

Act No. 419
Public Acts of 1998
Approved by the Governor
December 29, 1998
Filed with the Secretary of State
December 29, 1998
EFFECTIVE DATE: December 29, 1998

STATE OF MICHIGAN
89TH LEGISLATURE
REGULAR SESSION OF 1998

Introduced by Reps. Alley and Kilpatrick

ENROLLED HOUSE BILL No. 5254

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," by amending section 503 (MCL 324.503), as amended by 1998 PA 117.

The People of the State of Michigan enact:

Sec. 503. (1) The department shall protect and conserve the natural resources of this state; provide and develop facilities for outdoor recreation; prevent the destruction of timber and other forest growth by fire or otherwise; promote the reforestation of forest lands belonging to the state; prevent and guard against the pollution of lakes and streams within the state and enforce all laws provided for that purpose with all authority granted by law; and foster and encourage the protecting and propagation of game and fish. The department has the power and jurisdiction over the management, control, and disposition of all land under the public domain, except for those lands under the public domain that are managed by other state agencies to carry out their assigned duties and responsibilities. On behalf of the people of the state, the department may accept gifts and grants of land and other property and may buy, sell, exchange, or condemn land and other property, for any of the purposes contemplated by this part. The department may accept funds, money, or grants for development of salmon and steelhead trout fishing in this state from the government of the United States, or any of its departments or agencies, pursuant to the anadromous fish conservation act, Public Law 89-304, 16 U.S.C. 757a to 757f, and may use this money in accordance with the terms and provisions of that act. However, the acceptance and use of federal funds does not commit state funds and does not place an obligation upon the legislature to continue the purposes for which the funds are made available.

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

concession's term. Any lease entered into under this subsection shall limit the purposes for which the leased land is to be used and shall authorize the department to terminate the lease upon a finding that the land is being used for purposes other than those permitted in the lease. Unless otherwise provided by law, money received from a lease or a concession of tax reverted land shall be credited to the fund providing financial support for the management of the leased land. Money received from a lease of all other land shall be credited to the fund from which the land was purchased. However, money received from program-related leases on these lands shall be credited to the fund providing financial support for the management of the leased lands. For land managed by the forest management division of the department of natural resources, that fund is either the forest development fund established pursuant to part 505 or the forest recreation fund created in part 831. For land managed by the wildlife or fisheries division of the department of natural resources, that fund is the game and fish protection fund created in part 435.

(3) When the department sells land, the deed by which the land is conveyed may reserve all mineral, coal, oil, and gas rights to the state only when the land is in production or is leased or permitted for production, or when the department determines that the land has unusual or sensitive environmental features or that it is in the best interest of this state to reserve those rights as determined by commission policy. However, the department shall not reserve the rights to sand, gravel, clay, or other nonmetallic minerals. When the department sells land that contains subsurface rights, the department shall include a deed restriction that restricts the subsurface rights from being severed from the surface rights in the future. If the landowner severs the subsurface rights from the surface rights, the subsurface rights revert to this state. The deed may reserve to the state the right of ingress and egress over and across land along watercourses and streams. Whenever an exchange of land is made, either with the United States government, a corporation, or an individual, for the purpose of consolidating the state forest reserves, the department may issue deeds without reserving to the state the mineral, coal, oil, and gas rights and the rights of ingress and egress. The department may sell the limestone, sand, gravel, or other nonmetallic minerals. However, the department shall not sell a mineral or nonmetallic mineral right if the sale would violate part 353, part 637, or any other provision of law. The department may sell all reserved mineral, coal, oil, and gas rights to such lands upon terms and conditions as the department considers proper and may sell oil and gas rights as provided in part 610. The owner of such lands as shown by the records shall be given priority in case the department authorizes any sale of such lands, and, unless the landowner waives such rights, the department shall not sell such rights to any other person. For the purpose of this section, mineral rights do not include rights to sand, gravel, clay, or other nonmetallic minerals.

(4) The department may enter into contracts for the sale of the economic share of royalty interests it holds in hydrocarbons produced from devonian or antrim shale qualifying for the nonconventional fuel credit contained in section 29 of the internal revenue code of 1986. However, in entering into these contracts, the department shall assure that revenues to the natural resources trust fund under these contracts are not less than the revenues the natural resources trust fund would have received if the contracts were not entered into. The sale of the economic share of royalty interests under this subsection may occur under contractual terms and conditions considered appropriate by the department and as approved by the state administrative board. Funds received from the sale of the economic share of royalty interests under this subsection shall be transmitted to the state treasurer for deposit in the state treasury as follows:

(a) Net proceeds allocable to the nonconventional fuel credit contained in section 29 of the internal revenue code of 1986, under this subsection shall be credited to the environmental protection fund created in section 503a.

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

(5) As used in subsection (4):

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

(b) "Net proceeds" means the total receipts received from the sale of royalty interests under subsection (4) less costs related to the sale. Costs may include, but are not limited to, legal, financial advisory, geological or reserve studies, and accounting services.

(6) As used in this section:

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

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

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 89th Legislature are enacted into law:

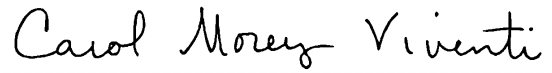
(a) House Bill No. 5278.

(b) Senate Bill No. 728.

This act is ordered to take immediate effect.



Clerk of the House of Representatives.



Secretary of the Senate.

Approved -----

Governor.