



Senate Fiscal Agency
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BILL



ANALYSIS

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Senate Bill 939 (as reported without amendment)
Sponsor: Senator Michelle A. McManus
Committee: Natural Resources and Environmental Affairs

(as passed by the Senate)

Date Completed: 12-14-09

RATIONALE

The Natural Resources and Environmental Protection Act sets a 15,000-acre limit on the amount of land a person may hold or enclose for hunting or other sporting activities, and prohibits a person from holding land for those purposes if it is within two miles of land held for the same purposes. A 1927 Attorney General Opinion, however, provides that these restrictions are unconstitutional. It has been suggested that this language be deleted from the law.

CONTENT

The bill would repeal Part 433 (Limitation on Acreage for Propagation or Sporting Purposes) of the Natural Resources and Environmental Protection Act (NREPA). Part 433 prohibits a person from acquiring, holding, or occupying by purchase, lease, or other evidence of title, possession, or right of occupancy or enclosing by fences or other barriers in one tract an amount of real estate within Michigan exceeding 15,000 acres for the purpose of the preservation or propagation of game or fish or for use for yachting, hunting, boating, fishing, rowing, or any other sporting purpose. In addition, a person may not acquire, hold, or occupy in that manner and for those purposes any real estate that is located within two miles of any other real estate acquired, held, or occupied for any of those uses or purposes.

A person who violates Part 433 is subject to a civil fine of \$50 for each day that the violation continues.

MCL 324.43301-324.43303

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

A 1927 opinion of the Attorney General addressed the constitutionality of Public Act 207 of 1923, whose provisions are currently in Part 433. Specifically, the Attorney General examined the Act's constitutionality with regard to the Fifth Amendment to the U.S. Constitution and Article II, Section 16 of the State Constitution of 1908, which provide that no one may be deprived of property without due process of law. The Attorney General noted that all of the purposes specified in the Act were lawful purposes. He determined that the restrictions had the effect of depriving land owners of the use of their property, and, therefore, deprived them of their property without just compensation. In conclusion, he stated, "[N]either the legislature or any other state agency may, under the constitution of this state, limit the amount of real or personal property which may be acquired, held, or occupied by any individual...Nor prohibit the use of such property for the purposes of health, pleasure and recreation, so long as there is no invasion of or interference with the rights of others..." (Biennial Report, 1926-1928). The bill simply would eliminate the obsolete language of Part 433 from NREPA.

Legislative Analyst: Julie Cassidy

FISCAL IMPACT

Repealing Part 433 would cost the State any fines collected from violations of this section. However, the amount of revenue the State brings in from this section is likely negligible due to the small size of the fine and narrow scope of the section.

Fiscal Analyst: Josh Sefton

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.