



# HOUSE BILL No. 5962

November 29 1994 Introduced by Reps Llewellyn and Rhead and referred to the Committee on Conservation Environment and Great Lakes

A bill to amend the title and sections 1, 2, 3, 3a 3b, 8, 8b, and 9 of Act No 17 of the Public Acts of 1921, entitled as amended

'An act to provide for the protection and conservation of the natural resources of the state to provide and develop facilities for outdoor recreation to create a conservation department to define the powers and duties thereof, to provide rules and regulations concerning the use and occupancy of lands and property under its control and penalties for the violation thereof to provide for the transfer to said department of the powers and duties now vested by law in certain boards, commissions and officers of the state and for the abolishing of the boards commissions and offices the powers and duties of which are hereby transferred,

sections 2 and 3a as amended by Act No 92 of the Public Acts of 1992, sections 8 and 9 as added by Act No 91 of the Public Acts of 1987, and section 8b as added by Act No 72 of the Public Acts of 1993, being sections 299 1, 299 2, 299 3, 299 3a, 299 3b, 299 8, 299 8b, and 299 9 of the Michigan Compiled Laws and to add section 1a

1           Section 1     The title and sections 1   2   3   3a   3b   8   8b  
2 and 9 of Act No   17 of the Public Acts of 1921, sections 2 and 3a  
3 as amended by Act No   92 of the Public Acts of 1992, sections 8  
4 and 9 as added by Act No   91 of the Public Acts of 1987, and sec-  
5 tion 8b as added by Act No   72 of the Public Acts of 1993   being  
6 sections 299 1   299 2, 299 3, 299 3a   299 3b   299 8, 299 8b, and  
7 299 9 of the Michigan Compiled Laws, are amended and section 1a  
8 is added to read as follows

10 An act to provide for the protection and conservation of the  
11 natural resources of the state to provide and develop facilities  
12 for outdoor recreation to create a ~~conservation~~ department OF  
13 NATURAL RESOURCES to define the powers and duties thereof TO  
14 PRESCRIBE CERTAIN POWERS AND DUTIES OF THE DEPARTMENT OF AGRICUL-  
15 TURE AND THE DEPARTMENT OF FISH AND WILDLIFE to provide rules  
16 and regulations concerning the use and occupancy of lands and  
17 property under ~~its~~ THEIR control and penalties for the viola-  
18 tion thereof to provide for the transfer to ~~said~~ THE depart-  
19 ment OF NATURAL RESOURCES of the powers and duties now vested by  
20 law in certain boards commissions and officers of the state and  
21 for the abolishing of the boards, commissions and offices the  
22 powers and duties of which are hereby transferred

1 REMEDIATION ENVIRONMENTAL LABORATORIES RECREATION STATE PARKS  
2 AND THE MACKINAC ISLAND STATE PARK AS PROVIDED by this act AND AS  
3 OTHERWISE PROVIDED BY LAW

4 (2) The ~~general administration of these powers and duties~~  
5 ~~shall be vested in a~~ COMMISSION OF NATURAL RESOURCES IS CREATED  
6 AS THE HEAD OF THE DEPARTMENT OF NATURAL RESOURCES AND MAY ESTAB-  
7 LISH GENERAL POLICIES RELATED TO THE PROGRAMS ADMINISTERED BY THE  
8 DEPARTMENT OF NATURAL RESOURCES FOR THE GUIDANCE OF THE  
9 DIRECTOR THE ~~commission of natural resources which~~ shall be  
10 composed of 7 members NOT MORE THAN 4 OF WHOM SHALL BE MEMBERS  
11 OF THE SAME POLITICAL PARTY, appointed by the governor ~~, subject~~  
12 ~~to confirmation~~ by AND WITH THE ADVICE AND CONSENT OF the  
13 senate A member of the commission shall be selected with spe-  
14 cial reference to that person's training and experience related  
15 to at least 1 of the principal lines of activities vested in the  
16 department OF NATURAL RESOURCES and the ability and fitness of  
17 that person to deal with those activities ~~Two members shall~~  
18 ~~reside in the Upper Peninsula~~ The term of office of each member  
19 of the commission ~~shall be 6~~ IS 4 years ~~However of those~~  
20 ~~first appointed, 3 shall be appointed for 2 years, 2 for 4 years,~~  
21 ~~and 2 for 6 years~~ The governor shall fill a vacancy occurring  
22 in the membership of the commission and may remove a member of  
23 the commission for cause after a hearing Each member of the  
24 commission shall hold office until the appointment and qualifica-  
25 tion of that member s successor

26 (3) The commission, within 30 days after having qualified  
27 and annually after that time, shall meet at its office in Lansing

1 and organize ~~by electing a chairperson and~~ by appointing a  
 2 secretary who need not be a member of the commission THE GOV-  
 3 ERNOR SHALL APPOINT A CHAIRPERSON OF THE COMMISSION FROM AMONG  
 4 ITS MEMBERS, WHO SHALL SERVE AS CHAIRPERSON AT THE PLEASURE OF  
 5 THE GOVERNOR Four members of the commission constitute a quorum  
 6 for the transaction of business The business ~~which~~ THAT the  
 7 commission ~~of natural resources~~ may perform shall be conducted  
 8 at a public meeting of the commission held in compliance with THE  
 9 OPEN MEETINGS ACT, Act No 267 of the Public Acts of 1976, being  
 10 sections 15 261 to 15 275 of the Michigan Compiled Laws Public  
 11 notice of the time, date, and place of the meeting shall be given  
 12 in the manner required by Act No 267 of the Public Acts of  
 13 1976 A meeting may be called by the chairperson and shall be  
 14 called on request of a majority of the members of the  
 15 commission A meeting may be held as often as necessary and at  
 16 other places than the commissioners offices at Lansing ~~Not~~  
 17 ~~less than 1 meeting shall be held~~ THE COMMISSION SHALL MEET AT  
 18 LEAST ONCE each month

19 (4) The commission shall appoint and employ a director ~~of~~  
 20 ~~the department of natural resources~~ who shall continue in office  
 21 at the pleasure of the commission ~~and who shall receive a~~  
 22 ~~salary not to exceed \$12,000 00 per year~~ The director shall  
 23 appoint ~~with the approval of the commission a~~ 1 OR MORE deputy  
 24 ~~director~~ DIRECTORS and other assistants and employees as are  
 25 necessary to implement this ~~act~~ PART and any other law of this  
 26 state affecting the powers and duties of the department OF  
 27 NATURAL RESOURCES ~~The deputy director~~ A PERSON TO WHOM THE

1 DIRECTOR HAS LAWFULLY DELEGATED DECISION MAKING AUTHORITY IN  
 2 WRITING may perform a duty or exercise a power conferred by law  
 3 upon the ~~director~~ DEPARTMENT at the time and to the extent the  
 4 duty and power is delegated to ~~the deputy~~ THAT PERSON by the  
 5 director When a vacancy in the office of director occurs, or  
 6 the director is unable to perform the director s duties or is  
 7 absent from the state the powers and duties of the director as  
 8 prescribed by law shall be imposed on and transferred to ~~the~~ A  
 9 deputy director until the vacancy is filled ~~—~~ or the director's  
 10 inability or absence from the state ceases

11 (5) The compensation of the deputy ~~director~~ DIRECTORS, the  
 12 assistants, and the employees ~~—~~ and the number of assistants  
 13 and employees ~~shall be~~ IS subject to the approval of the state  
 14 administrative board The members of the commission shall not  
 15 receive compensation under this ~~act~~ PART but each member and  
 16 the other officers and employees of the department ~~shall be~~ OF  
 17 NATURAL RESOURCES ARE entitled to reasonable expenses while trav-  
 18 eling in the performance of their duties prescribed by this act  
 19 The salaries and expenses authorized under this act shall be paid  
 20 out of the state treasury in the same manner as the salaries of  
 21 other state officers and employees are paid The department of  
 22 management and budget shall furnish suitable offices and office  
 23 equipment, at Lansing, for the use of the department of natural  
 24 resources Each member of the commission and the director ~~of~~  
 25 ~~the department of natural resources~~ shall qualify by taking and  
 26 subscribing to the constitutional oath of office ~~—~~ and by  
 27 filing it in the office of the secretary of state

SEC 1A AS USED IN THIS ACT

(A) COMMISSION MEANS THE COMMISSION OF NATURAL RESOURCES

(B) DEPARTMENT MEANS THE DIRECTOR OF THE DEPARTMENT OF NATURAL RESOURCES OR HIS OR HER DESIGNEE TO WHOM A POWER OR DUTY IS DELEGATED BY WRITTEN INSTRUMENT

(C) 'DIRECTOR MEANS THE DIRECTOR OF THE DEPARTMENT OF NATURAL RESOURCES

(D) RULE MEANS A RULE PROMULGATED PURSUANT TO THE ADMINISTRATIVE PROCEDURES ACT OF 1969, ACT NO 306 OF THE PUBLIC ACTS OF 1969, BEING SECTIONS 24 201 TO 24 328 OF THE MICHIGAN COMPILED LAWS

Sec 2 (1) The powers and duties previously vested by law

in the public domain commission ~~the state game, fish and~~

~~forest fire commissioner and the state board of fish commission-~~

~~ers the geological survey~~ and the Michigan state park commis-

sion are transferred to and vested in the department ~~of natural~~

~~resources~~ Whenever ~~in a law of this state~~ reference is

made IN A LAW OF THIS STATE to a ~~board~~ commission ~~or~~

~~officer~~ whose powers and duties are transferred by this section

reference shall be considered to be made to the department ~~of~~

~~natural resources~~

(2) The commission ~~of natural resources~~ may promulgate

rules, not inconsistent with law governing its organization and

procedure ~~and the administration of this act~~ as considered

~~expedient~~ NECESSARY The ~~commission~~ DEPARTMENT may promul-

gate and enforce reasonable rules concerning the use and

occupancy of lands and property under its control in accordance

1 with section 3a may provide and develop facilities for outdoor  
2 recreation may conduct investigations it considers necessary for  
3 the proper administration of this ~~act~~ PART

4 (3) THE DEPARTMENT OF AGRICULTURE may remove and dispose of  
5 forest products as required for the protection, reforestation,  
6 and proper development and conservation of the lands and property  
7 under ~~its~~ control ~~and~~ OF THE DEPARTMENT OF AGRICULTURE

8 (4) THE DEPARTMENT OF FISH AND WILDLIFE may require the pay-  
9 ment of a fee as provided by law for a daily permit or other  
10 authorization ~~which~~ THAT allows the person to hunt and take  
11 waterfowl on a public hunting area managed and developed for  
12 waterfowl ~~The commission may require the wearing of a special~~  
13 ~~tag or license as a condition of issuing a permit under this~~  
14 ~~section~~

15 (5) ~~(3)~~ Except as provided in subsection ~~(4)~~ (6), the  
16 ~~commission~~ DEPARTMENT OF AGRICULTURE may enter into contracts  
17 ~~with persons, sole proprietorships, partnerships, associations,~~  
18 ~~and corporations~~ for the taking of coal oil, gas, and other  
19 mineral products from state owned lands upon a royalty basis or  
20 upon another basis and upon the terms the ~~commission~~  
21 DEPARTMENT OF AGRICULTURE considers just and equitable This  
22 contract power includes authorization to enter into contracts for  
23 the storage of gas or other mineral products in or upon state  
24 owned lands, if the consent of the state agency having jurisdic-  
25 tion and control of the state owned land is first obtained A  
26 contract permitted under this section for the taking of coal,  
27 oil gas or metallic mineral products, or for the storage of gas

1 or other mineral products is not valid unless the contract is  
2 approved by the state administrative board Money received from  
3 a contract permitted under this subsection except money received  
4 from lands acquired with money from the game and fish protection  
5 fund CREATED IN SECTION 601 OF THE HUNTING AND FISHING LICENSE  
6 ACT ACT NO 86 OF THE PUBLIC ACTS OF 1980, BEING SECTION 316 601  
7 OF THE MICHIGAN COMPILED LAWS shall be transmitted to the state  
8 treasurer for deposit in the ~~general fund of the state to be~~  
9 ~~used for the purpose of defraying the expenses incurred in the~~  
10 ~~administration of this act and other purposes provided by law~~  
11 MICHIGAN NATURAL RESOURCES TRUST FUND CREATED IN SECTION 35 OF  
12 ARTICLE IX OF THE STATE CONSTITUTION OF 1963 However, the money  
13 received from the payment of service charges by a person using  
14 areas managed for waterfowl shall be credited to the game and  
15 fish protection fund and used only for the purposes provided by  
16 law Money received from bonuses, rentals delayed rentals, roy-  
17 alties, and the direct sale of resources including forest  
18 resources, from lands acquired with money from the game and fish  
19 protection fund shall be credited to the game and fish protection  
20 trust fund CREATED IN THE GAME AND FISH PROTECTION TRUST FUND  
21 ACT, ACT NO 73 OF THE PUBLIC ACTS OF 1986, BEING  
22 SECTIONS 300 211 TO 300 216 OF THE MICHIGAN COMPILED LAWS, except  
23 as otherwise provided by law

24 (6) ~~(4) The commission~~ DEPARTMENT OF AGRICULTURE shall  
25 not enter into a contract that permits drilling operations for  
26 the taking of oil or gas from the lake bottomlands of the Great  
27 Lakes or connecting or connected bays harbors, or waterways

1 unless all drilling operations originate from locations above and  
 2 inland of the ordinary high-water mark The ~~commission~~  
 3 DEPARTMENT OF AGRICULTURE shall not enter into a contract for  
 4 exploration of the lake bottomlands of the Great Lakes or con-  
 5 necting or connected bays, harbors, or waterways that permits  
 6 drilling operations unless all drilling operations originate from  
 7 locations above and inland of the ordinary high-water mark

8 (7) ~~(5)~~ This section does not permit a contract for the  
 9 taking of gravel, sand, coal, oil, gas or other metallic mineral  
 10 products that does not comply with applicable local ordinances  
 11 and state law

12 Sec 3 (1) The department ~~of conservation~~ shall protect  
 13 and conserve the natural resources of ~~the~~ THIS state ~~of~~  
 14 ~~Michigan~~ AS PROVIDED BY THIS ACT AND AS PROVIDED BY LAW AND  
 15 SHALL provide and develop facilities for outdoor recreation —

16 (2) THE DEPARTMENT OF AGRICULTURE SHALL prevent the destruc-  
 17 tion of timber and other forest growth by fire or otherwise —  
 18 AND promote the reforestation of forest lands belonging to the  
 19 state —

20 (3) THE DEPARTMENT SHALL prevent and guard against the pol-  
 21 lution of lakes and streams within the state — and enforce all  
 22 laws provided for that purpose with all authority granted by  
 23 law — and —

24 (4) THE DEPARTMENT OF FISH AND WILDLIFE SHALL foster and  
 25 encourage the protecting and propagation of game and fish

26 (5) On behalf of the people of the state, the ~~commission of~~  
 27 ~~conservation~~ DEPARTMENT AND THE DEPARTMENT OF AGRICULTURE may

1 accept gifts and grants of land and other property and ~~shall~~  
2 ~~have authority to~~ MAY buy sell exchange or condemn land and  
3 other property for any of the purposes contemplated by this  
4 act

5 (6) The department of ~~conservation~~ FISH AND WILDLIFE may  
6 accept funds ~~moneys~~ MONEY or grants for development of salmon  
7 and steelhead trout fishing in this state from the government of  
8 the United States or any of its departments or agencies, pursu-  
9 ant to ~~federal Public Law 89-304~~ THE ANADROMOUS FISH CONSERVA-  
10 TION ACT PUBLIC LAW 89-304 16 U S C 757a TO 757g, and may use  
11 ~~the same~~ THIS MONEY in accordance with the terms and provisions  
12 ~~thereof~~ ~~Provided, That~~ OF THAT ACT HOWEVER, the acceptance  
13 and use of federal funds ~~commits no~~ DOES NOT COMMIT state funds  
14 and ~~places no~~ DOES NOT PLACE AN obligation upon the legislature  
15 to continue the purposes for which the funds are made available

16 (7) ~~(2)~~ The department ~~of conservation~~ may lease lands  
17 owned or controlled by it ~~which~~ THAT have been designated for  
18 use for recreational purposes but only to responsible legal  
19 units within this state of national or state recognized groups  
20 devoted principally to development of character and citizenship  
21 training and physical fitness of youth, the financial support of  
22 which is by voluntary public subscriptions or contributions, and  
23 the property of which is exempt from taxation under the laws of  
24 this state The department ~~of conservation shall also have the~~  
25 ~~authority to~~ MAY lease land in the Porcupine mountain state park  
26 to third parties for ~~such~~ purposes as it ~~shall consider~~  
27 CONSIDERS desirable Any lease ~~so made~~ ENTERED INTO UNDER THIS

1 SUBSECTION shall ~~contain provisions limiting~~ LIMIT the purposes  
 2 for which the LEASED land ~~so leased~~ is to be used and ~~a provi-~~  
 3 ~~sion authorizing~~ SHALL AUTHORIZE the department ~~of~~  
 4 ~~conservation~~ to terminate the lease upon a finding that the land  
 5 is being used for purposes other than ~~as so limited or contrary~~  
 6 ~~to the intent hereof~~ THOSE PERMITTED IN THE LEASE

7       Sec 3a   (1) The ~~commission of natural resources~~  
 8 DEPARTMENT AND THE DEPARTMENT OF AGRICULTURE shall promulgate  
 9 rules for the protection of the lands and property under ~~its~~  
 10 THEIR control against wrongful use or occupancy as will ~~insure~~  
 11 ENSURE the carrying out of the intent of this act to protect the  
 12 lands and property from depredations and to preserve the lands  
 13 and property from molestation   spoilation, destruction, or any  
 14 other improper use or occupancy   This section does not allow the  
 15 ~~commission of natural resources~~ DEPARTMENT OR THE DEPARTMENT OF  
 16 AGRICULTURE to promulgate ~~any~~ A rule that applies to commercial  
 17 fishing except as otherwise provided by law   ~~Rules affecting~~  
 18 ~~the use and occupancy of lands and property shall be promulgated~~  
 19 ~~pursuant to the administrative procedures act of 1969 Act~~  
 20 ~~No 306 of the Public Acts of 1969, being sections 24 201 to~~  
 21 ~~24 328 of the Michigan Compiled Laws~~ The ~~director of the~~  
 22 ~~department of natural resources~~ DEPARTMENT AND THE DEPARTMENT OF  
 23 AGRICULTURE shall issue orders necessary to implement rules  
 24 promulgated under this section   These orders shall be effective  
 25 upon posting

26       (2) A person who violates a rule promulgated under this  
 27 section or an order issued under this section is guilty of a

1 misdemeanor punishable by imprisonment for not more than 90 days  
 2 or community service of not more than 30 days or by a fine of  
 3 not more than \$500 00 or both

4 (3) On and after the date the civil procedures act is  
 5 enacted into law, a person who violates a rule promulgated under  
 6 this section or an order issued under this section is responsible  
 7 for a civil infraction and subject to a civil fine of not more  
 8 than \$500 00

9 Sec 3b The ~~conservation commission or~~ department of  
 10 ~~conservation~~ FISH AND WILDLIFE in pursuing the state s policy  
 11 of propagating fish for the purpose of stocking the streams and  
 12 lakes of the state  ~~/ shall not refuse to~~ accept federal fish  
 13 stock for such programs — and shall apply for all federal fish  
 14 stock programs ~~which~~ THAT do not commit the state to future  
 15 expenditures The department shall provide a listing to the leg-  
 16 islature of all federal fish stock programs by April 15 of each  
 17 year

18 Sec 8 (1) The ~~commission~~ DEPARTMENT may require that a  
 19 person obtain a permit for the use of a state park or a state  
 20 forest campground The ~~commission~~ DEPARTMENT may establish and  
 21 collect fees for permits to use state parks state forest camp-  
 22 grounds and specific state forest areas The revenue realized  
 23 by the ~~commission~~ DEPARTMENT from permit fees and concessions  
 24 at state parks shall be credited to a separate fund of the STATE  
 25 TREASURY AND SHALL BE AVAILABLE FOR APPROPRIATION TO THE depart-  
 26 ment OF NATURAL RESOURCES for improvement and maintenance of  
 27 state parks The permit fees for state forest campgrounds shall

1 be used for the operation maintenance and development of state  
 2 forest campgrounds Any unexpended permit fees for state forest  
 3 campgrounds, along with any excess collections from prior fiscal  
 4 years shall be carried over into subsequent fiscal years and  
 5 shall be available for appropriation for the operation, mainte-  
 6 nance and development of state forest campgrounds

7 (2) The ~~commission~~ DEPARTMENT may establish and collect  
 8 fees for the processing of applications for the use of state for-  
 9 ests that require extensive review The fees shall cover the  
 10 cost to the department of processing the applications

11 Sec 8b The MacMullan conference center shall be available  
 12 only to the following

13 (a) The department ~~of natural resources~~

14 (B) THE DEPARTMENT OF FISH AND WILDLIFE

15 (C) THE DEPARTMENT OF AGRICULTURE

16 (D) ~~(b)~~ Federal, state, and local government agencies

17 (E) ~~(c)~~ Education institutions

18 (F) ~~(d)~~ Nonprofit ~~corporation~~ CORPORATIONS or

19 ~~association~~ ASSOCIATIONS organized pursuant to the nonprofit  
 20 corporation act, Act No 162 of the Public Acts of 1982, being  
 21 sections 450 2101 to 450 3192 of the Michigan Compiled Laws

22 (G) ~~(e)~~ Community service clubs

23 (H) ~~(f)~~ Handicapper groups

24 (I) ~~(g)~~ Members of the legislature for purposes related to  
 25 the business of the legislature

1 (J) ~~(h)~~ Entities and organizations that wish to use the  
2 conference center to host an event that has a natural resources  
3 or environmental agenda

4 Sec 9 (1) Money received by the department OF NATURAL  
5 RESOURCES AND THE DEPARTMENT OF AGRICULTURE for reimbursement of  
6 damages to department OF NATURAL RESOURCES AND DEPARTMENT OF  
7 AGRICULTURE property reimbursement of land recording fees sale  
8 of farm animals from Maybury state park, reimbursement for utili-  
9 ties for the Michigan state exposition and fairgrounds, reproduc-  
10 tion of the agenda of the ~~commissions~~ COMMISSION OR OTHER  
11 MEETINGS of the department OR THE DEPARTMENT OF AGRICULTURE  
12 reimbursement for forest fire protection services provided to the  
13 federal government or other states, and money received from for-  
14 feited cash bonds security bonds, and court ordered reimburse-  
15 ments may be credited to the accounts from which these disburse-  
16 ments were or are to be made

17 (2) The department may establish and collect fees for use of  
18 aircraft and pilots of the department OF NATURAL RESOURCES The  
19 aircraft fees collected shall be credited to a separate fund of  
20 the STATE TREASURY AND SHALL BE AVAILABLE FOR APPROPRIATION TO  
21 THE department OF NATURAL RESOURCES and used to pay all operating  
22 and maintenance costs of the aircraft, including depreciation and  
23 aircraft replacement, but shall not exceed the fee revenue col-  
24 lected for the fiscal year together with any unexpended balances  
25 of prior years

1       Section 2    This amendatory act shall not take effect unless  
2 Senate Bill No   \_\_\_\_\_ or House Bill No   5961 (request  
3 no   06881 94) of the 87th Legislature is enacted into law