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BILL ANALYSIS

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Senate Bill 354 (Substitute S-2)
Sponsor: Senator Michelle A. McManus
Committee: Natural Resources and Environmental Affairs

Date Completed: 5-16-07

CONTENT

The bill would amend Part 401 (Wildlife Conservation) of the Natural Resources and Environmental Protection Act to require the Department of Natural Resources (DNR) to do the following:

- **Administer a program to control and manage double-crested cormorants in order to reduce damage caused by the birds.**
- **Participate in a federally recognized organization of states to coordinate a regional effort to reduce cormorant damage.**
- **Seek funding from the Great Lakes Protection Fund for deposit into the Cormorant Control Fund.**

The bill is tie-barred to House Bill 4471, which would define several terms used in Senate Bill 354 (S-2), and House Bill 4614, which would create the Cormorant Control Fund within the State Treasury.

To reduce cormorant damage, Senate Bill 354 (S-2) would require the DNR to administer a program to control and manage double-crested cormorants. The DNR would have to administer the program in cooperation with Federal agencies and in a manner that complied with the cormorant depredation order.

(Under House Bill 4471, "cormorant damage" would mean adverse impacts of double-crested cormorants on fish, including fish hatchery stock, wildlife, plants, and their habitats. "Cormorant depredation order" would mean the depredation order for double-crested cormorants to protect public resources, 50 CFR 21.48, issued by the U.S. Department of the Interior, Fish and Wildlife Service. The order is described under **BACKGROUND**, below.)

Additionally, in consultation with the Department of Environmental Quality, the DNR would have to participate in a federally recognized organization of states, such as the Mississippi Flyway Council, to coordinate a regional effort to reduce cormorant damage that included urging the Federal government to do both of the following:

- Expand state options for double-crested cormorant control by revising the depredation order.
- Seek to amend the Migratory Bird Convention with Mexico to designate the double-crested cormorant as a game species.

The bill also would require the DNR to seek funding from the Great Lakes Protection Fund for deposit in the Cormorant Control Fund. (Part 331 of the Act authorizes the Governor to

enter into an agreement with other states for the formation and operation of a regional Great Lakes Protection Fund. Fund money is used to support activities related to Great Lakes research and protection, including the collection and analysis of data on the Great Lakes, the development of new or improved environmental cleanup technologies, research to assess the effectiveness of pollution control policies, and the assessment of the health of Great Lakes fish, waterfowl, and other organisms.)

Proposed MCL 324.40107c

BACKGROUND

The Federal depredation order for double-crested cormorants is contained in 50 CFR 21.48. The purpose of the order is to reduce the occurrence and/or minimize the risk of adverse impacts on public resources (fish, wildlife, plants, and their habitats) caused by double-crested cormorants. The order applies to all land and freshwaters in Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, New York, North Carolina, Ohio, Oklahoma, South Carolina, Tennessee, Texas, Vermont, West Virginia, and Wisconsin.

The depredation order authorizes agencies (i.e., state fish and wildlife agencies, federally recognized tribes, and state directors of the Wildlife Services program of the U.S. Department of Agriculture Animal and Plant Health Inspection Service) to prevent depredations on the public resources of fish, wildlife, plants, and their habitats by taking without a permit double-crested cormorants found committing or about to commit such depredations.

The order specifies that a person operating under it should first use nonlethal control methods, such as harassment and exclusion devices, when they are considered effective and practicable and not harmful to other nesting birds. Double-crested cormorants may be taken only by egg oiling (with 100% corn oil), egg and nest destruction, cervical dislocation, firearms, and CO₂ asphyxiation. A person using a shotgun must use nontoxic shot. A person may use decoys, taped calls, or other devices to lure within gun range double-crested cormorants committing or about to commit depredation of public resources.

A person operating under the depredation order may not take double-crested cormorants contrary to the laws or regulations of the applicable state. None of the privileges granted under the order may be exercised unless the person possesses the appropriate state or other permits, if required.

A person must properly dispose of double-crested cormorants killed in control efforts. Individuals may donate the birds to museums or other scientific and educational institutions for exhibition, or bury or incinerate them. Individuals may not allow birds taken under the order, or their plumage, to be sold, offered for sale, bartered, or shipped for the purpose of sale or barter.

The order prescribes regulations pertaining to cormorant control activities conducted near nesting areas or critical habitat of specified endangered species. Additionally, if any agency plans a control action or succession of control actions that would kill more than 10% of the double-crested cormorants in a breeding colony, it must first provide written notification to the appropriate Service Regional Migratory Bird Permit Office.

Agencies must give a one-time written notice to the appropriate office before initiating any control activities in a given year. Agencies also must give the office an annual report detailing control activities. A person operating under the order must keep records of all activities carried out under it.

The order states that, in some situations, agencies may deem it necessary to reduce or eliminate local breeding populations of double-crested cormorants to reduce the occurrence of resource impacts. For these actions, agencies must meet specified conditions.

The order will expire on April 30, 2009, unless revoked or extended before that date.

Legislative Analyst: Julie Cassidy

FISCAL IMPACT

The bill would cost the State an indeterminate amount for the cormorant control program and the activities of a multistate collaboration. Under the bill, the DNR would have to seek funding from the Great Lakes Protection Fund for deposit into the proposed Cormorant Control Fund, created in House Bill 4614. Michigan's Great Lakes Protection Fund receives revenue from the regional Great Lakes Protection Fund to support research and protection grants for projects related to the Great Lakes. Currently, this revenue is appropriated in the Department of Environmental Quality budget primarily to support the Office of the Great Lakes and for research grants. It is unclear whether the money to support cormorant control activities would come from the regional Great Lakes Protection Fund or if the bill would earmark a portion of Michigan's annual distribution from the regional fund.

The Cormorant Control Fund would support the proposed Great Lakes cormorant control collaboration and would not cover expenses of the proposed cormorant control program. Other than a potential transfer of money from the Great Lakes Protection Fund, no fund source is identified to support the collaboration or the control program.

In FY 2006-07, \$150,000 from the State's General Fund was appropriated for the DNR to conduct cormorant control activities. Expenditure of this money is contingent upon matching Federal funds, which have not been provided yet. This appropriation will lapse if not spent by September 30, 2007.

Fiscal Analyst: Bill Bowerman

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.