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BILL



ANALYSIS

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Senate Bill 1276 (as introduced 9-13-12)  
Sponsor: Senator Tom Casperson  
Committee: Natural Resources, Great Lakes and Environment

Date Completed: 9-18-12

### **CONTENT**

**The bill would amend several parts of the Natural Resources and Environmental Protection Act to do the following:**

- **Prohibit the Department of Natural Resources (DNR) and the Natural Resources Commission from promulgating or enforcing a rule or an order that designates or classifies an area of land specifically for the purpose of achieving or maintaining biological diversity.**
- **Delete the conservation of biological diversity from the DNR's duties regarding forest management, and require the Department to balance its management activities with economic values.**
- **Eliminate a requirement that the DNR manage forests in a manner that promotes restoration.**
- **Provide that a State department or agency would not have to designate or classify an area of land specifically for the purpose of achieving or maintaining biological diversity.**
- **Eliminate the restoration of natural biological diversity from the definition of "conservation".**
- **Eliminate a reference to "unusual flora and fauna" in the definition of "natural area".**
- **Delete a legislative finding that most losses of biological diversity are the result of human activity.**

The bill also would repeal several sections pertaining to the Joint Legislative Working Committee on Biological Diversity (which was dissolved on December 30, 1995).

### **Biological Diversity Rules & Orders**

Part 5 (Department of Natural Resources) requires the DNR to promulgate rules to protect and preserve land and other property under its control from damage or improper use.

The bill would amend Part 5 to prohibit the DNR, the DNR Director, and the Natural Resources Commission from promulgating or enforcing a rule or issuing or enforcing an order that designates or classifies an area of land specifically for the purpose of achieving or maintaining biological diversity, as defined in Section 35501. Under the bill, such a rule or order would be void.

(That section defines "biological diversity" as the full range of variety and variability within and among living organisms and the natural associations in which they occur. The term includes ecosystem diversity, species diversity, and genetic diversity.)

### Natural Areas

Part 351 (Wilderness and Natural Areas) allows for the designation of State land as wilderness areas, wild areas, and natural areas. The following activities and structures are prohibited in these areas:

- Altering vegetation, subject to specific exceptions.
- Granting an easement, except as otherwise provided.
- Exploration for or extraction of minerals.
- A commercial enterprise, utility, or permanent road.
- A temporary road, landing of aircraft, use of motor vehicles, motorboats, or other form of mechanical transport, or any structure or installation, except as necessary to meet minimum emergency requirements for administration by the DNR.

A person who lands an aircraft or operates a motor vehicle, motorboat, or other form of mechanical transport in these areas without the express written consent of the Department is guilty of a misdemeanor.

"Natural area" means a tract of State land or water under DNR control that is dedicated and regulated by the Department pursuant to Part 351, that may be coextensive with or part of a wilderness area or wild area, and that meets both of the following:

- Has retained or reestablished its natural character, or has unusual flora and fauna or biotic, geologic, scenic, or other similar features of educational or scientific value, but it need not be undisturbed.
- Has been identified and verified through research and study by qualified observers.

The bill would eliminate the reference to unusual flora and fauna.

### Biodiversity Conservation

Part 355 (Biological Diversity Conservation) states, "It is the goal of this state to encourage the lasting conservation of biological diversity."

"Conservation" means measures for maintaining natural biological diversity, and for restoring natural biological diversity through management efforts, in order to protect, restore, and enhance as much of the variety of native species and communities as possible in quantities and distributions that provide for their continued existence and normal functioning, including the viability of populations through the natural geographic distributions of native species and communities.

The bill would eliminate the reference to measures for restoring natural biological diversity through management efforts. In addition, the bill would refer to the retention of native species and communities, rather than their protection, restoration, and enhancement.

Part 355 provides that it does not require a State department or agency to alter its regulatory functions. Under the bill, Part 355 also would not require a State department or agency to designate or classify an area of land specifically for the purpose of achieving or maintaining biological diversity.

Part 355 contains a number of legislative findings regarding biological diversity, including that "most losses of biological diversity are unintended consequences of human activity". The bill would delete this finding.

### State Forest Management

Part 525 (Sustainable Forestry on State Forestlands) requires the DNR to manage the State forest in a manner that is consistent with principles of sustainable forestry. In fulfilling that requirement, the Department must manage forests with consideration of their economic, social, and environmental values by planning and managing plantations in accordance with sustainable forestry principles and in a manner that complements the management of and promotes the restoration and conservation of natural forests. The bill would eliminate the reference to restoration.

Part 525 prescribes specific duties of the DNR in conserving and protecting forestland. The bill would eliminate the reference to protection and revise several of the duties, as described below.

The DNR is required to manage the quality and distribution of wildlife habitats and contribute to the conservation of biological diversity by developing and implementing stand and landscape level measures that promote habitat diversity and the conservation of forest plants and animals, including aquatic flora and fauna and unique ecosystems. The bill would eliminate the references to contributing to the conservation of biological diversity by developing and implementing stand and landscape level measures that promote habitat diversity, as well as the reference to the conservation of aquatic flora and fauna and unique ecosystems.

The DNR also is responsible for managing activities in high conservation value forests by maintaining or enhancing the attributes that define such forests.

With regard to both duties, the bill would require the DNR to balance its management activities with economic values.

### Committee on Biological Diversity

The bill would repeal Sections 35504, 35504, and 35506, which established the Joint Legislative Working Committee on Biological Diversity, whose function was to recommend a State strategy for conservation of biological diversity and to report on the strategy's costs, benefits, and other implications.

The Committee was dissolved on December 30, 1995, which was the deadline for the Committee to submit a report to the Legislature.

MCL 324.504 et al.

Legislative Analyst: Julie Cassidy

### **FISCAL IMPACT**

The bill would have no fiscal impact on State or local government.

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.