

SENATE BILL No. 1280

September 19, 2012, Introduced by Senators CASPERSON and BOOHER and referred to the Committee on Natural Resources, Environment and Great Lakes.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending sections 501 and 503 (MCL 324.501 and 324.503), section
503 as amended by 2012 PA 294.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 501. (1) A department of natural resources for this state
2 is created which shall possess the powers and perform the duties
3 granted and imposed by this act and as otherwise provided by law.

4 (2) The ~~commission of natural resources~~ **COMMISSION** is created.
5 ~~as the head of the department of natural resources and may~~
6 ~~establish general policies related to natural resources management~~
7 ~~and environmental protection for the guidance of the director. In~~
8 ~~addition, the~~ **THE** commission has appellate authority as provided in

1 section 1101. The commission shall be composed of 7 members, not
2 more than 4 of whom shall be members of the same political party,
3 appointed by the governor by and with the advice and consent of the
4 senate. A member of the commission shall be selected with special
5 reference to that person's training and experience related to at
6 least 1 of the principal lines of activities vested in the
7 department of natural resources and the ability and fitness of that
8 person to deal with those activities. The term of office of each
9 member of the commission shall be 4 years. **AN INDIVIDUAL IS NOT**
10 **ELIGIBLE TO SERVE MORE THAN 2 TERMS ON THE COMMISSION. AN**
11 **INDIVIDUAL WHO SERVES MORE THAN 2 YEARS OF A TERM SHALL BE**
12 **CONSIDERED TO HAVE SERVED A FULL TERM. AN INDIVIDUAL SERVING IN A**
13 **THIRD OR SUBSEQUENT TERM ON THE COMMISSION WHEN THE AMENDATORY ACT**
14 **ADDING THIS 2-TERM LIMITATION TAKES EFFECT MAY CONTINUE TO SERVE**
15 **FOR THE BALANCE OF HIS OR HER TERM.** The governor shall fill a
16 vacancy occurring in the membership of the commission and may
17 remove a member of the commission for cause after a hearing. Each
18 member of the commission shall hold office until the appointment
19 and qualification of that member's successor.

20 (3) The commission, within 30 days after having qualified and
21 annually after that time, shall meet at its office in Lansing and
22 organize by appointing a secretary, who need not be a member of the
23 commission. The governor shall appoint a chairperson of the
24 commission from among its members. ~~who~~ **THE CHAIRPERSON** shall
25 serve as chairperson at the pleasure of the governor. Four members
26 of the commission constitute a quorum for the transaction of
27 business. The business which the commission may perform shall be

1 conducted at a public meeting of the commission held in compliance
2 with the open meetings act, ~~Act No. 267 of the Public Acts of 1976,~~
3 ~~being sections 15.261 to 15.275 of the Michigan Compiled Laws. 1976~~
4 **PA 267, MCL 15.261 TO 15.275.** Public notice of the time, date, and
5 place of the meeting shall be given in the manner required by ~~Act~~
6 ~~No. 267 of the Public Acts of 1976.~~ **THAT ACT.** A meeting may be
7 called by the chairperson and shall be called on request of a
8 majority of the members of the commission. ~~A meeting~~ **MEETINGS** may
9 be held as often as necessary and at other places than the
10 commissioners' offices at Lansing. The commission shall meet at
11 least once each month.

12 (4) ~~The commission shall appoint and employ a director who~~
13 ~~shall continue in office at the pleasure of the commission.~~ **THE**
14 **COMMISSION SHALL ADVISE THE DIRECTOR OF THE DEPARTMENT OF NATURAL**
15 **RESOURCES ON MATTERS RELATED TO NATURAL RESOURCES AND CONSERVATION.**
16 **THE DIRECTOR OF THE DEPARTMENT OF NATURAL RESOURCES SHALL BE**
17 **APPOINTED BY THE GOVERNOR AND SHALL SERVE AT THE PLEASURE OF THE**
18 **GOVERNOR.** The director shall appoint 1 or more deputy directors and
19 other assistants and employees as are necessary to implement this
20 part and any other law of this state affecting the powers and
21 duties of the department of natural resources. A person to whom the
22 director has lawfully delegated decision making authority in
23 writing may perform a duty or exercise a power conferred by law
24 upon the department at the time and to the extent the duty and
25 power is delegated to that person by the director. When a vacancy
26 in the office of director occurs, or the director is unable to
27 perform the director's duties or is absent from the state, the

1 powers and duties of the director as prescribed by law shall be
2 imposed on and transferred to a deputy director until the vacancy
3 is filled or the director's inability or absence from the state
4 ceases.

5 (5) The compensation of the deputy directors, the assistants,
6 and the employees and the number of assistants and employees shall
7 be subject to the approval of the state administrative board. The
8 members of the commission shall not receive compensation under this
9 part, but each member and the other officers and employees of the
10 department of natural resources ~~shall be~~ **ARE** entitled to reasonable
11 expenses while traveling in the performance of their duties
12 prescribed by this act. The salaries and expenses authorized under
13 this act shall be paid out of the state treasury in the same manner
14 as the salaries of other state officers and employees are paid. The
15 department of **TECHNOLOGY**, management, and budget shall furnish
16 suitable offices and office equipment, ~~at~~ **IN** Lansing, for the use
17 of the department of natural resources. Each member of the
18 commission and the director shall qualify by taking and subscribing
19 to the constitutional oath of office and by filing it in the office
20 of the secretary of state.

21 Sec. 503. (1) The department shall protect and conserve the
22 natural resources of this state **WHILE MAXIMIZING NATURAL RESOURCE**
23 **BASED ECONOMIC ACTIVITY AND RECREATIONAL OPPORTUNITIES ON LAND**
24 **OWNED OR CONTROLLED BY THE DEPARTMENT**; provide and develop
25 facilities for outdoor recreation; prevent the destruction of
26 timber and other forest growth by fire or otherwise; promote the
27 reforestation of forestlands belonging to this state; prevent and

1 guard against the pollution of lakes and streams within this state
2 and enforce all laws provided for that purpose with all authority
3 granted by law; and foster and encourage the protection and
4 propagation of game and fish.

5 (2) The department has the power and jurisdiction over the
6 management, control, and disposition of all land under the public
7 domain, except for those lands under the public domain that are
8 managed by other state agencies to carry out their assigned duties
9 and responsibilities. On behalf of the people of this state, the
10 department may accept gifts and grants of land and other property
11 and may buy, sell, exchange, or condemn land and other property,
12 for any of the purposes of this part. Beginning September 30, 2012,
13 the department shall not acquire surface rights to land unless the
14 department has estimated the amount of annual payments in lieu of
15 taxes on the land, posted the estimated payments on its website for
16 at least 30 days, and notified the affected local units of the
17 estimated payments at least 30 days before the acquisition.

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

22 (4) Beginning May 1, 2015, the department shall not acquire
23 surface rights to land north of the Mason-Arenac line if the
24 department owns, or as a result of the acquisition will own, the
25 surface rights to more than 3,910,000 acres of land north of the
26 Mason-Arenac line. This subsection does not apply after the
27 enactment of legislation adopting the strategic plan.

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

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

5 (b) Land platted under the land division act, 1967 PA 288, MCL
6 560.101 to 560.293, or a predecessor act before July 2, 2012 if
7 acquired by the department before July 2, 2012.

8 (c) Any of the following if acquired on or after July 2, 2012:

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

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

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

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

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

23 (iii) Land that, on July 2, 2012 was commercial forestland as
24 defined in section 51101 if the land continues to be used in a
25 manner consistent with part 511.

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

1 (v) Land acquired by the department through litigation.

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

7 (a) The number of acres of land, including land as described
8 in subsection ~~(5)~~, **(5) (A) TO (C)**, in which the department owns
9 surface rights north of the Mason-Arenac line, south of the Mason-
10 Arenac line, in total for this state, and by program.

11 (b) The number of acres of land, excluding land as described
12 in subsection ~~(5)~~, **(5) (A) TO (C)**, in which the department owns
13 surface rights north of the Mason-Arenac line, south of the Mason-
14 Arenac line, in total for this state, and by program.

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

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

24 (a) Divide this state into regions.

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

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

1 department:

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

4 (ii) Maximizing outdoor recreation opportunities.

5 (iii) Forests.

6 (iv) Wildlife and fisheries.

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

10 (i) Land to be acquired.

11 (ii) Land to be disposed of.

12 (iii) Plans for natural resource management.

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

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

21 (9) The department shall not implement the strategic plan as
22 it applies to land north of the Mason-Arenac line. This subsection
23 does not apply after the enactment of legislation adopting the
24 strategic plan.

25 (10) The department shall annually report on the
26 implementation of the plan and submit and post the report in the
27 manner provided in subsection (7).

1 (11) Beginning July 2, 2020 and every 6 years thereafter, the
2 department shall update the strategic plan and submit and post the
3 updated plan in the manner provided in subsection (7). At least 60
4 days before posting the updated plan, the department shall prepare,
5 submit, and post in the manner provided in subsection (7) a report
6 on progress toward the goals set forth pursuant to subsection
7 (8)(c) in portions of this state where, subject to subsection (9),
8 the plan is being implemented and any proposed changes to the
9 goals, including the rationale for the changes. The submittal and
10 posting shall include department contact information for persons
11 who wish to comment on the report.

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

26 (13) The department may accept funds, money, or grants for
27 development of salmon and steelhead trout fishing in this state

1 from the government of the United States, or any of its departments
2 or agencies, pursuant to the anadromous fish conservation act, 16
3 USC 757a to 757f, and may use this money in accordance with the
4 terms and provisions of that act. However, the acceptance and use
5 of federal funds does not commit state funds and does not place an
6 obligation upon the legislature to continue the purposes for which
7 the funds are made available.

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

15 (15) The department may lease lands owned or controlled by the
16 department or may grant concessions on lands owned or controlled by
17 the department to any person for any purpose that the department
18 determines to be necessary to implement this part. In granting a
19 concession, the department shall provide that each concession is
20 awarded at least every 7 years based on extension, renegotiation,
21 or competitive bidding. However, if the department determines that
22 a concession requires a capital investment in which reasonable
23 financing or amortization necessitates a longer term, the
24 department may grant a concession for up to a 15-year term. A
25 concession granted under this subsection shall require, unless the
26 department authorizes otherwise, that all buildings and equipment
27 ~~shall be~~ removed at the end of the concession's term. Any lease

1 entered into under this subsection shall limit the purposes for
2 which the leased land is to be used and shall authorize the
3 department to terminate the lease upon a finding that the land is
4 being used for purposes other than those permitted in the lease.
5 Unless otherwise provided by law, money received from a lease or a
6 concession of tax reverted land shall be credited to the fund
7 providing financial support for the management of the leased land.
8 Money received from a lease of all other land shall be credited to
9 the fund from which the land was purchased. However, money received
10 from program-related leases on these lands shall be credited to the
11 fund providing financial support for the management of the leased
12 lands. For land managed by the forest management division of the
13 department, that fund is either the forest development fund
14 established pursuant to section 50507 or the forest recreation
15 account of the Michigan conservation and recreation legacy fund
16 provided for in section 2005. For land managed by the wildlife or
17 fisheries division of the department, that fund is the game and
18 fish protection account of the Michigan conservation and recreation
19 legacy fund provided for in section 2010.

20 (16) When the department sells land, the deed by which the
21 land is conveyed may reserve all mineral, coal, oil, and gas rights
22 to this state only when the land is in production or is leased or
23 permitted for production, or when the department determines that
24 the land has unusual or sensitive environmental features or that it
25 is in the best interest of this state to reserve those rights as
26 determined by commission policy. However, the department shall not
27 reserve the rights to sand, gravel, clay, or other nonmetallic

1 minerals. When the department sells land that contains subsurface
2 rights, the department shall include a deed restriction that
3 restricts the subsurface rights from being severed from the surface
4 rights in the future. If the landowner severs the subsurface rights
5 from the surface rights, the subsurface rights revert to this
6 state. The deed may reserve to this state the right of ingress and
7 egress over and across land along watercourses and streams.

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

26 (17) The department may enter into contracts for the sale of
27 the economic share of royalty interests it holds in hydrocarbons

1 produced from devonian or antrim shale qualifying for the
2 nonconventional source production credit determined under section
3 45k of the internal revenue code of 1986, 26 USC 45k. However, in
4 entering into these contracts, the department shall ~~assure~~**ENSURE**
5 that revenues to the natural resources trust fund **OR OTHER**
6 **APPLICABLE FUND AS PROVIDED BY LAW** under these contracts are not
7 less than the revenues the natural resources trust fund **OR OTHER**
8 **APPLICABLE FUND AS PROVIDED BY LAW** would have received if the
9 contracts were not entered into. The sale of the economic share of
10 royalty interests under this subsection may occur under contractual
11 terms and conditions considered appropriate by the department and
12 as approved by the state administrative board. Funds received from
13 the sale of the economic share of royalty interests under this
14 subsection shall be transmitted to the state treasurer for deposit
15 in the state treasury as follows:

16 (a) Net proceeds allocable to the nonconventional source
17 production credit determined under section 45k of the internal
18 revenue code of 1986, 26 USC 45k, under this subsection shall be
19 credited to the environmental protection fund created in section
20 503a.

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

24 (18) As used in this section:

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

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

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

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

11 (e) "Net proceeds" means the total receipts received from the
12 sale of royalty interests under subsection (17) less costs related
13 to the sale. Costs may include, but are not limited to, legal,
14 financial advisory, geological or reserve studies, and accounting
15 services.

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