24 Sec. ~~12~~ 35111. (1) Nothing in this ~~act shall be con-~~  
 25 ~~strued to affect or diminish~~ PART AFFECTS OR DIMINISHES any  
 26 right acquired or vested before ~~the effective date of this act-~~  
 27 AUGUST 3, 1972.

1 (2) Nothing in this ~~act shall alter~~ PART ALTERS the status  
 2 of land dedicated by the commission before ~~the effective date of~~  
 3 ~~this act~~ AUGUST 3, 1972 until dedicated pursuant to section ~~4~~  
 4 35103, except that tax reverted lands ~~shall be~~ ARE subject to  
 5 section ~~++~~ 35110. Purchased land dedicated by the commission  
 6 before ~~the effective date of this act shall be~~ AUGUST 3, 1972  
 7 IS subject to ad valorem taxes ~~when~~ IF dedicated pursuant to  
 8 section ~~4~~ 35103.

9 ~~Sec. 13. This act shall take effect July 1, 1972.~~

10 ~~Part 353. Sand Dunes Protection and Management~~

11 PART 353 SAND DUNE PROTECTION AND MANAGEMENT

12 ~~Sec. 1. This act shall be known and may be cited as the~~  
 13 ~~"sand dune protection and management act".~~

14 Sec. ~~2a~~ 35301. As used in this ~~act~~ PART:

15 (a) "Contour change" includes any grading, filling, digging,  
 16 or excavating that significantly alters the physical characteris-  
 17 tic of a critical dune area, except that which is involved in  
 18 sand dune mining AS DEFINED IN PART 637.

19 (B) "CREST" MEANS THE LINE AT WHICH THE FIRST LAKEWARD  
 20 FACING SLOPE OF A CRITICAL DUNE RIDGE BREAKS TO A SLOPE OF LESS  
 21 THAN 18% FOR A DISTANCE OF AT LEAST 20 FEET, IF THE AREAL EXTENT  
 22 WHERE THIS BREAK OCCURS IS GREATER THAN 1/10 ACRE IN SIZE.

23 (C) ~~(b)~~ "Critical dune area" means a geographic area des-  
 24 ignated in the "atlas of critical dune areas" dated February 1989  
 25 that was prepared by the department.

26 ~~(c) "Local unit of government" means a city, village,~~  
 27 ~~township, or county.~~

1 (D) "FOREDUNE" MEANS 1 OR MORE LOW LINEAR DUNE RIDGES THAT  
2 ARE PARALLEL AND ADJACENT TO THE SHORELINE OF A GREAT LAKE AND  
3 ARE RARELY GREATER THAN 20 FEET IN HEIGHT. THE LAKEWARD FACE OF  
4 A FOREDUNE IS OFTEN GENTLY SLOPING AND MAY BE VEGETATED WITH DUNE  
5 GRASSES AND LOW SHRUB VEGETATION OR MAY HAVE AN EXPOSED SAND  
6 FACE.

7 (e) "Model zoning plan" means the model zoning plan provided  
8 for in sections ~~31~~ 35326 to ~~42 of chapter 4~~ 35338.

9 (F) "PLANNING COMMISSION" MEANS THE BODY OR ENTITY WITHIN A  
10 LOCAL GOVERNMENT THAT IS RESPONSIBLE FOR ZONING AND LAND USE  
11 PLANNING FOR THE LOCAL UNIT OF GOVERNMENT.

12 (G) "RESTABILIZATION" MEANS RESTORATION OF THE NATURAL CON-  
13 TOURS OF A CRITICAL DUNE TO THE EXTENT PRACTICABLE, AND THE RES-  
14 TORATION OF THE PROTECTIVE VEGETATIVE COVER OF A CRITICAL DUNE  
15 THROUGH THE ESTABLISHMENT OF INDIGENOUS VEGETATION, AND THE  
16 PLACEMENT OF SNOW FENCING OR OTHER TEMPORARY SAND TRAPPING MEA-  
17 SURES FOR THE PURPOSE OF PREVENTING EROSION, DRIFTING, AND SLUMP-  
18 ING OF SAND.

19 (H) ~~(f)~~ "Special use project" means any of the following:

20 (i) A proposed use in a critical dune area for an industrial  
21 or commercial purpose regardless of the size of the site.

22 (ii) A multifamily use of more than 3 acres.

23 (iii) A multifamily use of 3 acres or less if the density of  
24 use is greater than 4 individual residences per acre.

25 (iv) A proposed use in a critical dune area, regardless of  
26 size of the use, that the planning commission, or the department  
27 if a local unit of government does not have an approved zoning

1 ordinance, determines would damage or destroy features of  
2 archaeological or historical significance.

3 (I) ~~(g)~~ "Use" means a developmental, silvicultural, or  
4 recreational activity done or caused to be done by a person that  
5 significantly alters the physical characteristic of a critical  
6 dune area or a contour change done or caused to be done by a  
7 person. ~~, but~~ USE does not include sand dune mining AS DEFINED  
8 IN PART 637.

9 (J) ~~(d)~~ "Zoning ordinance" means an ordinance of a local  
10 unit of government that regulates the development of critical  
11 dune areas within the local unit of government pursuant to the  
12 requirements of ~~chapters 3 and 4~~ THIS PART.

13 Sec. ~~1a~~ 35302. The legislature finds that:

14 (a) The critical dune areas of this state are a unique,  
15 irreplaceable, and fragile resource that provide significant rec-  
16 reational, economic, scientific, geological, scenic, botanical,  
17 educational, agricultural, and ecological benefits to the people  
18 of this state and to people from other states and countries who  
19 visit this resource.

20 (b) Local units of government should have the opportunity to  
21 exercise the primary role in protecting and managing critical  
22 dune areas in accordance with this ~~act~~ PART.

23 (c) The benefits derived from alteration, industrial, resi-  
24 dential, commercial, agricultural, silvicultural, and the recrea-  
25 tional use of critical dune areas shall occur only when the pro-  
26 tection of the environment and the ecology of the critical dune

1 areas for the benefit of the present and future generations is  
2 assured.

3       Sec. ~~16~~ 35303. (1) As soon as practicable following ~~the~~  
4 ~~effective date of this chapter~~ JULY 5, 1989, the ~~director~~  
5 DEPARTMENT shall notify by mail each local unit of government  
6 that has within its jurisdiction critical dune areas, and include  
7 a copy of the "atlas of critical dune areas" dated February 1989  
8 and a copy of ~~this act~~ FORMER ACT NO. 222 OF THE PUBLIC ACTS OF  
9 1976 with the notice. By October 1, 1989, the ~~director~~  
10 DEPARTMENT shall mail a copy of the same notice to each property  
11 owner of record who owns property within a critical dune area.  
12 The notices shall include the following information:

13       (a) That designated property within the local unit of gov-  
14 ernment is a critical dune area that is subject to regulation  
15 under ~~this act~~ FORMER ACT NO. 222 OF THE PUBLIC ACTS OF 1976.

16       (b) ~~A~~ THAT A local unit of government may adopt a zoning  
17 ordinance that is approved by the department, or, if the local  
18 unit of government does not have an approved ordinance, the use  
19 of the critical dune area will be regulated by the department  
20 under the model zoning plan.

21       (2) Upon the request of the department, a local unit of gov-  
22 ernment shall supply to the department the address of each prop-  
23 erty owner of record who owns property within a critical dune  
24 area within its jurisdiction in a timely manner that enables the  
25 department to provide notice to the property owners as required  
26 under subsection (1).



1       Sec. ~~7~~ 35304. (1) Beginning on July 5, 1989 and until  
2 the local unit of government either adopts a zoning ordinance  
3 that is approved by the department or the department issues per-  
4 mits as provided in subsection (3) or (8), whichever occurs  
5 first, the local unit of government may require the submittal of  
6 applications for permits for uses in critical dune areas. The  
7 local unit of government shall evaluate applications for uses and  
8 may issue permits for uses in critical dune areas that are in  
9 conformance with and are at least as environmentally protective  
10 as the model zoning plan.

11       (2) A local unit of government that elects to issue permits  
12 during the interim period described in subsection (1) shall  
13 notify the department of its decision and shall reflect this  
14 decision by passage of a resolution of its governing body or by  
15 providing documentation to the department that an existing ordi-  
16 nance meets or exceeds the requirements of the model zoning  
17 plan. Following the passage of the resolution, a local unit of  
18 government may issue permits during the interim period in accord  
19 with the procedures and criteria established in subsection (4).

20       (3) If by August 1, 1989 a local unit of government has not  
21 passed a resolution indicating its intent to issue permits during  
22 the interim period or submitted an existing ordinance that meets  
23 the requirements of this ~~act~~ PART, the department shall issue  
24 permits in the same manner provided for local units of government  
25 in subsection (4) for uses within that local unit of government  
26 under the model zoning plan until the local unit of government

1 submits a zoning ordinance to the department and obtains approval  
2 of the ordinance.

3 (4) A local unit of government that issues permits during  
4 the interim time period provided for in subsection (1), or the  
5 department if it issues permits as provided under subsection (3)  
6 or (8), shall issue permits in accordance with all of the  
7 following:

8 (a) A person proposing a use within a critical dune area  
9 shall file an application with the local unit of government, or  
10 with the department if the department is issuing permits under  
11 the model zoning plan. The application form shall include infor-  
12 mation that may be necessary to conform with the requirements of  
13 this ~~act~~ PART. If a project proposes the use of more than 1  
14 critical dune area location within a local unit of government, 1  
15 application may be filed for the uses.

16 (b) Notice of an application filed under this section shall  
17 be sent to a person who makes a written request to the local unit  
18 of government for notification of pending applications accom-  
19 panied by an annual fee established by the local unit of  
20 government. The local unit of government shall prepare a monthly  
21 list of the applications made during the previous month and shall  
22 promptly mail copies of the list for the remainder of the calen-  
23 dar year to the persons who have requested notice. In addition,  
24 if the department issues permits under this ~~act~~ PART within a  
25 local unit of government, notice of an application shall be given  
26 to the local soil conservation district office, the county clerk,  
27 the county health department, and the local unit of government in

1 which the property is located. The monthly list shall state the  
2 name and address of each applicant, the location of the  
3 applicant's project, and a summary statement of the purpose of  
4 the use. The local unit of government may hold a public hearing  
5 on pending applications.

6 (c) The notice shall state that unless a written request is  
7 filed with the local unit of government within 20 days after the  
8 notice is mailed, the local unit of government may grant the  
9 application without a public hearing. Upon the written request  
10 of 2 or more persons that own real property within the local unit  
11 of government or an adjacent local unit of government, or that  
12 reside within the local unit of government or an adjacent local  
13 unit of government, the local unit of government shall hold a  
14 public hearing pertaining to a permit application.

15 (d) At least 10 days' notice of a hearing to be held pursu-  
16 ant to this section shall be given by ~~the~~ publication in 1 or  
17 more newspapers of general circulation in the county in which the  
18 proposed use is to be located, and in other publications, if  
19 appropriate, to give notice to persons likely to be affected by  
20 the proposed use, and by mailing copies of the notice to the per-  
21 sons who have requested notice pursuant to subsection (1) and TO  
22 the person requesting the hearing.

23 (e) After the filing of an application, the local unit of  
24 government shall grant or deny the permit within 60 days, or  
25 within 90 days if a public hearing is held. When a permit is  
26 denied, the local unit of government shall provide to the  
27 applicant a concise written statement of its reasons for denial

1 of the permit, and if it appears that a minor modification of the  
2 application would result in the granting of the permit, the  
3 nature of the modification shall be stated. In an emergency, the  
4 local unit of government may issue a conditional permit before  
5 the expiration of the 20-day period referred to in  
6 subdivision (c).

7 (f) The local unit of government shall base a decision to  
8 grant or deny a permit required by this section on the model  
9 zoning plan or on any existing ordinance that is in effect in the  
10 local unit of government that provides the same or a greater  
11 level of protection for critical dune areas and ~~which~~ THAT is  
12 approved by the department.

13 (5) A local unit of government zoning ordinance regulating  
14 critical dune areas may be more restrictive of development and  
15 more protective of critical dune areas than the model zoning  
16 plan.

17 (6) As soon as possible following adoption of a zoning ordi-  
18 nance enacted pursuant to this ~~act~~ PART, the local unit of gov-  
19 ernment shall submit TO THE DEPARTMENT a copy of the ordinance  
20 that it determines meets the requirements of this ~~act to the~~  
21 ~~department~~ PART. If the local unit of government has an exist-  
22 ing ordinance that it contends is at least as restrictive as the  
23 model zoning plan, that ordinance may be submitted to the depart-  
24 ment at any time. The department shall review zoning ordinances  
25 submitted under this section to assure compliance with this ~~act~~  
26 PART. If the department finds that an ordinance is not in  
27 compliance with this ~~act~~ PART, the department shall work with

1 the local unit of government to bring the ordinance into  
2 compliance and inform the local unit of the failure to comply and  
3 in what ways the submitted ordinance is deficient. Unless a  
4 local unit of government receives notice within 90 days of sub-  
5 mittal that the ordinance they submit to the department under  
6 this subsection is not in compliance with this ~~act~~ PART, the  
7 local unit of government shall be considered to be approved by  
8 the department.

9 (7) A local unit of government may adopt, submit to the  
10 department, and obtain approval of a zoning ordinance based on  
11 the model zoning plan or an equivalent ordinance as provided in  
12 this section by June 30, 1990. If a local unit does not have an  
13 approved ordinance by June 30, 1990, the department shall imple-  
14 ment the model zoning plan for that local unit of government in  
15 the same manner and under the same circumstances as provided in  
16 subsection (4). Notwithstanding any other provision of this  
17 ~~act~~ PART, a local unit of government may adopt a zoning ordi-  
18 nance at any time, and upon the approval of the department, that  
19 ordinance shall take the place of the model zoning plan imple-  
20 mented by the department.

21 (8) If a local unit of government in which a proposed use is  
22 to be located does not elect to issue permits or does not receive  
23 approval of a zoning ordinance that regulates critical dune  
24 areas, the department shall implement the ~~provisions of the~~  
25 model zoning plan in the place of the local unit of government  
26 and issue special exceptions in the same circumstances as

1 provided in this ~~chapter~~ PART for the issuance of variances by  
2 local units of government.

3 (9) The department shall develop permit application forms to  
4 implement this section.

5 (10) The department shall assist local units of government  
6 in developing ordinances that meet the requirements of this ~~act~~  
7 PART.

8 Sec. ~~+7a~~ 35305. (1) If a person is aggrieved by a deci-  
9 sion of the department in regard to the issuance or denial of a  
10 permit or special exception under this ~~act~~ PART, the person may  
11 request a formal hearing on the matter involved. The hearing  
12 shall be conducted by the department as a contested case hearing  
13 in the manner provided for in the administrative procedures act  
14 of 1969, Act No. 306 of the Public Acts of 1969, being  
15 sections 24.201 to 24.328 of the Michigan Compiled Laws.

16 (2) Following the hearing provided for under subsection (1),  
17 a decision of the department in regard to the issuance or denial  
18 of a permit or special exception under this ~~act~~ PART is subject  
19 to judicial review as provided for in Act No. 306 of the Public  
20 Acts of 1969.

21 Sec. ~~+8~~ 35306. (1) The lawful use of land or a structure,  
22 as existing and lawful within a critical dune area at the time  
23 the department implements the model zoning plan for a local unit  
24 of government, may be continued although the use of that land or  
25 structure does not conform to the ~~provisions of the~~ model  
26 zoning plan. The continuance, completion, restoration,  
27 reconstruction, extension, or substitution of existing

1 nonconforming uses of land or a structure may continue upon  
2 reasonable terms that are consistent, to the extent possible,  
3 with the applicable zoning provisions of the local unit of gov-  
4 ernment in which the use is located.

5 (2) The lawful use of land or a structure, as existing and  
6 lawful within a local unit of government that has a zoning ordi-  
7 nance approved by the department, may, but is not required by  
8 this ~~act~~ PART to, be continued subject to the ~~provisions of~~  
9 law pertaining to existing uses within the act that enables that  
10 local unit of government to zone and the applicable zoning provi-  
11 sions of the local unit of government.

12 (3) A use needed to obtain or maintain a permit or license  
13 that is required by law to continue operating an electric utility  
14 generating facility that is in existence on ~~the effective date~~  
15 ~~of this section~~ JULY 5, 1989 shall not be precluded under this  
16 ~~act~~ PART.

17 (4) Uses that have received all necessary permits from the  
18 state or the local unit of government in which the proposed use  
19 is located by ~~June 15, 1989 or the effective date of this chap-~~  
20 ~~ter, whichever is later~~ JULY 5, 1989, are exempt for purposes  
21 for which a permit is issued from the operation of this ~~act~~  
22 PART or local ordinances approved under this ~~act~~ PART. Such  
23 uses shall be regulated pursuant to local ordinances in effect by  
24 that date.

25 Sec. ~~19~~ 35307. Upon adoption of an approved zoning ordi-  
26 nance, certified copies of the maps showing critical dune areas,  
27 and existing development and uses, shall be sent by the local

1 unit of government to the state tax commission and the assessing  
2 office, planning commission, and governing board of the local  
3 unit of government, if requested by an entity listed in this  
4 section.

5       Sec. ~~20~~ 35308. (1) Except as provided in subsection (2),  
6 the following uses shall be prohibited in a critical dune area:

7       (a) A surface drilling operation that is utilized for the  
8 purpose of exploring for or producing hydrocarbons or natural  
9 brine or for the disposal of the waste or by-products of the  
10 operation.

11       (b) Production facilities regulated ~~pursuant to the mineral~~  
12 ~~well act, Act No. 315 of the Public Acts of 1969, being sections~~  
13 ~~319.211 to 319.236 of the Michigan Compiled Laws, and Act No. 61~~  
14 ~~of the Public Acts of 1939, being sections 319.1 to 319.27 of the~~  
15 ~~Michigan Compiled Laws~~ UNDER PARTS 615 AND 625.

16       (2) Uses described in subsection (1) that are lawfully in  
17 existence at a site on ~~the effective date of this chapter~~  
18 JULY 5, 1989 may be continued. The continuance, completion, res-  
19 toration, reconstruction, extension, or substitution of those  
20 existing uses shall be permitted upon reasonable terms prescribed  
21 by the ~~director~~ DEPARTMENT.

22       Sec. ~~21~~ 35309. (1) A local unit of government, or the  
23 department if the local unit of government does not have an  
24 approved zoning ordinance, may establish a use permit and inspec-  
25 tion fee.

26       (2) The department shall forward all fees ~~collected by the~~  
27 ~~department~~ IT COLLECTS under this section to the state treasurer



1 for deposit in the land and water management permit fee fund  
2 created in ~~section 16 of the inland lakes and streams act of~~  
3 ~~1972, Act No. 346 of the Public Acts of 1972, being~~  
4 ~~section 281.966 of the Michigan Compiled Laws~~ PART 301.

5 (3) Fees collected by a local unit of government shall be  
6 credited to the treasury of the local unit of government to be  
7 used to defray the cost of administering uses under a zoning  
8 ordinance.

9 (4) In addition to fees provided for in this section, a soil  
10 conservation district may charge a separate fee to cover the  
11 actual expense of providing services under this ~~act~~ PART and  
12 for providing technical assistance and advice to individuals who  
13 seek assistance in matters pertaining to compliance under this  
14 ~~act~~ PART.

15 (5) A local unit of government, or the ~~director~~ DEPARTMENT  
16 if the local unit of government does not have an approved zoning  
17 ordinance, may require the holder of a permit issued by a local  
18 unit of government or the ~~director~~ DEPARTMENT to file with the  
19 local unit of government or the ~~director~~ DEPARTMENT a bond exe-  
20 cuted by an approved surety in this state in an amount necessary  
21 to assure faithful conformance with the permit.

22 Sec. ~~22~~ 35310. (1) If the department finds that a person  
23 is not in compliance with the model zoning plan if the department  
24 is implementing ~~the provisions of~~ the plan, or if the depart-  
25 ment is involved in the modification or reversal of a decision  
26 regarding a special use project as provided in section ~~40~~  
27 35322, the department may suspend or revoke the permit.

1           (2) At the request of the department or a person, the  
2 attorney general may institute an action for a restraining order  
3 or injunction or other appropriate remedy to prevent or preclude  
4 a violation of the model zoning plan if the department is imple-  
5 menting the provisions of the plan or if the department is  
6 involved in the modification or reversal of a decision regarding  
7 a special use project as provided in section ~~40~~ 35322. At the  
8 request of a member of the governing body of a local unit of gov-  
9 ernment or a person, the county prosecutor may institute an  
10 action for a restraining order or injunction or other proper  
11 remedy to prevent a violation of a zoning ordinance approved  
12 under this ~~act~~ PART. This shall be in addition to the rights  
13 provided in ~~the Thomas J. Anderson, Gordon Rockwell environmen-~~  
14 ~~tal protection act of 1970, Act No. 127 of the Public Acts of~~  
15 ~~1970, being sections 691.1201 to 691.1207 of the Michigan~~  
16 ~~Compiled Laws~~ PART 17, and as otherwise provided by law. An  
17 action under this subsection instituted by the attorney general  
18 may be instituted in the circuit court for the county of Ingham  
19 or in the county in which the defendant is located, resides, or  
20 is doing business.

21           (3) The department shall periodically review the performance  
22 of all local units of government that have ordinances approved  
23 under this ~~chapter~~ PART. If the department determines that the  
24 local unit of government is not administering the ordinance in  
25 conformance with this ~~act~~ PART, the department shall notify the  
26 local unit of government in writing of its determination,  
27 including specific reasons why the local unit of government is

1 not in compliance. The local unit of government ~~shall have~~ HAS  
2 30 days to respond to the department. If the department deter-  
3 mines that the local unit of government has not made sufficient  
4 changes to its ordinance administration or otherwise explained  
5 its actions, the department may withdraw the approval of the  
6 local ordinance and implement the model zoning plan within that  
7 local unit of government. If a local unit disagrees with an  
8 action of the department to withdraw approval of the local ordi-  
9 nance, it may appeal that action pursuant to the administrative  
10 procedures act of 1969, Act No. 306 of the Public Acts of 1969,  
11 being sections 24.201 to 24.328 of the Michigan Compiled Laws, in  
12 the manner provided in that act for contested cases.

13 (4) In addition to any other relief provided by this sec-  
14 tion, the court may impose on a person who violates this ~~chapter~~  
15 ~~or chapter 4~~ PART, or a ~~provision of a~~ permit, a civil fine of  
16 not more than \$5,000.00 for each day of violation, or MAY order a  
17 violator to pay the full cost of restabilization of a critical  
18 dune area or other natural resource that is damaged or destroyed  
19 as a result of a violation, or both.

20 (5) A person who violates this ~~chapter or chapter 4~~ PART,  
21 or a person who violates a ~~provision of a~~ permit issued under  
22 this ~~chapter~~ PART, is guilty of a misdemeanor, punishable by a  
23 fine of not more than \$5,000.00 per day for each day of  
24 violation.

25 Sec. ~~23a~~ 35311. ~~Within 1 year of the effective date of~~  
26 ~~this section~~ BY MAY 23, 1995, the department shall appoint a  
27 team of qualified ecologists who may be employed by the

1 department or may be persons with whom the department enters into  
2 contracts who shall review "the atlas of critical dune areas"  
3 dated February 1989. The review team shall evaluate the accuracy  
4 of the designations of critical dune areas within the atlas and  
5 shall recommend to the legislature any changes to the atlas or  
6 underlying criteria revisions to the atlas that would provide  
7 more precise protection to the targeted resource. In addition,  
8 the review team shall recommend whether the slope criteria in  
9 section ~~35(1)(a)~~ 35330(1)(A) and (b) are appropriate and sup-  
10 ported by the best available technical data and whether stairways  
11 and driveways in critical dune areas should be subject to the  
12 same criteria as other constructed uses.

13 ~~Sec. 30. As used in this chapter:~~

14 ~~(a) "Crest" means the line at which the first lakeward~~  
15 ~~facing slope of a critical dune ridge breaks to a slope of less~~  
16 ~~than 18% for a distance of at least 20 feet, if the areal extent~~  
17 ~~where this break occurs is greater than 1/10 acre in size.~~

18 ~~(b) "Foredune" means 1 or more low linear dune ridges that~~  
19 ~~are parallel and adjacent to the shoreline of a Great Lake and~~  
20 ~~are rarely greater than 20 feet in height. The lakeward face of~~  
21 ~~a foredune is often gently sloping and may be vegetated with dune~~  
22 ~~grasses and low shrub vegetation or may have an exposed sand~~  
23 ~~face.~~

24 ~~(c) "Planning commission" means the body or entity within a~~  
25 ~~local government that is responsible for zoning and land use~~  
26 ~~planning for the local unit of government.~~

1       ~~(d) "Restabilization" means restoration of the natural~~  
2 ~~contours of a critical dune to the extent practicable, and the~~  
3 ~~restoration of the protective vegetative cover of a critical dune~~  
4 ~~through the establishment of indigenous vegetation, and the~~  
5 ~~placement of snow fencing or other temporary sand trapping mea-~~  
6 ~~asures for the purpose of preventing erosion, drifting, and slump-~~  
7 ~~ing of sand.~~

8       Sec. ~~31~~ 35312. (1) After consulting with the local soil  
9 conservation district, a local unit of government that has 1 or  
10 more critical dune areas within its jurisdiction may formulate a  
11 zoning ordinance pursuant to the following:

12       (a) A county may zone as provided in the county rural zoning  
13 enabling act, Act No. 183 of the Public Acts of 1943, being sec-  
14 tions 125.201 to 125.232 of the Michigan Compiled Laws.

15       (b) A city or village may zone as provided in Act No. 207 of  
16 the Public Acts of 1921, being sections 125.581 to 125.592 of the  
17 Michigan Compiled Laws.

18       (c) A township may zone as provided in the township rural  
19 zoning act, Act No. 184 of the Public Acts of 1943, being sec-  
20 tions 125.271 to 125.301 of the Michigan Compiled Laws.

21       (2) A zoning ordinance shall consist of all of the provi-  
22 sions of the model zoning plan or comparable provisions that are  
23 at least as protective of critical dune areas as the model zoning  
24 plan.

25       (3) A local unit of government may regulate additional lands  
26 as critical dune areas under this ~~act~~ PART as considered  
27 appropriate by the planning commission if the lands are

1 determined by the local unit of government to be essential to the  
2 hydrology, ecology, topography, or integrity of a critical dune  
3 area. A local unit of government shall provide within its zoning  
4 ordinance for the protection of lands that are within 250 feet of  
5 a critical dune area, if those lands are determined by the local  
6 unit of government to be essential to the hydrology, ecology,  
7 topography, or integrity of a critical dune area.

8 (4) If a local unit of government does not have an approved  
9 zoning ordinance, the department may regulate additional lands  
10 described in subsection (3). However, the lands added by the  
11 department shall not extend more than 250 feet from the landward  
12 boundary of a critical dune area, unless the governing body of  
13 the local unit of government authorizes such an extension.

14 Sec. ~~32~~ 35313. A zoning ordinance shall require that all  
15 applications for permits for the use of a critical dune area  
16 include in writing:

17 (a) That the county enforcing agency designated pursuant to  
18 ~~the soil erosion and sedimentation control act of 1972, Act~~  
19 ~~No. 347 of the Public Acts of 1972, being sections 282.101 to~~  
20 ~~282.125 of the Michigan Compiled Laws,~~ PART 91 finds that the  
21 project is in compliance with ~~Act No. 347 of the Public Acts of~~  
22 ~~1972~~ PART 91 and any applicable soil erosion and sedimentation  
23 control ordinance that is in effect in the local unit of  
24 government.

25 (b) That a proposed sewage treatment or disposal system on  
26 the site has been approved by the county health department or the  
27 department.

1 (c) Assurances that the cutting and removing of trees and  
2 other vegetation will be performed according to the instructions  
3 or plans of the local soil conservation district. These instruc-  
4 tions or plans may include all applicable silvicultural practices  
5 as described in the "voluntary forestry management guidelines for  
6 Michigan" prepared by the society of American foresters in 1987.  
7 The instructions or plans may include a program to provide miti-  
8 gation for the removal of trees or vegetation by providing assur-  
9 ances that the applicant will plant on the site more trees and  
10 other vegetation ~~on the site~~ than were removed by the proposed  
11 use.

12 (d) Except as otherwise provided in subdivision (e), a site  
13 plan that contains data required by the planning commission con-  
14 cerning the physical development of the site and extent of dis-  
15 ruption of the site by the proposed development. The planning  
16 commission may consult with the soil conservation district in  
17 determining the required data.

18 (e) An environmental assessment that comports with section  
19 ~~37~~ 35319 for a special use project. An environmental impact  
20 statement pursuant to section ~~38~~ 35320 may be required if the  
21 additional information is considered necessary or helpful in  
22 reaching a decision on a permit application for a special use  
23 project.

24 Sec. ~~33~~ 35314. (1) A zoning ordinance shall provide for  
25 all of the following:

26 (a) Lot size, width, density, and front and side setbacks.

1 (b) Storm water drainage that provides for disposal of  
2 drainage water without serious erosion.

3 (c) Methods for controlling erosion from wind and water.

4 (d) Restabilization.

5 (2) Each zoning ordinance shall provide that a use that pro-  
6 poses a subdivision development shall be reviewed by the local  
7 unit of government to assure compliance with all of ~~the provi-~~  
8 ~~sions of~~ the model zoning plan.

9 Sec. ~~34~~ 35315. A zoning ordinance shall not permit either  
10 of the following uses in a critical dune area:

11 (a) The disposal of sewage on-site unless the standards of  
12 applicable sanitary codes are met or exceeded.

13 (b) A use that does not comply with the minimum setback  
14 requirements required by rules that are promulgated under ~~the~~  
15 ~~shorelands protection and management act of 1970, Act No. 245 of~~  
16 ~~the Public Acts of 1970, being sections 281.631 to 281.644 of the~~  
17 ~~Michigan Compiled Laws~~ PART 323.

18 Sec. ~~35~~ 35316. (1) Unless a variance is granted pursuant  
19 to section ~~36~~ 35317, a zoning ordinance shall not permit the  
20 following uses in a critical dune area:

21 (a) A structure on a slope within a critical dune area that  
22 is 18% to 25% unless the structure is in accordance with plans  
23 prepared for the site by a registered professional architect or a  
24 licensed professional engineer and the plans provide for the dis-  
25 posal of storm waters without serious soil erosion and without  
26 sedimentation of any stream or other body of water. Prior to



1 approval of the plan, the planning commission shall consult with  
2 the local soil conservation district.

3 (b) A use on a slope within a critical dune area that is  
4 greater than 25%.

5 (c) A use that is a structure that is not in compliance with  
6 subsection (2).

7 (d) A use involving a contour change that is likely to  
8 increase erosion, decrease stability, or is more extensive than  
9 required to implement a use for which a permit is requested.

10 (e) Silvicultural practices, as described in the "voluntary  
11 forest management guidelines for Michigan", prepared by the soci-  
12 ety of American foresters in 1987, that are likely to increase  
13 erosion, decrease stability, or are more extensive than required  
14 to implement a use for which a permit is requested.

15 (f) A use that involves a vegetation removal that is likely  
16 to increase erosion, decrease stability, or is more extensive  
17 than required to implement a use for which a permit is  
18 requested.

19 (g) A use that is not in the public interest. In determin-  
20 ing whether a proposed use is in the public interest, the local  
21 unit of government shall consider both of the following:

22 (i) The availability of feasible and prudent alternative  
23 locations or methods, or both, to accomplish the benefits  
24 expected from the use. If a proposed use is 1 single family  
25 dwelling on a lot of record owned by the applicant, consideration  
26 of feasible and prudent alternative locations shall be limited to  
27 the lot of record on which the use is proposed. A lot of record

1 shall not be created strictly for the purpose of avoiding  
2 consideration of alternative locations under this subparagraph.

3 (ii) The impact that is expected to occur to the critical  
4 dune area, and the extent to which the impact may be minimized.

5 (2) A use that is a structure shall be constructed behind  
6 the crest of the first landward ridge of a critical dune area  
7 that is not a foredune. However, if construction occurs within  
8 100 feet measured landward from the crest of the first landward  
9 ridge that is not a foredune, the applicant shall demonstrate  
10 that the proposed use meets all of the following requirements:

11 (a) The use will not destabilize the critical dune area.

12 (b) Contour changes and vegetative removal are limited to  
13 that essential to siting the structure.

14 (c) Access to the structure is from the landward side of the  
15 dune.

16 (d) The dune is restabilized with indigenous vegetation.

17 (e) Construction techniques and methods are employed that  
18 mitigate the impact on the dune.

19 (f) The crest of the dune is not reduced in elevation.

20 (g) If the department is implementing ~~the provisions of~~  
21 the model zoning plan, the use meets all other applicable  
22 requirements of the zoning ordinance or the model zoning plan.

23 (3) If the local unit of government is not certain of the  
24 degree of slope on a property for which a use permit is sought,  
25 the local unit may require that the applicant supply contour maps  
26 of the site with 5-foot intervals at or near any proposed

1 structure or roadway or consult with the local soil conservation  
2 district regarding the degree of slope.

3       Sec. ~~36~~ 35317. (1) A local unit of government may issue  
4 variances under a zoning ordinance, or the department may issue  
5 special exceptions under the model zoning plan if a local unit of  
6 government does not have an approved zoning ordinance, if an  
7 unreasonable hardship will occur to the owner of the property if  
8 the variance or special exception is not granted. In determining  
9 whether an unreasonable hardship will occur if a variance or spe-  
10 cial exception is not granted, primary consideration shall be  
11 given to assuring that human health and safety are protected by  
12 the determination and that the determination complies with appli-  
13 cable local zoning, other state laws, and federal law. A vari-  
14 ance or a special exception is also subject to the following  
15 limitations:

16       (a) A variance shall not be granted from a setback require-  
17 ment provided for under the model zoning plan or an equivalent  
18 zoning ordinance enacted pursuant to this ~~act~~ PART unless the  
19 property for which the variance is requested is 1 of the  
20 following:

21       (i) A nonconforming lot of record that is recorded prior to  
22 July 5, 1989, and that becomes nonconforming due to the operation  
23 of this ~~act~~ PART or a zoning ordinance.

24       (ii) A lot legally created after July 5, 1989 that later  
25 becomes nonconforming due to natural shoreline erosion.

26       (iii) Property on which the base of the first landward  
27 critical dune of at least 20 feet in height ~~—~~ that is not a

1 foredune ~~T~~ is located at least 500 feet inland from the first  
2 foredune crest or line of vegetation on the property. However,  
3 the setback shall be a minimum of 200 feet measured from the  
4 foredune crest or line of vegetation.

5 (b) A variance or special exception shall not be granted  
6 that authorizes construction of a dwelling or other permanent  
7 building on the first lakeward facing slope of a critical dune  
8 area or a foredune. However, a variance or special exception may  
9 be granted if the proposed construction is near the base of the  
10 lakeward facing slope of the critical dune on a slope of less  
11 than 12% on a nonconforming lot of record that is recorded prior  
12 to July 5, 1989 that has borders that lie entirely on the first  
13 lakeward facing slope of the critical dune area that is not a  
14 foredune.

15 (2) Each local unit of government that has issued a variance  
16 for a use other than a special use project during the previous 12  
17 months shall file an annual report with the department indicating  
18 variances that have been granted by the local unit of government  
19 during that period.

20 (3) Upon receipt of an application for a special exception  
21 under the model zoning plan, the department shall forward a copy  
22 of the application and all supporting documentation to the local  
23 unit of government having jurisdiction over the proposed  
24 location. The local unit of government shall have 60 days to  
25 review the proposed special exception. The department shall not  
26 make a decision on a special exception under the model zoning  
27 plan until either the local unit of government has commented on

1 the proposed special exception or has waived its opportunity to  
2 review the special exception. The local unit of government may  
3 waive its opportunity to consider the application at any time  
4 within 60 days after receipt of the application and supporting  
5 documentation by notifying the department in writing. If the  
6 local unit of government waives its opportunity to review the  
7 application, or fails to act as authorized in this section within  
8 60 days, the local unit of government also waives its opportunity  
9 to oppose the decision by the department to issue a special  
10 exception. If the local unit of government opposes the issuance  
11 of the special exception, the local unit of government shall  
12 notify the department, in writing, of its opposition within the  
13 60-day notice period. If the local unit of government opposes  
14 the issuance of the special exception, the department shall not  
15 issue a special exception. The local unit of government may also  
16 consider whether an unreasonable hardship will occur to the owner  
17 of the property if the special exception is not granted by the  
18 department and may make a recommendation to the department within  
19 the 60-day notice period. The department shall base its determi-  
20 nation of an unreasonable hardship on information provided by the  
21 local unit of government and other pertinent information.

22 (4) For the purpose of this ~~act~~ PART, unreasonable hard-  
23 ship shall be treated as unnecessary hardship.

24 Sec. ~~36a~~ 35318. If a permit for a proposed use within a  
25 critical dune area is denied, the landowner may request a revalu-  
26 ation of the affected property for assessment purposes to  
27 determine its fair market value under the restriction.

1       Sec. ~~37~~ 35319. The zoning ordinance shall provide that if  
2 an environmental assessment is required under section ~~32(e)~~  
3 35313(E), that assessment shall include the following information  
4 concerning the site of the proposed use:

5       (a) The name and address of the applicant.

6       (b) A description of the applicant's proprietary interest in  
7 the site.

8       (c) The name, address, and professional qualifications of  
9 the person preparing the environmental assessment and his or her  
10 opinion as to whether the proposed development of the site is  
11 consistent with protecting features of environmental sensitivity  
12 and archaeological or historical significance that may be located  
13 on the site.

14       (d) The description and purpose of the proposed use.

15       (e) The location of existing utilities and drainageways.

16       (f) The general location and approximate dimensions of pro-  
17 posed structures.

18       (g) Major proposed change of land forms such as new lakes,  
19 terracing, or excavating.

20       (h) Sketches showing the scale, character, and relationship  
21 of structures, streets ~~—~~ or driveways, and open space.

22       (i) Approximate location and type of proposed drainage,  
23 water, and sewage facilities.

24       (j) Legal description of property.

25       (k) A physical description of the site, including its domi-  
26 nant characteristics, its vegetative character, its present use,  
27 and other relevant information.

1 (l) A natural hazards review consisting of a list of natural  
2 hazards such as periodic flooding, poor soil bearing conditions,  
3 and any other hazards peculiar to the site.

4 (m) An erosion review showing how erosion control will be  
5 achieved ~~—~~ and illustrating plans or programs that may be  
6 required by any existing soil erosion and sedimentation  
7 ordinance.

8 Sec. ~~—38—~~ 35320. If an environmental impact statement is  
9 required under section ~~—32(e)—~~ 35313(E) prior to permitting a  
10 proposed use, a zoning ordinance may require that the statement  
11 include all of the following:

12 (a) The name and address of the applicant.

13 (b) A description of the applicant's proprietary interest in  
14 the site of the proposed use.

15 (c) The name, address, and professional qualifications of  
16 the proposed professional design team members, including the des-  
17 ignation of the person responsible for the preparation of the  
18 environmental impact statement.

19 (d) The description and purpose of the proposed use.

20 (e) Six copies and 1 reproducible transparency of a sche-  
21 matic use plan of the proposed use showing the general location  
22 of the proposed use and major existing physical and natural fea-  
23 tures on the site, including, but not limited to, watercourses,  
24 rock outcropping, wetlands, and wooded areas.

25 (f) The location of the existing utilities and  
26 drainageways.

- 1 (g) The location and notation of public streets, parks, and  
2 railroad and utility rights-of-way within or adjacent to the  
3 proposed use.
- 4 (h) The general location and dimensions of proposed streets,  
5 driveways, sidewalks, pedestrian ways, trails, off-street park-  
6 ing, and loading areas.
- 7 (i) The general location and approximate dimensions of pro-  
8 posed structures.
- 9 (j) Major proposed change of land forms such as new lakes,  
10 terracing, or excavating.
- 11 (k) Approximate existing and proposed contours and drainage  
12 patterns, showing at least 5-foot contour intervals.
- 13 (l) Sketches showing the scale, character, and relationship  
14 of structures, streets or driveways, and open space.
- 15 (m) Approximate location and type of proposed drainage,  
16 water and sewage treatment and disposal facilities.
- 17 (n) A legal description of the property.
- 18 (o) An aerial photo and contour map showing the development  
19 site in relation to the surrounding area.
- 20 (p) A description of the physical site, including its domi-  
21 nant characteristics, its vegetative character, its present use,  
22 and other relevant information.
- 23 (q) A soil review giving a short descriptive summary of the  
24 soil types found on the site and whether the soil permits the use  
25 of septic tanks or requires central sewer. The review may be  
26 based on the "unified soil classification system" as adopted by  
27 the United States government corps of engineers and bureau of



1 reclamation, dated January 1952, or the national cooperative soil  
2 survey classification system, and the standards for the develop-  
3 ment prospects that have been offered for each portion of the  
4 site.

5 (r) A natural hazards review consisting of a list of natural  
6 hazards such as periodic flooding, poor soil bearing conditions,  
7 and any other hazards peculiar to the site.

8 (s) A substrata review including a descriptive summary of  
9 the various geologic bedrock formations underlying the site,  
10 including the identification of known aquifers, the approximate  
11 depths of the aquifers, and, if being tapped for use, the princi-  
12 pal uses to be made of these waters, including irrigation, domes-  
13 tic water supply, and industrial usage.

14 (t) An erosion review showing how erosion control will be  
15 achieved ~~—~~ and illustrating plans or programs that may be  
16 required by any existing soil erosion and sedimentation  
17 ordinance.

18 (u) At a minimum, plans for compliance with all of the fol-  
19 lowing standards shall be required for construction and postcon-  
20 struction periods:

21 (i) Surface drainage designs and structures are  
22 erosion-proof through control of the direction, volume, and  
23 velocities of drainage patterns. These patterns shall promote  
24 natural vegetation growth that are included in the design ~~in~~  
25 ~~order~~ SO that drainage waters may be impeded in their flow and  
26 percolation encouraged.

1       (ii) The design shall include trash collection devices when  
2 handling street and parking drainage to contain solid waste and  
3 trash.

4       (iii) Watercourse designs, control volumes, and velocities  
5 of water to prevent bottom and bank erosion. In particular,  
6 changes of direction shall guard against undercutting of banks.

7       (iv) If vegetation has been removed or has not been able to  
8 occur on surface areas such as infill zones, it ~~shall be~~ IS the  
9 duty of the developer to stabilize and control the impacted sur-  
10 face areas to prevent wind erosion and the blowing of surface  
11 material through the planting of grasses, ~~and~~ windbreaks, and  
12 other similar barriers.

13       Sec. ~~39~~ 35321. A zoning ordinance shall provide that, in  
14 reviewing a site plan required under section ~~32(d)~~ 35313(D),  
15 the planning commission shall do all of the following:

16       (a) Determine whether the requirements of the zoning ordi-  
17 nance have been met and whether the plan is consistent with  
18 existing laws.

19       (b) Determine whether the advice or assistance of the soil  
20 conservation district will be helpful in reviewing a site plan.

21       (c) Recommend alterations of a proposed development to mini-  
22 mize adverse effects anticipated if the development is approved  
23 and to assure compliance with all applicable state and local  
24 requirements.

25       Sec. ~~40~~ 35322. Prior to issuing a permit allowing a spe-  
26 cial use project within a critical dune area, a local unit of  
27 government shall submit the special use project application and

1 plan and the proposed decision of the local unit of government to  
2 the department. The department shall have 60 days to review the  
3 plan and may affirm, modify, or reverse the proposed decision of  
4 the local unit of government.

5 Sec. ~~41~~ 35323. A structure or use located in a critical  
6 dune area that is destroyed by fire, other than arson for which  
7 the owner is found to be responsible, or an act of nature, except  
8 for erosion, is exempt from the operation of this ~~act~~ PART or a  
9 zoning ordinance under this ~~act~~ PART for the purpose of  
10 rebuilding or replacing the structure or use, if the structure or  
11 use was lawful at the time it was constructed or commenced and  
12 the structure does not exceed in size or scope that which was  
13 destroyed and does not vary from its prior use.

14 Sec. ~~42~~ 35324. Federally owned land, to the extent allow-  
15 able by law, and state owned land within critical dune areas  
16 shall be managed by the federal or state government, respective-  
17 ly, in a manner that is consistent with the model zoning plan.

18 Sec. ~~43~~ 35325. The ~~commission~~ DEPARTMENT or local units  
19 of government may purchase lands or interests in lands from a  
20 willing seller in critical dune areas for the purpose of main-  
21 taining or improving the critical dune areas and ~~its~~ THE envi-  
22 ronment OF THE CRITICAL DUNE AREAS in conformance with the zoning  
23 ordinance, or the model zoning plan if the local unit of govern-  
24 ment does not have an approved zoning ordinance. Interests that  
25 may be purchased may include easements designed to provide for  
26 the preservation of critical dune areas and to limit or eliminate  
27 development in critical dune areas.

1       Sec. ~~44~~ 35326. (1) The legislature shall appropriate to  
 2 the departments of agriculture, natural resources, and the attor-  
 3 ney general sufficient funds to assure the full implementation  
 4 and enforcement of ~~chapter 3 and this chapter~~ THIS PART.

5       (2) Appropriations to the department of agriculture shall be  
 6 sufficient to assure adequate funding for the soil conservation  
 7 districts to fulfill their responsibilities under this ~~chapter~~  
 8 PART.

9       ~~Part 355. Biological Diversity Conservation~~

10                   PART 355 BIOLOGICAL DIVERSITY CONSERVATION

11       ~~Sec. 1. This act shall be known and may be cited as the~~  
 12 ~~"biological diversity conservation act".~~

13       Sec. ~~2~~ 35501. As used in this ~~act~~ PART:

14       (a) "Biological diversity" means the full range of variety  
 15 and variability within and among living organisms and the natural  
 16 associations in which they occur. Biological diversity includes  
 17 ecosystem diversity, species diversity, and genetic diversity.

18       (b) "Committee" means the joint legislative working commit-  
 19 tee on biological diversity created pursuant to section ~~5~~  
 20 35504.

21       (c) "Conserve", "conserving", and "conservation" mean mea-  
 22 sures for maintaining natural biological diversity and measures  
 23 for restoring natural biological diversity through management  
 24 efforts, in order to protect, restore, and enhance as much of the  
 25 variety of native species and communities as possible in quanti-  
 26 ties and distributions that provide for the continued existence  
 27 and normal functioning of native species and communities,

1 including the viability of populations throughout the natural  
2 geographic distributions of native species and communities.

3 (d) "Ecosystem" means an assemblage of species, together  
4 with the species' physical environment, considered as a unit.

5 (e) "Ecosystem diversity" means the distinctive assemblages  
6 of species and ecological processes that occur in different phys-  
7 ical settings of the biosphere.

8 (f) "Genetic diversity" means the differences in genetic  
9 composition within and among populations of a given species.

10 (g) "Habitat" means the area or type of environment in which  
11 an organism or biological population normally lives or occurs.

12 (h) "Reporting department" means a state department or  
13 agency that is required by the committee under this ~~act~~ PART to  
14 file 1 or more reports.

15 (i) "Species diversity" means the richness and variety of  
16 native species.

17 (j) "State strategy" means the recommended state strategy  
18 prepared by the committee.

19 (k) "Sustained yield" means the achievement and maintenance  
20 in perpetuity of regular periodic output of the various renewable  
21 resources without impairment of the productivity of the land.

22 Sec. ~~3~~ 35502. The legislature finds that:

23 (a) The earth's biological diversity is an important natural  
24 resource. Decreasing biological diversity is a concern.

25 (b) Most losses of biological diversity are unintended con-  
26 sequences of human activity.

1 (c) Humans depend on biological resources, including plants,  
2 animals, and microorganisms, for food, medicine, shelter, and  
3 other important products.

4 (d) Biological diversity is valuable as a source of intel-  
5 lectual and scientific knowledge, recreation, and aesthetic  
6 pleasure.

7 (e) Conserving biological diversity has economic  
8 implications.

9 (f) Reduced biological diversity may have potentially seri-  
10 ous consequences for human welfare as resources for research and  
11 agricultural, medicinal, and industrial development are  
12 diminished.

13 (g) Reduced biological diversity may also potentially impact  
14 ecosystems and critical ecosystem processes that moderate cli-  
15 mate, govern nutrient cycles and soil conservation and produc-  
16 tion, control pests and diseases, and degrade wastes and  
17 pollutants.

18 (h) Reduced biological diversity may diminish the raw mate-  
19 rials available for scientific and technical advancement, includ-  
20 ing the development of improved varieties of cultivated plants  
21 and domesticated animals.

22 (i) Maintaining biological diversity through habitat protec-  
23 tion and management is often less costly and more effective than  
24 efforts to save species once they become endangered.

25 (j) Because biological resources will be most important for  
26 future needs, study by the legislature regarding maintaining the

1 diversity of living organisms in their natural habitats and the  
2 costs and benefits of doing so is prudent.

3       Sec. ~~4~~ 35503. (1) It is the goal of this state to encour-  
4 age the lasting conservation of biological diversity.

5       (2) This ~~act~~ PART does not require a state department or  
6 agency to alter its regulatory functions.

7       Sec. ~~5~~ 35504. (1) The joint legislative working committee  
8 on biological diversity is created in the legislature. The com-  
9 mittee shall consist of 4 members of the senate appointed by the  
10 senate majority leader, ~~and~~ 2 members of the house of represen-  
11 tatives appointed by the republican leader of the house of  
12 representatives, and 2 members of the house of representatives  
13 appointed by the democratic leader of the house of  
14 representatives. Members of the committee shall be appointed by  
15 the senate majority leader and the republican and democratic  
16 leaders of the house of representatives within 30 days of ~~the~~  
17 ~~effective date of the amendatory act that added this sentence~~  
18 MARCH 23, 1994. At least 1 of the committee members appointed  
19 from the senate shall be a member of the minority party of the  
20 senate, and at least 1 of the committee members appointed from  
21 each house shall be a member of a standing committee that primar-  
22 ily addresses legislation pertaining to environmental protection  
23 and natural resources, or wildlife and fisheries management, and  
24 agriculture. The committee may establish and organize 1 or more  
25 scientific advisory boards to provide the committee with specific  
26 expertise as the committee considers necessary or helpful. If 1  
27 or more scientific advisory boards are established, each board

1 shall include individuals with expertise pertaining to the area  
2 of resource management at issue. The representatives shall  
3 include at least 1 individual employed by a state department or  
4 agency; 1 or more individuals employed by a university or college  
5 who work in applied research; and 1 or more individuals who work  
6 in basic research. The committee may consult with other individ-  
7 uals who are qualified representatives of industry and environ-  
8 mental groups. In fulfilling its duties under this ~~act~~ PART,  
9 the committee may consult with individuals and groups who are  
10 knowledgeable about, or interested in, biological diversity and  
11 conservation or are knowledgeable about scientific and technolog-  
12 ical issues related to biological diversity and its impact on  
13 human habitat.

14 (2) The function of the committee shall be to prepare a rec-  
15 ommended state strategy for conservation of biological diversity  
16 and to report on the costs, benefits, and other implications of  
17 the strategy. Upon the request of the committee, state depart-  
18 ments and state agencies shall submit reports containing the  
19 information required under section ~~6~~ 35505 to the committee to  
20 enable the committee to prepare the state strategy and fulfill  
21 its functions under this ~~act~~ PART. The state strategy shall in  
22 part be based on information provided to the committee in these  
23 reports required under this section.

24 (3) The committee shall meet as soon as possible upon forma-  
25 tion and then shall meet at least quarterly. The committee shall  
26 at its initial meeting develop a timeline establishing when  
27 specific reports are due from each of the reporting departments



1 from which the committee requests reports. However, all reports  
2 required under section ~~6(1)~~ 35505(1) shall be submitted to the  
3 committee by a reporting department by December 30, 1994. The  
4 committee shall provide assistance to the reporting department as  
5 the committee considers necessary or helpful in developing the  
6 state strategy.

7 (4) The committee shall hold regularly scheduled meetings,  
8 and the business of the committee shall be conducted at public  
9 meetings held in compliance with the open meetings act, Act  
10 No. 267 of the Public Acts of 1976, being sections 15.261 to  
11 15.275 of the Michigan Compiled Laws. Public notice of the time,  
12 date, and place of meeting shall be given in the manner required  
13 by Act No. 267 of the Public Acts of 1976.

14 (5) A writing prepared, owned, used, in the possession of,  
15 or retained by the committee shall be made available to the  
16 public in compliance with the freedom of information act, Act  
17 No. 442 of the Public Acts of 1976, being sections 15.231 to  
18 15.246 of the Michigan Compiled Laws.

19 (6) The committee shall hold public hearings to solicit  
20 input from individuals and entities regarding biological  
21 diversity.

22 (7) The committee shall be dissolved on December 30, 1995.

23 Sec. ~~6~~ 35505. (1) The committee may require clear and  
24 concise reports containing the information listed under subsec-  
25 tion (2) and, if applicable, subsection (3) from state depart-  
26 ments and state agencies, including, but not limited to, the  
27 following:

1 (a) Department of natural resources.

2 (b) State transportation department.

3 (c) Department of commerce.

4 (d) Department of agriculture.

5 (e) Department of public health.

6 (f) Department of military affairs.

7 (2) Each reporting department shall prepare for the commit-  
8 tee a report that contains an overview of all of the following:

9 (a) A report pertaining to those activities of the reporting  
10 departments that alter biological diversity, noting which ecosys-  
11 tems and species are impacted ~~—~~ and the existence of and effec-  
12 tiveness of mitigation measures.

13 (b) Any other information determined by the committee to be  
14 necessary or helpful in preparing the state strategy.

15 (c) The costs and benefits of preserving biological diver-  
16 sity and mitigation measures.

17 (3) In addition to the information required under subsection  
18 (2), the department of natural resources and the department of  
19 agriculture shall include in their report, to the extent practi-  
20 cal, examples of techniques that are used to improve the protec-  
21 tion and maintenance of this state's biological diversity, and  
22 the long-term viability of ecosystems and ecosystem processes,  
23 including all of the following:

24 (a) Enhancement of scientific knowledge through improved and  
25 more complete biological surveys, and research designed to iden-  
26 tify factors limiting population viability or persistence.

1 (b) Identification of habitats and species of special  
2 concern and methods to protect them.

3 (c) Improvement of management techniques based on scientific  
4 knowledge of the conservation of biological diversity.

5 (d) Effective restoration methods for ecosystems or species  
6 of concern.

7 (e) Broad-based education efforts regarding the importance  
8 of biological diversity and the need for conservation.

9 (f) Use of areas demonstrating management techniques that  
10 conserve or restore native biological diversity.

11 (g) Use of cooperative programs among government agencies,  
12 public and private ventures, and the public sector.

13 (h) Promotion of sustained yield of natural resources for  
14 human benefit.

15 (i) Any other technique to improve the protection and main-  
16 tenance of this state's biological diversity, and the long-term  
17 viability of ecosystems and ecosystem processes whether or not  
18 the technique is in current use if supported by scientific  
19 knowledge.

20 (j) The costs and benefits associated with activities  
21 described in subdivisions (a) to (i).

22 Sec. ~~7~~ 35506. (1) Based on information received from the  
23 reporting departments and other sources identified in  
24 section ~~5(1)~~ 35504(1), the committee shall develop a state  
25 strategy that includes, but is not limited to, consideration of  
26 all of the following:

- 1           (a) Reduction of cumulative adverse impacts of all state  
2 departments and agencies on biological diversity.
- 3           (b) Responsibility of each reporting department to conserve  
4 biological diversity and determine the costs of such actions.
- 5           (c) Methods of cooperation among reporting departments,  
6 other states, and provinces concerning ecosystems management.
- 7           (d) Establishment of cooperative programs among governmental  
8 agencies, public and private ventures, universities and colleges,  
9 and the private sector.
- 10          (e) Identification of habitats and species of special con-  
11 cern and methods to protect them.
- 12          (f) Prevention of extinction of species.
- 13          (g) Provisions for the long-term viability of ecosystems and  
14 ecosystem processes.
- 15          (h) Development of areas demonstrating management techniques  
16 that conserve or restore native biological diversity.
- 17          (i) Development of broad-based educational efforts regarding  
18 the importance of biological diversity and the need for  
19 conservation.
- 20          (j) Development of criteria for evaluating the progress of  
21 this state in implementing the strategy.
- 22          (k) The effects on human beings or the environment, taking  
23 into account the economic, social, and environmental costs and  
24 benefits of the conservation of biological diversity.
- 25          (l) The effects of conserving biological diversity on agri-  
26 culture and forestry.

1 (2) By December 30, 1994, the committee shall submit to the  
2 legislature a report detailing progress made toward development  
3 of the strategy.

4 (3) By June 30, 1995, the committee shall circulate a draft  
5 of the report described in subsection (4) ~~7~~ and conduct a  
6 public hearing regarding the content of the draft report.

7 (4) By December 30, 1995, the committee shall approve and  
8 submit to the legislature a report containing all of the  
9 following:

10 (a) The recommended state strategy.

11 (b) Summaries of all written comments and reporting depart-  
12 ment reports received by the committee pertaining to the work of  
13 the committee.

14 (c) An evaluation of reports submitted by reporting  
15 departments.

16 (d) An evaluation of the cumulative impacts of the reporting  
17 departments on the biological diversity of this state.

18 (e) Recommendations pertaining to legislative options.

19 (f) Recommendations regarding whether the definitions in  
20 this ~~act~~ PART should be revised.

21 (g) Recommendations regarding whether there is a need to  
22 establish a biological diversity education center to set research  
23 priorities and provide leadership and coordination pertaining to  
24 fulfilling the policy of this state to maintain biological  
25 diversity.

1 (h) Recommendations concerning research priorities and  
 2 personnel training to facilitate the implementation of the state  
 3 strategy.

4 ~~Part 357. Natural Beauty Roads~~

5 PART 357 NATURAL BEAUTY ROADS

6 Sec. ~~+~~ 35701. As used in this ~~act~~ PART:

7 (a) "Board" means board of county road commissioners.

8 ~~(b) "Department" means department of natural resources.~~

9 (B) ~~(e)~~ "City street" means city major street or city  
 10 local street as described in section 9 of Act No. 51 of the  
 11 Public Acts of 1951, being section 247.659 of the Michigan  
 12 Compiled Laws.

13 (C) ~~(f)~~ "County local road" means county local road as  
 14 described in section 4 of Act No. 51 of the Public Acts of 1951,  
 15 being section 247.654 of the Michigan Compiled Laws.

16 (D) ~~(c)~~ "Native vegetation" means original or indigenous  
 17 plants of this state including trees, shrubs, vines, wild flow-  
 18 ers, aquatic plants, or ground cover.

19 (E) ~~(d)~~ "Natural" means in a state provided by nature,  
 20 without ~~man made~~ HUMAN-MADE changes, wild, or uncultivated.

21 (F) ~~(g)~~ "Street" means city street or village street.

22 (G) ~~(h)~~ "Village street" means village major street or  
 23 village local street as described in section 9 of Act No. 51 of  
 24 the Public Acts of 1951.

25 Sec. ~~-2-~~ 35702. (1) Twenty-five or more freeholders of a  
 26 township may apply by petition to the board for the county in  
 27 which that township is located for designation of a county local

1 road or portion of a county local road as a natural beauty road.  
2 Twenty-five or more freeholders of a city may petition the legis-  
3 lative body of the city for designation of a city street or a  
4 portion of a city street as a natural beauty street. Twenty-five  
5 or more freeholders of a village may petition the legislative  
6 body of the village for designation of a village street or a por-  
7 tion of a village street as a natural beauty street.

8 (2) Within 6 months after a petition is received, the board  
9 or the legislative body of the city or village shall hold a  
10 public hearing to consider designating the road or street  
11 described in the petition as a natural beauty road or natural  
12 beauty street, respectively. The hearing shall be held at a  
13 suitable place within the township in which the proposed natural  
14 beauty road is located or the city or village in which the pro-  
15 posed natural beauty street is located. At the hearing, a party  
16 or interested person may support or object to the proposed  
17 designation. The board, the legislative body of the city, or the  
18 legislative body of the village shall give notice of the hearing  
19 by publication at least once each week for 2 successive weeks in  
20 a newspaper of general circulation in the county, city, or vil-  
21 lage, respectively, and by posting 5 notices within the limits of  
22 the portion of the road or street to be designated, in public and  
23 conspicuous places. The posting shall be done and at least 1  
24 publication in the newspaper shall be made not less than 10 days  
25 before the hearing.

26 (3) Within 30 days after the hearing, if the board, the  
27 legislative body of the city, or the legislative body of the

1 village considers the designation desirable, it shall file with  
2 the county clerk, city clerk, or village clerk, respectively, a  
3 true copy of its resolution designating the portion of the county  
4 local road as a natural beauty road, the portion of the city  
5 street as a natural beauty street, or the portion of the village  
6 street as a natural beauty street, respectively.

7       Sec. ~~3~~ 35703. (1) Not more than 45 days after a board  
8 designates a road as a natural beauty road or the legislative  
9 body of a city or village designates a street as a natural beauty  
10 street, the property owners of record of 51% or more of the  
11 lineal footage along the natural beauty road or natural beauty  
12 street may submit a petition to the board or the legislative body  
13 of the city or village, respectively, requesting that the desig-  
14 nation be withdrawn. If the petition is valid, the designation  
15 as a natural beauty road or natural beauty street shall be  
16 withdrawn.

17       (2) A board or the legislative body of a city or village may  
18 revoke a designation of a natural beauty road or natural beauty  
19 street after holding a public hearing in accordance with the pro-  
20 cedure described in section ~~2(2)~~ 35702(2). Not more than 30  
21 days after a hearing, if the board, the legislative body of the  
22 city, or the legislative body of the village by majority vote  
23 determines that the revocation is necessary, it shall file with  
24 the county clerk, city clerk, or village clerk, respectively, a  
25 notice of its determination and publish the notice in a newspaper  
26 of general circulation in the county, city, or village,  
27 respectively, once each week for 2 successive weeks. After



1 publication of the notice, the road or street previously  
2 designated shall revert to its former status.

3       Sec. ~~4~~ 35704. (1) The department shall develop uniform  
4 guidelines and procedures that may be adopted by a board to pre-  
5 serve native vegetation in a natural beauty road right-of-way  
6 from destruction or substantial damage by cutting, spraying,  
7 dusting, mowing, or other means. The department shall develop  
8 uniform guidelines that may be adopted by the legislative body of  
9 a city or village to preserve native vegetation in a natural  
10 beauty street right-of-way from destruction or substantial damage  
11 by cutting, spraying, dusting, mowing, or other means.

12 Guidelines and procedures developed pursuant to this subsection  
13 shall not prohibit the application of accepted principles of  
14 sound forest management in a natural beauty road or natural  
15 beauty street right-of-way ~~, nor shall they~~ OR prevent a local  
16 road authority from taking actions to modify specific road fea-  
17 tures to correct traffic hazards which pose a direct and ongoing  
18 threat to motorists.

19       (2) The department may advise and consult with a board or a  
20 city or village legislative body on the application of the guide-  
21 lines and procedures.

22       (3) ~~The~~ A board or a city or village legislative body  
23 shall provide for a public hearing before an act that would  
24 result in substantial damage to native vegetation in the  
25 right-of-way of a natural beauty road or natural beauty street,  
26 respectively, is permitted.

1           (4) This ~~act~~ PART does not affect the right of a public  
2 utility to control vegetation in connection with the maintenance,  
3 repair, or replacement of public utility facilities constructed  
4 in a road or street before its designation as a natural beauty  
5 road or natural beauty street, or in connection with the con-  
6 struction, maintenance, repair, or replacement of public utility  
7 facilities crossing a natural beauty road or natural beauty  
8 street.

9           Sec. ~~5~~ 35705. The department may establish a citizen's  
10 advisory committee to assist in the formulation of proposals for  
11 guidelines and procedures.

12           Sec. ~~6~~ 35706. (1) If there is a violation of a guideline  
13 or procedure adopted by a board, the legislative body of a city,  
14 or the legislative body of a village pursuant to section ~~4~~  
15 35704, a complaint, signed by 5 or more freeholders of the town-  
16 ship, city, or village, respectively, or by freeholders repre-  
17 senting 10% or more of the lineal frontage along a natural beauty  
18 road or natural beauty street, may be filed with the county pros-  
19 ecutor, city attorney, or village attorney, respectively, or with  
20 the attorney general. The county prosecutor, the city attorney,  
21 the village attorney, or the attorney general, on behalf of the  
22 board, the legislative body of the city, the legislative body of  
23 the village, or the department, may commence a civil action seek-  
24 ing either of the following:

25           (a) A temporary or permanent injunction to enjoin the viola-  
26 tion of the guideline or procedure.

1 (b) A civil fine of not more than \$400.00 for the violation  
2 of the guideline or procedure.

3 (2) A default in the payment of a civil fine or costs  
4 ordered under this ~~act~~ PART or an installment of the fine or  
5 costs may be remedied by any means authorized under the revised  
6 judicature act of 1961, Act No. 236 of the Public Acts of 1961,  
7 being sections 600.101 to 600.9947 of the Michigan Compiled  
8 Laws.

9 ~~Part 359. Sanctuaries~~

10 ~~Part 361. Farmland and Open Space Preservation~~

11 PART 361 FARMLAND AND OPEN SPACE PRESERVATION

12 ~~Sec. 1. This act shall be known and may be cited as the~~  
13 ~~"farmland and open space preservation act".~~

14 Sec. ~~2~~ 36101. ~~(1)~~ AS USED IN THIS PART:

15 (A) "Agricultural use" means substantially undeveloped land  
16 devoted to the production of plants and animals useful to ~~man~~  
17 HUMANS, including forages and sod crops; grains and feed crops;  
18 dairy and dairy products; livestock, including breeding and graz-  
19 ing; fruits; vegetables; Christmas trees; and other similar uses  
20 and activities.

21 (B) ~~(2)~~ "Development" means an activity which materially  
22 alters or affects the existing conditions or use of any land.

23 (C) ~~(3)~~ "Development rights" means the right to construct  
24 a building or structure, to improve land, or the extraction of  
25 minerals incidental to a permitted use or as shall be set forth  
26 in an instrument recorded ~~pursuant to~~ UNDER this ~~act~~ PART.

1 (D) ~~(4)~~ "Development rights agreement" means a restrictive  
 2 covenant, evidenced by an instrument ~~whereby~~ IN WHICH the owner  
 3 and the state, for a term of years, agree to jointly hold the  
 4 right to develop the land as may be expressly reserved in the  
 5 instrument, and ~~which~~ THAT contains a covenant running with the  
 6 land, for a term of years, not to develop, except as this right  
 7 is expressly reserved in the instrument.

8 (E) ~~(5)~~ "Development rights easement" means a grant, by an  
 9 instrument, ~~whereby~~ IN WHICH the owner relinquishes to the  
 10 public in perpetuity or for a term of years, the right to develop  
 11 the land as may be expressly reserved in the instrument, and  
 12 ~~which~~ THAT contains a covenant running with the land, not to  
 13 develop, except as this right is expressly reserved in the  
 14 instrument.

15 (F) ~~(6)~~ "Farmland" means ANY OF THE FOLLOWING:

16 (i) ~~(a)~~ A farm of 40 or more acres ~~—~~ in 1 ownership,  
 17 which has been devoted primarily to an agricultural use.

18 (ii) ~~(b)~~ A farm of 5 acres or more in 1 ownership, but  
 19 less than 40 acres, devoted primarily to an agricultural use,  
 20 which has produced a gross annual income from agriculture of  
 21 \$200.00 per year or more per acre of cleared and tillable land.

22 (iii) ~~(c)~~ A farm designated by the department of agricul-  
 23 ture as a specialty farm in ~~one~~ 1 ownership which has produced  
 24 a gross annual income from an agricultural use of \$2,000.00 or  
 25 more.

26 (iv) ~~(d)~~ Parcels of land in ~~one~~ 1 ownership ~~which~~ THAT  
 27 are not contiguous but which constitute an integral part of a

1 farming operation being conducted on land otherwise qualifying as  
2 farmland may be included in an application under this ~~act~~  
3 PART.

4 (G) ~~(7)~~ "Local governing body" means ANY OF THE  
5 FOLLOWING:

6 (i) ~~(a)~~ The legislative body of a city or village.

7 (ii) ~~(b)~~ The township board of a township having a zoning  
8 ordinance in effect as provided by law.

9 (iii) ~~(c)~~ The county board of commissioners in all other  
10 areas.

11 (H) ~~(8)~~ "Open space land" means ANY OF THE FOLLOWING:

12 (i) ~~(a)~~ Lands defined as:

13 (A) ~~(i)~~ Any undeveloped site included in a national regis-  
14 try of historic places or designated as ~~an~~ A historic site pur-  
15 suant to state or federal law.

16 (B) ~~(ii)~~ Riverfront ownership subject to designation under  
17 ~~Act No. 231 of the Public Acts of 1970, being sections 281.761~~  
18 ~~to 281.776 of the Michigan Compiled Laws~~ PART 305, to the extent  
19 that full legal descriptions may be declared open space under the  
20 meaning of this ~~act~~ PART, if the undeveloped parcel or govern-  
21 ment lot parcel or portions ~~thereof~~ OF THE UNDEVELOPED PARCEL  
22 OR GOVERNMENT LOT PARCEL as assessed and owned is affected by  
23 that ~~act~~ PART and lies within 1/4 mile of the river.

24 (C) ~~(iii)~~ Undeveloped lands designated as environmental  
25 areas under ~~Act No. 245 of the Public Acts of 1970, as amended,~~  
26 ~~being sections 281.631 to 281.644 of the Michigan Compiled Laws~~  
27 PART 323, including unregulated portions of those lands.

1           (ii) ~~(b)~~ Any other area approved by the local governing  
2 body, the preservation of which area in its present condition  
3 would conserve natural or scenic resources, including ~~the~~ the  
4 promotion of the conservation of soils, wetlands, and beaches;  
5 the enhancement of recreation opportunities; the preservation of  
6 historic sites; and idle potential farmland of not less than 40  
7 acres which is substantially undeveloped and which because of its  
8 soil, terrain, and location is capable of being devoted to agri-  
9 cultural uses as identified by the department of agriculture.

10           (I) ~~(9)~~ "Owner" means a person having a freehold estate in  
11 land coupled with possession and enjoyment. However, ~~where~~ IF  
12 land is subject to a land contract, ~~it~~ OWNER means the vendor  
13 in agreement with the vendee.

14           (J) ~~(10)~~ "Permitted use" means any use contained within a  
15 development rights agreement or a development rights easement  
16 essential to the farming operation or ~~which~~ THAT does not alter  
17 the open space character of the land.

18           (K) ~~(11)~~ "Person" includes an individual, corporation,  
19 business trust, estate, trust, partnership, or association, or 2  
20 or more persons having a joint or common interest in the land.

21           (L) ~~(12)~~ "Property taxes" means general ad valorem taxes  
22 levied after January 1, 1974, on lands and structures in this  
23 state, including collection fees, but not including special  
24 assessments, penalties, or interest.

25           (M) ~~(13)~~ "Regional planning commission" means a regional  
26 planning commission created pursuant to Act No. 281 of the Public

1 Acts of 1945, ~~as amended,~~ being sections 125.11 to 125.25 of  
2 the Michigan Compiled Laws.

3 (N) ~~(+4)~~ "Regional planning district" means the planning  
4 and development regions as established by executive directive  
5 1968-1, as amended, whose organizational structure is approved by  
6 the regional council.

7 (O) ~~(+5)~~ "Soil conservation district" means a district  
8 created pursuant to ~~Act No. 297 of the Public Acts of 1937, as~~  
9 ~~amended, being sections 282.1 to 282.16 of the Michigan Compiled~~  
10 ~~Laws~~ PART 93.

11 (P) ~~(+6)~~ "State income tax act" means THE INCOME TAX ACT  
12 OF 1967, Act No. 281 of the Public Acts of 1967, ~~as amended,~~  
13 being sections 206.1 to 206.532 of the Michigan Compiled Laws,  
14 and in effect during the particular year of the reference to the  
15 act.

16 (Q) ~~(+7)~~ "State land use agency" means the land use agency  
17 within the department of natural resources.

18 (R) ~~(+8)~~ "Substantially undeveloped" means any parcel or  
19 area of land essentially unimproved except for a dwelling, build-  
20 ing, structure, road, or other improvement that is incidental to  
21 agricultural and open space uses.

22 (S) ~~(+9)~~ "Unique or critical land area" means agricultural  
23 or open space lands identified by the land use agency as an area  
24 ~~which~~ THAT should be preserved in its natural condition.

25 Sec. ~~3~~ 36102. (1) The state land use agency may execute a  
26 development rights agreement or easement on behalf of the state.

1           (2) The provisions of a development rights agreement or  
2 easement shall be consistent with the purposes of this ~~act~~ PART  
3 and shall not permit an action which will materially impair the  
4 character of the land involved.

5           Sec. ~~4~~ 36103. (1) The execution and acceptance of a  
6 development rights agreement or easement by the state or local  
7 governing body and the owner ~~shall~~ constitute a dedication to  
8 the public of the development rights in the land for the term  
9 specified in the instrument. A development rights agreement or  
10 easement shall be for a term of not less than 10 years.

11           (2) The state or local governing body shall not sell, trans-  
12 fer, convey, relinquish, vacate, or otherwise dispose of a devel-  
13 opment rights agreement or easement except with the mutual agree-  
14 ment of the owner as provided in sections ~~12, 13, and 14~~ 36111,  
15 36112, AND 36113.

16           (3) An agreement or easement shall not supersede any prior  
17 lien, lease, or interest which is properly recorded with the  
18 county register of deeds.

19           (4) A lien created under this ~~act~~ PART in favor of the  
20 state or a local governing body shall be subordinate to a lien of  
21 a mortgage ~~which~~ THAT is recorded in the office of the register  
22 of deeds before the recording of the lien of the state or local  
23 governing body.

24           Sec. ~~5~~ 36104. (1) An owner of land desiring a farmland  
25 development rights agreement may apply by filing an application  
26 with the local governing body having jurisdiction under this  
27 ~~act~~ PART. The application shall be made on a form prescribed



1 by the state land use agency. The application shall contain  
2 information reasonably necessary to properly classify the land as  
3 farmland. This information shall include a land survey or a  
4 legal description of the land ~~—~~ and a map showing the signifi-  
5 cant natural features and all structures and physical improve-  
6 ments located on the land. The application shall include the  
7 soil classification of the land, if known.

8 (2) Upon receipt of the application, the local governing  
9 body shall notify the county planning commission or the regional  
10 planning commission and the soil conservation district agency.  
11 If the county has jurisdiction, it shall also notify the township  
12 board of the township in which the land is situated. If the land  
13 is within 3 miles of the boundary of a city or within 1 mile of  
14 the boundary of a village, the county or township governing body  
15 having jurisdiction shall notify the governing body of the city  
16 or village.

17 (3) An agency or local governing body receiving notice  
18 ~~shall have~~ HAS 30 days to review, comment, and make recommenda-  
19 tions to the local governing body with ~~whom~~ WHICH the applica-  
20 tion is filed. These reviewing agencies do not have an approval  
21 or rejection power over the application.

22 (4) After considering the comments and recommendations of  
23 the reviewing agencies and local governing bodies, the local gov-  
24 erning body holding the application shall approve or reject the  
25 application within 45 days after the application is received,  
26 unless time is extended by mutual agreement of the parties  
27 involved. The local governing body's approval or rejection of

1 the application shall be based upon, and consistent with, rules  
2 promulgated by the state land use agency ~~pursuant to~~ UNDER sec-  
3 tion ~~17~~ 36116.

4 (5) If an application for a farmland development rights  
5 agreement is approved by the local governing body having juris-  
6 diction, a copy, along with the comments and recommendations of  
7 the reviewing bodies, shall be forwarded to the state land use  
8 agency. The application shall contain a statement from the  
9 assessing officer where the property is located specifying the  
10 current fair market value of the land and structures in compli-  
11 ance with the agricultural section of the Michigan state tax com-  
12 mission assessor manual. If action is not taken by the local  
13 governing body within the time prescribed or agreed upon, the  
14 applicant may proceed as provided in subsection (6) as if the  
15 application was rejected.

16 (6) If the application for a farmland development rights  
17 agreement is rejected by the local governing body, ~~it~~ THE LOCAL  
18 GOVERNING BODY shall return the application to the applicant with  
19 a written statement regarding the reasons for rejection. Within  
20 30 days after receipt of the rejected application, the applicant  
21 may appeal the rejection to the state land use agency. The state  
22 land use agency shall have 60 days to approve or reject the  
23 application pursuant to subsection (7).

24 (7) The state land use agency, within 60 days after the  
25 farmland development rights agreement application has been  
26 received, shall approve or reject the application. The state  
27 land use agency shall forward a copy of the information received

1 from the local assessing officer and a copy of the application to  
2 the state tax commission for its review. The state tax commis-  
3 sion shall make its review, including property description and  
4 value verification, and submit its comments to the state land use  
5 agency within 60 days after receipt of the application. A rejec-  
6 tion of an application for a farmland development rights agree-  
7 ment ~~which~~ THAT has been approved by a local governing body by  
8 the state land use agency shall be for nonconformance with sec-  
9 tion ~~2(6)~~ 36101(F) only. If approved by the state land use  
10 agency, ~~it~~ THE STATE LAND USE AGENCY shall prepare a farmland  
11 development rights agreement which shall include the following  
12 provisions:

13 (a) A structure shall not be built on the land except for  
14 use consistent with farm operations or lines for utility trans-  
15 mission or distribution purposes or with the approval of the  
16 local governing body and the state land use agency.

17 (b) Land improvements shall not be made except for use con-  
18 sistent with farm operations or with the approval of the local  
19 governing body and the state land use agency.

20 (c) Any interest in the land shall not be sold except a  
21 scenic, access, or utility easement ~~which~~ THAT does not sub-  
22 stantially hinder farm operations.

23 (d) Public access shall not be permitted on the land unless  
24 agreed to by the owner.

25 (e) Any other condition and restriction on the land as  
26 agreed to by the parties that is ~~deemed~~ CONSIDERED necessary to  
27 preserve the land or appropriate portions of it as farmland.

1 (8) A copy of the approved application and the farmland  
2 development rights agreement shall be forwarded to the applicant  
3 for execution. An application ~~which~~ THAT is approved by the  
4 local governing body by November 1 shall take effect for the cur-  
5 rent tax year.

6 (9) ~~(8)~~ If the owner executes the farmland development  
7 rights agreement, the owner shall return it to the state land use  
8 agency for execution on behalf of the state. The state land use  
9 agency shall record the executed development rights agreement  
10 with the register of deeds of the county in which the land is  
11 situated and shall notify the applicant, the local governing body  
12 and its assessing office, all reviewing agencies, and the depart-  
13 ment of treasury.

14 (10) ~~(9)~~ If an application for a farmland development  
15 rights agreement is rejected by the state land use agency, ~~it~~  
16 THE STATE LAND USE AGENCY shall notify the affected local govern-  
17 ing body, all reviewing agencies concerned, and the applicant  
18 with a written statement containing the reasons for rejection.  
19 An applicant receiving a rejection from the state land use agency  
20 may appeal the rejection pursuant to THE ADMINISTRATIVE PROCE-  
21 DURES ACT OF 1969, Act No. 306 of the Public Acts of 1969, ~~as~~  
22 ~~amended,~~ being sections 24.201 to ~~24.315~~ 24.328 of the  
23 Michigan Compiled Laws.

24 (11) ~~(10)~~ An applicant may reapply for a farmland develop-  
25 ment rights agreement following a 1-year waiting period.

26 (12) ~~(11)~~ The value of the jointly owned development  
27 rights as expressed in a farmland development rights agreement

1 shall not be exempt from ad valorem taxation and shall be  
2 assessed to the owner of the land as part of the value of that  
3 land.

4       Sec. ~~6~~ 36105. (1) If an owner of open space land desires  
5 an open space development rights easement, and the land is  
6 subject to ~~the provisions of~~ section ~~2(8)(a)~~ 36101(H)(i),  
7 the procedures for filing an application provided by the state  
8 land use agency shall follow as provided in section ~~5~~ 36104,  
9 except subsections (7) and ~~(11)~~ (12) OF SECTION 36104.

10       (2) The state land use agency, within 60 days after the open  
11 space development rights easement application has been received,  
12 shall approve or reject the application. If approved by the  
13 state land use agency, ~~it~~ THE STATE LAND USE AGENCY shall pre-  
14 pare an open space development rights easement, which shall  
15 include the following provisions:

16       (a) A structure shall not be built on the land without the  
17 approval of the state land use agency.

18       (b) Improvement to the land shall not be made without the  
19 approval of the state land use agency.

20       (c) Any interest in the land shall be sold only for a  
21 scenic, access, or utility easement ~~which~~ THAT does not sub-  
22 stantially hinder the character of the open space land.

23       (d) Access to the open space land may be provided if agreed  
24 upon by the owner and IF ACCESS will not jeopardize the condi-  
25 tions of the land.

26       (e) Any other condition or restriction on the land as agreed  
27 to by the parties that is ~~deemed~~ CONSIDERED necessary to

1 preserve the land or appropriate portions of it as open space  
2 land. Upon receipt of the application, the state land use agency  
3 shall notify the state tax commission. Upon notification, the  
4 state tax commission shall within 60 days make an on-site  
5 appraisal of the land in compliance with the Michigan state tax  
6 commission assessors manual. The application shall contain a  
7 statement specifying the current fair market value of the land  
8 and the current fair market value of the development rights. The  
9 state land use agency shall submit TO THE LEGISLATURE each appli-  
10 cation for an open space development rights easement and an anal-  
11 ysis of its cost to the state. ~~to the legislature.~~ The applica-  
12 tion shall be approved in both houses by a resolution concurred  
13 in by a majority of the members elected and serving in each  
14 house. The amount of the cost shall be returned to the local  
15 governing body where lost revenues are indicated. A copy of the  
16 approved application and the open space development rights ease-  
17 ment shall be forwarded by the state land use agency to the  
18 applicant for execution and to the local assessing office where  
19 the land is situated.

20 (3) The development rights held by the state as expressed in  
21 an open space development rights easement under this section  
22 shall be exempt from ad valorem taxation.

23 Sec. ~~7~~ 36106. (1) An owner of open space land desiring an  
24 open space development rights easement whose land is subject to  
25 ~~the provisions of~~ section ~~2(8)(b)~~ 36101(H)(ii), may apply by  
26 filing an application with the local governing body having  
27 jurisdiction under this ~~act~~ PART. The application shall be

1 made on a form prescribed by the state land use agency. The  
2 application shall contain information reasonably necessary to  
3 properly identify the land as open space. This information shall  
4 include a land survey or a legal description of the land ~~—~~ and  
5 a map showing the significant natural features and all structures  
6 and physical improvements located on the land. The map shall  
7 include the soil classification of the land, if known.

8 (2) Upon receipt of an application, the local governing body  
9 shall notify the county planning commission, the regional plan-  
10 ning commission, and the soil conservation district agency. If  
11 the county has jurisdiction, ~~it~~ THE COUNTY shall also notify  
12 the township board of the township in which the land is  
13 situated. If the land is within 3 miles of the boundary of a  
14 city or within 1 mile of the boundary of a village, the county  
15 shall notify the governing body of the city or village.

16 (3) An agency or local governing body receiving notice shall  
17 have 30 days to review, comment, and make recommendations to the  
18 local governing body with ~~whom~~ WHICH the application was  
19 filed.

20 (4) After considering the comments and recommendations of  
21 the reviewing agencies, the local governing body shall approve or  
22 reject the application within 45 days after the application has  
23 been received by ~~it~~ THE LOCAL GOVERNING BODY, unless time is  
24 extended by mutual agreement of the parties involved. The local  
25 governing body's approval or rejection of the application shall  
26 be based upon, and consistent with, rules promulgated by the  
27 state land use agency ~~pursuant to~~ UNDER section ~~+7~~ 36116. If

1 the local governing body does not act within the time prescribed  
2 or agreed upon, the applicant may proceed as provided in subsec-  
3 tion ~~(8)~~ (9) as if the application was rejected.

4 (5) If the application is approved by the local governing  
5 body or the state land use agency on appeal, the local governing  
6 body shall prepare an appropriate easement which shall include  
7 the following provisions:

8 (a) A structure shall not be built on the land without the  
9 approval of the local governing body.

10 (b) An improvement to the land shall not be made without the  
11 approval of the local governing body.

12 (c) Any interest in the land shall not be sold except for  
13 scenic, access, or utility easements ~~which~~ THAT do not substan-  
14 tially hinder the character of the open space land.

15 (d) Public access to the open space land may be provided if  
16 agreed upon by the owner and IF ACCESS will not jeopardize the  
17 conditions of the land.

18 (e) Any other condition or restriction on the land as agreed  
19 to by both parties that is ~~deemed~~ CONSIDERED necessary to pre-  
20 serve the land or appropriate portions of it as open space land.

21 (6) Upon receipt of the application, the local governing  
22 body shall direct either the local assessing officer or an inde-  
23 pendent certified assessor to make an on-site appraisal within 30  
24 days of the land in compliance with the Michigan state tax com-  
25 mission assessors manual. The approved application shall contain  
26 a statement specifying the current fair market value of the land  
27 and the current fair market value of the development rights, if



1 any. A copy of the approved application and the development  
2 rights easement shall be forwarded to the applicant for his OR  
3 HER execution.

4 (7) ~~(6)~~ If the owner of the land executes the approved  
5 easement, it shall be returned to the local governing body for  
6 its execution. The local governing body shall record the open  
7 space development rights easement with the register of deeds of  
8 the county. A copy of the approved easement shall be forwarded  
9 to the local assessing office and to the state land use agency  
10 for their information. The state land use agency shall submit to  
11 the legislature and the department of management and budget a  
12 listing of all easements in effect by October 31 of each year.

13 (8) ~~(7)~~ The decision of the local governing body having  
14 jurisdiction under this ~~act~~ PART may be appealed to the state  
15 land use agency, pursuant to subsection ~~(8)~~ (9).

16 (9) ~~(8)~~ If an application for an open space development  
17 rights easement is rejected by the local governing body, ~~it~~ THE  
18 LOCAL GOVERNING BODY shall notify the applicant and all reviewing  
19 agencies concerned with a written statement regarding the reasons  
20 for rejection. Within 30 days after receipt of the rejected  
21 application, the applicant may appeal the rejection to the state  
22 land use agency. The state land use agency shall have 60 days to  
23 approve or reject the application. The state land use agency  
24 shall submit TO THE LEGISLATURE each approved application for an  
25 open space development rights easement and an analysis of its  
26 cost. ~~to the legislature.~~ The application shall be approved in  
27 both houses by a resolution concurred in by a majority of the

1 members elected and serving in each house. The amount of the  
2 cost shall be returned to the local governing body where lost  
3 revenues are indicated. A copy of the approved application and  
4 an appropriate easement shall be forwarded by the state land use  
5 agency to the applicant for execution and to the local governing  
6 body where the land is situated.

7 (10) ~~(9)~~ An applicant may reapply for an open space devel-  
8 opment rights easement following a 1-year waiting period.

9 (11) ~~(10)~~ The development rights held by the local govern-  
10 ing body as expressed in an open space development rights ease-  
11 ment shall be exempt from ad valorem taxation.

12 Sec. ~~8~~ 36107. All participants owning land contained  
13 under a development rights agreement or easement shall notify, on  
14 a form provided by the state land use agency for informational  
15 purposes only, the state or the local governing body holding the  
16 development rights, 6 months before the natural termination date  
17 of the development rights agreement or easement, of the owners'  
18 intentions regarding future plans with respect to the land.

19 Sec. ~~9~~ 36108. A city, village, township, county, or other  
20 governmental agency may not impose special assessments for sani-  
21 tary sewers, water, lights, or nonfarm drainage on land for which  
22 a development rights agreement or easement has been recorded  
23 except as to a dwelling or a nonfarm structure located on the  
24 land unless the assessments were imposed prior to the recording  
25 of the development rights agreement or easement. Land covered by  
26 this exemption shall be denied use of an improvement created by  
27 the special assessment until it has paid an amount not more than

1 the amount that would have been paid had the land not been  
2 excluded. The land exempted from the assessment shall be denied  
3 use of the improvement as long as the owner of the land has a  
4 recorded development rights agreement or easement.

5       Sec. ~~40~~ 36109. (1) An owner of farmland and related  
6 buildings covered by 1 or more development rights agreements  
7 meeting the requirements of this ~~act~~ PART who is required or  
8 eligible to file a return as an individual or a claimant under  
9 the state income tax act may claim a credit against the state  
10 income tax liability for the amount by which the property taxes  
11 on the land and structures used in the farming operation, includ-  
12 ing the homestead, restricted by the development rights agree-  
13 ments exceed 7% of the household income as defined in chapter 9  
14 of the state income tax act, BEING SECTIONS 206.501 TO 206.532 OF  
15 THE MICHIGAN COMPILED LAWS, excluding a deduction if taken under  
16 section 613 of the internal revenue code of 1986, 26 U.S.C. 613.  
17 For the purposes of this section, all of the following apply:

18       (a) A partner in a partnership is considered an owner of  
19 farmland and related buildings covered by a development rights  
20 agreement that are owned by the partnership. A partner is con-  
21 sidered to pay a proportion of the property taxes on that prop-  
22 erty equal to the partner's share of ownership of capital or dis-  
23 tributive share of ordinary income as reported by the partnership  
24 to the internal revenue service or, if the partnership is not  
25 required to report that information to the internal revenue serv-  
26 ice, as provided in the partnership agreement or, if there is no  
27 written partnership agreement, a statement signed by all the

1 partners. A partner claiming a credit under this section based  
2 upon the partnership agreement or a statement shall file a copy  
3 of the agreement or statement with his or her income tax return.  
4 If the agreement or statement is not filed, the department of  
5 treasury shall deny the credit. All partners in a partnership  
6 claiming the credit allowed under this section shall compute the  
7 credit using the same basis for the apportionment of the property  
8 taxes.

9 (b) A shareholder of a corporation that has filed a proper  
10 election under subchapter S of chapter 1 ~~of subtitle A~~ of the  
11 internal revenue code of 1986, 26 U.S.C. 1361 to 1379, is consid-  
12 ered an owner of farmland and related buildings covered by a  
13 development rights agreement that are owned by the corporation.  
14 A shareholder is considered to pay a proportion of the property  
15 taxes on that property equal to the shareholder's percentage of  
16 stock ownership for the tax year as reported by the corporation  
17 to the internal revenue service. Except as provided in  
18 subsection (8), this subdivision applies to tax years beginning  
19 after 1987.

20 (c) An individual in possession of property for life under a  
21 life estate with remainder to another person or holding property  
22 under a life lease is considered the owner of that property if it  
23 is farmland and related buildings covered by a development rights  
24 agreement.

25 (d) If a trust holds farmland and related buildings covered  
26 by a development rights agreement and an individual is treated  
27 under subpart E of subchapter J OF CHAPTER 1 of the internal

1 revenue code of 1986, 26 U.S.C. 671 to 679, as the owner of that  
2 portion of the trust that includes the farmland and related  
3 buildings, that individual is considered the owner of that  
4 property.

5 (e) An individual who is the sole beneficiary of a trust  
6 that is the result of the death of that individual's spouse is  
7 considered the owner of farmland and related buildings covered by  
8 a development rights agreement and held by the trust if the trust  
9 conforms to all of the following:

10 (i) One hundred percent of the trust income is distributed  
11 to the beneficiary in the tax year in which the trust receives  
12 the income.

13 (ii) The trust terms do not provide that any portion of the  
14 trust is to be paid, set aside, or otherwise used in a manner  
15 that would qualify for the deduction allowed by section 642(c) of  
16 the internal revenue code of 1986, 26 U.S.C. 642.

17 (2) An owner of farmland and related buildings covered by 1  
18 or more development rights agreements meeting the requirements of  
19 this ~~act~~ PART to whom subsection (1) does not apply may claim a  
20 credit under the single business tax act, Act No. 228 of the  
21 Public Acts of 1975, ~~as amended,~~ being sections 208.1 to  
22 208.145 of the Michigan Compiled Laws, for the amount by which  
23 the property taxes on the land and structures used in farming  
24 operations restricted by the development rights agreements exceed  
25 7% of the adjusted business income of the owner as defined in  
26 section 36 of Act No. 228 of the Public Acts of 1975, being  
27 section 208.36 of the Michigan Compiled Laws, plus compensation

1 to shareholders not included in adjusted business income,  
2 excluding any deductions if taken under section 613 of the inter-  
3 nal revenue code of 1986, 26 U.S.C. 613. When calculating  
4 adjusted business income for tax years beginning before 1987,  
5 federal taxable income shall not be less than zero for the pur-  
6 poses of this subsection only. A participant is not eligible to  
7 claim a credit and refund against the state single business tax  
8 unless the participant demonstrates that the participant's agri-  
9 cultural gross receipts of the farming operation exceed 5 times  
10 the property taxes on the land for each of 3 out of the 5 tax  
11 years immediately preceding the year in which the credit is  
12 claimed. This eligibility requirement does not apply to those  
13 participants who executed farmland development rights agreements  
14 under this ~~act~~ PART before January 1, 1978. A participant may  
15 compare, during the contract period, the average of the most  
16 recent 3 years of agricultural gross receipts to property taxes  
17 in the first year that the participant entered the program under  
18 the present contract in calculating the gross receipts  
19 qualification. Once an election is made by the participant to  
20 compute the benefit in this manner, all future calculations shall  
21 be made in the same manner.

22 (3) If the farmland and related buildings covered by a  
23 development rights agreement are owned by more than 1 owner, each  
24 owner is allowed to claim a credit under this section based upon  
25 that owner's share of the property tax payable on the farmland  
26 and related buildings. The department of treasury shall consider  
27 the property tax equally apportioned among the owners unless a

1 written agreement signed by all the owners is filed with the  
2 return, which agreement apportions the property taxes in the same  
3 manner as all other items of revenue and expense. If the prop-  
4 erty taxes are considered equally apportioned, a husband and wife  
5 shall be considered 1 owner, and a person with respect to whom a  
6 deduction under section 151 of the internal revenue code of 1986,  
7 26 U.S.C. 151, is allowable to another owner of the property  
8 shall not be considered an owner.

9 (4) A beneficiary of an estate or trust to which subsection  
10 (1) does not apply is entitled to the same percentage of the  
11 credit provided in this section as that person's percentage of  
12 all other distributions by the estate or trust.

13 (5) If the allowable amount of the credit claimed exceeds  
14 the state income tax or the state single business tax otherwise  
15 due for the tax year or if there is no state income tax or the  
16 state single business tax due for the tax year, the amount of the  
17 claim not used as an offset against the state income tax or the  
18 state single business tax, after examination and review, shall be  
19 approved for payment to the claimant in accordance with Act  
20 No. 122 of the Public Acts of 1941, being sections 205.1 to  
21 205.31 of the Michigan Compiled Laws. The total credit allowable  
22 under this ~~act~~ PART and chapter 9 of the state income tax act  
23 or the single business tax act, Act No. 228 of the Public Acts of  
24 1975, ~~as amended,~~ shall not exceed the total property tax due  
25 and payable by the claimant in that year. The amount the credit  
26 exceeds the property tax due and payable shall be deducted from  
27 the credit claimed under this ~~act~~ PART.

1           (6) For purposes of audit, review, determination, appeals,  
2 hearings, notices, assessments, and administration relating to  
3 the credit program provided by this section, the state income tax  
4 act or single business tax act, Act No. 228 of the Public Acts of  
5 1975, applies according to which tax the credit is claimed  
6 against. If an individual is allowed to claim a credit under  
7 subsection (1) based upon property owned or held by a partner-  
8 ship, S corporation, or trust, the department of treasury may  
9 require that the individual furnish to the department a copy of a  
10 tax return, or portion of a tax return, and supporting schedules  
11 that the partnership, S corporation, or trust files under the  
12 internal revenue code.

13           (7) The department of treasury shall account separately for  
14 payments under this ~~act~~ PART and not combine them with other  
15 credit programs. A payment made to a claimant for a credit  
16 claimed under this ~~act~~ PART shall be issued by 1 or more war-  
17 rants made out to the county treasurer in each county in which  
18 the claimant's property is located and the claimant, unless a  
19 copy of the receipt showing payment of the property taxes that  
20 became a lien in the year for which the credit is claimed, or  
21 that became a lien in the year before the year for which the  
22 credit is claimed, is attached to the income tax or single busi-  
23 ness tax return filed by the claimant. If a copy of the receipt  
24 is attached to the return, the payment shall be made directly to  
25 the claimant. A warrant made out to a claimant and a county  
26 treasurer shall be used first to pay delinquent property taxes,  
27 interest, penalties, and fees on property restricted by the



1 development rights agreement. If the warrant exceeds the amount  
2 of delinquent taxes, interest, penalties, and fees, the county  
3 treasurer shall remit the excess to the claimant.

4 (8) For property taxes levied after 1987, a person that was  
5 an S corporation and had entered into a development rights agree-  
6 ment before January 1, 1989, and paid property taxes on that  
7 property, may claim the credit allowed by this section as an  
8 owner eligible under subsection (2). ~~An~~ A SUBCHAPTER S corpo-  
9 ration claiming a credit as permitted by this subsection for  
10 taxes levied in 1988 through 1990 shall claim the credit by  
11 filing an amended return under the single business tax act, Act  
12 No. 228 of the Public Acts of 1975. If ~~an~~ A SUBCHAPTER S cor-  
13 poration files an amended return as permitted by this subsection  
14 and if a shareholder of the SUBCHAPTER S corporation claimed a  
15 credit under subsection (1)(b) for the same property taxes, the  
16 shareholder shall file an amended return under the state income  
17 tax act. ~~An~~ A SUBCHAPTER S corporation is not entitled to a  
18 credit under this subsection until all of its shareholders file  
19 the amended returns required by this subsection. The department  
20 of treasury shall first apply a credit due to ~~an~~ A SUBCHAPTER S  
21 corporation under this subsection to repay credits claimed under  
22 this section by the SUBCHAPTER S corporation's shareholders for  
23 property taxes levied in 1988 through 1990 and shall refund any  
24 remaining credit to the S corporation. Interest or penalty is  
25 not due or payable on an income tax liability resulting from an  
26 amended return required by this subsection. ~~An~~ A SUBCHAPTER S  
27 corporation electing to claim a credit as an owner eligible under

1 subsection (2) shall not claim a credit under subsection (1) for  
2 property taxes levied after 1987.

3       Sec. ~~++~~ 36110. (1) Land subject to a development rights  
4 agreement or easement may be sold without penalty under sections  
5 ~~+2~~ 36111, ~~+3~~ 36112, and ~~+4~~ 36113, if the use of the land by  
6 the successor in title complies with the provisions contained in  
7 the development rights agreement or easement. The seller shall  
8 notify the governmental authority having jurisdiction over the  
9 development rights of the change in ownership.

10       (2) When the owner of land subject to a development rights  
11 agreement or easement dies or is totally and permanently dis-  
12 abled, the land may be released from the program under this ~~act~~  
13 PART and shall be subject to a proration pursuant to sections  
14 ~~+2(7)~~ 36111(7), ~~+3(7)~~ 36112(7), and ~~+4(7)~~ 36113(7).

15       Sec. ~~+2~~ 36111. (1) A development rights agreement shall  
16 be relinquished by the state at the expiration of the term of the  
17 agreement unless renewed with the consent of the owner of the  
18 land. If the owner of the land has complied with the require-  
19 ments of this ~~act~~ PART regarding development rights agreements,  
20 the owner is entitled to automatic renewal of the agreement upon  
21 written request of the landowner.

22       (2) A development rights agreement may be relinquished by  
23 the state before a termination date contained in the instrument  
24 as follows:

25       (a) At any time the state determines that the development of  
26 the land is in the public interest and in agreement with the  
27 owner of the land.

1 (b) The owner of the land may submit an application to the  
2 local governing body having jurisdiction under this ~~act~~ PART  
3 requesting that the development rights agreement be  
4 relinquished. The application shall be made on a form prescribed  
5 by the state land use agency. The request for relinquishment  
6 shall be processed and is subject to the same provisions as pro-  
7 vided for in section ~~5~~ 36104 for review and approval.

8 (3) If the request for relinquishment of the development  
9 rights agreement is approved, the state land use agency shall  
10 prepare an instrument, subject to subsections (4), (5), (6), and  
11 (7), and record it with the register of deeds of the county in  
12 which the land is situated.

13 (4) At the time a development rights agreement is to be  
14 relinquished pursuant to subsection (2)(b), the state land use  
15 agency shall prepare and record a lien against the property  
16 formerly subject to the development rights agreement for the  
17 total amount of the credit received by the owner for that prop-  
18 erty under section ~~10~~ 36109, plus interest at the rate of 6%  
19 per annum compounded annually from the time the credit was  
20 received until it is paid. Beginning January 1, 1989, the credit  
21 for each year the property was subject to the agreement is the  
22 allocated tax credit for the agreement that included the property  
23 being withdrawn from the agreement. However, if the property  
24 being withdrawn from the agreement is less than all of the prop-  
25 erty subject to that agreement, the allocated tax credit for the  
26 agreement shall be multiplied by the property's share of the

1 assessed valuation of the agreement. As used in this  
2 subsection:

3 (a) "The allocated tax credit for the agreement" means the  
4 amount obtained by multiplying the owner's total farmland preser-  
5 vation credit claimed in that year on all agreements by the quo-  
6 tient of the ad valorem property tax levied in that year on prop-  
7 erty subject to the development rights agreement that included  
8 the property being withdrawn from the agreement divided by the  
9 total property taxes levied on property subject to any develop-  
10 ment rights agreement and used in determining the farmland pre-  
11 servation credit in that year.

12 (b) "The property's share of the assessed value of the  
13 agreement" means the quotient of the assessed value of the prop-  
14 erty being released from the agreement divided by the total  
15 assessed value of property subject to the development rights  
16 agreement that included the property being released from the  
17 agreement.

18 (5) The lien may be paid and discharged at any time and is  
19 payable to the state by the owner of record at the time the land  
20 or any portion of it is sold by the owner of record, or if the  
21 land is converted to a use prohibited by the former development  
22 rights agreement. The lien shall be discharged upon renewal or  
23 reentry in a development rights agreement, except that a subse-  
24 quent lien shall not be less than the lien discharged.

25 (6) Upon termination of the development rights agreement  
26 pursuant to subsection (2)(a), the development rights ~~shall~~  
27 revert back to the owner without penalty or interest.

1 (7) Upon the natural termination of the development rights  
2 agreement pursuant to subsection (1), the state land use agency  
3 shall prepare and record a lien against the property formerly  
4 subject to the development rights agreement for the total amount  
5 of the credit of the last 7 years received by the owner under  
6 section ~~10~~ 36109, including the year of natural termination,  
7 attributable to that development rights agreement. Beginning  
8 January 1, 1989, the credit for each year shall be determined by  
9 multiplying the owner's total farmland preservation credit on all  
10 agreements claimed in that year by the quotient of the ad valorem  
11 property tax levied on property subject to the expired develop-  
12 ment rights agreement that was used in determining the farmland  
13 preservation credit in that year divided by the total property  
14 taxes levied on property subject to any development rights agree-  
15 ment and used in determining the farmland preservation credit in  
16 that year. The lien shall be without interest or penalty and is  
17 payable subject to subsection (5).

18 (8) Upon termination, the state land use agency shall notify  
19 the department of treasury for their records.

20 (9) The proceeds from lien payments made under this ~~act~~  
21 PART shall be used to administer this ~~act~~ PART by the state  
22 land use agency for fiscal years 1991-92 through 1994-95 and to  
23 purchase development rights on land that is considered by the  
24 state land use agency to be a unique or critical land area that  
25 should be preserved in its natural character, but which does not  
26 necessitate direct purchase of the fee interest in the land. It  
27 is the intent of the legislature that if the accumulated proceeds

1 from lien payments received under this ~~act~~ PART fall below  
2 \$2,000,000.00, then the funds used to administer this ~~act~~ PART  
3 shall be appropriated from the general fund until the proceeds  
4 from the lien payments received under this ~~act~~ PART exceed  
5 \$2,000,000.00. However, the amount of lien payments used to  
6 administer this ~~act~~ PART shall not exceed \$600,000.00 in any  
7 fiscal year.

8       Sec. ~~+3-~~ 36112. (1) An open space development rights ease-  
9 ment pursuant to section ~~-6-~~ 36105 shall be relinquished by the  
10 state at the expiration of the term of the easement unless  
11 renewed with the consent of the owner of the land. If the owner  
12 of the land has complied with the requirements of this ~~act~~ PART  
13 regarding open space development rights easements, the owner  
14 ~~shall be~~ IS entitled to automatic renewal of the agreement upon  
15 written request of the landowner.

16       (2) An open space development rights easement may be relin-  
17 quished by the state prior to a termination date contained in the  
18 instrument as follows:

19       (a) At any time the state determines that the development of  
20 the land is in the public interest and in agreement with the  
21 owner of the land.

22       (b) The owner of the land may submit an application to the  
23 local governing body where the original application for an open  
24 space development rights easement was submitted requesting that  
25 the development rights easement be relinquished. The application  
26 shall be made on a form prescribed by the state land use agency.  
27 The request for relinquishment shall be processed and shall be

1 subject to the provisions as provided in sections ~~5~~ 36104 and  
2 ~~6~~ 36105 for review and approval.

3 (3) If the request for relinquishment of the development  
4 rights easement is approved, the state land use agency shall pre-  
5 pare an instrument providing for the relinquishment of the open  
6 space development rights easement, subject to subsections (4),  
7 (5), (6), and (7), and shall record it with the register of deeds  
8 of the county in which the land is situated.

9 (4) At the time a development rights easement is to be  
10 relinquished pursuant to subsection (2)(b), the state land use  
11 agency shall cause to be prepared and recorded a lien against the  
12 property formerly subject to the development rights easement for  
13 the total amount of the ad valorem taxes not paid on the develop-  
14 ment rights during the period it was held by the state, if any.  
15 The lien shall provide that interest at the rate of 6% per annum  
16 compounded shall be added to the ad valorem taxes not paid from  
17 the time the exemption was received until it is paid.

18 (5) The lien shall become payable to the state by the owner  
19 of record at the time the land or any portion of it is sold by  
20 the owner of record, or if the land is converted to a use prohib-  
21 ited by the former open space development rights easement.

22 (6) Upon the termination of the open space development  
23 rights easement pursuant to subsection (2)(a), the development  
24 rights ~~shall~~ revert back to the owner without penalty or  
25 interest.

26 (7) Upon the natural termination of the open space  
27 development rights easement pursuant to subsection (1), the state

1 land use agency shall cause to be prepared and recorded a lien  
2 against the property formerly subject to the open space develop-  
3 ment rights easement. The amount of the lien shall be the total  
4 amount of the last 7 years ad valorem taxes not paid on the  
5 development rights during the period it was held by the state, if  
6 any. The lien shall be without penalty or interest and shall be  
7 payable subject to subsection (5).

8 (8) A copy of the renewal or relinquishment of an open space  
9 development rights easement shall be sent to the local governing  
10 body's assessing office.

11 Sec. ~~14~~ 36113. (1) An open space development rights ease-  
12 ment pursuant to section ~~7~~ 36106 shall be relinquished by the  
13 local governing body at the expiration of the term of the ease-  
14 ment unless renewed with the consent of the owner of the land if  
15 the owner of the land has complied with the requirements of this  
16 ~~act~~ PART regarding open space development rights easements, the  
17 owner shall be entitled to automatic renewal of the agreement  
18 upon written request of the landowner.

19 (2) An open space development rights easement may be relin-  
20 quished by the local governing body prior to a termination date  
21 contained in the instrument as follows:

22 (a) At any time the local governing body determines that the  
23 development of the land is in the public interest and in agree-  
24 ment with the owner of the land.

25 (b) The owner of the land may submit an application to the  
26 local governing body having jurisdiction requesting that the  
27 development rights easement be relinquished. The application



1 shall be made on a form prescribed by the state land use agency.  
2 The request for relinquishment shall be processed and shall be  
3 subject to the provisions as provided in section ~~7~~ 36106 for  
4 review and approval.

5 (3) If the request for relinquishment of the open space  
6 development rights easement is approved, the local governing body  
7 shall prepare an instrument providing for the relinquishment of  
8 the open space development rights easement, subject to subsec-  
9 tions (4), (5), (6), and (7), and shall record it with the regis-  
10 ter of deeds of the county in which the land is situated.

11 (4) At the time an open space development rights easement is  
12 to be relinquished pursuant to subsection (2)(b), the local gov-  
13 erning body shall cause to have prepared and recorded a lien  
14 against the property formerly subject to the open space develop-  
15 ment rights easement. The amount of the lien shall be the total  
16 amount of the ad valorem taxes not paid on the development rights  
17 during the period it was held by the local governing body, if  
18 any. The lien shall provide that interest at the rate of 6% per  
19 annum compounded shall be added to the ad valorem taxes exemption  
20 from the time granted until the lien is paid.

21 (5) The lien shall become payable to the local governing  
22 body by the owner of record at the time the land or any portion  
23 of it is sold by the owner of record, or if the land is converted  
24 to a use prohibited by the former open space development rights  
25 easement.

26 (6) Upon the termination of the open space development  
27 rights easement pursuant to subsection (2)(a), the development

1 rights ~~shall~~ revert back to the owner without penalty or  
 2 interest and the development rights easement upon the land  
 3 ~~shall~~ expire.

4 (7) Upon the natural termination of the open space develop-  
 5 ment rights easement pursuant to subsection (1), the local gov-  
 6 erning body shall cause to be prepared and recorded a lien  
 7 against the property formerly subject to the open space develop-  
 8 ment rights easement. The amount of the lien shall be the total  
 9 amount of the last 7 years ad valorem taxes not paid on the  
 10 development rights during the period it was held by the local  
 11 governing body, if any. The lien shall be without penalty or  
 12 interest and will be payable subject to subsection (5).

13 (8) A copy of the renewal or relinquishment of an open space  
 14 development rights easement shall be sent to the local assessing  
 15 office.

16 Sec. ~~+5-~~ 36114. If the owner or a successor in title of  
 17 the land upon which a development rights agreement or easement  
 18 has been recorded pursuant to this ~~act shall change~~ PART  
 19 CHANGES THE USE OF THE LAND to a prohibited use ~~the use of the~~  
 20 ~~land~~ or knowingly ~~sell~~ SELLS the land for a use other than  
 21 those permitted in the development rights agreement or easement  
 22 without first pursuing the provisions in sections ~~++(2)-~~  
 23 36110(2), ~~+2-~~ 36111, ~~+3-~~ 36112, and ~~+4-~~ 36113, or receiving  
 24 permission of the state land use agency, he OR SHE may be  
 25 enjoined by the state ~~✓~~ acting through the attorney general, or  
 26 by the local governing body ~~✓~~ acting through its attorney, and  
 27 is subject to a civil penalty for actual damages, ~~but~~ WHICH in

1 no case ~~to~~ SHALL exceed double the value of the land as  
 2 established at the time the application for the development  
 3 rights agreement or easement was approved.

4 Sec. ~~+6~~ 36115. All departments and agencies of state gov-  
 5 ernment shall cooperate with the state land use agency in the  
 6 exchange of information concerning projects and activities  
 7 ~~which~~ THAT might jeopardize the preservation of land contem-  
 8 plated by this ~~act~~ PART. The state land use agency shall peri-  
 9 odically advise the departments and agencies of state government  
 10 of the location and description of land upon which there exists  
 11 development rights agreements or easements and the departments  
 12 and agencies shall harmonize their planning and projects consis-  
 13 tent with the purposes of this ~~act~~ PART.

14 Sec. ~~+7~~ 36116. The state land use agency may promulgate  
 15 rules ~~pursuant to Act No. 306 of the Public Acts of 1969, as~~  
 16 ~~amended,~~ for the administration of this ~~act~~ PART.

17 Sec. ~~+8~~ 36117. The state land use agency shall prepare a  
 18 report and make recommendations to the legislature not later than  
 19 January 30, 1976, for a state plan for preserving open space  
 20 lands, agricultural and horticultural lands, unique or critical  
 21 land areas, recreational lands, and historic lands.

22 ~~Sec. 19. This act shall become effective July 1, 1974.~~

23 ~~ENDANGERED SPECIES~~

24 ~~Part 365. Endangered Species Protection~~

25 ENDANGERED SPECIES

## PART 365 ENDANGERED SPECIES PROTECTION

~~Sec. 1. This act shall be known and may be cited as the "endangered species act of 1974".~~

Sec. ~~2~~ 36501. As used in this ~~act~~ PART:

~~(a) "Commission" means the commission of natural resources.~~

~~(b) "Department" means the department of natural resources.~~

~~(c) "Director" means the director of the department or the director's authorized representative.~~

(A) ~~(d)~~ "Endangered species" means any species of fish, plant life, or wildlife ~~which~~ THAT is in danger of extinction throughout all or a significant part of its range, other than a species of insecta determined by the ~~commission~~ DEPARTMENT or the secretary of the United States department of the interior to constitute a pest whose protection under this ~~act~~ PART would present an overwhelming and overriding risk to ~~man~~ HUMANS.

(B) ~~(e)~~ "Fish or wildlife" means any member of the animal kingdom, including any mammal, fish, amphibian, mollusk, crustacean, arthropod, or other invertebrate, and includes any part, product, egg, or offspring, or the dead body or parts thereof. Fish or wildlife includes migratory birds, nonmigratory birds, or endangered birds for which protection is afforded by treaty or other international agreement.

(C) ~~(f)~~ "Import" means to bring into, ~~or~~ introduce into, or attempt to bring into ~~—~~ or introduce into ~~—~~ any place subject to the jurisdiction of this state.

1 ~~(g) "Person" means an individual, corporation, partnership,~~  
2 ~~trust, association, or any other private entity, or any officer,~~  
3 ~~agent, department, or instrumentality of the federal government,~~  
4 ~~of a state or political subdivision of a state, or of any foreign~~  
5 ~~government.~~

6 (D) ~~(h)~~ "Plant or plant life" means any member of the  
7 plant kingdom, including seeds, roots, and other parts of a  
8 member of the plant kingdom.

9 (E) ~~(i)~~ "Species" includes any subspecies of fish, plant  
10 life, or wildlife and any other group of fish, plants, or wild-  
11 life of the same species or smaller taxa in common spatial  
12 arrangement that interbreed or cross-pollinate when mature.

13 (F) ~~(j)~~ "Take" means, in reference to fish and wildlife,  
14 to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture,  
15 collect, or attempt to engage in any such conduct.

16 (G) ~~(k)~~ "Take" means, in reference to plants, to collect,  
17 pick, cut, dig up, or destroy in any manner.

18 (H) ~~(l)~~ "Threatened species" means any species which is  
19 likely to become an endangered species within the foreseeable  
20 future throughout all or a significant portion of its range.

21 Sec. ~~3~~ 36502. The ~~commission~~ DEPARTMENT shall perform  
22 those acts necessary for the conservation, protection, restora-  
23 tion, and propagation of endangered and threatened species of  
24 fish, wildlife, and plants in cooperation with the federal gov-  
25 ernment, pursuant to THE ENDANGERED SPECIES ACT OF 1973, Public  
26 Law 93-205, 87 Stat. 884, and with rules promulgated by the  
27 secretary of the interior ~~thereunder~~ UNDER THAT ACT.

1       Sec. ~~4~~ 36503. (1) The ~~director~~ DEPARTMENT shall conduct  
2 investigations on fish, plants, and wildlife in order to develop  
3 information relating to population, distribution, habitat needs,  
4 limiting factors, and other biological and ecological data to  
5 determine management measures necessary for their continued abil-  
6 ity to sustain themselves successfully. On the basis of these  
7 determinations and other available scientific and commercial  
8 data, which may include consultation with scientists and others  
9 who may have specialized knowledge, learning, or experience, the  
10 ~~commission~~ DEPARTMENT shall promulgate a rule listing those  
11 species of fish, plants, and wildlife ~~which~~ THAT are determined  
12 to be endangered or threatened within the state, pursuant to THE  
13 ADMINISTRATIVE PROCEDURES ACT OF 1969, Act No. 306 of the Public  
14 Acts of 1969, ~~as amended,~~ being sections 24.201 to ~~24.315~~  
15 24.328 of the Michigan Compiled Laws.

16       (2) The ~~commission~~ DEPARTMENT shall conduct a review of  
17 the state list of endangered and threatened species within not  
18 more than 2 years after its effective date and every 2 years  
19 thereafter, and may amend the list by appropriate additions or  
20 deletions pursuant to Act No. 306 of the Public Acts of 1969. ~~—~~  
21 ~~as amended.~~

22       Sec. ~~5~~ 36504. (1) The ~~director~~ DEPARTMENT may establish  
23 programs, including acquisition of land or aquatic habitat, as  
24 are ~~deemed~~ CONSIDERED necessary for the management of endan-  
25 gered or threatened species.

26       (2) In ~~carrying out~~ IMPLEMENTING the programs authorized  
27 by this section, the ~~commission~~ DEPARTMENT may enter into

1 cooperative agreements with federal and state agencies, political  
2 subdivisions of the state, or with private persons for the admin-  
3 istration and management of any area or program established under  
4 this section or for investigation as outlined in section ~~4~~  
5 36503.

6 Sec. ~~6~~ 36505. (1) Except as otherwise provided in this  
7 ~~act~~ PART, a person shall not take, possess, transport, import,  
8 export, process, sell, ~~or~~ offer for sale, buy, or offer to buy,  
9 ~~nor shall~~ AND a common or contract carrier SHALL NOT transport  
10 or receive for shipment, any species of fish, plants, or wildlife  
11 appearing on the following lists:

12 (a) The list of fish, plants, and wildlife indigenous to the  
13 state determined to be endangered or threatened within the state  
14 pursuant to section ~~4~~ 36503 or subsection (3).

15 (b) The United States list of endangered or threatened  
16 native fish and wildlife.

17 (c) The United States list of endangered or threatened  
18 plants.

19 (d) The United States list of endangered or threatened for-  
20 eign fish and wildlife.

21 (2) A species of fish, plant, or wildlife appearing on any  
22 of the lists delineated in subsection (1) which enters the state  
23 from another state or from a point outside the territorial limits  
24 of the United States may enter, be transported, possessed, and  
25 sold in accordance with the terms of a federal permit issued pur-  
26 suant to section 10 of the endangered species act of 1973, PUBLIC

1 LAW 93-205, 16 U.S.C. 1539, or an applicable permit issued under  
2 the laws of another state.

3 (3) The ~~commission~~ DEPARTMENT may, by rule, treat any spe-  
4 cies as an endangered species or threatened species even though  
5 it is not listed pursuant to section ~~4~~ 36503, if it finds any  
6 of the following:

7 (a) The species so closely resembles in appearance, at the  
8 point in question, a species which is listed pursuant to section  
9 ~~4~~ 36503 that enforcement personnel would have substantial dif-  
10 ficulty in attempting to differentiate between the listed and  
11 unlisted species.

12 (b) The effect of the substantial difficulty in differenti-  
13 ating between a listed and an unlisted species is an additional  
14 threat to an endangered or threatened species.

15 (c) The treatment of an unlisted species will substantially  
16 facilitate the enforcement and further the intent of this ~~act~~  
17 PART.

18 (4) The ~~director~~ DEPARTMENT may permit the taking, posses-  
19 sion, purchase, sale, transportation, exportation, or shipment of  
20 species of fish, plants, or wildlife which appear on the state  
21 list of endangered or threatened species compiled pursuant to  
22 section ~~4~~ 36503 and subsection (3) for scientific, zoological,  
23 or educational purposes, for propagation in captivity of such  
24 fish, plants, or wildlife to ~~insure~~ ENSURE their survival.

25 (5) Upon good cause shown and where necessary to alleviate  
26 damage to property or to protect human health, endangered or  
27 threatened species found on the state list compiled pursuant to



1 section ~~4~~ 36503 and subsection (3) may be removed, captured, or  
2 destroyed, but only pursuant to a permit issued by the ~~director~~  
3 DEPARTMENT. Carnivorous animals found on the state list may be  
4 removed, captured, or destroyed by any person in emergency situa-  
5 tions involving an immediate threat to human life, but the remov-  
6 al, capture, or destruction shall be reported to the ~~director~~  
7 DEPARTMENT within 24 hours of the act.

8 (6) This section does not prohibit ANY OF THE FOLLOWING:

9 (a) The importation of a trophy under a permit issued pursu-  
10 ant to section 10 of the endangered species act of 1973, PUBLIC  
11 LAW 93-205, 16 U.S.C. 1539, which is not for resale and which was  
12 lawfully taken in a manner permitted by the laws of the state,  
13 territory, or country where the trophy was caught, taken, or  
14 killed.

15 (b) The taking of a threatened species when the ~~commission~~  
16 DEPARTMENT has determined that the abundance of the species in  
17 the state justifies a controlled harvest not in violation of fed-  
18 eral law.

19 Sec. ~~7~~ 36506. A law enforcement officer, police officer,  
20 sheriff's deputy, or conservation officer shall enforce this  
21 ~~act~~ PART and the rules promulgated under this ~~act~~ PART.

22 Sec. ~~8~~ 36507. A person who violates any provision of this  
23 ~~act~~ PART and a person who fails to procure any permit issued  
24 under this ~~act~~ PART is guilty of a misdemeanor, ~~and shall be~~  
25 ~~fined~~ PUNISHABLE BY IMPRISONMENT FOR NOT LESS THAN 91 DAYS, OR A  
26 FINE OF not more than \$1,000.00 ~~nor~~ OR less than \$100.00, or  
27 ~~imprisoned for more than 90 days, or~~ both.

1           SEC. 90103. (1) THE FOLLOWING ACTS THAT ARE CODIFIED IN  
 2 ARTICLE III, CHAPTER 1, ENTITLED HABITAT PROTECTION, ARE  
 3 REPEALED:

4	<u>PUBLIC ACT NUMBER</u>	<u>YEAR OF ACT</u>	<u>MICHIGAN COMPILED LAWS SECTIONS</u>
5	346	1972	281.951 TO 281.966
6	203	1979	281.701 TO 281.722
7	231	1970	281.761 TO 281.776
8	146	1961	281.61 TO 281.86
9	345	1966	281.901 TO 281.930
10	253	1964	323.301 TO 323.320
11	20	1964	281.301 TO 281.315
12	300	1989	281.1301 TO 281.1365
13	89	1954	3.601 TO 3.607
14	28	1955	3.651 TO 3.656
15	245	1970	281.631 TO 281.644
16	247	1955	322.701 TO 322.715
17	130	1985	323.71 TO 323.85
18	128	1985	323.31 TO 323.41
19	155	1989	3.671 TO 3.677
20	44	1952	281.601
21	278	1952	281.621 TO 281.628
22	326	1913	322.401 TO 322.429
23	205	1967	279.201 TO 279.246
24	241	1972	322.751 TO 322.763
25	222	1976	281.651 TO 281.694
26	93	1992	299.231 TO 299.237

1	150	1970	247.381 TO 247.386
2	116	1974	554.701 TO 554.719
3	203	1974	299.221 TO 299.230

4 (2) THE FOLLOWING ACT IS NOT CODIFIED IN THIS ACT BUT IS  
5 REPEALED:

6	<u>PUBLIC ACT NUMBER</u>	<u>YEAR OF ACT</u>	<u>MICHIGAN COMPILED LAWS SECTIONS</u>
7	133	1985	323.51 TO 323.58

8 Section 2. This amendatory act shall not take effect unless  
9 all of the following bills of the 88th Legislature are enacted  
10 into law:

11 (a) Senate Bill No. \_\_\_\_\_ or House Bill No. 4351 (request  
12 no. 02005'95).

13 (b) Senate Bill No. \_\_\_\_\_ or House Bill No. 4348 (request  
14 no. 02006'95).

15 (c) Senate Bill No. \_\_\_\_\_ or House Bill No. 4349 (request  
16 no. 02006'95 a).