



Senate Fiscal Agency
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BILL



ANALYSIS

Telephone: (517) 373-5383
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House Bill 4963 (as reported without amendment)
Sponsor: Representative Sandra Hill
House Committee: Judiciary and Civil Rights
Senate Committee: Natural Resources and Environmental Affairs

Date Completed: 2-22-96

RATIONALE

When it was enacted in 1994, the Natural Resources and Environmental Protection Act (NREPA) repealed and recodified numerous statutes, including the Endangered Species Act. That Act became Part 365 of the NREPA. It has been pointed out that the penalty for violating Part 365 is mandatory and includes a minimum term of imprisonment. Some people believe that a sentence should be left to the court's discretion, subject to statutory limits.

CONTENT

The bill would amend Part 365 of the Natural Resources and Environmental Protection Act to make the penalty for violations of that part permissive, rather than mandatory. Currently, a person who violates Part 365 or fails to procure any permit required under that part is guilty of a misdemeanor and "shall be fined not more than \$1,000.00 nor less than \$100.00, or imprisoned for more than 90 days, or both". Under the bill, a violation would be punishable by imprisonment for not more than 90 days, or a fine of not more than \$1,000 or less than \$100, or both. MCL 324.36507

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

By making the penalty for endangered species violations permissive, rather than mandatory, the bill would give courts discretion to impose penalties based upon the seriousness of a violation. The bill also would make it clear that

imprisonment could not exceed 90 days, rather than requiring it to last over 90 days.

Opposing Argument

The bill could create a public perception that the State was becoming more lenient with violators and less concerned about its endangered species. The current penalty in Part 365 is identical to the penalty originally enacted in the Endangered Species Act in 1974.

Legislative Analyst: S. Margules

FISCAL IMPACT

The bill would have no fiscal impact on the State, and could result in some cost savings to local units of government.

To the extent that judges had been sanctioning offenders due to the mandatory language, and would under permissive language, not sanction these offenders, then the locals could experience some savings, to the extent that these sanctions included incarceration in the county jail. There are no data currently available on the annual number of convictions for violations of Part 365 of the Natural Resources and Environmental Protection Act.

Fiscal Analyst: M. Hansen

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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.