



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536



Telephone: (517) 373-5383
Fax: (517) 373-1986

Senate Bill 206 (as introduced 3-12-15)
Sponsor: Senator Darwin L. Booher
Committee: Natural Resources

Date Completed: 3-17-15

CONTENT

The bill would amend Part 19 (Natural Resources Trust Fund) of the Natural Resources and Environmental Protection Act to do the following:

- **Prohibit the Department of Natural Resources (DNR) from acquiring land with funding from any source unless the Department was first denied funding from the Michigan Natural Resources Trust Fund (MNRTF).**
- **Prohibit the DNR from restricting access to any land acquired with Trust Fund money.**
- **Authorize the DNR to transfer land acquired with MNRTF money to a local unit of government for less than fair market value, under certain conditions.**
- **Prohibit the DNR from including a reverter clause or right of reentry in the transfer of property acquired with MNRTF money.**
- **Require proposed appropriations for recreation facilities to be included in the MNRTF Board's annual list of land or rights in land and public recreation facilities to be acquired or developed with Trust Fund money.**
- **Prohibit a member appointed to the MNRTF Board from serving for more than two terms.**

The bill also would require the MNRTF Board to do all of the following in preparing its annual list:

- **Allow for the purchase of land or land rights in a manner that allowed removal of restrictions to provide for greater use of the property.**
- **Provide for at least 25% of the money available for the acquisition of land or rights in land to be used for trails.**
- **Allow up to 50% of the funding available for development projects to be available for multiyear projects.**
- **Allow funding for the acquisition of land or rights in land that had already been developed or was proposed for development for public recreation facilities.**
- **Describe how each recommended land acquisition would be consistent with the DNR's strategic plan for land acquisition.**

In addition, the bill would delete a provision authorizing up to one-third of the money received by the MNRTF in any State fiscal year to be spent in subsequent fiscal years, until the balance of the MNRTF exceeds \$500.0 million (which occurred in 2011).

Trust Fund Expenditures

The MNRTF consists of all bonuses, rentals, delayed rentals, and royalties collected or reserved by the State under provisions of leases for the extraction of nonrenewable resources from State-owned lands. Subject to the limitations of Part 19 of the Act and Article IX, Section 35 of the State Constitution, the interest and earnings of the MNRTF in any State fiscal year may be spent in subsequent fiscal years only for the following purposes:

- The acquisition of land or rights in land for recreational uses or protection of the land because of its environmental importance or scenic beauty.
- The development of public recreation facilities.
- The administration of the MNRTF, including payments in lieu of taxes (PILT) on State-owned land purchased through the Trust Fund.

The Legislature is required to make appropriations from the MNRTF each fiscal year to make full PILT. Under the bill, the authorized administrative expenditures would include full funding for all PILT.

In addition to the interest and earnings, 33-1/3% of the money received by the MNRTF in any fiscal year, exclusive of interest and earnings, may be spent in subsequent fiscal years for the purposes described above, until the total amount of money in the MNRTF, exclusive of interest and earnings and amounts authorized for expenditure, exceeds \$500.0 million. The bill would delete this provision.

DNR Land Acquisition

Under the bill, the DNR could not acquire land in Michigan with funding from any source unless the Department first submitted an application for funding from the MNRTF and the application was denied.

The bill would prohibit the DNR from restricting access to land acquired with MNRTF money.

MNRTF Property Transfer

Part 19 provides for the sale or transfer of property acquired with money from the MNRTF to a nongovernmental entity, and requires the State to forward to the State Treasurer for deposit into the Trust Fund an amount of money equal to the following:

- If the property was acquired solely with MNRTF money, the greatest of: the net proceeds of the sale, the fair market value (FMV) of the property at the time of the sale or transfer, or the amount of money spent from the Trust Fund to acquire the property.
- If the property was acquired with a combination of MNRTF money and other restricted funding sources, an amount equal to the percentage of the funds contributed by the MNRTF for the acquisition of the property multiplied by the greatest of the amounts described above.

The bill would authorize the DNR to transfer property that was acquired with MNRTF money to a local unit of government for less than fair market value if the local unit had adopted a plan to develop public recreation facilities on the property and committed an amount equal to at least 25% of the property's FMV to the development. All proceeds of such a transfer received by the DNR would have to be deposited in the MNRTF.

The bill also would prohibit the DNR from including a reverter clause or right of reentry clause in the transfer of property that was acquired with MNRTF money.

MNRTF Board

The MNRTF Board consists of five members, who include the DNR Director or a member of the Natural Resources Commission, as well as four Michigan residents appointed by the Governor with the advice and consent of the Senate. The terms of the appointed members are four years. The bill would prohibit an appointed member from being appointed to serve for more than two terms.

List of Land for Acquisition or Development

Part 19 requires the Board to determine which lands and rights in land should be acquired and which public recreation facilities should be developed with MNRTF money, and submit to the Legislature an annual list of those lands, rights in land, and facilities, compiled in order of priority.

The bill would require the list to be based upon the accounting of revenue available for expenditure as described in the report prepared under Section 1902(5). (That section requires the DNR to prepare and submit to the Legislature an annual report containing an accounting of revenue and expenditures from the MNRTF.)

The bill also would require the list to contain proposed appropriations for recreation facilities equal to 25% of the interest and earnings of the MNRTF from the previous year, as well as proposed appropriations from other available money.

The bill would require the Board to do all of the following in preparing the list:

- Allow for the purchase of land or rights in land previously purchased with Federal funds or other restricted State funds in a manner that allowed restrictions to be removed to provide for greater use of the property.
- Allow for the reimbursement of Federal funds that were used to purchase land or rights in land in a manner that allowed restrictions to be removed to provide for greater use of the property.
- If sufficient applications were received, provide for at least 25% of the money available for acquisition of land or rights in land to be used for trails.
- Allow up to 50% of the funding available for development projects to be available for multiyear projects.

Additionally, from the money authorized for expenditure on the acquisition of land and rights in land, the Board would have to allow funding for land that had already been developed or was proposed for development for public recreation facilities.

For each parcel of land that was recommended for acquisition by the DNR, the Board would have to include in the list the provisions of the strategic plan provided for in Section 503 applicable to that parcel and a description of how the acquisition would be consistent with the plan.

(Under Section 503, by October 1, 2014, the DNR had to develop a written strategic plan to guide the acquisition of State land managed by the Department. The plan is required to divide the State into regions, identify land managed by the DNR in each region, and set forth for each region measurable strategic performance goals with respect to prescribed factors. Beginning in 2020, the DNR must update the plan every six years. At least 30 days before acquiring or disposing of land, the Department must submit to the Legislature a statement identifying the land and the effect of the proposed transaction on achieving the goals of the strategic plan.)

FISCAL IMPACT

The bill would have an indeterminate impact on annual expenditures from the MNRTF for State and local MNRTF projects. The MNRTF reached \$500.0 million in 2011, thereby limiting subsequent annual expenditures to interest and investment earnings, and funding carried forward from previous years. The Michigan Constitution provides that not less than 25% of the total amounts made available for expenditure from the Trust Fund from any State fiscal year must be spent for acquisition of land and rights in land and not more than 25% of the total amounts made available for expenditure from the Trust Fund from any State fiscal year must be spent for development of public recreation facilities. The Constitution also allows the MNRTF revenue to be used for the administration of the MNRTF, which may include payments in lieu of taxes on State-owned land purchased through the Trust Fund.

The bill would require MNRTF Board annual recommendations to contain proposed appropriations for recreation facilities equal to 25% of the interest and earnings of the Trust Fund from the previous year. The MNRTF in recent years has created reserves using its discretion to determine how much of earnings are "made available for expenditure" in each fiscal year. The existing reserves in the MNRTF total \$95.2 million.

The bill could affect the types of projects recommended each year by allowing for the purchase of land, or rights in land, previously purchased with Federal or State restricted funds in a manner that removed restrictions in order to provide greater use of the property, requiring at least 25% of acquisition expenditures to be used for acquisitions of land or rights in land to be used for trails, and allowing 50% of funding available for development projects to be available for multiyear development projects.

The provisions preventing the Department of Natural Resources from acquiring land in the State with funding from any source unless the Department had first applied for funding from the MNRTF and the project had been denied, preventing the DNR from restricting access to land, and eliminating the Department's ability to include a reverter and rights of reentry clauses in property transfers, would have an indeterminate impact on the State.

The provision allowing the Department to transfer property purchased with the MNRTF to a local unit of government for less than fair market value if the local unit had a plan to develop public recreation facilities and committed funds equal to at least 25% of the fair market value of the property to development, would potentially enable local units of government to acquire property at a lower cost than would otherwise be possible.

Finally, referring to "full funding for all" payments in lieu of taxes on State-owned land purchased through the MNRTF would reiterate what is currently required under MCL 1903(1)(c) and MCL 324.2154.

Fiscal Analyst: Bill Bowerman

SAS\S1516\s206sa

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.