

Act No. 78
Public Acts of 2001
Approved by the Governor
July 23, 2001
Filed with the Secretary of State
July 24, 2001
EFFECTIVE DATE: August 6, 2001

**STATE OF MICHIGAN
91ST LEGISLATURE
REGULAR SESSION OF 2001**

Introduced by Reps. Tabor, Allen and Stewart

ENROLLED HOUSE BILL No. 4956

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

Sec. 63502. (1) "Agricultural land" includes any of the following as determined by the department of natural resources under part 609:

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

(b) Unique farmland is land other than prime farmland that is used for the production of specific high-value food and fiber crops. Unique farmland has the special combination of soil quality, location, growing season, and moisture supply needed to economically produce sustained high quality or high yields or both high quality and high yields of a specific crop when treated and managed according to acceptable farming methods. Areas that can be classified as unique farmland include organic soils producing vegetables and specialty crops; high-lying and relatively frost-free fruit sites; and areas of high water table acid soils especially suited to highbush blueberry culture as well as the small areas in the Upper Peninsula copper country that are producing strawberries.

(c) Other farmland is land in addition to prime farmland and unique farmland that has a combination of soils, location, and management characteristics which is producing or can produce in or for a region food, feed, forage, and fiber crops and is land on which agriculture represents the greatest current economic return from the land. Other farmland includes beef cow-calf operations that occur on generally fine-textured, somewhat poorly drained soils well-suited to forage

production and grazing. Cropland areas that by their location are especially suited for the production of disease-free seed crops or that offer special opportunities for integrated best management programs could also be considered other farmland. The determination of whether agricultural land is prime farmland, unique farmland, or other farmland shall be made by the department of natural resources under part 609 or this part, with the concurrence of the department of agriculture and the United States department of agriculture.

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

(3) "Approximate original contour" means that surface configuration achieved by the backfilling and grading of the mined area so that the reclaimed area, including any terracing or access roads, closely resembles the general surface configuration of the land prior to mining and blends into and complements the drainage pattern of the surrounding terrain, with all highwalls and spoil piles eliminated.

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

(5) "Coal exploration operation" means the substantial disturbance of the surface or subsurface for the purpose of or related to determining the location, quantity, or quality of a coal deposit.

(6) "Department" means the department of environmental quality.

(7) "Eligible land and water" means all land that was mined for coal or was affected by that mining, wastebanks, coal processing, or other coal mining processing, and abandoned or left in an inadequate reclamation status under the standards provided in subparts 3 and 4 prior to August 3, 1977, and for which there is not a continuing reclamation responsibility under state or federal law.

(8) "Historic resource" means a district, site, building, structure, or object of historical, architectural, archeological, or cultural significance that meets any of the following requirements:

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

(b) Is listed on the national register of historic places pursuant to the national historic preservation act, Public Law 89-665, 16 U.S.C. 470 to 470a, 470b, and 470c to 470x-6; or the state register of historic sites pursuant to 1955 PA 10, MCL 399.151 to 399.152.

(c) Is recognized under a locally established historic district created pursuant to the local historic districts act, 1970 PA 169, MCL 399.201 to 399.215.

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

(9) "Imminent danger to the health and safety of the public" means the existence of any condition or practice, or any violation of a permit or other requirement of this part in a surface coal mining and reclamation operation, which condition, practice, or violation could reasonably be expected to cause substantial physical harm to persons outside the permit area before the condition, practice, or violation can be abated. A reasonable expectation of death or serious injury before abatement exists if a reasonable person, subjected to the same conditions or practices giving rise to the peril, would not expose himself or herself to the danger during the time necessary for abatement.

(10) "Local unit of government" means a county, city, township, or village; a board, commission, or authority of a county, city, township, or village; or a soil conservation district.

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

Sec. 63523. (1) When an application for a surface coal mining and reclamation permit or renewal of an existing permit is submitted, the applicant's advertisement of ownership, location, and boundaries of the land to be affected shall be placed in a local newspaper of general circulation in the locality of the proposed surface coal mining operation for 4 consecutive weeks. The department shall notify local units of government in the vicinity of the proposed mining and reclamation area of the operator's intention to conduct a surface mining operation indicating the application's number and the county courthouse or township office in which a copy of the proposed surface coal mining and reclamation plan may be inspected. A local unit of government may submit written comments within a period established by the department on the mining applications with respect to the effect of the operation proposed by the applicant on the environment that is within its area of responsibility. The comments shall immediately be transmitted to the applicant by the department and shall be made available to the public at the same location as the mining application.

(2) In addition to the notice required in subsection (1), the department shall notify the department of history, arts, and libraries of the operator's intention to conduct a surface mining operation and shall provide the department of history, arts, and libraries with a copy of the permit application. Based on the information required pursuant to section 63516(1)(r), the department of history, arts, and libraries shall determine whether or not the proposed surface mining

operation will adversely affect a historic resource. The department of history, arts, and libraries may file written objection to the proposed surface mining operation pursuant to subsection (3).

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

(4) Within 45 days after the last publication of the notice provided in subsection (1), the applicant or any person with an interest that is or may be adversely affected may request a hearing on the application. The hearing shall be held within 30 days after the expiration of the time allowed for submitting the request.

(5) An action taken by the department with respect to a permit application shall be conducted pursuant to chapters 4 and 5 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.271 to 24.292.

Sec. 63524. (1) On the basis of a complete application for a surface coal mining and reclamation permit or a revision or renewal of a permit, the department shall grant, require modification of, or deny the application for a permit within 120 days after the application is submitted to the department, except that an application submitted pursuant to section 63514(2) shall be granted, modified, or denied within 120 days after the approval of this state's program. The department shall notify the applicant in writing of its decision regarding granting, modifying, or denying the application for a permit. The applicant for a permit or revision of a permit has the burden of establishing that his or her application is in compliance with all the requirements of this part. Within 3 days after the granting of a permit, but before the permit is issued, the department shall notify the county clerk in each county in which the land to be affected is located that a permit has been issued and shall describe the location of the land.

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

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

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

(c) An assessment of the probable cumulative impact of all anticipated surface coal mining inside and outside the permit area on the hydrologic balance, including quantitative and qualitative analyses, has been made by the department, and the proposed operation has been designed to prevent material damage to the hydrologic balance inside and outside the permit area.

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

(e) If the ownership of the coal has been severed from the private surface estate, the applicant has submitted to the department either the written consent of the surface owner to the extraction of coal by surface mining methods or a conveyance that expressly grants or reserves the right to extract the coal by surface mining methods. However, if the conveyance does not expressly grant the right to extract coal by surface mining methods, the surface-subsurface legal relationship shall be determined in accordance with state law, except that this part does not authorize the department to adjudicate property rights disputes.

(f) If the department of history, arts, and libraries determines that the proposed surface mining operation will adversely affect a historic resource, the application is approved jointly by the department, by the federal, state, or local agency with jurisdiction over the historic resource, and by the department of history, arts, and libraries.

(3) The applicant shall file, with the application, a schedule listing all notices of violations of this part or other law of this state and any law, rule, or regulation of the United States or of any department or agency in the United States pertaining to air or water environmental protection incurred by the applicant in connection with a surface coal mining operation during the 3-year period prior to the date of application. The schedule shall include the final resolution of notice of the violation. If the schedule or other information available to the department indicates that a surface coal mining operation owned or controlled by the applicant is currently in violation of this part or other laws referred to in this subsection, the permit shall not be issued until the applicant submits affidavits that the violation has been corrected or is in the process of being corrected to the satisfaction of the department or the agency that has jurisdiction over the violation or that the notice of violation is being contested by the applicant. A permit shall not be issued to an applicant after a finding by the department, after opportunity for hearing, that the applicant, or the operator specified in the application, controls or has controlled mining operations with a demonstrated pattern of violations of this part of such nature and duration with such resulting pollution, impairment, or destruction to the environment as to indicate an intent not to comply with this part.

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

Sec. 63545. (1) The department shall promulgate rules establishing a process for designating areas unsuitable for surface coal mining. The rules shall include all of the following:

(a) Surface coal mining land review.

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

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

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

(e) Procedures for determining whether an area proposed for surface coal mining contains historic resources. These rules shall be developed with the concurrence of the department of history, arts, and libraries and the department of natural resources.

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

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

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

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

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

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

(f) Adversely affect an agricultural operation, including planting, harvesting, transportation, processing, or other activity included in the agricultural impact statement required by section 63516(1)(s).

(3) Determinations of the unsuitability of land for surface coal mining shall be integrated with present and future land use planning and regulation processes at the federal, state, and local levels. The requirements of this section do not apply to land on which surface coal mining operations were being conducted on August 3, 1977, or under a permit issued pursuant to former 1982 PA 303, or where substantial legal and financial commitments in the operation or proposed operation were in existence prior to January 4, 1977.

(4) A person having an interest that is or may be adversely affected has the right to petition the department to have an area designated as unsuitable for surface coal mining operations or to have that designation terminated. The petition shall contain allegations of facts with supporting evidence. Within 30 days after receipt of the petition, the department shall hold a public hearing in the locality of the affected area. After a person having an interest that is or may be adversely affected has filed a petition and before the hearing, any person may intervene by filing allegations of facts with supporting evidence that would tend to establish the allegations. Within 60 days after the hearing, the department shall issue and furnish to the petitioner and any other party to the hearing a written decision with reasons for the decision. In the event that all the parties stipulate agreement prior to the requested hearing and withdraw their request, the hearing need not be held.

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

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

(a) Adversely affect a publicly owned park or historic resource unless approved jointly by the department and the federal, state, or local agency with jurisdiction over the park or historic resource and by the department of history, arts, and libraries.

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

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

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

(8) In administering this section, the department shall consult with the department of natural resources.

Sec. 76501. As used in this part:

(a) "Commission" means the Mackinac Island state park commission created in section 76503.

(b) "Director" means the director of the Mackinac Island state park commission.

(c) "Motor vehicle" means any device that is self-propelled, or partially self-propelled, by which a person or property may be transported or drawn.

Sec. 76503. (1) The Mackinac Island state park commission shall consist of 7 members appointed by the governor.

(2) Members of the commission shall be citizens of, registered voters, and regularly domiciled in this state. However, the present members of the commission shall hold office until their successors have been appointed. One member of the commission shall be known as the "resident commissioner", and this member shall be a legal resident of the island and a property owner in the city of Mackinac Island for a period of not less than 6 months preceding his or her nomination. One member of the commission shall be a resident of the village of Mackinaw City.

(3) The members of the commission shall be appointed by the governor, by and with the advice and consent of the senate, for terms of 6 years each and shall hold office until their successors are appointed. However, of the members first appointed, 2 shall be appointed for a term of 2 years, 2 for a term of 4 years each, and 3 for a term of 6 years each. Not more than 4 members of the commission at any 1 time shall be of the same political party. Vacancies shall be filled by the governor in the same manner as the original appointment for the unexpired term.

(4) A member of the commission shall not receive any compensation for his or her services on the commission, but each member of the commission shall be reimbursed for expenses incurred in connection with the duties of his or her office.

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

(6) The Mackinac Island state park commission is created within the department of history, arts, and libraries and shall have the powers and duties of an agency transferred under a type I transfer pursuant to section 3 of the executive organization act of 1965, 1965 PA 380, MCL 16.103.

Sec. 76504. (1) The Mackinac Island state park shall be under the control and management of the commission, and a majority of the members of the commission constitutes a quorum for the transaction of business. The business which the commission may perform shall be conducted at a public meeting of the commission held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date, and place of the meeting shall be given in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(2) The commission shall have the exclusive right to do either or both of the following:

(a) Lay out, manage, and maintain the park and preserve the old fort and other property held by the commission on the effective date of the 2001 amendments to this section or which is acquired by the commission after this date.

(b) Promulgate and enforce rules not inconsistent with the laws of this state and necessary to implement the commission's duties.

(3) The commission may do 1 or more of the following:

(a) Enter into leases and establish prices for rentals or privileges upon property controlled by the commission.

(b) Sell or lease as personal property buildings or structures acquired by the commission in settlement of delinquent land rentals.

(c) Employ a director and other persons as may be needed.

(4) The rules of the commission shall apply to all roads situated on Mackinac Island state park lands. The commission shall not make a rule permitting the use of motor vehicles except motor vehicles owned by the state, a political subdivision of the state, or by a public utility, and used in the exercise of its franchise. The commission may provide by rule for the issuance of temporary permits for the operation of motor vehicles over roads situated on state park lands. The commission may grant permits for the use of lands for the expansion of existing cemeteries, under terms and conditions as the commission prescribes. The commission may also grant privileges and franchises for waterworks,

sewerage, transportation, and lighting, for a period of not more than 40 years. The commission shall prescribe by rule the maximum number of horse drawn vehicles for hire that may be licensed by the commission for operation within the park.

(5) The sheriff of the county of Mackinac, upon the application of the commission, shall appoint 1 or more persons who shall be designated by the commission as deputy sheriffs in and for the county, and who shall be employees of the commission but who shall not receive fees or emoluments for services as deputy sheriffs. The commission may establish the compensation of the persons employed by the commission, but a debt or obligation shall not be created by the commission exceeding the amount of money at its disposal at the time.

(6) All money received from rentals or privileges shall be paid promptly into the state treasury to be credited to the general fund and to be disbursed as appropriated by the legislature. The commission, in consideration of the furnishing of fire protection, street service, sewerage service, and other public service agreed upon, may remit reasonable rentals as the commission determines from leases of property acquired by the state under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157, and deeded to the commission, to the several tax assessing units in which the property is situated as provided in the general property tax act, 1893 PA 206, MCL 211.1 to 211.157, in proportion to the delinquent taxes and special assessments of the units canceled against the description of land.

(7) A writing prepared, owned, used, in the possession of, or retained by the commission in the performance of an official function shall be made available to the public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246. The commission shall provide to the governor an annual report and statement of receipts and expenditures, and recommendations and suggestions as the commission considers proper.

Sec. 76508. The director may appoint, by and with the consent of the commission, such number of special police as the commission may by resolution direct, which special police shall be under the supervision and direction of the director, who shall be charged with the enforcement of the laws of this state related to the park and the rules promulgated by the commission for the care and preservation of the park, and the property in and about the fort. The special police shall be vested with the authority of county sheriffs and, within the park, may apprehend and arrest, without warrant, any person whom they may find violating the laws of this state related to the park or the rules that have been promulgated concerning the preservation of property, the mutilation of landmarks, or the destruction or injury to growing trees and shrubs.

Sec. 76703. (1) The commission may issue its gross revenue bonds in anticipation of the collection of all or any part of its revenues, for the purpose of acquiring, constructing, reconstructing, improving, bettering, extending, restoring, refurbishing, renovating, repairing, equipping, furnishing, any or all, the properties and facilities that it is authorized to acquire, construct, reconstruct, maintain, or operate under this part, including properties and facilities owned by it, and shall pledge to the payment of the interest on and principal of such bonds, all or any part of the revenues derived from the operation of the properties and facilities so controlled and operated by the commission. There may be included in the cost for which bonds are to be issued, reasonable allowances for legal, engineering, or fiscal services, interest during construction or reconstruction and for 6 months after the estimated date of completion of the construction or reconstruction or until full revenues are being received from the operation of the facility, and other incidental expenses. The bonds shall be authorized by resolution of the commission and may be issued in 1 or more series, may bear such date or dates, may mature at such time or times not exceeding 30 years from their respective dates, may bear interest at such rate or rates, may be in such form, either coupon or registered, may be executed in such manner, may be payable at such place or places, may be subject to such terms of redemption, with or without premium, and may contain such terms, covenants, and conditions as such resolution or subsequent resolution may provide. Pending preparation of the definitive bonds, interim receipts, or certificates in such form and with such provisions as the commission may determine may be issued to the purchaser or purchasers of the bonds sold pursuant to this part. The bonds and interim receipts and certificates shall be fully negotiable within the meaning of and for all purposes of the negotiable instruments law of this state. The maximum rate of interest on such bonds shall be that set forth for bonds issued pursuant to the municipal finance act, 1943 PA 202, MCL 131.1 to 139.3, but bonds issued under this part shall not in any other way be subject to the municipal finance act, 1943 PA 202, MCL 131.1 to 139.3. The sale and award of notes shall be conducted and made by the commission at a public or private sale. If a public sale is held, the notes shall be advertised for sale once not less than 7 days before sale in a publication printed in the English language and circulated in this state, which carries as a part of its regular service notices of the sales of municipal bonds and which has been designated in the resolution as a publication complying with these qualifications. The notice of sale shall be in the form as designated by the commission. Bonds may be sold at a discount as provided in the bond resolution.

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

(a) The purpose or purposes to which the proceeds of the sale of the bonds may be applied, and the deposit, use, and disposition of the proceeds.

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

- (c) The issuance of additional bonds payable from the revenues of the commission.
- (d) The operation and maintenance of properties of the commission.
- (e) The insurance to be carried thereon, and the use, deposit, and disposition of insurance money.
- (f) Books of account and the inspection and audit of the books of account and the accounting methods of the commission.
- (g) The nonrendering of any free service by the commission.
- (h) The preservation of the properties of the commission, so long as any of the bonds remain outstanding, from any mortgage, sale, lease, or other encumbrance not specifically permitted by the terms of the resolution.
- (i) The employment of sufficient personnel for the collection of fees and charges incident to the operation of the facility and for the payment of compensation to such personnel out of the fees and charges.

(3) In the discretion of the commission, any bonds issued under this part may be secured by a trust indenture by and between the commission and a corporate trustee, which may be any bank having the right to exercise the powers of a trust company within this state. Any such trust indenture may pledge or assign the revenues from the operation of properties of the commission, but shall not convey or mortgage any properties, except such revenues. Any trust indenture or any resolution providing for the issuance of bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the commission in relation to the acquisition of property and the construction, improvement, maintenance, repair, operation, and insurance of the improvements in connection with which the bonds have been authorized, and the custody, safeguarding, and application of all money, and provisions for the employment of consulting engineers, architects, and landscape architects in connection with the planning, construction, or operation of the improvements. Any trust indenture may set forth the rights and remedies of the bondholders and of the trustee, and may restrict the individual right of action by bondholders as is customary in trust agreements or trust indentures securing bonds and debentures of corporations. In addition to the foregoing, any trust indenture or resolution may contain other provisions as the commission considers reasonable and proper for the security of the bondholders. The holder of any bond issued under this part or a trustee in his or her behalf may bring suit against the commission and its members, officers, and agents to enforce the provisions and covenants contained in any trust indenture or resolution. All expenses incurred in carrying out the provisions of any trust indenture may be treated as a part of the cost of operation of the improvements for which the bonds are authorized.

(4) Money received pursuant to this part, whether as proceeds from the sale of bonds or as revenues from the operations of properties, or otherwise received by the commission, shall be considered to be trust funds, to be held and applied solely as provided in this part and in the resolution authorizing, or trust indenture securing, its bonds. All money received may be deposited in as received and paid out by any bank or banks selected for such purpose and eligible to hold public money under the laws of this state, such deposits and paying out to be in the manner provided in such resolution or trust indenture. None of the money need be paid into the state treasury.

(5) If the commission has issued any bonds under this part, the commission may thereafter issue and negotiate new bonds under this part for the purpose of providing for the retirement of those outstanding bonds, in whole or in part. The new bonds shall be designated "gross revenue refunding bonds", and except as otherwise provided in the refunding resolution, shall be secured to the same extent and shall have the same source of payment as the bonds which have been refunded, or may be payable from earnings on investments held in trust to pay refunded bonds for the period of time specified in the ordinance authorizing the bonds. The refunding bonds may be issued to include the amount of any premium to be paid upon the calling of the callable bonds to be refunded or any premium necessary to be paid in order to secure the surrender of the noncallable bonds to be refunded, interest to the maturity or redemption date of the bonds to be refunded, and the cost of issuing the refunding bonds. This section shall not be construed as providing for the redemption of noncallable unmatured bonds without the consent of the holder or holders of the bonds. The refunding bonds may be sold at public sale, may be privately negotiated, or may be exchanged for the obligations to be refunded by the obligations, and if sold, the proceeds shall be deposited in a bank and credited to a special trust account to be used only for the redemption or purchase of the outstanding bonds. If refunding bonds are to be issued and sold for the purpose of refunding noncallable unmatured bonds, those bonds shall be surrendered and canceled at the time of delivery to the purchaser of the refunding bonds, or sufficient funds shall be deposited in trust to pay principal and interest to maturity on noncallable bonds. If refunding bonds are to be issued for the purpose of refunding callable bonds, those bonds shall be surrendered and canceled at the time of delivery to the purchaser of the refunding bonds, or sufficient funds shall be deposited in trust to pay principal, interest, and redemption premium to the earliest redemption date on callable bonds. When the resolution authorizing the bonds to be refunded permits, the borrower may deposit in trust direct obligations of, or obligations the principal and interest of which are unconditionally guaranteed by, the United States and which do not permit redemption at the option of the issuer, the principal and interest on which when due, without reinvestment, will provide funds sufficient to pay principal, interest, and call premium, when due, on the bonds being refunded.

(6) Notwithstanding the other provisions of this section:

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

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

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

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

(iii) Callable.

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

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

(i) Authorize the issuance of renewal bonds.

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

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

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

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

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

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

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

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

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

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

(8) The bonds may be issued in electronic format only or, if issued in paper copies, shall be signed by the chairperson or vice-chairperson of the commission and attested to by any other officer of the commission authorized to do so by resolution of the commission. The signature of either officer, but not both, may be affixed by facsimile or electronically.

Sec. 76901. (1) The Mackinac Island state park commission may promulgate and enforce reasonable rules for the care and preservation of the Mackinac Island state park and other property under the control of the Mackinac Island state park commission including, but not limited to, the Mill Creek site described in 1975 PA 285 and the site formerly occupied as a military post under the name of Fort Michilimackinac as described in section 77701.

(2) The Mackinac Island state park commission may promulgate rules for the protection of the lands and property under its control against wrongful use or occupancy to protect the lands and property from depredations and to preserve the lands and property from molestation, spoilation, destruction, or any other improper use or occupancy.

(3) A person who violates a rule promulgated by the Mackinac Island state park commission under this act is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than \$500.00.

Sec. 76903. All rules promulgated by the Mackinac Island state park commission under this part, this act, or any other act shall be effective within the whole territory covered by the park, and the Mackinac Island state park commission may promulgate and enforce rules relative to any part or portion of the park or other property controlled by the Mackinac Island state park commission, notwithstanding any contrary or inconsistent ordinance, regulation, or bylaw of the city of Mackinac Island, the township of Mackinaw, county of Cheboygan, or the village of Mackinaw City.

PART 779. MILL CREEK

Sec. 77901. The Mackinac Island state park commission shall have the control and management of the site known as the Mill Creek site described in 1975 PA 285.

Enacting section 1. The following are repealed:

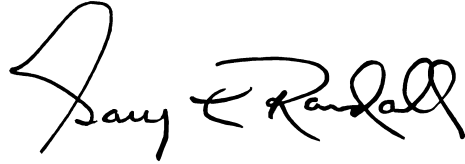
(a) Sections 76902 and 77703 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.76902 and 324.77703.

(b) Part 775 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.77501 to 324.77502.

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

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

This act is ordered to take immediate effect.



Clerk of the House of Representatives.



Secretary of the Senate.

Approved _____

Governor.