

SUBSTITUTE FOR
SENATE BILL NO. 1280

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending sections 501, 503, 2131, and 2132 (MCL 324.501,
324.503, 324.2131, and 324.2132), section 503 as amended by 2012 PA
294, section 2131 as amended by 2006 PA 308, and section 2132 as
amended by 2012 PA 240.

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~~

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

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

1 of the commission constitute a quorum for the transaction of
2 business. The business which the commission may perform shall be
3 conducted at a public meeting of the commission held in compliance
4 with the open meetings act, ~~Act No. 267 of the Public Acts of 1976,~~
5 ~~being sections 15.261 to 15.275 of the Michigan Compiled Laws. 1976~~
6 **PA 267, MCL 15.261 TO 15.275.** Public notice of the time, date, and
7 place of the meeting shall be given in the manner required by ~~Act~~
8 ~~No. 267 of the Public Acts of 1976.~~ **THAT ACT.** A meeting may be
9 called by the chairperson and shall be called on request of a
10 majority of the members of the commission. ~~A meeting~~ **MEETINGS** may
11 be held as often as necessary and at other places than the
12 commissioners' offices at Lansing. The commission shall meet at
13 least ~~once each~~ **EVERY OTHER** month **AND SHALL POST A SCHEDULE OF ITS**
14 **MEETINGS ON THE DEPARTMENT WEBSITE.**

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

1 power is delegated to that person by the director. When a vacancy
2 in the office of director occurs, or the director is unable to
3 perform the director's duties or is absent from the state, the
4 powers and duties of the director as prescribed by law shall be
5 imposed on and transferred to a deputy director until the vacancy
6 is filled or the director's inability or absence from the state
7 ceases.

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

24 Sec. 503. (1) The department shall protect and conserve the
25 natural resources of this state **WHILE OPTIMIZING NATURAL RESOURCE**
26 **BASED ECONOMIC ACTIVITY AND RECREATIONAL OPPORTUNITIES ON LAND**
27 **OWNED OR CONTROLLED BY THE DEPARTMENT**; provide and develop

1 facilities for outdoor recreation; prevent the destruction of
2 timber and other forest growth by fire or otherwise; promote the
3 reforestation of forestlands belonging to this state; prevent and
4 guard against the pollution of lakes and streams within this state
5 and enforce all laws provided for that purpose with all authority
6 granted by law; ~~and~~ foster and encourage the protection and
7 propagation of game and fish; **AND PROMOTE THE DEVELOPMENT OF THE**
8 **FORESTRY AND FOREST PRODUCTS INDUSTRY AND THE MINERAL EXTRACTION**
9 **AND UTILIZATION INDUSTRY IN THIS STATE.**

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

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

27 (4) Beginning May 1, 2015, the department shall not acquire

1 surface rights to land north of the Mason-Arenac line if the
2 department owns, or as a result of the acquisition will own, the
3 surface rights to more than 3,910,000 acres of land north of the
4 Mason-Arenac line. This subsection does not apply after the
5 enactment of legislation adopting the strategic plan.

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

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

10 (b) Land platted under the land division act, 1967 PA 288, MCL
11 560.101 to 560.293, or a predecessor act before July 2, 2012 if
12 acquired by the department before July 2, 2012.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2 (a) Divide this state into regions.

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

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

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

9 (ii) Maximizing outdoor recreation opportunities.

10 (iii) Forests.

11 (iv) Wildlife and fisheries.

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

15 (i) Land to be acquired.

16 (ii) Land to be disposed of.

17 (iii) Plans for natural resource management.

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

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

26 (9) The department shall not implement the strategic plan as
27 it applies to land north of the Mason-Arenac line. This subsection

1 does not apply after the enactment of legislation adopting the
2 strategic plan.

3 (10) The department shall annually report on the
4 implementation of the plan and submit and post the report in the
5 manner provided in subsection (7).

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

17 (12) At least 30 days before acquiring or disposing of land,
18 the department shall submit to the senate and house committees with
19 primary responsibility for natural resources and outdoor recreation
20 and the corresponding appropriations subcommittees a statement
21 identifying the land and describing the effect of the proposed
22 transaction on achieving the goals set forth in the strategic plan
23 pursuant to subsection (8)(c). The statement shall include
24 department contact information for persons who wish to comment on
25 the acquisition or disposition and be in a standard format. The
26 department shall also post the statement on its website for at
27 least 30 days before the acquisition or disposition. This

1 subsection does not apply before the department submits the
2 strategic plan to legislative committees as required under
3 subsection (7).

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

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

20 (15) The department may lease lands owned or controlled by the
21 department or may grant concessions on lands owned or controlled by
22 the department to any person for any purpose that the department
23 determines to be necessary to implement this part. In granting a
24 concession, the department shall provide that each concession is
25 awarded at least every 7 years based on extension, renegotiation,
26 or competitive bidding. However, if the department determines that
27 a concession requires a capital investment in which reasonable

1 financing or amortization necessitates a longer term, the
2 department may grant a concession for up to a 15-year term. A
3 concession granted under this subsection shall require, unless the
4 department authorizes otherwise, that all buildings and equipment
5 ~~shall~~ be removed at the end of the concession's term. Any lease
6 entered into under this subsection shall limit the purposes for
7 which the leased land is to be used and shall authorize the
8 department to terminate the lease upon a finding that the land is
9 being used for purposes other than those permitted in the lease.
10 Unless otherwise provided by law, money received from a lease or a
11 concession of tax reverted land shall be credited to the fund
12 providing financial support for the management of the leased land.
13 Money received from a lease of all other land shall be credited to
14 the fund from which the land was purchased. However, money received
15 from program-related leases on these lands shall be credited to the
16 fund providing financial support for the management of the leased
17 lands. For land managed by the forest management division of the
18 department, that fund is either the forest development fund
19 established pursuant to section 50507 or the forest recreation
20 account of the Michigan conservation and recreation legacy fund
21 provided for in section 2005. For land managed by the wildlife or
22 fisheries division of the department, that fund is the game and
23 fish protection account of the Michigan conservation and recreation
24 legacy fund provided for in section 2010.

25 (16) When the department sells land, the deed by which the
26 land is conveyed may reserve all mineral, coal, oil, and gas rights
27 to this state only when the land is in production or is leased or

1 permitted for production, or when the department determines that
2 the land has unusual or sensitive environmental features or that it
3 is in the best interest of this state to reserve those rights as
4 determined by commission policy. However, the department shall not
5 reserve the rights to sand, gravel, clay, or other nonmetallic
6 minerals. When the department sells land that contains subsurface
7 rights, the department shall include a deed restriction that
8 restricts the subsurface rights from being severed from the surface
9 rights in the future. If the landowner severs the subsurface rights
10 from the surface rights, the subsurface rights revert to this
11 state. The deed may reserve to this state the right of ingress and
12 egress over and across land along watercourses and streams.
13 Whenever an exchange of land is made with the United States
14 government, a corporation, or an individual for the purpose of
15 consolidating the state forest reserves, the department may issue
16 deeds without reserving to this state the mineral, coal, oil, and
17 gas rights and the rights of ingress and egress. The department may
18 sell the limestone, sand, gravel, or other nonmetallic minerals.
19 However, the department shall not sell a mineral or nonmetallic
20 mineral right if the sale would violate part 353, part 637, or any
21 other provision of law. The department may sell all reserved
22 mineral, coal, oil, and gas rights to such lands upon terms and
23 conditions as the department considers proper and may sell oil and
24 gas rights as provided in part 610. The owner of those lands as
25 shown by the records shall be given priority in case the department
26 authorizes any sale of those lands, and, unless the landowner
27 waives that priority, the department shall not sell such rights to

1 any other person. For the purpose of this section, mineral rights
2 do not include rights to sand, gravel, clay, or other nonmetallic
3 minerals.

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

21 (a) Net proceeds allocable to the nonconventional source
22 production credit determined under section 45k of the internal
23 revenue code of 1986, 26 USC 45k, under this subsection shall be
24 credited to the environmental protection fund created in section
25 503a.

26 (b) Proceeds related to the production of oil or gas from
27 devonian or antrim shale shall be credited to the natural resources

1 trust fund or other applicable fund as provided by law.

2 (18) As used in this section:

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

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

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

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

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

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

23 Sec. 2131. (1) Except as otherwise provided in subsection (2)
24 or (3), the department may designate as surplus land any state
25 owned land that is under the control of the department and that has
26 been dedicated for public use and may, on behalf of the state, sell
27 that land if the department determines all of the following:

1 (a) That the sale will not **MATERIALLY** diminish the quality or
2 utility of other state owned land **ADJOINING THE LAND TO BE SOLD.**

3 (b) That the sale is not otherwise restricted by law.

4 (c) That the sale is in the best interests of the state,
5 **GIVING DUE REGARD TO THE VARIETY, USE, AND QUANTITY OF LANDS THEN**
6 **UNDER THE CONTROL OF THE DEPARTMENT.**

7 (d) That 1 or ~~both~~ **MORE** of the following conditions are met:

8 (i) The land has been dedicated for public use for not less
9 than 5 years immediately preceding its sale and is not needed to
10 meet a department objective.

11 (ii) The land is occupied for a private use through inadvertent
12 trespass.

13 (iii) **THE SALE WILL PROMOTE THE DEVELOPMENT OF THE FORESTRY OR**
14 **FOREST PRODUCTS INDUSTRY OR THE MINERAL EXTRACTION AND UTILIZATION**
15 **INDUSTRY IN THIS STATE.**

16 (2) The department shall not authorize the sale of surplus
17 land as provided in subsection (1) if the proceeds from the sale of
18 the land will cause the **BALANCE OF THE** fund to exceed
19 ~~\$2,500,000.00.~~ **\$25,000,000.00.**

20 (3) Except as provided in section 74102b, the department shall
21 not designate as surplus land any land within a state park or state
22 recreation area.

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

27 (a) Appraisal.

1 (b) Appraisal consulting.

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

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

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

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

12 (a) A public auction sale.

13 (b) A negotiated sale.

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

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

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

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

22 **(8) EACH APPLICATION, AS LATER AMENDED OR SUPPLEMENTED,**
23 **SUBMITTED BY A PRIVATE PERSON UNDER SUBSECTION (3) (B) FOR THE**
24 **PURCHASE OF THE LAND IDENTIFIED IN THAT APPLICATION AS A PROSPECT**
25 **FOR PURCHASE, SHALL BE CONSIDERED AND ACTED UPON BY THE DEPARTMENT**
26 **TO FINAL DECISION, BEFORE ANY OTHER APPLICATION SUBMITTED AT A**
27 **LATER DATE BY A DIFFERENT PRIVATE PERSON FOR THE PURCHASE OR**

1 EXCHANGE OF THE SAME LAND.