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Senate Joint Resolution O (as introduced 1-24-18)
Senate Bill 763 (as introduced 1-24-18)
Sponsor: Senator Tom Casperson
Committee: Natural Resources

Date Completed: 1-31-18

CONTENT

Senate Joint Resolution O would amend Section 35 (Michigan Natural Resources Trust Fund) and Section 35a (Michigan State Parks Endowment Fund) of Article IX (Finance and Taxation) of the Michigan Constitution to do the following:

- Provide that, until the Michigan State Parks Endowment Fund (MSPEF) reached a principal of \$800.0 million, the revenue that would be deposited in the Michigan Natural Resources Trust Fund (MNRTF) but for a constitutional limitation would have to be deposited in the MSPEF.
- Authorize the Legislature, after the MSPEF reached \$800.0 million, to provide that up to 50% of the revenue the MNRTF received from bonuses, rentals, and royalties each fiscal year could be spent during subsequent fiscal years for the purposes described in Section 35.
- Require at least 25% of the total amount available for expenditure from the MNRTF each fiscal year to be spent for development of public recreation facilities.
- Expand the purposes for which money in the MSPEF may be spent, and allow the Fund to provide grants to local units of government or public authorities for public recreation projects.
- Require that, until the MSPEF reached \$800.0 million, 25% be retained by the Fund; at least 50% be made available for State parks and the acquisition of park land; and at least 20% be made available for local public recreation projects.
- Provide that, once the MSPEF reached \$800.0 million, only the interest and earnings could be spent for the operation, maintenance, and improvement of parks and administration of the Fund.
- Require the Natural Resources Trust Fund Board to recommend projects to be funded by the MSPEF.

Senate Bill 763 would amend Part 19 (Natural Resources Trust Fund) of the Natural Resources and Environmental Protection Act (NREPA) to do the following:

- Make the same amendments to NREPA that Senate Joint Resolution O would make to Article IX of the Michigan Constitution.
- Specify that an expenditure from the MSPEF could be made in the form of a grant to a local unit of government or public authority under certain conditions.
- Require the Board to submit to the Legislature a list of recommended projects to be funded by the MSPEF, establishing priority of the projects according to certain criteria.

Senate Bill 763 could not take effect unless Senate Joint Resolution O became part of the State Constitution. If approved by a two-thirds vote of each house of the Legislature, the joint resolution would have to be submitted to the electors of the State at the next general election.

Senate Joint Resolution O

Michigan Natural Resources Trust Fund

Article IX, Section 35 of the Michigan Constitution establishes the Michigan Natural Resources Trust Fund. The MNRTF consists of all bonuses, rentals, delayed rentals, and royalties collected or reserved by the State under provisions of leases for the extraction of nonrenewable resources from State-owned land, except such revenue accruing under leases of State-owned land acquired with money from the State or Federal Game and Fish Protection Fund or revenue accruing from land purchased with such revenue. The MNRTF may receive appropriations, money, or other things of value. The assets of the MNRTF must be invested as provided by law.

Until the MNRTF reached an accumulated principal of \$500.0 million, \$10.0 million of the revenue from bonuses, rentals, delayed rentals, and royalties as described above otherwise dedicated to the MNRTF that the State received each fiscal year had to be deposited into the Michigan State Parks Endowment Fund, although in any State fiscal year, not more than 50% of the total revenue from those bonuses, rentals, delayed rentals, and royalties otherwise dedicated to the MNRTF that the State received had to be deposited into the MSPEF. The resolution would delete these requirements.

Article IX also provides that the amount accumulated in the MNRTF in any State fiscal year must not exceed \$500.0 million, excluding interest and earnings and amounts authorized for expenditure pursuant to Section 35. When the accumulated principal of the MNRTF reaches \$500.0 million, all revenue from bonuses, rentals, delayed rentals, and royalties described above that the MNRTF would receive but for this limitation must be deposited into the MSPEF until the MSPEF reaches an accumulated principal of \$800.0 million, at which point, all revenue from bonuses, rentals, delayed rentals, and royalties must be distributed as provided by law. The resolution would delete these requirements.

(The MNRTF reached \$500.0 million in 2011, thereby limiting subsequent annual expenditures to interest and investment earnings, and funding carried forward from previous years.)

The resolution provides that, until the MSPEF reached an accumulated principal of \$800.0 million, the revenue from bonuses, rentals, delayed rentals, and royalties that the MNRTF would receive but for this limitation would have to be deposited into the MSPEF.

Currently, the interest and earnings of the MNRTF must be spent for the acquisition of land or rights in land for recreational uses or protection of the land because of its environmental importance or its scenic beauty, for the development of public recreation facilities, and for the administration of the MNRTF, which may include payments in lieu of taxes on State-owned land purchased through the MNRTF.

The resolution specifies that the accumulated principal of the MNRTF could not be spent. However, the interest and earnings of the MNRTF would have to be spent for the following:

- The acquisition of land or rights in land for recreational uses or protection of the land because of its environmental importance or its scenic beauty.

- The development of public recreation facilities, including the renovation and redevelopment of public recreation facilities that had reached their projected depreciated life expectancy.
- The administration of the MNRTF, which could include payments in lieu of taxes on State-owned land purchased through the MNRTF.

(The MNRTF also may provide grants to local units of government or public authorities which must be used for the purposes of Section 35. The Legislature must provide that a portion of the cost of a project funded by these grants be provided by the local unit or public authority.)

Under Section 35, until the MNRTF reached an accumulated principal of \$500.0 million, the Legislature could provide, in addition to the expenditure of interest and earnings authorized by the section, that a portion, not to exceed 33-1/3%, of the revenue from bonuses, rentals, delayed rentals, and royalties received by the MNRTF during each fiscal year could be spent during subsequent State fiscal years.

The resolution provides that, until the MSPEF reached an accumulated principal of \$800.0 million, the Legislature could provide, in addition to the expenditure of interest and earnings authorized by Section 35, that a portion, not to exceed 50%, of the revenue from bonuses, rentals, delayed rentals, and royalties received by the MNRTF during each fiscal year could be spent during subsequent State fiscal years for the purposes of Section 35.

Currently, not more than 25% of the total amounts made available for expenditure from the MNRTF from any State fiscal year must be spent for acquisition of land and rights in land and not more than 25% of the total amounts made available for expenditure from the MNRTF from any State fiscal year may be spent for development of public recreation facilities.

The resolution provides that not *less* than 25% of the total amounts made available for expenditure from the MNRTF from any State fiscal year would have to be spent for development of public recreation facilities.

Michigan State Parks Endowment Fund

Article IX, Section 35a establishes and provides for the Michigan State Parks Endowment Fund. The MSPEF must consist of revenue as provided above, and as provided by law. The MSPEF also may receive private contributions of money or other things of value. The assets of the MSPEF must be invested as provided by law.

The accumulated principal of the MSPEF must not exceed \$800.0 million. That amount must be annually adjusted pursuant to the rate of inflation beginning when the MSPEF reaches \$800.0 million. This annually adjusted figure is the accumulated principal limit of the MSPEF.

Money available for expenditure in the MSPEF as provided above must be spent for operations, maintenance, and capital improvements at Michigan State parks and for the acquisition of land or rights in land for Michigan State parks.

Under the resolution, money available for expenditure from the MSPEF also would have to be spent for the administration of the MSPEF and for local public recreation projects including one or more of the following:

- The development, redevelopment, and renovation of motorized and nonmotorized trails and related infrastructure.
- The control and prevention of aquatic invasive species.
- The development, redevelopment, and renovation of local public recreation facilities.

The MSPEF also could provide grants to local units of government or public authorities for local public recreation projects. However, not more than 25% of the expenditures could be for the control and prevention of aquatic invasive species. The Legislature would be required to provide that a portion of the cost of a project funded by these grants be provided by the local unit of government or public authority.

Currently, money in the MSPEF must be spent as follows:

- Until the MSPEF reaches an accumulated principal of \$800.0 million, each State fiscal year the Legislature may appropriate up to 50% of the money received under Article IX plus interest and earnings and any private contributions or other revenue to the MSPEF.
- Once the accumulated principal in the MSPEF reaches \$800.0 million, only the interest and earnings of the MSPEF in excess of the amount necessary to maintain the MSPEF's accumulated principal limit may be made available for expenditure.

Under the resolution, until the MSPEF reached an accumulated principal of \$800.0 million, each State fiscal year the Legislature would be required to allocate the money received under Article IX plus interest and earnings and any private contributions or other revenue to the MSPEF as follows:

- 25% would have to be retained by the MSPEF and credited to the accumulated principal of the MSPEF.
- At least 50% would have to be made available for expenditure for operations, maintenance, and capital improvements at Michigan State parks and the acquisition of land and rights in land for Michigan State parks.
- At least 20% would have to be made available for expenditure for local public recreation projects.

Once the accumulated principal in the MSPEF reached \$800.0 million, only the interest and earnings of the MSPEF in excess of the amount necessary to maintain its accumulated principal limit could be made available for expenditure for the following:

- Operations, maintenance, and capital improvements at Michigan State parks.
- The administration of the MSPEF.

Under the Article IX, unspent appropriations of the MSPEF from any State fiscal year may be carried forward or appropriated as determined by the Legislature. The Legislature must provide by law for implementation of the requirement.

The Legislature also is required to provide by law for the establishment of a Michigan Natural Resources Trust Fund Board within the Department of Natural Resources (DNR). The Board must recommend projects to be funded and submit its recommendations to the Governor, who must submit the Board's recommendations to the Legislature in an appropriations bill. Under the resolution, the Board also would be required to recommend the projects to be funded by the MSPEF.

Senate Bill 763

MNRTF & MSPEF Expenditures

Article IX, Section 35 of the Michigan Constitution requires the Legislature to provide, by law, for the establishment of the MNRTF. Part 19 (Michigan Natural Resources Trust Fund) of NREPA establishes the MNRTF in statute.

The bill would make the same amendments to Part 19 that the resolution would made to Article IX of the Constitution regarding expenditures from the MNRTF and the MSPEF, including use of the MSPEF for grants to local units of government.

The bill also would repeal Section 1904 of the Act, which limits the amount accumulated in the MNRTF to \$500.0 million; requires money that would be deposited in the Trust Fund but for this limit to be deposited into the MSPEF until it reaches a principal of \$800.0 million; and requires the money that otherwise would be deposited into the Endowment Fund to be distributed as provided by law.

MNRTF Board: List of Projects

The bill would require the Board to determine which projects should be funded with money from the MSPEF and submit to the Legislature in January each year a list of those projects, compiled in order of priority. In preparing the list, the Board would have to do all of the following:

- Give a preference to a project that was located within a local unit of government that had adopted a resolution in support of the project.
- Give a preference to a project for recreational trails that intersected the downtown areas of cities and villages.
- Identify each parcel of land that was recommended for acquisition by legal description and include the estimated cost of acquisition and assessed value.
- Provide a scoring of each project individually.
- Give consideration to a project that was located within a county that contained 50% or more privately owned land, allowed motorized recreational use, or both.

In preparing the list of projects, the following would apply:

- The Board could not include an acquisition of land on the list if the Board determined that the seller was harassed, intimidated, or coerced into selling his or her land by the DNR, a local unit of government, or a qualified conservation organization.
- A project or acquisition could be named in honor or memory of an individual or organization.

The list of projects would have to be accompanied by estimates of the cost of each project and the total costs for the projects. The Board would be required to supply with the list a statement of the guidelines used in listing and assigning the priority of these projects. The Legislature would have to approve by law the projects to be funded each year with money from the MSPEF.

Under the bill, "qualified conservation organization" would mean that term as defined in the General Property Tax Act (a nonprofit charitable institution or a charitable trust that is organized or established, as reflected in its articles of incorporation or trust documents, for the purpose of acquiring, maintaining, and protecting nature sanctuaries, nature preserves, and natural areas in the State, that predominantly contain natural habitat for fish, wildlife, and plants).

MCL 324.1901 et al.

Legislative Analyst: Nathan Leaman

FISCAL IMPACT

In total, the fiscal impact of the bill and the amendment to the Michigan Constitution contained in Senate Joint Resolution O would have a neutral fiscal impact on the Michigan Natural

Resources Trust Fund. The legislation would have a potentially positive fiscal impact on the Department of Natural Resources and a negative impact on the amount of revenue deposited into the investment corpus of the Michigan State Parks Endowment Fund. In addition, the legislation would have a positive fiscal impact on local units of government through increased funds available for local public recreation grants.

The legislation would change how interest and earnings on the \$500.0 million corpus balance of the Michigan Natural Resources Trust Fund may be spent. The Michigan Constitution and statute currently specify that not less than 25% of funds made available for expenditure each year be spent on acquisition projects and that not more than 25% be spent on development projects. The legislation would require that not less than 25% be spent on both acquisition and development projects, respectively. This change would have a neutral fiscal impact as it would not affect the total amount of funds the MNRTF Board may recommend for expenditure or how much the Legislature may appropriate, but it would allow the MNRTF Board to recommend up to 75% of funds made available to be spent on either acquisition or development projects as long as a minimum of 25% was spent on the other project types. For example, the MNRTF Board recommendations that were made for application year 2017 (fiscal year 2017-18) projects included \$21.4 million for acquisition projects and \$19.0 million in development projects. In making that recommendation, the Board made available \$76.0 million; therefore, under current law, not less than \$19.0 million had to be for acquisition projects and not more than \$19.0 million could be for development projects. Under the legislation, the Board would have been able to recommend expenditures of up to \$57.0 million for either project category so long as the other category received at least \$19.0 million. From a practical standpoint, this would allow the Board to recommend more development projects, as in recent years the Board has recommended funding all of the acquisition project applications it has received, but not all of the development projects. Using application year 2017 as an example, all 34 of the acquisition applications received were recommended for funding, but only 89 of the 132 development applications were recommended for funding.

The legislation generally would affect the treatment of gas and oil lease and royalty revenue that is currently credited to the Michigan State Parks Endowment Fund. Under current law, until the investment (corpus) balance of the MSPEF reaches \$800.0 million, the Legislature may appropriate up to 50% of gas and oil revenue received each year for the operations and maintenance of State parks. This revenue stream varies greatly from year to year as it is heavily dependent on the price of oil and gas in commodity markets. In recent years, the State has received between \$25.0 million and \$50.0 million annually, but in the past, some years have totaled \$100.0 million or higher. Gas and oil revenue that is not appropriated is credited to the corpus balance of the MSPEF from which it cannot be spent, but is instead used to produce investment returns to support State parks in perpetuity. The corpus balance of the MSPEF is currently about \$256.0 million.

The legislation would potentially increase the amount of oil and gas royalty revenue the DNR could use for operations and maintenance in State parks. Currently, the Michigan Constitution and statute allow for the Legislature to appropriate up to 50% of gas and oil lease and royalty revenue to be used to support State parks. The legislation would effectively allow the Legislature to appropriate up to 55% of that revenue for this purpose. Assuming the Legislature opted to appropriate this additional amount, the DNR could receive an additional \$1.3 million to \$2.5 million¹ for operations and maintenance of State parks each year.

The legislation would reduce future deposits into the corpus balance of the MSPEF from 50% of oil and gas royalty revenue to 25%. This would reduce the long-term growth in both the corpus balance and investment returns of the MSPEF. Under current law, the annual deposit

¹ Figures assume oil and gas lease and royalty revenue of between \$25.0 million and \$50.0 million annually.

to the MSPEF corpus is between \$12.5 million and \$25.0 million¹; that amount would be reduced to between \$6.3 million and \$12.5 million¹. It should be noted that this would not affect the current corpus balance, which is about \$256.0 million, nor would it affect investment revenue that is currently received. This change would affect only the growth of these items.

The legislation would create a new category of allowable expenditures for the MSPEF, and require the Legislature to allocate at least 20%, but not more than 25%, of oil and gas revenue to local public recreation projects. Assuming the Legislature appropriated the full 25% (which would preclude the 5% increase to State parks discussed above), local units of government could receive a total of \$6.3 million to \$12.5 million in local public recreation grants each year. These projects would be chosen in a manner similar to the one used for projects funded by the Michigan Natural Resources Trust Fund.

Finally, the Michigan Constitution currently specifies that once the \$800.0 million cap on the MSPEF is reached, the revenue must be distributed as provided by law. The legislation specifies that once the MSPEF reached a corpus balance of \$800.0 million, any future oil and gas lease and royalty revenue would revert to the Michigan Natural Resources Trust Fund, and the Legislature could appropriate up to 50% of that revenue for MNRTF projects each year, with the other 50% of the revenue being credited to the corpus balance of the MNRTF, which is currently limited to \$500.0 million under the Michigan Constitution. The resolution would remove the \$500.0 million cap on the MNRTF. It should be noted, however, that barring a dramatic and sustained increase in oil and gas commodity prices, with the reduction in the amount of oil and gas revenue credited to the corpus of the MSPEF under the legislation, the \$800.0 million cap on the MSPEF would not be reached for decades. The changes made to the disposition of revenue following the MSPEF's cap therefore would likely not result in any fiscal impact until the 2050s or later, and at that point would be indeterminate as it is not possible to know what a future Legislature would have otherwise done with the revenue.

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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.