

WILD TURKEY HUNTING LICENSES

House Bill 4860 as introduced First Analysis (10-16-01)

Sponsor: Rep. Mickey Mortimer
Committee: Conservation and Outdoor Recreation

THE APPARENT PROBLEM:

In 1996, a successful ballot proposal—Proposal G—approved legislation transferring the exclusive authority to regulate the taking of game from the director of the Department of Natural Resources (DNR) to the Natural Resources Commission (NRC). As amended by this legislation, the Natural Resources and Environmental Protection Act imposes on the NRC three basic responsibilities concerning its regulation of the taking of game. First, the NRC must utilize principles of sound scientific management in making decisions regarding the taking of game, to the greatest extent possible. Second, the NRC may issue orders regarding the taking of game only after holding a public meeting and providing an opportunity for public input. Third, the NRC must provide a copy of any order that it issues to certain legislators—as specified in the act—no less than 30 days before issuing an order.

Despite this transfer of power, the DNR is still charged with certain responsibilities concerning the taking of game, including the hunting of wild turkeys. If a person wishes to hunt wild turkeys in the state, he or she must first apply for a license. The application is then entered into a lottery designed and run by the department, which issues a certain number of licenses for each “hunt unit.” A “hunt unit” can range in size from a portion of a single county to several counties. The exact number of licenses issued per hunt unit depends upon results of research on the conditions of the wild turkey population and judgments concerning how to most effectively manage the population in a given area. Representatives of the DNR testified that the percentage of wild turkey hunting license applications approved has ranged from 45 percent to 100 percent in recent years; there are often leftover licenses, which the DNR issues on a first-come, first-served basis.

In its guide to the fall 2001 wild turkey hunting season, the DNR affirms that “hunting plays an important role in the management of turkeys by

regulating their numbers.” Moreover, it distinguishes between the goals of the spring and fall hunting seasons. The goal of the spring season is “to maximize hunter opportunity while maintaining a satisfactory hunting experience.” Maintaining a satisfactory hunting experience demands a “conservative harvest approach,” which is limited to “toms” or “gobblers”—i.e., male turkeys—and thus allows the “continued growth and expansion of the wild turkey population.” The DNR considers the three hunts during the spring to be “sport hunting,” and the last of the spring hunts is, more or less, a “guaranteed hunt,” in which all qualified applicants receive a license. The goal of the fall season is “to stabilize or reduce wild turkey numbers in certain areas of the state to meet local goals based on habitat conditions and public attitudes.” The DNR establishes license quotas to harvest the desired number of turkeys, and encourages hunters to hunt female turkeys, or hens, in the fall. During the fall season, the DNR is primarily concerned with reducing the population of wild turkeys in anticipation of harsh winter conditions, when many turkeys might otherwise die from starvation.

Due to the success of bringing back the wild turkey population in many areas of the state (the wild turkey population has risen from 6,000 in 1979 to 140,000 today), the DNR maintains that it is no longer necessary to have a lottery in some areas. In fact, the state currently has some hunt periods where everyone who applies is guaranteed to receive a license. The problem now appears to be that there are not enough turkey hunters in Michigan! Consequently, legislation has been proposed that would allow the NRC, using scientific data, to determine where and when a lottery was not needed in the state.

THE CONTENT OF THE BILL:

Currently, Part 435 of the Natural Resources and Environmental Protection Act (NREPA), concerning hunting and fishing licenses, requires that

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applications for wild turkey hunting licenses be entered into a lottery designed and operated by the Department of Natural Resources (DNR). A person selected in the lottery is authorized to purchase a license. [The resident fee is \$15 while the nonresident fee is \$69.] House Bill 4860 would amend the act to authorize the Natural Resources Commission (NRC) to issue an order requiring that *all applications* for wild turkey hunting licenses be entered into a lottery, or to issue an order requiring that all applications for wild turkey hunting licenses *for certain geographic areas* had to be entered into a lottery. If the NRC issued an order, the lottery would still be designed and run by the DNR.

Moreover, the bill would specify that, in issuing such an order, the NRC was subject to a provision of the act (324.40113a) that grants it exclusive authority to regulate the taking of game.

In addition, the bill would eliminate the current requirement that requires the DNR to charge each applicant a nonrefundable application fee of up to \$4. The bill would replace this requirement to specify, instead, that the department could charge a nonrefundable application fee not to exceed \$4 for each wild turkey hunting license application that was entered into the lottery.

Finally, the law currently requires that \$3 of each nonrefundable \$4 application fee be used for scientific research, biological survey work on wild turkeys, and wild turkey management. The bill would specify, instead, that the portion of each application fee set aside for this purpose would be the "amount of the application fee, if any, but not more than \$3."

MCL 324.43524

BACKGROUND INFORMATION:

Reorganization of the Department of Natural Resources. As noted in a September, 2001, addendum to its 1991 Annual Report ("*Managing Michigan's Natural Resources: A Historical Overview of the Department of Natural Resources*") issued by the Science and Technology Division of the Legislative Services Bureau (LSB), prior to 1991, the Department of Natural Resources (DNR) controlled three program areas: environmental protection; resource management; and policy, budget, and administration. In addition, the DNR had more than twenty boards and commissions, such as the Water Resources Commission and the Air Pollution Control Commission, providing oversight and public input in

a number of specific program areas. Before 1991, and to this day, the Natural Resources Commission (NRC) oversaw department policy and regulates the taking of game in Michigan, as provided by Ballot Proposal G, which was adopted by the voters in 1996. However, many people had complained for years that the structure of the DNR and its many boards was confusing and difficult to control, consisting of a 'bewildering array of powers and responsibilities in a variety of advisory bodies.' In addition, the business community complained of long waits for permits to be issued and huge legal costs incurred when dealing with the department. A study -- one of many conducted in the 1980s on this subject -- found overlapping legislative authority and recommended that the commissions be consolidated, eliminated, or restricted. Another study suggested that all boards except the Natural Resources Commission (NRC) be abolished, although, as noted in the LSB report, concerns were raised that the reduction of DNR commissions could reduce public participation in the governmental process.

Reorganization of the DNR began in 1991 when the governor issued an executive order (Executive Order 1991-31) abolishing 19 of the boards and commissions; transferring the powers of the boards to the DNR director; and giving the director sole authority for issuing permits, setting hunting and fishing regulations, and approving land purchases. Under the order, the NRC was given the authority to hire and fire DNR directors, set general policy, and hear contested cases. Proponents of Executive Order 1991-31 stated that the new DNR would streamline and speed up the permitting process, that the line of authority from the NRC to staff would be consolidated and clarified, and that the DNR would be more accountable and more efficient under the reorganization. Many people were of the view, however, that the DNR reorganization was not in the public interest, since it virtually eliminated public review of environmental decisions. Executive Order 1991-31 also required that the governor name the chairman of the NRC, and opponents complained that this increased the power of the governor in conservation and environmental protection matters.

Codification of Natural Resources and Environmental Protection Laws. In addition to these changes, the Natural Resources Management and Environmental Code Commission was formed under Executive Order 1991-32, to review environmental and natural resources statutes and submit recommendations on an environmental code that would group these laws into an organized structure. The laws of the state relating to its natural resources and the environment had

become fragmented, disorganized, and, in many instances, archaic. The commission was charged with the task of creating a cohesive code that integrated existing natural resources management and environmental protection laws into a more understandable and workable system. The ultimate goal was the creation of a code that was designed to be simpler and more user friendly than existing statutes. Under Public Act 451 of 1994, the code was incorporated into legislation creating a Natural Resources and Environmental Protection Act (NREPA), which initially contained only laws relating to the environment. Later legislation (Public Act 57 of 1995) added natural resource laws. The NREPA is in the Michigan Compiled Laws under Section 324.101 et seq.

The Department of Environmental Quality. In 1995, the DNR was divided into two agencies under the provisions of Executive Order 1995-18. The order established the Department of Environmental Quality (DEQ), and placed within it the powers and duties associated with the divisions of Air Quality, Environmental Response, Environmental Assistance, Geological Survey, Surface Water Quality, Underground Storage Tank, and Waste Management, part of the Land and Water Management Division, and several other offices. Under the split, the DNR retained resource management functions, including fisheries, wildlife, parks and recreation, and law enforcement. The NRC, however, retained oversight of the DNR, although the DEQ was created without a similar overseeing body. As noted in the LBS report, the creation of the DEQ and removal of divisions from the DNR reduced the budget and staff of the department. As a result, the DNR receives about half of what is received prior to the split. From fiscal years 1991 to 1995, it had received an average appropriation of \$106.4 million. From 1996 to 2000, its average appropriation equaled \$50.5 million

Ballot Proposal G. 1996 witnessed the introduction of Ballot Proposal G, which was adopted by the voters in the November, 1996, election. Prior to 1992, the Natural Resources Commission (NRC) -- a seven-member commission appointed by the governor -- was responsible for managing and protecting the state's natural resources, wildlife, and environmental quality. The NRC also appointed the director of the DNR, who, in turn, was responsible for carrying out department policy and program development under the overall direction of the commission. However, in 1991, under Executive Order 1991-31, the governor created a "new" Department of Natural Resources, which transferred most of the statutory authority, powers, and duties, of the commission to the director

of the new DNR. Consequently, the director of the DNR became responsible for managing and protecting the state's natural resources, wildlife, and environmental protection, and the NRC retained its authority to appoint the director of the department and provide policy guidance. The power to appoint the chair and all other members of the commission remained with the governor. The ballot proposal transferred exclusive decision-making authority over hunting back to the NRC. The proposal stated that the commission would have to utilize principles of sound scientific management to the greatest extent practicable in making decisions regarding the taking of game; and that any issuance of orders made by the commission regarding the taking of game could be made only after holding a public meeting in which the public had an opportunity for input.

FISCAL IMPLICATIONS:

The House Fiscal Agency (HFA) estimates that the bill would have an indeterminate impact on state funds. At present, licenses are granted through a lottery system. The bill would allow, rather than require, the Natural Resources Commission to provide turkey licenses through a lottery. The Department of Natural Resources would not collect the current \$4.00 application fee if a lottery drawing were not held. (10-02-01)

ARGUMENTS:

For:

In 1996, Ballot Proposal G allowed voters in the state to decide who they wished to have in the decision-making seat in regards to regulating the taking of game -- the director of the DNR, as was current policy; the Natural Resources Commission (NRC), which historically had been accessible to the public; or a citizen group that had collected signatures on a petition, that subsequently appeared on the 1996 ballot as Proposal D, calling for a ban on certain bear hunting practices. The voters approved Ballot Proposal G, granting exclusive authority over hunting in the Natural Resources Commission (NRC). Prior to 1992, the NRC had been responsible for managing and protecting the state's natural resources, wildlife, and environmental quality. However, in 1991, under Executive Order 1991-31, the governor created a "new" Department of Natural Resources, which transferred most of the statutory authority, powers, and duties, of the commission to the director of the new DNR. Ballot Proposal G transferred decision-making authority over all hunting back to the NRC.

(See *Background Information*, for detailed information.)

Although Ballot Proposal G stemmed from a heated controversy over opposing methods of bear hunting, it was generally agreed at the time that the goal in all hunting regulations should be to have healthy wildlife populations, accomplished through consultation with experts in the field. Hunting methods and kill quotas, it was said, should be established based on scientific principles and sound biological facts, and not on emotions. As such, the proposal specifically stated that the commission would have to utilize principles of sound scientific management to the greatest extent practicable in making decisions regarding the taking of game; and that any issuance of orders made by the commission regarding the taking of game could be made only after holding a public meeting in which the public had an opportunity for input. At the time, representatives from the DNR expressed the belief that the stabilization of the bear population, the return of the Kirkland Warbler, and increased number of wild turkey were evidence that current methodology and allowed hunting practices were indeed based on scientific principles.

Proposal G simply allowed current practices to continue yet provided the public with greater input, since, under the proposal, the NRC was required to receive input from citizens before issuing orders. Now, however, conditions have changed. There is an abundance of turkeys around the state, everyone who applies for a license receives one, and many say the lottery is no longer needed. Supporters of the bill suggest that there is unnecessary tension between the law's requirement that the NRC adhere to "principles of sound scientific management" of wild turkeys and the requirement that the DNR hold a lottery for license applications. Some people believe that the NRC should be able to decide whether to hold a lottery for licenses or to issue licenses to all qualified applicants, depending on its wild turkey management goals. The bill would affirm this change in policy and let the NRC decide whether to have an open season or to require permits: if there was an abundance of turkeys in part of the state in any season, the NRC could allow everyone to obtain a license; but if there was a dearth of turkeys in that portion of the state, then the NRC could still require that a lottery be held.

Response:

Management of game and hunting seasons has always been a duty of the DNR. Over the years, the department has sought to increase populations of certain game species or maintain game levels through various means, including habitat restoration and

maintenance, and rearing and hatchery programs. Managing habitat and hunting seasons requires funding, part of which the department receives through fees charged for hunting and fishing licenses. Fee increases to cover the demand for departmental services have been a part of DNR history since the 1930s, although controversy concerning these increases, as well as the administration of the licensing program, has continued to be an issue. The bill, however, does not require that the Natural Resources Commission hold the wild turkey lottery drawings currently conducted by the department. Instead, it specifies that the NRC *may* hold a lottery. Moreover, if the NRC did hold a lottery, it could conduct one within a smaller geographic area, rather than statewide. Consequently, the department would lose the current revenues it receives from \$4.00 application fees. This loss of funds is especially important because it has been predicted that the department will be in a deficit in two years, due to rising costs and lower than expected revenues. Should this happen, the department expects to have to lay off field personnel to balance its budget.

Against:

In the September, 2001, issue of its magazine, "*Michigan Turkey Tracks*," the Michigan Wild Turkey Hunters Association (MWTHA) commented on the history of wild turkey management in Michigan. According to one article, wild turkeys were not found throughout the state during the early 1980s, and the DNR no longer funded winter surveys on this resource. Huge flocks covering large areas disappeared, and the association speculated that an avian disease might have been responsible. In 1988, at the association's urging, the DNR established a wild turkey management cooperator patch program. The program is designed to encourage successful hunters to bring their turkeys into field offices for random testing of blood samples, body parts, or any other biological information, and serves as an annual biological, physical checkup of wild turkeys.

The association credits this program, and other practices initiated by the association, with the success of bringing back the wild turkey from its 1979 population of 6,000 to its current population of 140,000. However, in testimony before the House Conservation and Outdoor Recreation Committee, representatives of the association voiced opposition to the bill, and pointed out that, according to the DNR's own surveys, 87 percent of the hunters in Michigan are happy with the current system. They also pointed out that wild turkey hunters need "elbow room." The current system, which held lotteries held in various parts of the state, was designed to

accommodate this need by spreading out hunters across the state. Under the bill, however, the association believes that hunters would lose this opportunity should the NRC elect not to hold a lottery in a particular season.

The association's opposition is based upon the conviction that turkey hunters need more space to hunt, and that turkey hunting is different from other types of hunting. In deer hunting, for example, the best hunting can often be found on the first day of the hunting season, since deer usually stay in the area where they find food. However, the flight of turkeys takes them over wide areas, so the best hunting might well be found later in the season. Turkey hunters like the current system because it requires that hunters select one of three seasons, thus spreading out the pressure to hunt over a longer period of time. In addition, a system which does not heavily favor most hunting on opening day also is important with regard to hunter safety. The association also points out that, currently, 75 percent of wild turkey hunting is conducted in Zone 2 of the state (the DNR has divided the state into three zones, with Zone 1 being in the Upper Peninsula, Zone 2 in the northern lower peninsula, and Zone 3 in the southern lower peninsula). While maintaining that this percentage can be absorbed under the current lottery system, with wild turkey hunting split into three seasons, the MWTHA asserts that such would not be the case should the NRC decide not to hold a lottery during a season. Then, Zone 2 would be overcrowded. Finally, the association also opposes the bill because, it maintains, its provisions would remove legislative control over the lottery process. The WTHA strongly believes that decisions regarding turkey hunting should be made locally by DNR biologists, and that decisions over the turkey lottery and the ability to set quotas should be set with local knowledge and input from local hunters.

POSITIONS:

The Department of Natural Resources supports the bill. (10-15-01)

The Michigan Chapter of the National Wild Turkey Federation submitted testimony to the House committee supporting the bill. (10-11-01)

The Michigan Farm Bureau supports the bill. (10-15-01)

The Mid-Michigan Long Spurs Chapter of the National Wild Turkey Federation supports the bill. (10-15-01)

The Michigan United Conservation Clubs has no position on the bill. (10-15-01)

The Michigan Wild Turkey Hunters Association opposes the bill. (10-15-01)

Analyst: J. Caver/R. Young

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.