



HOUSE BILL No. 5874

November 10, 1994 Introduced by Rep Alley and referred to the Committee on Conservation Environment and Great Lakes

A bill to amend the title and sections 1 2, 3, 3a, 3b 4 8, 8b, 9, and 10 of Act No 17 of the Public Acts of 1921, entitled as amended

"An act to provide for the protection and conservation of the natural resources of the state to provide and develop facilities for outdoor recreation to create a conservation department to define the powers and duties thereof to provide rules and regulations concerning the use and occupancy of lands and property under its control and penalties for the violation thereof to provide for the transfer to said department of the powers and duties now vested by law in certain boards commissions and officers of the state and for the abolishing of the boards, commissions and offices the powers and duties of which are hereby transferred

sections 2 and 3a as amended by Act No 92 of the Public Acts of 1992, sections 8, 9, and 10 as added by Act No 91 of the Public Acts of 1987, and section 8b as added by Act No 72 of the Public Acts of 1993 being sections 299 1, 299 2, 299 3 299 3a 299 3b, 299 4, 299 8, 299 8b, 299 9, and 299 10 of the Michigan Compiled Laws and to add section 1a

9 **TITLE**

21 Sec 1 (1) A department of natural resources for this
22 state is created which shall possess the powers and perform the
23 duties ~~granted and imposed~~ RELATED TO HUNTING, FISHING, PARKS,
24 RECREATION, AND THE CONSERVATION OF THE NATURAL RESOURCES OF THIS
25 STATE AS PROVIDED by this act AND AS OTHERWISE PROVIDED BY LAW

1 (2) The ~~general administration of these powers and duties~~
2 ~~shall be vested in a~~ COMMISSION OF NATURAL RESOURCES IS CREATED
3 AS THE HEAD OF THE DEPARTMENT OF NATURAL RESOURCES AND MAY ESTAB-
4 LISH GENERAL POLICIES RELATED TO NATURAL RESOURCES MANAGEMENT AND
5 ENVIRONMENTAL PROTECTION FOR THE GUIDANCE OF THE DIRECTOR THE
6 ~~commission of natural resources which~~ shall be composed of 7
7 members, NOT MORE THAN 4 OF WHOM SHALL BE MEMBERS OF THE SAME
8 POLITICAL PARTY appointed by the governor ~~, subject to~~
9 ~~confirmation~~ by AND WITH THE ADVICE AND CONSENT OF the senate
10 A member of the commission shall be selected with special refer-
11 ence to that person s training and experience related to at least
12 1 of the principal lines of activities vested in the department
13 OF NATURAL RESOURCES and the ability and fitness of that person
14 to deal with those activities ~~Two members shall reside in the~~
15 ~~Upper Peninsula~~ The term of office of each member of the com-
16 mission ~~shall be 6~~ IS 4 years ~~However, of those first~~
17 ~~appointed, 3 shall be appointed for 2 years, 2 for 4 years, and 2~~
18 ~~for 6 years~~ The governor shall fill a vacancy occurring in the
19 membership of the commission and may remove a member of the com-
20 mission for cause after a hearing Each member of the commission
21 shall hold office until the appointment and qualification of that
22 member s successor

23 (3) The commission, within 30 days after having qualified
24 and annually after that time, shall meet at its office in Lansing
25 and organize ~~by electing a chairperson and~~ by appointing a sec-
26 retary who need not be a member of the commission THE GOVERNOR
27 SHALL APPOINT A CHAIRPERSON OF THE COMMISSION FROM AMONG ITS

1 MEMBERS WHO SHALL SERVE AS CHAIRPERSON AT THE PLEASURE OF THE
 2 GOVERNOR Four members of the commission constitute a quorum for
 3 the transaction of business The business ~~which~~ THAT the com-
 4 mission ~~of natural resources~~ may perform shall be conducted at
 5 a public meeting of the commission held in compliance with THE
 6 OPEN MEETINGS ACT, Act No 267 of the Public Acts of 1976 being
 7 sections 15 261 to 15 275 of the Michigan Compiled Laws Public
 8 notice of the time date and place of the meeting shall be given
 9 in the manner required by Act No 267 of the Public Acts of
 10 1976 A meeting may be called by the chairperson and shall be
 11 called on request of a majority of the members of the
 12 commission A meeting may be held as often as necessary and at
 13 other places than the commissioners offices at Lansing ~~Not~~
 14 ~~less than 1 meeting shall be held~~ THE COMMISSION SHALL MEET AT
 15 LEAST ONCE each month

16 (4) The commission shall appoint and employ a director ~~of~~
 17 ~~the department of natural resources~~ who shall continue in office
 18 at the pleasure of the commission ~~and who shall receive a~~
 19 ~~salary not to exceed \$12 000 00 per year~~ The director shall
 20 appoint ~~with the approval of the commission a~~ 1 OR MORE deputy
 21 ~~director~~ DIRECTORS and other assistants and employees as are
 22 necessary to implement this ~~act~~ PART and any other law of this
 23 state affecting the powers and duties of the department OF NATU-
 24 RAL RESOURCES ~~The deputy director~~ A PERSON TO WHOM THE DIREC-
 25 TOR HAS LAWFULLY DELEGATED DECISION MAKING AUTHORITY IN WRITING
 26 may perform a duty or exercise a power conferred by law upon the
 27 ~~director~~ DEPARTMENT at the time and to the extent the duty and

1 power is delegated to ~~the deputy~~ THAT PERSON by the director
 2 When a vacancy in the office of director occurs, or the director
 3 is unable to perform the director s duties or is absent from the
 4 state the powers and duties of the director as prescribed by law
 5 shall be imposed on and transferred to ~~the~~ A deputy director
 6 until the vacancy is filled ~~—~~ or the director s inability or
 7 absence from the state ceases

8 (5) The compensation of the deputy ~~director~~ DIRECTORS the
 9 assistants and the employees ~~—~~ and the number of assistants
 10 and employees ~~shall be~~ IS subject to the approval of the state
 11 administrative board The members of the commission shall not
 12 receive compensation under this ~~act~~ PART but each member and
 13 the other officers and employees of the department ~~shall be~~ OF
 14 NATURAL RESOURCES ARE entitled to reasonable expenses while trav-
 15 eling in the performance of their duties prescribed by this act
 16 The salaries and expenses authorized under this act shall be paid
 17 out of the state treasury in the same manner as the salaries of
 18 other state officers and employees are paid The department of
 19 management and budget shall furnish suitable offices and office
 20 equipment at Lansing for the use of the department of natural
 21 resources Each member of the commission and the director ~~of~~
 22 ~~the department of natural resources~~ shall qualify by taking and
 23 subscribing to the constitutional oath of office ~~—~~ and by
 24 filing it in the office of the secretary of state

25 SEC 1A AS USED IN THIS ACT

26 (A) COMMISSION MEANS THE COMMISSION OF NATURAL RESOURCES

1 (B) DEPARTMENT MEANS THE DIRECTOR OF THE DEPARTMENT OF
 2 NATURAL RESOURCES OR HIS OR HER DESIGNEE TO WHOM A POWER OR DUTY
 3 IS DELEGATED BY WRITTEN INSTRUMENT

4 (C) "DIRECTOR MEANS THE DIRECTOR OF THE DEPARTMENT OF NATU-
 5 RAL RESOURCES

6 (D) "RULE" MEANS A RULE PROMULGATED PURSUANT TO THE ADMINIS-
 7 TRATIVE PROCEDURES ACT OF 1969, ACT NO 306 OF THE PUBLIC ACTS OF
 8 1969 BEING SECTIONS 24 201 TO 24 328 OF THE MICHIGAN COMPILED
 9 LAWS

10 Sec 2 (1) The powers and duties previously vested by law
 11 in the public domain commission the state game, fish, and forest
 12 fire commissioner and the state board of fish commissioners the
 13 geological survey and the Michigan state park commission are
 14 transferred to and vested in the department ~~of natural~~
 15 ~~resources~~ Whenever ~~in a law of this state~~ reference is
 16 made IN A LAW OF THIS STATE to a board commission or officer
 17 whose powers and duties are transferred by this section refer-
 18 ence shall be considered to be made to the department ~~of natu-~~
 19 ~~ral resources~~

20 (2) The commission ~~of natural resources~~ may promulgate
 21 rules, not inconsistent with law, governing its organization and
 22 procedure ~~and the administration of this act~~ as considered
 23 ~~expedient~~ NECESSARY The ~~commission~~ DEPARTMENT may promul-
 24 gate and enforce reasonable rules concerning the use and occu-
 25 pancy of lands and property under its control in accordance with
 26 section 3a may provide and develop facilities for outdoor
 27 recreation may conduct investigations it considers necessary for

1 the proper administration of this ~~act~~ PART may remove and
2 dispose of forest products as required for the protection refor-
3 estation, and proper development and conservation of the lands
4 and property under ~~its~~ control OF THE DEPARTMENT and may
5 require the payment of a fee as provided by law for a daily
6 permit or other authorization ~~which~~ THAT allows the person to
7 hunt and take waterfowl on a public hunting area managed and
8 developed for waterfowl ~~The commission may require the wearing~~
9 ~~of a special tag or license as a condition of issuing a permit~~
10 ~~under this section~~

11 (3) Except as provided in subsection (4), the ~~commission~~
12 DEPARTMENT may enter into contracts ~~with persons, sole proprie-~~
13 ~~torships, partnerships, associations, and corporations~~ for the
14 taking of coal, oil gas and other mineral products from state
15 owned lands upon a royalty basis or upon another basis and upon
16 the terms the ~~commission~~ DEPARTMENT considers just and
17 equitable This contract power includes authorization to enter
18 into contracts for the storage of gas or other mineral products
19 in or upon state owned lands if the consent of the state agency
20 having jurisdiction and control of the state owned land is first
21 obtained A contract permitted under this section for the taking
22 of coal oil gas or metallic mineral products or for the stor-
23 age of gas or other mineral products, is not valid unless the
24 contract is approved by the state administrative board Money
25 received from a contract permitted under this subsection, except
26 money received from lands acquired with money from the game and
27 fish protection fund CREATED IN SECTION 601 OF THE HUNTING AND

1 FISHING LICENSE ACT ACT NO 86 OF THE PUBLIC ACTS OF 1980 BEING
2 SECTION 316 601 OF THE MICHIGAN COMPILED LAWS, shall be transmit-
3 ted to the state treasurer for deposit in the ~~general fund of~~
4 ~~the state to be used for the purpose of defraying the expenses~~
5 ~~incurred in the administration of this act and other purposes~~
6 ~~provided by law~~ MICHIGAN NATURAL RESOURCES TRUST FUND CREATED IN
7 SECTION 35 OF ARTICLE IX OF THE STATE CONSTITUTION OF 1963
8 However the money received from the payment of service charges
9 by a person using areas managed for waterfowl shall be credited
10 to the game and fish protection fund and used only for the pur-
11 poses provided by law Money received from bonuses rentals,
12 delayed rentals, royalties and the direct sale of resources,
13 including forest resources from lands acquired with money from
14 the game and fish protection fund shall be credited to the game
15 and fish protection trust fund CREATED IN THE GAME AND FISH PRO-
16 TECTION TRUST FUND ACT ACT NO 73 OF THE PUBLIC ACTS OF 1986
17 BEING SECTIONS 300 211 TO 300 216 OF THE MICHIGAN COMPILED LAWS,
18 except as otherwise provided by law

19 (4) The ~~commission~~ DEPARTMENT shall not enter into a con-
20 tract that permits drilling operations for the taking of oil or
21 gas from the lake bottomlands of the Great Lakes or connecting or
22 connected bays, harbors, or waterways, unless all drilling opera-
23 tions originate from locations above and inland of the ordinary
24 high-water mark The ~~commission~~ DEPARTMENT shall not enter
25 into a contract for exploration of the lake bottomlands of the
26 Great Lakes or connecting or connected bays, harbors, or
27 waterways that permits drilling operations unless all drilling

1 operations originate from locations above and inland of the
 2 ordinary high-water mark

3 (5) This section does not permit a contract for the taking
 4 of gravel, sand, coal, oil, gas, or other metallic mineral prod-
 5 ucts that does not comply with applicable local ordinances and
 6 state law

7 Sec 3 (1) The department ~~of conservation~~ shall protect
 8 and conserve the natural resources of ~~the~~ THIS state ~~of~~
 9 ~~Michigan~~ provide and develop facilities for outdoor recreation
 10 prevent the destruction of timber and other forest growth by fire
 11 or otherwise promote the reforestation of forest lands belonging
 12 to the state prevent and guard against the pollution of lakes
 13 and streams within the state ~~and~~ and enforce all laws provided
 14 for that purpose with all authority granted by law ~~and~~ and
 15 foster and encourage the protecting and propagation of game and
 16 fish On behalf of the people of the state the ~~commission of~~
 17 ~~conservation~~ DEPARTMENT may accept gifts and grants of land and
 18 other property and ~~shall have authority to~~ MAY buy sell
 19 exchange or condemn land and other property for any of the pur-
 20 poses contemplated by this act The department ~~of conservation~~
 21 may accept funds ~~moneys~~ MONEY or grants for development of
 22 salmon and steelhead trout fishing in this state from the govern-
 23 ment of the United States, or any of its departments or agencies,
 24 pursuant to ~~federal Public Law 89-304~~ THE ANADROMOUS FISH CON-
 25 SERVATION ACT, PUBLIC LAW 89-304, 16 U S C 757a TO 757g, and may
 26 use ~~the same~~ THIS MONEY in accordance with the terms and
 27 provisions ~~thereof~~ ~~Provided, That~~ OF THAT ACT HOWEVER the

1 acceptance and use of federal funds ~~commits no~~ DOES NOT COMMIT
 2 state funds and ~~places no~~ DOES NOT PLACE AN obligation upon the
 3 legislature to continue the purposes for which the funds are made
 4 available

5 (2) The department ~~of conservation~~ may lease lands owned
 6 or controlled by it ~~which~~ THAT have been designated for use for
 7 recreational purposes but only to responsible legal units,
 8 within this state of national or state recognized groups devoted
 9 principally to development of character and citizenship training
 10 and physical fitness of youth the financial support of which is
 11 by voluntary public subscriptions or contributions, and the prop-
 12 erty of which is exempt from taxation under the laws of this
 13 state The department ~~of conservation shall also have the~~
 14 ~~authority to~~ MAY lease land in the Porcupine mountain state park
 15 to third parties for ~~such~~ purposes as it ~~shall consider~~
 16 CONSIDERS desirable Any lease ~~so made~~ ENTERED INTO UNDER THIS
 17 SUBSECTION shall ~~contain provisions limiting~~ LIMIT the purposes
 18 for which the LEASED land ~~so leased~~ is to be used and ~~a provi-~~
 19 ~~sion authorizing~~ SHALL AUTHORIZE the department ~~of~~
 20 ~~conservation~~ to terminate the lease upon a finding that the land
 21 is being used for purposes other than ~~as so limited or contrary~~
 22 ~~to the intent hereof~~ THOSE PERMITTED IN THE LEASE

23 Sec 3a (1) The ~~commission of natural resources~~
 24 DEPARTMENT shall promulgate rules for the protection of the lands
 25 and property under its control against wrongful use or occupancy
 26 as will ~~insure~~ ENSURE the carrying out of the intent of this
 27 act to protect the lands and property from depredations and to

1 preserve the lands and property from molestation, spoilation,
2 destruction, or any other improper use or occupancy This sec-
3 tion does not allow the ~~commission of natural resources~~
4 DEPARTMENT to promulgate ~~any~~ A rule that applies to commercial
5 fishing except as otherwise provided by law ~~Rules affecting~~
6 ~~the use and occupancy of lands and property shall be promulgated~~
7 ~~pursuant to the administrative procedures act of 1969, Act~~
8 ~~No 306 of the Public Acts of 1969, being sections 24 201 to~~
9 ~~24 328 of the Michigan Compiled Laws~~ The ~~director of the~~
10 ~~department of natural resources~~ DEPARTMENT shall issue orders
11 necessary to implement rules promulgated under this section
12 These orders shall be effective upon posting

13 (2) A person who violates a rule promulgated under this sec-
14 tion or an order issued under this section is guilty of a misde-
15 meanor, punishable by imprisonment for not more than 90 days or
16 community service of not more than 30 days, or by a fine of not
17 more than \$500 00 or both

18 (3) On and after the date the civil procedures act is
19 enacted into law a person who violates a rule promulgated under
20 this section or an order issued under this section is responsible
21 for a civil infraction and subject to a civil fine of not more
22 than \$500 00

23 Sec 3b The ~~conservation commission or~~ department ~~of~~
24 ~~conservation,~~ in pursuing the state s policy of propagating fish
25 for the purpose of stocking the streams and lakes of the state,
26 shall ~~not refuse to~~ accept federal fish stock for such
27 programs and shall apply for all federal fish stock programs

1 ~~which~~ THAT do not commit the state to future expenditures The
 2 department shall provide a listing to the legislature of all fed-
 3 eral fish stock programs by April 15 of each year

4 Sec 4 (1) A writing prepared owned used, in the posses-
 5 sion of or retained by the department ~~of natural resources~~ or
 6 THE commission ~~of natural resources~~ in the performance of ar
 7 official function shall be made available to the public in com-
 8 pliance with THE FREEDOM OF INFORMATION ACT Act No 442 of the
 9 Public Acts of 1976 being sections 15 231 to 15 246 of the
 10 Michigan Compiled Laws

11 (2) Before January 16 of each year in which a regular ses-
 12 sion of the legislature is held, the ~~director of the~~ department
 13 ~~of natural resources~~ shall make TO THE GOVERNOR AND THE
 14 LEGISLATURE a report covering the operation of the department OF
 15 NATURAL RESOURCES for the preceding biennial period ~~to the gov-~~
 16 ~~ernor and the legislature~~ The report if ordered by the depart-
 17 ment of management and budget, shall be printed and ~~be~~ distrib-
 18 uted in the manner and to the persons ~~, organizations institu-~~
 19 ~~tions, and officials~~ as the board directs The report shall be
 20 made available to the public as prescribed in subsection (1)

21 Sec 8 (1) The ~~commission~~ DEPARTMENT may require that a
 22 person obtain a permit for the use of a state park or a state
 23 forest campground The ~~commission~~ DEPARTMENT may establish and
 24 collect fees for permits to use state parks state forest camp-
 25 grounds, and specific state forest areas The revenue realized
 26 by the ~~commission~~ DEPARTMENT from permit fees and concessions
 27 at state parks shall be credited to a separate fund of the STATE

1 TREASURY AND SHALL BE AVAILABLE FOR APPROPRIATION TO THE
 2 department OF NATURAL RESOURCES for improvement and maintenance
 3 of state parks The permit fees for state forest campgrounds
 4 shall be used for the operation, maintenance, and development of
 5 state forest campgrounds Any unexpended permit fees for state
 6 forest campgrounds along with any excess collections from prior
 7 fiscal years shall be carried over into subsequent fiscal years
 8 and shall be available for appropriation for the operation, main-
 9 tenance and development of state forest campgrounds

10 (2) The ~~commission~~ DEPARTMENT may establish and collect
 11 fees for the processing of applications for the use of state for-
 12 ests that require extensive review The fees shall cover the
 13 cost to the department of processing the applications

14 Sec 8b The MacMullan conference center shall be available
 15 only to the following

16 (a) The department ~~of natural resources~~

17 (B) THE MICHIGAN ENVIRONMENTAL PROTECTION AGENCY

18 (C) ~~(b)~~ Federal state, and local government agencies

19 (D) ~~(c)~~ Education institutions

20 (E) ~~(d)~~ Nonprofit ~~corporation~~ CORPORATIONS or

21 ~~association~~ ASSOCIATIONS organized pursuant to the nonprofit
 22 corporation act Act No 162 of the Public Acts of 1982, being
 23 sections 450 2101 to 450 3192 of the Michigan Compiled Laws

24 (F) ~~(e)~~ Community service clubs

25 (G) ~~(f)~~ Handicapper groups

26 (H) ~~(g)~~ Members of the legislature for purposes related to
 27 the business of the legislature

1 (I) ~~(h)~~ Entities and organizations that wish to use the
2 conference center to host an event that has a natural resources
3 or environmental agenda

4 Sec 9 (1) Money received by the department OF NATURAL
5 RESOURCES for reimbursement of damages to department OF NATURAL
6 RESOURCES property reimbursement of land recording fees, sale of
7 farm animals from Maybury state park reimbursement for utilities
8 for the Michigan state exposition and fairgrounds, reproduction
9 of the agenda of the ~~commissions~~ COMMISSION OR OTHER MEETINGS
10 of the department reimbursement for forest fire protection serv-
11 ices provided to the federal government or other states and
12 money received from forfeited cash bonds security bonds and
13 court ordered reimbursements may be credited to the accounts from
14 which these disbursements were or are to be made

15 (2) The department may establish and collect fees for use of
16 aircraft and pilots of the department OF NATURAL RESOURCES The
17 aircraft fees collected shall be credited to a separate fund of
18 the STATE TREASURY AND SHALL BE AVAILABLE FOR APPROPRIATION TO
19 THE department OF NATURAL RESOURCES and used to pay all operating
20 and maintenance costs of the aircraft including depreciation and
21 aircraft replacement but shall not exceed the fee revenue col-
22 lected for the fiscal year together with any unexpended balances
23 of prior years

24 Sec 10 The department ~~of natural resources~~ may estab-
25 lish and collect fees for the department OF NATURAL RESOURCES
26 magazine publications, and related materials Fees collected
27 shall be credited to a separate fund of the STATE TREASURY AND

1 SHALL BE AVAILABLE FOR APPROPRIATION TO THE department OF NATURAL
 2 RESOURCES and used to pay all direct and indirect operating costs
 3 of the magazine and for the purchase of other related publica-
 4 tions and materials The retained earnings balance of the maga-
 5 zine at the end of the fiscal year shall not fall below the
 6 retained earnings balance at the end of the prior fiscal year
 7 Any unexpended fees collected pursuant to this section along
 8 with any excess collections from prior fiscal years shall be
 9 carried over into subsequent fiscal years and shall be available
 10 for appropriation for the purposes described in this section
 11 The magazine account shall receive an annual allocation of inter-
 12 est earned by the state treasurer s common cash fund on cash bal-
 13 ances of the magazine in accordance with procedures established
 14 by the state treasurer Accounting records of the magazine shall
 15 be maintained on an accrual basis in accordance with generally
 16 accepted accounting principles, including the establishment of
 17 separate asset, liability and equity accounts for the magazine
 18 On March 1 of each year the department ~~of natural resources~~
 19 shall report to the appropriations committees of the house of
 20 representatives and senate and the house and senate fiscal agen-
 21 cies the status of the natural resources magazine program as of
 22 the end of the prior fiscal year

23 Section 2 This amendatory act shall not take effect unless
 24 Senate Bill No _____ or House Bill No 5875 (request
 25 no 02392 93 **) of the 87th Legislature is enacted into law