

HOUSE BILL No. 4956

June 13, 2001, Introduced by Reps. Tabor, Allen and Stewart and referred to the Committee on Commerce.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending sections 76501, 76503, 76504, 76508, 76703, 76901,
and 76903 (MCL 324.76501, 324.76503, 324.76504, 324.76508,
324.76703, 324.76901, and 324.76903), 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. 76501. As used in this part: ~~—, "commission"~~

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

4 (B) "DIRECTOR" MEANS THE DIRECTOR OF THE MACKINAC ISLAND
5 STATE PARK COMMISSION.

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

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1 Sec. 76503. (1) The governor shall appoint 7 commissioners,
2 who shall be citizens of, registered voters, and regularly domi-
3 ciled in this state and who constitute a board of commissioners
4 to be known as the Mackinac Island state park commission.
5 However, the present commissioners shall hold office until their
6 successors have been appointed. One commissioner shall be known
7 as the "resident commissioner," and this commissioner shall be a
8 legal resident of the island and a property owner in the city of
9 Mackinac Island for a period of not less than 6 months preceding
10 his or her nomination. One commissioner shall be a resident of
11 the village of Mackinaw City. His or her term of office shall
12 commence on April 12, 1958.

13 (2) The members of the commission shall be appointed by the
14 governor, by and with the advice and consent of the senate, for
15 terms of 6 years each and shall hold office until their succes-
16 sors are appointed. However, of the members first appointed, 2
17 shall be appointed for a term of 2 years, 2 for a term of 4 years
18 each, and 2 for a term of 6 years each. Not more than 4 commis-
19 sioners at any 1 time shall be of the same political party.
20 Vacancies shall be filled by the governor in the same manner as
21 the original appointment for the unexpired term. ~~No~~ A member
22 of the commission shall NOT receive any compensation for his or
23 her services as commissioner, but each commissioner shall
24 ~~receive his or her actual disbursement for his or her expense~~
25 BE REIMBURSED FOR EXPENSES incurred in connection with the duties
26 of his or her office. ~~, which expense shall be allowed and paid~~
27 ~~by the auditor general upon proper submittal of vouchers.~~ The

1 commission shall annually elect a chairperson, vice-chairperson,
2 and secretary.

3 (3) The Mackinac Island state park commission is created
4 within the department of ~~natural resources~~ HISTORY, ARTS, AND
5 CULTURE and shall have the powers and duties of an agency trans-
6 ferred under a type I transfer pursuant to section 3 of the exec-
7 utive organization act of 1965, ~~Act No. 380 of the Public Acts~~
8 ~~of 1965, being section 16.103 of the Michigan Compiled Laws~~ 1965
9 PA 380, MCL 16.103.

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

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

24 (A) LAY out, manage, and maintain the park ~~—~~ AND preserve
25 the old fort ~~—, and promulgate~~ AND OTHER OTHER PROPERTY HELD BY
26 THE COMMISSION ON THE EFFECTIVE DATE OF THE 2001 AMENDMENTS TO

1 THIS SECTION OR WHICH IS ACQUIRED BY THE COMMISSION AFTER THIS
2 DATE.

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

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

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

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

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

15 (4) ~~(3)~~ The rules of the commission shall apply to all
16 roads situated on Mackinac Island state park lands. The commis-
17 sion shall not make a rule permitting the use of motor vehicles
18 except motor vehicles owned by the state, a political subdivision
19 of the state, or by a public utility, and used in the exercise of
20 its franchise. The commission may provide by rule for the issu-
21 ance of temporary permits for the operation of motor vehicles
22 over roads situated on state park lands. The commission may
23 grant permits for the use of lands for the expansion of existing
24 cemeteries, under terms and conditions as the commission
25 prescribes. The commission may also grant privileges and fran-
26 chises for waterworks, sewerage, transportation, and lighting,
27 for a period of not more than 40 years. The commission shall

1 prescribe by rule the maximum number of horse drawn vehicles for
2 hire that may be licensed by the commission for operation within
3 the park.

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

13 (6) ~~-(5)-~~ All money received from rentals or privileges
14 shall be paid promptly into the state treasury to be credited to
15 the general fund and to be disbursed as appropriated by the
16 legislature. The ~~Mackinac Island state park~~ commission, in
17 consideration of the furnishing of fire protection, street serv-
18 ice, sewerage service, and other public service agreed upon, may
19 remit reasonable rentals as the commission determines from leases
20 of property acquired by the state under the general property tax
21 act, ~~Act No. 206 of the Public Acts of 1893, being sections~~
22 ~~211.1 to 211.157 of the Michigan Compiled Laws~~ 1893 PA 206, MCL
23 211.1 TO 211.157, and deeded to the commission, to the several
24 tax assessing units in which the property is situated as provided
25 in ~~Act No. 206 of the Public Acts of 1893~~ THE GENERAL PROPERTY
26 TAX ACT, 1893 PA 206, MCL 211.1 TO 211.157, in proportion to the

1 delinquent taxes and special assessments of the units ~~cancelled~~
2 CANCELED against the description of land.

3 (7) ~~-(6)-~~ A writing prepared, owned, used, in the possession
4 of, or retained by the commission in the performance of an offi-
5 cial function shall be made available to the public in compliance
6 with the freedom of information act, ~~Act No. 442 of the Public~~
7 ~~Acts of 1976, being sections 15.231 to 15.246 of the Michigan~~
8 ~~Compiled Laws~~ 1976 PA 442, MCL 15.231 TO 15.246. The commission
9 shall provide to the governor an annual report and statement of
10 receipts and expenditures, and recommendations and suggestions as
11 the commission considers proper.

12 Sec. 76508. The ~~superintendent of the Mackinac Island~~
13 ~~state park~~ DIRECTOR may appoint, by and with the consent of the
14 commission, such number of special police as the commission may
15 by resolution direct, which special police shall be under the
16 supervision and direction of the ~~superintendent~~ DIRECTOR, who
17 shall be charged with the ~~execution~~ ENFORCEMENT of the LAWS OF
18 THIS STATE RELATED TO THE PARK AND THE rules promulgated by the
19 commission for the care and preservation of the park, and the
20 property in and about the fort. The special police shall be
21 vested with the authority of COUNTY sheriffs ~~of the island,~~
22 and, WITHIN THE PARK, may apprehend and arrest, without warrant,
23 any person whom they may find violating the LAWS OF THIS STATE
24 RELATED TO THE PARK OR THE rules ~~which shall~~ THAT have been
25 ~~published relative to good order~~ PROMULGATED CONCERNING the
26 preservation of property, the mutilation of landmarks, or the
27 destruction or injury to growing trees and shrubs. ~~The special~~

~~1 police are authorized to make complaint against offenders against
2 the rules of the government of Mackinac Island state park, before
3 the district court of the judicial district that includes
4 Mackinac Island and the judges may take cognizance, hear, try,
5 and determine such complaints and pass sentence upon offenders,
6 in accordance with the procedures applicable in misdemeanor
7 cases.~~

8 Sec. 76703. (1) The commission may issue its gross revenue
9 bonds in anticipation of the collection of all or any part of its
10 revenues, for the purpose of acquiring, constructing, recon-
11 structing, improving, bettering, extending, restoring, refurbish-
12 ing, renovating, repairing, equipping, furnishing, any or all,
13 the properties and facilities that it is authorized to acquire,
14 construct, reconstruct, maintain, or operate under this part,
15 including properties and facilities owned by it, and shall pledge
16 to the payment of the interest on and principal of such bonds,
17 all or any part of the revenues derived from the operation of the
18 properties and facilities so controlled and operated by the
19 commission. There may be included in the cost for which bonds
20 are to be issued, reasonable allowances for legal, engineering,
21 or fiscal services, interest during construction or reconstruc-
22 tion and for 6 months after the estimated date of completion of
23 the construction or reconstruction or until full revenues are
24 being received from the operation of the facility, and other
25 incidental expenses. The bonds shall be authorized by resolution
26 of the commission and may be issued in 1 or more series, may bear
27 such date or dates, may mature at such time or times not

1 exceeding 30 years from their respective dates, may bear interest
2 at such rate or rates, may be in such form, either coupon or reg-
3 istered, may be executed in such manner, may be payable at such
4 place or places, may be subject to such terms of redemption, with
5 or without premium, and may contain such terms, covenants, and
6 conditions as such resolution or subsequent resolution may
7 provide. Pending preparation of the definitive bonds, interim
8 receipts, or certificates in such form and with such provisions
9 as the commission may determine may be issued to the purchaser or
10 purchasers of the bonds sold pursuant to this part. The bonds
11 and interim receipts and certificates shall be fully negotiable
12 within the meaning of and for all purposes of the negotiable
13 instruments law of this state. The maximum rate of interest on
14 such bonds shall be that set forth for bonds issued pursuant to
15 the municipal finance act, ~~Act No. 202 of the Public Acts of~~
16 ~~1943, being sections 131.1 to 139.3 of the Michigan Compiled~~
17 ~~Laws~~ 1943 PA 202, MCL 131.1 TO 139.3, but bonds issued under
18 this part shall not in any other way be subject to ~~Act No. 202~~
19 ~~of the Public Acts of 1943~~ THE MUNICIPAL FINANCE ACT, 1943 PA
20 202, MCL 131.1 TO 139.3. The sale and award of notes shall be
21 conducted and made by the commission at a public or private
22 sale. If a public sale is held, the notes shall be advertised
23 for sale once not less than 7 days before sale in a publication
24 printed in the English language and circulated in this state,
25 which carries as a part of its regular service notices of the
26 sales of municipal bonds and which has been designated in the
27 resolution as a publication complying with these qualifications.

1 The notice of sale shall be in the form as designated by the
2 commission. Bonds may be sold at a discount as provided in the
3 bond resolution.

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

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

11 (b) The use, deposit, securing of deposits, and disposition
12 of the revenues of the commission, including the creation and
13 maintenance of reserves.

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

16 (d) The operation and maintenance of properties of the
17 commission.

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

20 (f) Books of account and the inspection and audit of the
21 books of account and the accounting methods of the commission.

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

23 (h) The preservation of the properties of the commission, so
24 long as any of the bonds remain outstanding, from any mortgage,
25 sale, lease, or other encumbrance not specifically permitted by
26 the terms of the resolution.

1 (i) The employment of sufficient personnel for the
2 collection of fees and charges incident to the operation of the
3 facility and for the payment of compensation to such personnel
4 out of the fees and charges.

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

1 the foregoing, any trust indenture or resolution may contain
2 other provisions as the commission considers reasonable and
3 proper for the security of the bondholders. The holder of any
4 bond issued under this part or a trustee in his or her behalf may
5 bring suit against the commission and its members, officers, and
6 agents to enforce the provisions and covenants contained in any
7 trust indenture or resolution. All expenses incurred in carrying
8 out the provisions of any trust indenture may be treated as a
9 part of the cost of operation of the improvements for which the
10 bonds are authorized.

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

22 (5) If the commission has issued any bonds under this part,
23 the commission may thereafter issue and negotiate new bonds under
24 this part for the purpose of providing for the retirement of
25 those outstanding bonds, in whole or in part. The new bonds
26 shall be designated "gross revenue refunding bonds", and except
27 as otherwise provided in the refunding resolution, shall be

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

1 premium to the earliest redemption date on callable bonds. When
2 the resolution authorizing the bonds to be refunded permits, the
3 borrower may deposit in trust direct obligations of, or obliga-
4 tions the principal and interest of which are unconditionally
5 guaranteed by, the United States and which do not permit redemp-
6 tion at the option of the issuer, the principal and interest on
7 which when due, without reinvestment, will provide funds suffi-
8 cient to pay principal, interest, and call premium, when due, on
9 the bonds being refunded.

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

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

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

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

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

20 (iii) Callable.

21 (iv) Reissued by the commission once reacquired by the com-
22 mission pursuant to any put or repurchase agreement.

23 (c) The commission may by resolution do any of the
24 following:

25 (i) Authorize the issuance of renewal bonds.

1 (ii) Refund, or refund in advance, bonds by the issuance of
2 new bonds, whether the bonds to be refunded have or have not
3 matured.

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

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

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

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

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

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

17 (e) If the commission so authorizes in the resolution autho-
18 rizing the bonds, any bonds issued may be secured in whole or in
19 part pursuant to a trust or escrow agreement which agreement may
20 also govern the issuance of renewal bonds, refunding bonds, and
21 advance refunding bonds. The agreement may authorize the trustee
22 or escrow agent to make investments of any type authorized in the
23 agreement.

24 (f) Powers specified in this subsection shall be in addition
25 to those set forth in all other subsections and sections of this
26 part.

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

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

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

22 (2) THE MACKINAC ISLAND STATE PARK COMMISSION MAY PROMULGATE
23 RULES FOR THE PROTECTION OF THE LANDS AND PROPERTY UNDER ITS CON-
24 TROL AGAINST WRONGFUL USE OR OCCUPANCY TO PROTECT THE LANDS AND
25 PROPERTY FROM DEPREDATIONS AND TO PRESERVE THE LANDS AND PROPERTY
26 FROM MOLESTATION, SPOILATION, DESTRUCTION, OR ANY OTHER IMPROPER
27 USE OR OCCUPANCY.

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

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

15 PART 779. MILL CREEK

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

19 Enacting section 1. The following are repealed:

20 (a) Sections 76902 and 77703 of the natural resources and
21 environmental protection act, 1994 PA 451, MCL 324.76902 and
22 324.77703.

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

25 Enacting section 2. This amendatory act does not take
26 effect unless Senate Bill No. _____ or House Bill No. 4941

1 (request no. 02873'01) of the 91st Legislature is enacted into
2 law.