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House Bill 4471 (Substitute H-1 as passed by the House)
House Bill 4614 (Substitute H-1 as passed by the House)
Sponsor: Representative Darwin Booher (H.B. 4471)
Representative Joel Sheltroun (H.B. 4614)
House Committee: Tourism, Outdoor Recreation, and Natural Resources
Senate Committee: Natural Resources and Environmental Affairs

Date Completed: 6-26-07

CONTENT

The bills would amend Part 401 (Wildlife Conservation) of the Natural Resources and Environmental Protection Act to create the "Cormorant Control Fund" and define the terms "cormorant damage" and "cormorant depredation order".

The bills are tie-barred to each other and to Senate Bill 354, which would require the Department of Natural Resources (DNR) to 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, and seek funding from the Great Lakes Protection Fund for deposit in the Cormorant Control Fund. The House bills are described below in further detail.

House Bill 4614 (H-1)

The bill would create the "Cormorant Control Fund" within the DNR. The State Treasurer could receive money or other assets from any source for deposit into the Fund. The State Treasurer would have to direct the investment of the Fund and credit to it any interest and earnings. Money in the Fund at the close of the fiscal year would remain in the Fund and would not lapse to the General Fund.

The DNR could spend Fund money, upon appropriation, only to implement Section 40107c, (which Senate Bill 354 would add). That section would require the DNR to administer the cormorant control and management program in a manner that complied with the cormorant depredation order (defined under House Bill 4471 (H-1)). Additionally, that section would require the DNR to participate in the organization with other states to urge the Federal government to expand state options for double-crested cormorant control by revising the depredation order, and seek to amend the migratory bird convention with Mexico to designate the double-crested cormorant as a game species.

House Bill 4471 (H-1)

Under the bill, "cormorant damage" would mean adverse impacts of double-crested cormorants on fish, fish hatchery stock, wildlife, plants, and their habitats and on manmade structures. "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 below, under **BACKGROUND.**)

MCL 324.40102 (H.B. 4471)

Proposed MCL 40107d (H.B. 4614)

BACKGROUND

The Public Resource 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

House Bills 4471 (H-1) and 4614 (H-1) would have no fiscal impact on the State or local units of government. However, these bills are tie-barred to Senate Bill 354, which would require the Department of Natural Resources to administer a program to control and manage double-crested cormorants. Senate Bill 354 (H-1) would direct the DNR to seek funding from the Great Lakes Protection Fund for deposit into the Cormorant Control Fund proposed by House Bill 4614 (H-1), but a specific amount is not identified. Michigan's Great Lakes Protection Fund is appropriated in the Department of Environmental Quality budget primarily to support the Office of the Great Lakes and for research grants. A distribution from the Great Lakes Protection Fund to the Cormorant Control Fund would reduce the funds available for current uses of the Great Lakes Protection Fund.

Fiscal Analyst: Jessica Runnels

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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.