

**STATE OF MICHIGAN
96TH LEGISLATURE
REGULAR SESSION OF 2012**

Introduced by Senators Casperson, Robertson, Green, Marleau, Brandenburg and Pappageorge

ENROLLED SENATE BILL No. 248

AN ACT to amend 1994 PA 451, entitled “An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, assessments, and donations; to provide certain appropriations; to prescribe penalties and provide remedies; and to repeal acts and parts of acts,” by amending sections 503 and 2132 (MCL 324.503 and 324.2132), section 503 as amended by 2011 PA 65 and section 2132 as amended by 1998 PA 117.

The People of the State of Michigan enact:

Sec. 503. (1) The department shall protect and conserve the natural resources of this state; provide and develop facilities for outdoor recreation; prevent the destruction of timber and other forest growth by fire or otherwise; promote the reforestation of forestlands belonging to this state; prevent and guard against the pollution of lakes and streams within this state and enforce all laws provided for that purpose with all authority granted by law; and foster and encourage the protecting and propagation of game and fish.

(2) The department has the power and jurisdiction over the management, control, and disposition of all land under the public domain, except for those lands under the public domain that are managed by other state agencies to carry out their assigned duties and responsibilities. On behalf of the people of this state, the department may accept gifts and grants of land and other property and may buy, sell, exchange, or condemn land and other property, for any of the purposes of this part. Beginning 90 days after the effective date of the 2012 amendatory act that amended this section, the department shall not acquire surface rights to land unless the department has estimated the amount of annual payments in lieu of taxes on the land, posted the estimated payments on its website for at least 30 days, and notified the affected local units of the estimated payments at least 30 days before the acquisition.

(3) Before May 1, 2015, the department shall not acquire surface rights to land if the department owns, or as a result of the acquisition will own, the surface rights to more than 4,626,000 acres of land.

(4) Beginning May 1, 2015, the department shall not acquire surface rights to land north of the Mason-Arenac line if the department owns, or as a result of the acquisition will own, the surface rights to more than 3,910,000 acres of land north of the Mason-Arenac line. It is the intention of the legislature, if the legislature approves the strategic plan, to amend this section to remove the limitation set forth in this subsection.

(5) For the purposes of subsections (3) and (4), the number of acres of land in which the department owns surface rights does not include any of the following:

(a) Land in which the department has a conservation easement.

(b) Land platted under the land division act, 1967 PA 288, MCL 560.101 to 560.293, or a predecessor act before the effective date of the amendatory act that added this subsection if acquired by the department before the effective date of the amendatory act that added this subsection.

(c) Any of the following if acquired on or after the effective date of the amendatory act that added this subsection:

(i) Land with an area of not more than 80 acres, or a right-of-way, for accessing other land owned by the department.

(ii) A trail, subject to all of the following:

(A) If the traveled portion of the trail is located within an abandoned railroad right-of-way, the land excluded is limited to the abandoned railroad right-of-way.

(B) If the traveled portion of the trail is located in a utility easement, the land excluded is limited to the utility easement.

(C) If sub-subparagraphs (A) and (B) do not apply, the land excluded is limited to the traveled portion of the trail and contiguous land. The area of the contiguous land shall not exceed the product of 100 feet multiplied by the length of the trail in feet.

(iii) Land that, on the effective date of the amendatory act that added this subsection, was commercial forestland as defined in section 51101 if the land continues to be used in a manner consistent with part 511.

(iv) Land acquired by the department by gift, including the gift of funds specifically dedicated to land acquisition.

(v) Land acquired by the department through litigation.

(6) The department shall maintain a record of land as described in subsection (5)(a) to (c). The record shall include the location, acreage, date of acquisition, and use of the land. The department shall post and maintain on its website all of the following information:

(a) The number of acres of land, including land as described in subsection (5), in which the department owns surface rights north of the Mason-Arenac line, south of the Mason-Arenac line, in total for this state, and by program.

(b) The number of acres of land, excluding land as described in subsection (5), in which the department owns surface rights north of the Mason-Arenac line, south of the Mason-Arenac line, in total for this state, and by program.

(7) By October 1, 2014, the department shall develop a written strategic plan to guide the acquisition and disposition of state lands managed by the department, submit the plan to the senate and house committees with primary responsibility for natural resources and outdoor recreation and the corresponding appropriation subcommittees, and post the plan on the department's website. In developing the plan, the department shall solicit input from the public and local units of government.

(8) The strategic plan shall do all of the following:

(a) Divide this state into regions.

(b) Identify lands managed by the department in each region.

(c) Set forth for each region measurable strategic performance goals with respect to all of the following for land managed by the department:

(i) Maximizing availability of points of access to the land and to bodies of water on or adjacent to the land.

(ii) Maximizing outdoor recreation opportunities.

(iii) Forests.

(iv) Wildlife and fisheries.

(d) To assist in achieving the goals set forth in the strategic plan pursuant to subdivision (c), identify all of the following:

(i) Land to be acquired.

(ii) Land to be disposed of.

(iii) Plans for natural resource management.

(e) To the extent feasible, identify public lands in each region that are not managed by the department but affect the achievement of the goals set forth in the strategic plan pursuant to subdivision (c).

(f) Identify ways that the department can better coordinate the achievement of the goals set forth in the strategic plan pursuant to subdivision (c), recognizing that public lands are subject to multiple uses and both motorized and nonmotorized uses.

(9) The department shall not implement the strategic plan as it applies to land north of the Mason-Arenac line. It is the intention of the legislature, if the legislature approves the strategic plan, to amend this section to remove the prohibition set forth in this subsection. The department shall annually report on the implementation of the plan and submit and post the report in the manner provided in subsection (7).

(10) Beginning 8 years after the effective date of the amendatory act that added this subsection and every 6 years thereafter, the department shall update the strategic plan and submit and post the updated plan in the manner provided in subsection (7). At least 60 days before posting the updated plan, the department shall prepare, submit, and post in the manner provided in subsection (7) a report on progress toward the goals set forth pursuant to subsection (8)(c) in portions of this state where, subject to subsection (9), the plan is being implemented and any proposed changes to the goals, including the rationale for the changes. The submittal and posting shall include department contact information for persons who wish to comment on the report.

(11) At least 30 days before acquiring or disposing of land, the department shall submit to the senate and house committees with primary responsibility for natural resources and outdoor recreation and the corresponding appropriations subcommittees a statement identifying the land and describing the effect of the proposed transaction on achieving the goals set forth in the strategic plan pursuant to subsection (8)(c). The statement shall include department contact information for persons who wish to comment on the acquisition or disposition and be in a standard format. The department shall also post the statement on its website for at least 30 days before the acquisition or disposition. This subsection does not apply before the department submits the plan to legislative committees as required under subsection (7).

(12) The department may accept funds, money, or grants for development of salmon and steelhead trout fishing in this state from the government of the United States, or any of its departments or agencies, pursuant to the anadromous fish conservation act, 16 USC 757a to 757f, and may use this money in accordance with the terms and provisions of that act. However, the acceptance and use of federal funds does not commit state funds and does not place an obligation upon the legislature to continue the purposes for which the funds are made available.

(13) The department may appoint persons to serve as volunteers for the purpose of facilitating the responsibilities of the department as provided in this part. Subject to the direction of the department, a volunteer may use equipment and machinery necessary for the volunteer service, including, but not limited to, equipment and machinery to improve wildlife habitat on state game areas.

(14) The department may lease lands owned or controlled by the department or may grant concessions on lands owned or controlled by the department to any person for any purpose that the department determines to be necessary to implement this part. In granting a concession, the department shall provide that each concession is awarded at least every 7 years based on extension, renegotiation, or competitive bidding. However, if the department determines that a concession requires a capital investment in which reasonable financing or amortization necessitates a longer term, the department may grant a concession for up to a 15-year term. A concession granted under this subsection shall require, unless the department authorizes otherwise, that all buildings and equipment shall be removed at the end of the concession's term. Any lease entered into under this subsection shall limit the purposes for which the leased land is to be used and shall authorize the department to terminate the lease upon a finding that the land is being used for purposes other than those permitted in the lease. Unless otherwise provided by law, money received from a lease or a concession of tax reverted land shall be credited to the fund providing financial support for the management of the leased land. Money received from a lease of all other land shall be credited to the fund from which the land was purchased. However, money received from program-related leases on these lands shall be credited to the fund providing financial support for the management of the leased lands. For land managed by the forest management division of the department, that fund is either the forest development fund established pursuant to section 50507 or the forest recreation account of the Michigan conservation and recreation legacy fund provided for in section 2005. For land managed by the wildlife or fisheries division of the department, that fund is the game and fish protection account of the Michigan conservation and recreation legacy fund provided for in section 2010.

(15) When the department sells land, the deed by which the land is conveyed may reserve all mineral, coal, oil, and gas rights to this state only when the land is in production or is leased or permitted for production, or when the department determines that the land has unusual or sensitive environmental features or that it is in the best interest of this state to reserve those rights as determined by commission policy. However, the department shall not reserve the rights to sand, gravel, clay, or other nonmetallic minerals. When the department sells land that contains subsurface rights, the department shall include a deed restriction that restricts the subsurface rights from being severed from the surface rights in the future. If the landowner severs the subsurface rights from the surface rights, the subsurface rights revert to this state. The deed may reserve to this state the right of ingress and egress over and across land along

watercourses and streams. Whenever an exchange of land is made with the United States government, a corporation, or an individual for the purpose of consolidating the state forest reserves, the department may issue deeds without reserving to this state the mineral, coal, oil, and gas rights and the rights of ingress and egress. The department may sell the limestone, sand, gravel, or other nonmetallic minerals. However, the department shall not sell a mineral or nonmetallic mineral right if the sale would violate part 353, part 637, or any other provision of law. The department may sell all reserved mineral, coal, oil, and gas rights to such lands upon terms and conditions as the department considers proper and may sell oil and gas rights as provided in part 610. The owner of those lands as shown by the records shall be given priority in case the department authorizes any sale of those lands, and, unless the landowner waives that priority, the department shall not sell such rights to any other person. For the purpose of this section, mineral rights do not include rights to sand, gravel, clay, or other nonmetallic minerals.

(16) The department may enter into contracts for the sale of the economic share of royalty interests it holds in hydrocarbons produced from devonian or antrim shale qualifying for the nonconventional source production credit determined under section 45k of the internal revenue code of 1986, 26 USC 45k. However, in entering into these contracts, the department shall assure that revenues to the natural resources trust fund under these contracts are not less than the revenues the natural resources trust fund would have received if the contracts were not entered into. The sale of the economic share of royalty interests under this subsection may occur under contractual terms and conditions considered appropriate by the department and as approved by the state administrative board. Funds received from the sale of the economic share of royalty interests under this subsection shall be transmitted to the state treasurer for deposit in the state treasury as follows:

(a) Net proceeds allocable to the nonconventional source production credit determined under section 45k of the internal revenue code of 1986, 26 USC 45k, under this subsection shall be credited to the environmental protection fund created in section 503a.

(b) Proceeds related to the production of oil or gas from devonian or antrim shale shall be credited to the natural resources trust fund or other applicable fund as provided by law.

(17) As used in this section:

(a) "Concession" means an agreement between the department and a person under terms and conditions as specified by the department to provide services or recreational opportunities for public use.

(b) "Lease" means a conveyance by the department to a person of a portion of this state's interest in land under specific terms and for valuable consideration, thereby granting to the lessee the possession of that portion conveyed during the period stipulated.

(c) "Mason-Arenac line" means the line formed by the north boundaries of Mason, Lake, Osceola, Clare, Gladwin, and Arenac counties.

(d) "Natural resources trust fund" means the Michigan natural resources trust fund established in section 35 of article IX of the state constitution of 1963 and provided for in section 1902.

(e) "Net proceeds" means the total receipts received from the sale of royalty interests under subsection (16) less costs related to the sale. Costs may include, but are not limited to, legal, financial advisory, geological or reserve studies, and accounting services.

(f) "Strategic plan" or "plan" means the plan developed under subsection (7).

Sec. 2132. (1) Subject to subsection (2), the department may sell surplus land at a price established using the method that the department determines to be most appropriate, such as any of the following:

(a) Appraisal.

(b) Appraisal consulting.

(c) A schedule adopted by the department for pricing property with uniform characteristics and low utility.

(d) The true cash value of nearby land as determined by the local assessor.

(2) If the department offers tax reverted land for sale and the land is not sold within 9 months, the department may sell the land to a qualified buyer who submits an offer that represents a reasonable price for the property as determined by the department.

(3) The sale of surplus land shall be conducted by the department through 1 of the following methods:

(a) A public auction sale.

(b) A negotiated sale.

(4) Subject to subsection (1), the sale of surplus land through a public auction sale shall be to the highest bidder.

(5) A notice of the sale of surplus land shall be given as provided in section 2133.

(6) The proceeds from the sale of surplus land shall be deposited into the fund.

(7) Surplus land that is sold under this subpart shall be conveyed by quitclaim deed approved by the attorney general.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate

Sam E. Randall

Clerk of the House of Representatives

Approved

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Governor