

**SENATE SUBSTITUTE FOR  
HOUSE BILL NO. 4956**

A bill to amend 1994 PA 451, entitled  
"Natural resources and environmental protection act,"  
by amending sections 63502, 63523, 63524, 63545, 76501, 76503,  
76504, 76508, 76703, 76901, and 76903 (MCL 324.63502, 324.63523,  
324.63524, 324.63545, 324.76501, 324.76503, 324.76504, 324.76508,  
324.76703, 324.76901, and 324.76903), sections 63502, 63523,  
63524, and 63545 as added by 1995 PA 57 and sections 76501,  
76503, 76504, 76508, 76703, 76901, and 76903 as added by 1995  
PA 58, and by adding part 779; and to repeal acts and parts of  
acts.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

**1**       Sec. 63502. (1) "Agricultural land" includes any of the  
**2** following as determined by the department OF NATURAL RESOURCES  
**3** under part 609:

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1       (a) Prime farmland is land that has the best combination of  
2 physical and chemical characteristics for producing food, feed,  
3 forage, and fiber crops and is also available for these uses,  
4 including cropland, pastureland, rangeland, forestland, or other  
5 land, but not urban built-up land or water. Prime farmland has  
6 the soil quality, growing season, and moisture supply needed to  
7 economically produce sustained high yields of crops when treated  
8 and managed, including water management, according to acceptable  
9 farming methods. In general, prime farmland has an adequate and  
10 dependable water supply from precipitation or irrigation, a  
11 favorable temperature and growing season, acceptable acidity or  
12 alkalinity, acceptable salt and sodium content, and few or no  
13 rocks. Prime farmland is permeable to water and air. Prime  
14 farmland is not excessively erodible or saturated with water for  
15 a long period of time, and it either does not flood frequently or  
16 is protected from flooding.

17       (b) Unique farmland is land other than prime farmland that  
18 is used for the production of specific high-value food and fiber  
19 crops. Unique farmland has the special combination of soil qual-  
20 ity, location, growing season, and moisture supply needed to eco-  
21 nomically produce sustained high quality or high yields or both  
22 high quality and high yields of a specific crop when treated and  
23 managed according to acceptable farming methods. Areas that can  
24 be classified as unique farmland include organic soils producing  
25 vegetables and specialty crops; high-lying and relatively  
26 frost-free fruit sites; and areas of high water table acid soils  
27 especially suited to highbush blueberry culture as well as the

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1 small areas in the Upper Peninsula copper country that are  
2 producing strawberries.

3       (c) Other farmland is land in addition to prime farmland and  
4 unique farmland that has a combination of soils, location, and  
5 management characteristics which is producing or can produce in  
6 or for a region food, feed, forage, and fiber crops and is land  
7 on which agriculture represents the greatest current economic  
8 return from the land. Other farmland includes beef cow-calf  
9 operations that occur on generally fine-textured, somewhat poorly  
10 drained soils well-suited to forage production and grazing.  
11 Cropland areas that by their location are especially suited for  
12 the production of disease-free seed crops or that offer special  
13 opportunities for integrated best management programs could also  
14 be considered other farmland. The determination of whether agri-  
15 cultural land is prime farmland, unique farmland, or other farm-  
16 land shall be made by the department OF NATURAL RESOURCES under  
17 part 609 or this part, with the concurrence of the department of  
18 agriculture and the United States department of agriculture.

19       (2) "Applicant" means a person applying for a permit from  
20 the department to conduct surface coal mining activities or  
21 underground coal mining activities pursuant to this part.

22       (3) "Approximate original contour" means that surface con-  
23 figuration achieved by the backfilling and grading of the mined  
24 area so that the reclaimed area, including any terracing or  
25 access roads, closely resembles the general surface configuration  
26 of the land prior to mining and blends into and complements the

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1 drainage pattern of the surrounding terrain, with all highwalls  
2 and spoil piles eliminated.

3       (4) "Coal" means all forms of coal including lignite. Coal  
4 does not include clay, stone, sand, gravel, metalliferous and  
5 nonmetalliferous ores, and any other solid material or substance  
6 of commercial value excavated in solid form from natural deposits  
7 on or in the earth, exclusive of coal, and those minerals that  
8 occur naturally in liquid or gaseous form.

9       (5) "Coal exploration operation" means the substantial dis-  
10 turbance of the surface or subsurface for the purpose of or  
11 related to determining the location, quantity, or quality of a  
12 coal deposit.

13       (6) "DEPARTMENT" MEANS THE DEPARTMENT OF ENVIRONMENTAL  
14 QUALITY.

15       (7) ~~-(6)-~~ "Eligible land and water" means all land that was  
16 mined for coal or was affected by that mining, wastebanks, coal  
17 processing, or other coal mining processing, and abandoned or  
18 left in an inadequate reclamation status under the standards pro-  
19 vided in subparts 3 and 4 prior to August 3, 1977, and for which  
20 there is not a continuing reclamation responsibility under state  
21 or federal law.

22       (8) ~~-(7)-~~ "Historic resource" means a district, site, build-  
23 ing, structure, or object of historical, architectural, archeo-  
24 logical, or cultural significance that meets any of the following  
25 requirements:

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1 (a) Is designated as a national historic landmark pursuant  
2 to the historic sites, buildings, and antiquities act, chapter  
3 593, 49 Stat. 666, 16 U.S.C. 461 to 467.

4 (b) Is listed on the national register of historic places  
5 pursuant to the national historic preservation act, Public Law  
6 89-665, 16 U.S.C. 470 to 470a, 470b, and 470c to 470x-6; or the  
7 state register of historic sites pursuant to ~~Act No. 10 of the~~  
8 ~~Public Acts of 1955, being sections 399.151 to 399.152 of the~~  
9 ~~Michigan Compiled Laws~~ 1955 PA 10, MCL 399.151 TO 399.152.

10 (c) Is recognized under a locally established historic dis-  
11 trict created pursuant to the local historic districts act, ~~Act~~  
12 ~~No. 169 of the Public Acts of 1970, being sections 399.201 to~~  
13 ~~399.212 of the Michigan Compiled Laws~~ 1970 PA 169, MCL 399.201  
14 TO 399.215.

15 (d) Is eligible for listing, designation, or recognition  
16 under subdivisions (a) to (c).

17 (9) ~~-(8)-~~ "Imminent danger to the health and safety of the  
18 public" means the existence of any condition or practice, or any  
19 violation of a permit or other requirement of this part in a sur-  
20 face coal mining and reclamation operation, which condition,  
21 practice, or violation could reasonably be expected to cause sub-  
22 stantial physical harm to persons outside the permit area before  
23 the condition, practice, or violation can be abated. A reason-  
24 able expectation of death or serious injury before abatement  
25 exists if a reasonable person, subjected to the same conditions  
26 or practices giving rise to the peril, would not expose himself

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1 or herself to the danger during the time necessary for  
2 abatement.

3       (10) ~~-(9)-~~ "Local unit of government" means a county, city,  
4 township, or village; a board, commission, or authority of a  
5 county, city, township, or village; or a soil conservation  
6 district.

7       (11) ~~-(10)-~~ "Operator" means a person engaged in coal mining  
8 who removes or intends to remove more than 250 tons of coal from  
9 the earth by coal mining within 12 consecutive calendar months in  
10 any 1 location.

11       Sec. 63523. (1) When an application for a surface coal  
12 mining and reclamation permit or renewal of an existing permit is  
13 submitted, the applicant's advertisement of ownership, location,  
14 and boundaries of the land to be affected shall be placed in a  
15 local newspaper of general circulation in the locality of the  
16 proposed surface coal mining operation for 4 consecutive weeks.  
17 The department shall notify local units of government in the  
18 vicinity of the proposed mining and reclamation area of the  
19 operator's intention to conduct a surface mining operation indi-  
20 cating the application's number and the county courthouse or  
21 township office in which a copy of the proposed surface coal  
22 mining and reclamation plan may be inspected. A local unit of  
23 government may submit written comments within a period estab-  
24 lished by the department on the mining applications with respect  
25 to the effect of the operation proposed by the applicant on the  
26 environment that is within its area of responsibility. The  
27 comments shall immediately be transmitted to the applicant by the

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1 department and shall be made available to the public at the same  
2 location as the mining application.

3       (2) In addition to the notice required in subsection (1),  
4 the department shall notify the department of ~~state~~ HISTORY,  
5 ARTS, AND LIBRARIES of the operator's intention to conduct a sur-  
6 face mining operation and shall provide the department of ~~state~~  
7 HISTORY, ARTS, AND LIBRARIES with a copy of the permit  
8 application. Based on the information required pursuant to sec-  
9 tion 63516(1)(r), the department of ~~state~~ HISTORY, ARTS, AND  
10 LIBRARIES shall determine whether or not the proposed surface  
11 mining operation will adversely affect a historic resource. The  
12 department of ~~state~~ HISTORY, ARTS, AND LIBRARIES may file writ-  
13 ten objection to the proposed surface mining operation pursuant  
14 to subsection (3).

15       (3) A person having an interest that is or may be adversely  
16 affected by the operation proposed in the application and any  
17 federal or state government agency or local unit of government is  
18 entitled to file written objections to the proposed initial or  
19 revised application for a permit for surface coal mining and rec-  
20 lamation operation with the department not later than 30 days  
21 after the last publication of the notice required by subsection  
22 (1). Those objections shall immediately be transmitted to the  
23 applicant by the department and shall be made available to the  
24 public.

25       (4) Within 45 days after the last publication of the notice  
26 provided in subsection (1), the applicant or any person with an  
27 interest that is or may be adversely affected may request a

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1 hearing on the application. The hearing shall be held within 30  
2 days after the expiration of the time allowed for submitting the  
3 request.

4 (5) An action taken by the department with respect to a  
5 permit application shall be conducted pursuant to chapters 4 and  
6 5 of the administrative procedures act of 1969, ~~Act No. 306 of~~  
7 ~~the Public Acts of 1969, being sections 24.271 to 24.292 of the~~  
8 ~~Michigan Compiled Laws~~ 1969 PA 306, MCL 24.271 TO 24.292.

9 Sec. 63524. (1) On the basis of a complete application for  
10 a surface coal mining and reclamation permit or a revision or  
11 renewal of a permit, the department shall grant, require modifi-  
12 cation of, or deny the application for a permit within 120 days  
13 after the application is submitted to the department, except that  
14 an application submitted pursuant to section 63514(2) shall be  
15 granted, modified, or denied within 120 days after the approval  
16 of this state's program. The department shall notify the appli-  
17 cant in writing of its decision regarding granting, modifying, or  
18 denying the application for a permit. The applicant for a permit  
19 or revision of a permit has the burden of establishing that his  
20 or her application is in compliance with all the requirements of  
21 this part. Within 3 days after the granting of a permit, but  
22 before the permit is issued, the department shall notify the  
23 county clerk in each county in which the land to be affected is  
24 located that a permit has been issued and shall describe the  
25 location of the land.



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1       (2) An application for a permit or revision of a permit  
2 shall not be approved unless the department finds, in writing,  
3 that all the following requirements have been met:

4       (a) The application is accurate and complete and complies  
5 with all of the requirements of this part.

6       (b) The applicant has demonstrated that reclamation as  
7 required by this part can be accomplished under the reclamation  
8 plan contained in the application.

9       (c) An assessment of the probable cumulative impact of all  
10 anticipated surface coal mining inside and outside the permit  
11 area on the hydrologic balance, including quantitative and quali-  
12 tative analyses, has been made by the department, and the pro-  
13 posed operation has been designed to prevent material damage to  
14 the hydrologic balance inside and outside the permit area.

15       (d) The area proposed to be mined is not included within an  
16 area designated unsuitable for surface coal mining pursuant to  
17 this part and is not within an area under study for this designa-  
18 tion in an administrative proceeding commenced pursuant to this  
19 part, unless in the area as to which an administrative proceeding  
20 has commenced, the applicant demonstrates that, prior to  
21 January 1, 1977, the applicant has made substantial legal and  
22 financial commitments in relation to the operation for which the  
23 applicant is applying for a permit.

24       (e) If the ownership of the coal has been severed from the  
25 private surface estate, the applicant has submitted to the  
26 department either the written consent of the surface owner to the  
27 extraction of coal by surface mining methods or a conveyance that

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1 expressly grants or reserves the right to extract the coal by  
2 surface mining methods. However, if the conveyance does not  
3 expressly grant the right to extract coal by surface mining  
4 methods, the surface-subsurface legal relationship shall be  
5 determined in accordance with state law, except that this part  
6 does not authorize the department to adjudicate property rights  
7 disputes.

8 (f) If the department of ~~state~~ HISTORY, ARTS, AND  
9 LIBRARIES determines that the proposed surface mining operation  
10 will adversely affect a historic resource, the application is  
11 approved jointly by the department, by the federal, state, or  
12 local agency with jurisdiction over the historic resource, and by  
13 the department of ~~state~~ HISTORY, ARTS, AND LIBRARIES.

14 (3) The applicant shall file, with the application, a sched-  
15 ule listing all notices of violations of this part or other law  
16 of this state and any law, rule, or regulation of the United  
17 States or of any department or agency in the United States per-  
18 taining to air or water environmental protection incurred by the  
19 applicant in connection with a surface coal mining operation  
20 during the 3-year period prior to the date of application. The  
21 schedule shall include the final resolution of notice of the  
22 violation. If the schedule or other information available to the  
23 department indicates that a surface coal mining operation owned  
24 or controlled by the applicant is currently in violation of this  
25 part or other laws referred to in this subsection, the permit  
26 shall not be issued until the applicant submits affidavits that  
27 the violation has been corrected or is in the process of being

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1 corrected to the satisfaction of the department or the agency  
2 that has jurisdiction over the violation or that the notice of  
3 violation is being contested by the applicant. A permit shall  
4 not be issued to an applicant after a finding by the department,  
5 after opportunity for hearing, that the applicant, or the opera-  
6 tor specified in the application, controls or has controlled  
7 mining operations with a demonstrated pattern of violations of  
8 this part of such nature and duration with such resulting pollu-  
9 tion, impairment, or destruction to the environment as to indi-  
10 cate an intent not to comply with this part.

11 (4) If the area proposed to be mined contains agricultural  
12 land, the department shall consult with the director of the  
13 department of agriculture and the secretary of the United States  
14 department of agriculture and shall not grant a permit to mine on  
15 agricultural land unless the department finds in writing that the  
16 operator has the technological capability to restore the mined  
17 area and any other areas impacted by the surface coal mining  
18 operation within a reasonable time to equivalent or higher levels  
19 of yield as nonmined agricultural land in the surrounding area  
20 under equivalent levels of management, and also finds that the  
21 applicant can meet the soil reconstruction standards of this  
22 part.

23 Sec. 63545. (1) The department shall promulgate rules  
24 establishing a process for designating areas unsuitable for sur-  
25 face coal mining. The rules shall include all of the following:

26 (a) Surface coal mining land review.

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1 (b) Development of a data base and an inventory system that  
2 will permit proper evaluation of the capacity of different land  
3 areas of the state to support and permit reclamation of surface  
4 coal mining operations.

5 (c) Development, by rule, of a method for implementing land  
6 use planning decisions concerning surface coal mining  
7 operations.

8 (d) Development, by rule, of proper notice provisions and  
9 opportunity for public participation, including a public hearing,  
10 prior to making any designation or redesignation pursuant to this  
11 section.

12 (e) Procedures for determining whether an area proposed for  
13 surface coal mining contains historic resources. These rules  
14 shall be developed with the concurrence of the department of  
15 ~~state~~ HISTORY, ARTS, AND LIBRARIES AND THE DEPARTMENT OF NATU-  
16 RAL RESOURCES.

17 (2) On a petition submitted pursuant to subsection (3), the  
18 department shall designate an area as unsuitable for all or cer-  
19 tain types of surface coal mining operations if the department  
20 determines that reclamation pursuant to the requirements of this  
21 part is not technologically and economically feasible. A surface  
22 area may be designated unsuitable for certain types of surface  
23 coal mining operations if those operations do any of the  
24 following:

25 (a) Are incompatible with existing state or local land use  
26 plans or programs.

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1 (b) Affect fragile land or historic resources resulting in  
2 significant damage to important historic, cultural, scientific,  
3 and aesthetic values and natural systems.

4 (c) Affect renewable resource land, including aquifers and  
5 aquifer recharge areas, resulting in a substantial loss or reduc-  
6 tion of long-range productivity of water supply or of food or  
7 fiber products.

8 (d) Affect natural hazard land, including areas subject to  
9 frequent flooding and areas of unstable geology, substantially  
10 endangering life and property.

11 (e) Affect agricultural land by diminishing the productivity  
12 of the land after reclamation to less than the productivity  
13 before the site was mined.

14 (f) Adversely affect an agricultural operation, including  
15 planting, harvesting, transportation, processing, or other activ-  
16 ity included in the agricultural impact statement required by  
17 section 63516(1)(s).

18 (3) Determinations of the unsuitability of land for surface  
19 coal mining shall be integrated with present and future land use  
20 planning and regulation processes at the federal, state, and  
21 local levels. The requirements of this section do not apply to  
22 land on which surface coal mining operations were being conducted  
23 on August 3, 1977, or under a permit issued pursuant to former  
24 ~~Act No. 303 of the Public Acts of 1982~~ 1982 PA 303, or where  
25 substantial legal and financial commitments in the operation or  
26 proposed operation were in existence prior to January 4, 1977.

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1       (4) A person having an interest that is or may be adversely  
2 affected has the right to petition the department to have an area  
3 designated as unsuitable for surface coal mining operations or to  
4 have that designation terminated. The petition shall contain  
5 allegations of facts with supporting evidence. Within 30 days  
6 after receipt of the petition, the department shall hold a public  
7 hearing in the locality of the affected area. After a person  
8 having an interest that is or may be adversely affected has filed  
9 a petition and before the hearing, any person may intervene by  
10 filing allegations of facts with supporting evidence that would  
11 tend to establish the allegations. Within 60 days after the  
12 hearing, the department shall issue and furnish to the petitioner  
13 and any other party to the hearing a written decision with rea-  
14 sons for the decision. In the event that all the parties stipu-  
15 late agreement prior to the requested hearing and withdraw their  
16 request, the hearing need not be held.

17       (5) Before designating land areas as unsuitable for surface  
18 coal mining operations, the department shall prepare a detailed  
19 statement on the potential coal resources of the area, the demand  
20 for coal resources, and the impact of the designation on the  
21 environment, the economy, and the supply of coal.

22       (6) After October 12, 1982, and subject to valid existing  
23 rights, surface coal mining operations, except those that existed  
24 on August 3, 1977, shall not be permitted that do any of the  
25 following:

26       (a) Adversely affect a publicly owned park or historic  
27 resource unless approved jointly by the department and the

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1 federal, state, or local agency with jurisdiction over the park  
2 or historic resource and by the department of ~~state~~ HISTORY,  
3 ARTS, AND LIBRARIES.

4 (b) Are within 100 feet of the outside right-of-way line of  
5 a public road, except where mine access roads or haulage roads  
6 join the right-of-way lines and except that the department may  
7 permit these roads to be relocated or the area affected to lie  
8 within 100 feet of the public road, if, after public notice and  
9 opportunity for public hearing in the locality, a written finding  
10 is made that the interests of the public and the landowners  
11 affected by the relocation will be protected.

12 (c) Are within 300 feet of an occupied dwelling, unless  
13 waived by the owner of the dwelling, or within 300 feet of any  
14 public building, school, church, community, or institutional  
15 building, or public park, or within 300 feet of a cemetery.

16 (7) The department shall designate areas protected by part  
17 351 as unsuitable for surface coal mining.

18 (8) IN ADMINISTERING THIS SECTION, THE DEPARTMENT SHALL CON-  
19 SULT WITH THE DEPARTMENT OF NATURAL RESOURCES.

20 Sec. 76501. As used in this part: ~~-, "commission"~~

21 (A) "COMMISSION" means the Mackinac Island state park com-  
22 mission CREATED IN SECTION 76503.

23 (B) "DIRECTOR" MEANS THE DIRECTOR OF THE MACKINAC ISLAND  
24 STATE PARK COMMISSION.

25 (C) "MOTOR VEHICLE" MEANS ANY DEVICE THAT IS SELF-PROPELLED,  
26 OR PARTIALLY SELF-PROPELLED, BY WHICH A PERSON OR PROPERTY MAY BE  
27 TRANSPORTED OR DRAWN.

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1       Sec. 76503. (1) The ~~governor shall appoint 7~~  
2 ~~commissioners, who~~ MACKINAC ISLAND STATE PARK COMMISSION SHALL  
3 CONSIST OF 7 MEMBERS APPOINTED BY THE GOVERNOR.

4       (2) MEMBERS OF THE COMMISSION shall be citizens of, regis-  
5 tered voters, and regularly domiciled in this state. ~~and who~~  
6 ~~constitute a board of commissioners to be known as the Mackinac~~  
7 ~~Island state park commission.~~ However, the present  
8 ~~commissioners~~ MEMBERS OF THE COMMISSION shall hold office until  
9 their successors have been appointed. One ~~commissioner~~ MEMBER  
10 OF THE COMMISSION shall be known as the "resident commissioner,"  
11 and this ~~commissioner~~ MEMBER shall be a legal resident of the  
12 island and a property owner in the city of Mackinac Island for a  
13 period of not less than 6 months preceding his or her  
14 nomination. One ~~commissioner~~ MEMBER OF THE COMMISSION shall be  
15 a resident of the village of Mackinaw City. ~~His or her term of~~  
16 ~~office shall commence on April 12, 1958.~~

17       (3) ~~(2)~~ The members of the commission shall be appointed  
18 by the governor, by and with the advice and consent of the  
19 senate, for terms of 6 years each and shall hold office until  
20 their successors are appointed. However, of the members first  
21 appointed, 2 shall be appointed for a term of 2 years, 2 for a  
22 term of 4 years each, and ~~2~~ 3 for a term of 6 years each. Not  
23 more than 4 ~~commissioners~~ MEMBERS OF THE COMMISSION at any 1  
24 time shall be of the same political party. Vacancies shall be  
25 filled by the governor in the same manner as the original  
26 appointment for the unexpired term. ~~No~~



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1       (4) A member of the commission shall NOT receive any  
2 compensation for his or her services ~~as commissioner~~ ON THE  
3 COMMISSION, but each ~~commissioner~~ MEMBER OF THE COMMISSION  
4 shall ~~receive his or her actual disbursement for his or her~~  
5 ~~expense~~ BE REIMBURSED FOR EXPENSES incurred in connection with  
6 the duties of his or her office. ~~, which expense shall be~~  
7 ~~allowed and paid by the auditor general upon proper submittal of~~  
8 ~~vouchers.~~

9       (5) The commission shall annually elect a chairperson,  
10 vice-chairperson, and secretary.

11       (6) ~~(3)~~ The Mackinac Island state park commission is cre-  
12 ated within the department of ~~natural resources~~ HISTORY, ARTS,  
13 AND LIBRARIES and shall have the powers and duties of an agency  
14 transferred under a type I transfer pursuant to section 3 of the  
15 executive organization act of 1965, ~~Act No. 380 of the Public~~  
16 ~~Acts of 1965, being section 16.103 of the Michigan Compiled Laws~~  
17 1965 PA 380, MCL 16.103.

18       Sec. 76504. (1) The Mackinac Island state park shall be  
19 under the control and management of the ~~Mackinac Island state~~  
20 ~~park~~ commission, and a majority of the members of the commission  
21 constitutes a quorum for the transaction of business. The busi-  
22 ness which the commission may perform shall be conducted at a  
23 public meeting of the commission held in compliance with the open  
24 meetings act, ~~Act No. 267 of the Public Acts of 1976, being sec-~~  
25 ~~tions 15.261 to 15.275 of the Michigan Compiled Laws~~ 1976 PA  
26 267, MCL 15.261 TO 15.275. Public notice of the time, date, and  
27 place of the meeting shall be given in the manner required by

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1 ~~Act No. 267 of the Public Acts of 1976~~ THE OPEN MEETINGS ACT,  
2 1976 PA 267, MCL 15.261 TO 15.275.

3 (2) The commission ~~may lay~~ SHALL HAVE THE EXCLUSIVE RIGHT  
4 TO DO EITHER OR BOTH OF THE FOLLOWING:

5 (A) LAY out, manage, and maintain the park ~~,~~ AND preserve  
6 the old fort ~~, and promulgate~~ AND OTHER OTHER PROPERTY HELD BY  
7 THE COMMISSION ON THE EFFECTIVE DATE OF THE 2001 AMENDMENTS TO  
8 THIS SECTION OR WHICH IS ACQUIRED BY THE COMMISSION AFTER THIS  
9 DATE.

10 (B) PROMULGATE and enforce rules not inconsistent with the  
11 laws of this state and necessary to implement ~~this part; may~~  
12 ~~effect~~ THE COMMISSION'S DUTIES.

13 (3) THE COMMISSION MAY DO 1 OR MORE OF THE FOLLOWING:

14 (A) ENTER INTO leases and ~~fix~~ ESTABLISH prices for rentals  
15 or privileges upon ~~the~~ property ~~of the park; may sell~~  
16 CONTROLLED BY THE COMMISSION.

17 (B) SELL or lease as personal property buildings or struc-  
18 tures acquired by the commission in settlement of delinquent land  
19 rentals. ~~;~~ ~~and may employ~~

20 (C) EMPLOY a ~~superintendent~~ DIRECTOR and other persons as  
21 may be needed.

22 (4) ~~(3)~~ The rules of the commission shall apply to all  
23 roads situated on Mackinac Island state park lands. The commis-  
24 sion shall not make a rule permitting the use of motor vehicles  
25 except motor vehicles owned by the state, a political subdivision  
26 of the state, or by a public utility, and used in the exercise of  
27 its franchise. The commission may provide by rule for the

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1 issuance of temporary permits for the operation of motor vehicles  
2 over roads situated on state park lands. The commission may  
3 grant permits for the use of lands for the expansion of existing  
4 cemeteries, under terms and conditions as the commission  
5 prescribes. The commission may also grant privileges and fran-  
6 chises for waterworks, sewerage, transportation, and lighting,  
7 for a period of not more than 40 years. The commission shall  
8 prescribe by rule the maximum number of horse drawn vehicles for  
9 hire that may be licensed by the commission for operation within  
10 the park.

11       (5) ~~-(4)-~~ The sheriff of the county of Mackinac, upon the  
12 application of the commission, shall appoint 1 or more persons  
13 who shall be designated by the commission as deputy sheriffs in  
14 and for the county, and who shall be employees of the commission  
15 but who shall not receive fees or emoluments for services as  
16 deputy sheriffs. The commission may establish the compensation  
17 of the persons employed by the commission, but a debt or obliga-  
18 tion shall not be created by the commission exceeding the amount  
19 of money at its disposal at the time.

20       (6) ~~-(5)-~~ All money received from rentals or privileges  
21 shall be paid promptly into the state treasury to be credited to  
22 the general fund and to be disbursed as appropriated by the  
23 legislature. The ~~Mackinac Island state park~~ commission, in  
24 consideration of the furnishing of fire protection, street serv-  
25 ice, sewerage service, and other public service agreed upon, may  
26 remit reasonable rentals as the commission determines from leases  
27 of property acquired by the state under the general property tax

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1 act, ~~Act No. 206 of the Public Acts of 1893, being sections~~  
2 ~~211.1 to 211.157 of the Michigan Compiled Laws 1893 PA 206, MCL~~  
3 ~~211.1 TO 211.157, and deeded to the commission, to the several~~  
4 tax assessing units in which the property is situated as provided  
5 in ~~Act No. 206 of the Public Acts of 1893~~ THE GENERAL PROPERTY  
6 TAX ACT, 1893 PA 206, MCL 211.1 TO 211.157, in proportion to the  
7 delinquent taxes and special assessments of the units ~~cancelled~~  
8 CANCELED against the description of land.

9       (7) ~~(6)~~ A writing prepared, owned, used, in the possession  
10 of, or retained by the commission in the performance of an offi-  
11 cial function shall be made available to the public in compliance  
12 with the freedom of information act, ~~Act No. 442 of the Public~~  
13 ~~Acts of 1976, being sections 15.231 to 15.246 of the Michigan~~  
14 ~~Compiled Laws 1976 PA 442, MCL 15.231 TO 15.246.~~ The commission  
15 shall provide to the governor an annual report and statement of  
16 receipts and expenditures, and recommendations and suggestions as  
17 the commission considers proper.

18       Sec. 76508. The ~~superintendent of the Mackinac Island~~  
19 ~~state park~~ DIRECTOR may appoint, by and with the consent of the  
20 commission, such number of special police as the commission may  
21 by resolution direct, which special police shall be under the  
22 supervision and direction of the ~~superintendent~~ DIRECTOR, who  
23 shall be charged with the ~~execution~~ ENFORCEMENT of the LAWS OF  
24 THIS STATE RELATED TO THE PARK AND THE rules promulgated by the  
25 commission for the care and preservation of the park, and the  
26 property in and about the fort. The special police shall be  
27 vested with the authority of COUNTY sheriffs ~~of the island,~~

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1 and, WITHIN THE PARK, may apprehend and arrest, without warrant,  
2 any person whom they may find violating the LAWS OF THIS STATE  
3 RELATED TO THE PARK OR THE rules ~~which shall~~ THAT have been  
4 ~~published relative to good order~~ PROMULGATED CONCERNING the  
5 preservation of property, the mutilation of landmarks, or the  
6 destruction or injury to growing trees and shrubs. ~~The special~~  
7 ~~police are authorized to make complaint against offenders against~~  
8 ~~the rules of the government of Mackinac Island state park, before~~  
9 ~~the district court of the judicial district that includes~~  
10 ~~Mackinac Island and the judges may take cognizance, hear, try,~~  
11 ~~and determine such complaints and pass sentence upon offenders,~~  
12 ~~in accordance with the procedures applicable in misdemeanor~~  
13 ~~cases.~~

14       Sec. 76703. (1) The commission may issue its gross revenue  
15 bonds in anticipation of the collection of all or any part of its  
16 revenues, for the purpose of acquiring, constructing, recon-  
17 structing, improving, bettering, extending, restoring, refurbish-  
18 ing, renovating, repairing, equipping, furnishing, any or all,  
19 the properties and facilities that it is authorized to acquire,  
20 construct, reconstruct, maintain, or operate under this part,  
21 including properties and facilities owned by it, and shall pledge  
22 to the payment of the interest on and principal of such bonds,  
23 all or any part of the revenues derived from the operation of the  
24 properties and facilities so controlled and operated by the  
25 commission. There may be included in the cost for which bonds  
26 are to be issued, reasonable allowances for legal, engineering,  
27 or fiscal services, interest during construction or

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1 reconstruction and for 6 months after the estimated date of  
2 completion of the construction or reconstruction or until full  
3 revenues are being received from the operation of the facility,  
4 and other incidental expenses. The bonds shall be authorized by  
5 resolution of the commission and may be issued in 1 or more  
6 series, may bear such date or dates, may mature at such time or  
7 times not exceeding 30 years from their respective dates, may  
8 bear interest at such rate or rates, may be in such form, either  
9 coupon or registered, may be executed in such manner, may be pay-  
10 able at such place or places, may be subject to such terms of  
11 redemption, with or without premium, and may contain such terms,  
12 covenants, and conditions as such resolution or subsequent reso-  
13 lution may provide. Pending preparation of the definitive bonds,  
14 interim receipts, or certificates in such form and with such pro-  
15 visions as the commission may determine may be issued to the pur-  
16 chaser or purchasers of the bonds sold pursuant to this part.  
17 The bonds and interim receipts and certificates shall be fully  
18 negotiable within the meaning of and for all purposes of the  
19 negotiable instruments law of this state. The maximum rate of  
20 interest on such bonds shall be that set forth for bonds issued  
21 pursuant to the municipal finance act, ~~Act No. 202 of the Public~~  
22 ~~Acts of 1943, being sections 131.1 to 139.3 of the Michigan~~  
23 ~~Compiled Laws~~ 1943 PA 202, MCL 131.1 TO 139.3, but bonds issued  
24 under this part shall not in any other way be subject to ~~Act~~  
25 ~~No. 202 of the Public Acts of 1943~~ THE MUNICIPAL FINANCE ACT,  
26 1943 PA 202, MCL 131.1 TO 139.3. The sale and award of notes  
27 shall be conducted and made by the commission at a public or

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1 private sale. If a public sale is held, the notes shall be  
2 advertised for sale once not less than 7 days before sale in a  
3 publication printed in the English language and circulated in  
4 this state, which carries as a part of its regular service  
5 notices of the sales of municipal bonds and which has been desig-  
6 nated in the resolution as a publication complying with these  
7 qualifications. The notice of sale shall be in the form as des-  
8 ignated by the commission. Bonds may be sold at a discount as  
9 provided in the bond resolution.

10 (2) Any resolution authorizing the issuance of bonds under  
11 this part or any instrument of trust entered into as authorized  
12 by this part may contain covenants, including, but not limited  
13 to, any of the following:

14 (a) The purpose or purposes to which the proceeds of the  
15 sale of the bonds may be applied, and the deposit, use, and dis-  
16 position of the proceeds.

17 (b) The use, deposit, securing of deposits, and disposition  
18 of the revenues of the commission, including the creation and  
19 maintenance of reserves.

20 (c) The issuance of additional bonds payable from the reve-  
21 nues of the commission.

22 (d) The operation and maintenance of properties of the  
23 commission.

24 (e) The insurance to be carried thereon, and the use, depos-  
25 it, and disposition of insurance money.

26 (f) Books of account and the inspection and audit of the  
27 books of account and the accounting methods of the commission.

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1 (g) The nonrendering of any free service by the commission.

2 (h) The preservation of the properties of the commission, so  
3 long as any of the bonds remain outstanding, from any mortgage,  
4 sale, lease, or other encumbrance not specifically permitted by  
5 the terms of the resolution.

6 (i) The employment of sufficient personnel for the collec-  
7 tion of fees and charges incident to the operation of the facil-  
8 ity and for the payment of compensation to such personnel out of  
9 the fees and charges.

10 (3) In the discretion of the commission, any bonds issued  
11 under this part may be secured by a trust indenture by and  
12 between the commission and a corporate trustee, which may be any  
13 bank having the right to exercise the powers of a trust company  
14 within this state. Any such trust indenture may pledge or assign  
15 the revenues from the operation of properties of the commission,  
16 but shall not convey or mortgage any properties, except such  
17 revenues. Any trust indenture or any resolution providing for  
18 the issuance of bonds may contain such provisions for protecting  
19 and enforcing the rights and remedies of the bondholders as may  
20 be reasonable and proper and not in violation of law, including  
21 covenants setting forth the duties of the commission in relation  
22 to the acquisition of property and the construction, improvement,  
23 maintenance, repair, operation, and insurance of the improvements  
24 in connection with which the bonds have been authorized, and the  
25 custody, safeguarding, and application of all money, and provi-  
26 sions for the employment of consulting engineers, architects, and  
27 landscape architects in connection with the planning,



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1 construction, or operation of the improvements. Any trust  
2 indenture may set forth the rights and remedies of the bondhold-  
3 ers and of the trustee, and may restrict the individual right of  
4 action by bondholders as is customary in trust agreements or  
5 trust indentures securing bonds and debentures of corporations.  
6 In addition to the foregoing, any trust indenture or resolution  
7 may contain other provisions as the commission considers reason-  
8 able and proper for the security of the bondholders. The holder  
9 of any bond issued under this part or a trustee in his or her  
10 behalf may bring suit against the commission and its members,  
11 officers, and agents to enforce the provisions and covenants con-  
12 tained in any trust indenture or resolution. All expenses  
13 incurred in carrying out the provisions of any trust indenture  
14 may be treated as a part of the cost of operation of the improve-  
15 ments for which the bonds are authorized.

16       (4) Money received pursuant to this part, whether as pro-  
17 ceeds from the sale of bonds or as revenues from the operations  
18 of properties, or otherwise received by the commission, shall be  
19 considered to be trust funds, to be held and applied solely as  
20 provided in this part and in the resolution authorizing, or trust  
21 indenture securing, its bonds. All money received may be depos-  
22 ited in as received and paid out by any bank or banks selected  
23 for such purpose and eligible to hold public money under the laws  
24 of this state, such deposits and paying out to be in the manner  
25 provided in such resolution or trust indenture. None of the  
26 money need be paid into the state treasury.

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1       (5) If the commission has issued any bonds under this part,  
2 the commission may thereafter issue and negotiate new bonds under  
3 this part for the purpose of providing for the retirement of  
4 those outstanding bonds, in whole or in part. The new bonds  
5 shall be designated "gross revenue refunding bonds", and except  
6 as otherwise provided in the refunding resolution, shall be  
7 secured to the same extent and shall have the same source of pay-  
8 ment as the bonds which have been refunded, or may be payable  
9 from earnings on investments held in trust to pay refunded bonds  
10 for the period of time specified in the ordinance authorizing the  
11 bonds. The refunding bonds may be issued to include the amount  
12 of any premium to be paid upon the calling of the callable bonds  
13 to be refunded or any premium necessary to be paid in order to  
14 secure the surrender of the noncallable bonds to be refunded,  
15 interest to the maturity or redemption date of the bonds to be  
16 refunded, and the cost of issuing the refunding bonds. This sec-  
17 tion shall not be construed as providing for the redemption of  
18 noncallable unmatured bonds without the consent of the holder or  
19 holders of the bonds. The refunding bonds may be sold at public  
20 sale, may be privately negotiated, or may be exchanged for the  
21 obligations to be refunded by the obligations, and if sold, the  
22 proceeds shall be deposited in a bank and credited to a special  
23 trust account to be used only for the redemption or purchase of  
24 the outstanding bonds. If refunding bonds are to be issued and  
25 sold for the purpose of refunding noncallable unmatured bonds,  
26 those bonds shall be surrendered and canceled at the time of  
27 delivery to the purchaser of the refunding bonds, or sufficient

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1 funds shall be deposited in trust to pay principal and interest  
2 to maturity on noncallable bonds. If refunding bonds are to be  
3 issued for the purpose of refunding callable bonds, those bonds  
4 shall be surrendered and canceled at the time of delivery to the  
5 purchaser of the refunding bonds, or sufficient funds shall be  
6 deposited in trust to pay principal, interest, and redemption  
7 premium to the earliest redemption date on callable bonds. When  
8 the resolution authorizing the bonds to be refunded permits, the  
9 borrower may deposit in trust direct obligations of, or obliga-  
10 tions the principal and interest of which are unconditionally  
11 guaranteed by, the United States and which do not permit redemp-  
12 tion at the option of the issuer, the principal and interest on  
13 which when due, without reinvestment, will provide funds suffi-  
14 cient to pay principal, interest, and call premium, when due, on  
15 the bonds being refunded.

16 (6) Notwithstanding the other provisions of this section:

17 (a) Interest on the bonds may be payable at any time pro-  
18 vided in the resolution, and may be set, reset or calculated, or  
19 both, as provided in the resolution.

20 (b) If so authorized in the resolution bonds may be:

21 (i) Made the subject of a put or agreement to repurchase by  
22 the commission.

23 (ii) Secured by a letter of credit issued by a bank pursuant  
24 to an agreement entered into by the commission or secured by any  
25 other collateral.

26 (iii) Callable.

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1       (iv) Reissued by the commission once reacquired by the  
2 commission pursuant to any put or repurchase agreement.

3       (c) The commission may by resolution do any of the  
4 following:

5       (i) Authorize the issuance of renewal bonds.

6       (ii) Refund, or refund in advance, bonds by the issuance of  
7 new bonds, whether the bonds to be refunded have or have not  
8 matured.

9       (iii) Issue bonds partly to refund bonds and partly for any  
10 other purposes authorized by this part.

11       (iv) Buy and sell any bonds issued under this part.

12       (d) Renewal, refunding, or advance refunding bonds are  
13 subject to all of the following:

14       (i) Shall be sold and the proceeds applied to the purchase  
15 redemption or payment of the bonds to be renewed or refunded.

16       (ii) May be sold or resold at a public or private sale upon  
17 such terms and conditions as the commission may establish in the  
18 order.

19       (iii) May pledge the revenues pledged in the issue to be  
20 refunded in advance effective when a defeasance has occurred with  
21 respect to the original issue.

22       (e) If the commission so authorizes in the resolution autho-  
23 rizing the bonds, any bonds issued may be secured in whole or in  
24 part pursuant to a trust or escrow agreement which agreement may  
25 also govern the issuance of renewal bonds, refunding bonds, and  
26 advance refunding bonds. The agreement may authorize the trustee

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1 or escrow agent to make investments of any type authorized in the  
2 agreement.

3 (f) Powers specified in this subsection shall be in addition  
4 to those set forth in all other subsections and sections of this  
5 part.

6 (7) The commission shall hire an independent certified  
7 public accountant approved by the legislative auditor general to  
8 perform an annual audit of all of its operations which are  
9 required by, or in any way relate to, any covenants made in con-  
10 nection with any bonds issued pursuant to this part.

11 (8) The bonds MAY BE ISSUED IN ELECTRONIC FORMAT ONLY OR, IF  
12 ISSUED IN PAPER COPIES, shall be signed by the chairperson or  
13 vice-chairperson of the commission and attested to by any other  
14 officer of the commission authorized to do so by resolution of  
15 the commission. The signature of either officer, but not both,  
16 may be affixed by facsimile OR ELECTRONICALLY.

17 Sec. 76901. (1) The Mackinac Island state park commission  
18 may promulgate and enforce reasonable rules for the care and pre-  
19 servation of the Mackinac Island state park ~~—, for the mainte=~~  
20 ~~nance of good order, for the protection of property, and for the~~  
21 ~~welfare of the park, as from time to time the commission consid=~~  
22 ~~ers necessary or expedient~~ AND OTHER PROPERTY UNDER THE CONTROL  
23 OF THE MACKINAC ISLAND STATE PARK COMMISSION INCLUDING, BUT NOT  
24 LIMITED TO, THE MILL CREEK SITE DESCRIBED IN 1975 PA 285 AND THE  
25 SITE FORMERLY OCCUPIED AS A MILITARY POST UNDER THE NAME OF FORT  
26 MICHILIMACKINAC AS DESCRIBED IN SECTION 77701.

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1       (2) THE MACKINAC ISLAND STATE PARK COMMISSION MAY PROMULGATE  
2 RULES FOR THE PROTECTION OF THE LANDS AND PROPERTY UNDER ITS  
3 CONTROL AGAINST WRONGFUL USE OR OCCUPANCY TO PROTECT THE LANDS  
4 AND PROPERTY FROM DEPREDACTIONS AND TO PRESERVE THE LANDS AND  
5 PROPERTY FROM MOLESTATION, SPOILATION, DESTRUCTION, OR ANY OTHER  
6 IMPROPER USE OR OCCUPANCY.

7       (3) A PERSON WHO VIOLATES A RULE PROMULGATED BY THE MACKINAC  
8 ISLAND STATE PARK COMMISSION UNDER THIS ACT IS RESPONSIBLE FOR A  
9 STATE CIVIL INFRACTION AND MAY BE ORDERED TO PAY A CIVIL FINE OF  
10 NOT MORE THAN \$500.00.

11       Sec. 76903. All rules promulgated by the Mackinac Island  
12 state park commission under this part, this act, or any other act  
13 shall be effective within the whole territory covered by the  
14 park, and the Mackinac Island state park commission may promul-  
15 gate and enforce rules relative to any part or portion of the  
16 park OR OTHER PROPERTY CONTROLLED BY THE MACKINAC ISLAND STATE  
17 PARK COMMISSION, notwithstanding any contrary or inconsistent  
18 ordinance, regulation, or bylaw of the city of Mackinac Island,  
19 THE TOWNSHIP OF MACKINAW, COUNTY OF CHEBOYGAN, OR THE VILLAGE OF  
20 MACKINAW CITY.

21                                   PART 779. MILL CREEK

22       SEC. 77901. THE MACKINAC ISLAND STATE PARK COMMISSION SHALL  
23 HAVE THE CONTROL AND MANAGEMENT OF THE SITE KNOWN AS THE MILL  
24 CREEK SITE DESCRIBED IN 1975 PA 285.

25       Enacting section 1. The following are repealed:

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1 (a) Sections 76902 and 77703 of the natural resources and  
2 environmental protection act, 1994 PA 451, MCL 324.76902 and  
3 324.77703.

4 (b) Part 775 of the natural resources and environmental pro-  
5 tection act, 1994 PA 451, MCL 324.77501 to 324.77502.

6 Enacting section 2. This amendatory act takes effect August  
7 6, 2001.

8 Enacting section 3. This amendatory act does not take  
9 effect unless House Bill No. 4941 of the 91st Legislature is  
10 enacted into law.