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BILL ANALYSIS

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Senate Bill 302 (Substitute S-1 as reported)
Senate Bill 303 (Substitute S-1 as reported)
Sponsor: Senator Tom Casperson (S.B. 302)
 Senator Darwin L. Booher (S.B. 302)
Committee: Natural Resources

Date Completed: 5-18-17

RATIONALE

The Natural Resources and Environmental Protection Act authorizes the Department of Natural Resources (DNR) to accept gifts and grants of land, and to buy land on behalf of the people of Michigan. In addition, the Department owns a significant amount of land that it received through tax reversion. In some local units of government in Michigan, up to 90% of the land is owned by the State or Federal government, or is commercial forestland. In these areas, the local governments evidently cannot raise enough tax revenue to adequately manage themselves. The local units lose the property taxes that they would otherwise collect if that land were developed. To offset the revenue loss, State statute requires the DNR to make payments in lieu of taxes (PILT) to local governments. Under the Act, local governments also receive \$1.30 per acre of commercial forestland within their borders as PILT. These payments, however, amount to much less than a private landowner would pay in property taxes, and the State has not always been able to make full PILT due to budget shortfalls. Some believe that the State should be held accountable when it does not make payments on time or in full. It also has been suggested that the process a person must go through to purchase land from the DNR, which lowers the amount of land owned by the State, is too cumbersome, and that many individuals or businesses that would use land to benefit the local economy cannot do so because the DNR rejects their proposals to purchase it. In addition, some people believe that the land purchased by the DNR is not being managed properly and that the construction of gates and berms has blocked access to land meant to be enjoyed by the public, while money from the Game and Fish Protection Account has been used to purchase land that is not directly benefitting game species.

Many of the same or similar concerns were raised several years ago, leading to the enactment of Public Act 240 of 2012. That Act amended the Natural Resources and Environmental Protection Act to limit the acreage the DNR could acquire statewide until May 1, 2015; prohibit the DNR, after that date, from acquiring surface rights to land north of the Mason-Arenac line (formed by the north boundaries of Mason, Lake, Osceola, Clare, Gladwin, and Arenac Counties), if the acquisition would result in the Department's owning more than 3,910,000 acres north of that line; and require the DNR, by October 1, 2014, to develop a strategic plan to guide the acquisition and disposition of State land managed by the Department, and submit the plan to the Legislature. Public Act 240 also expressed legislative intent to remove the limit on the acquisition of land north of the Mason-Arenac line if the Legislature approves the strategic plan.

On July 1, 2013, the "Department of Natural Resources Managed Public Land Strategy" was issued.¹ Part One of the Strategy identifies goals and desired outcomes from managing public land. Part Two outlines how the DNR will manage public land and associated activities differently in the future, and "identifies a new approach for strategic investment in and disposal of DNR-managed

¹ The document is available on the DNR's website.

public lands...". Part Three establishes a timetable for implementation of the acquisition and disposal approach and the actions identified in Part Two.

It now been suggested that the Legislature should approve the strategic plan, eliminating the cap on the acquisition of land north of the Mason-Arenac line, while preventing the DNR from acquiring land anywhere in the State unless it fulfilled its PILT obligations. In addition, it has been suggested that local approval be required before the DNR could acquire land in some situations, the process of buying and selling State-owned land should be revised, and various measures should be taken to increase public recreational opportunities and manage game and fish habitats.

CONTENT

Senate Bill 302 (S-1) would amend various parts of the Natural Resources and Environmental Protection Act (NREPA) to do the following:

- **Provide for legislative approval of the Department of Natural Resources' strategic plan regarding the acquisition and disposition of State land managed by the Department; and require legislative approval of future updates to the plan.**
- **Require the DNR to update the plan every five years beginning in 2021, rather than every six years beginning in 2020.**
- **Prohibit the Department from acquiring the surface rights to additional acreage anywhere in the State if the State did not make its full required payments in lieu of taxes to local governments; and eliminate the 3,910,000-acre limit on the DNR's acquisition of land north of the Mason-Arenac line.**
- **Prohibit the DNR from acquiring land in a county where at least 40% of the land was owned by the State or the Federal government or was commercial forestland if the county rejected the acquisition, unless the township or townships approved it.**
- **In all other counties, require the DNR to notify the county and townships and provide an opportunity for local representatives to discuss a proposed land acquisition.**
- **Require the DNR's report to the Legislature in connection with a plan update to include the Department's progress in engaging and collaborating with local units of government.**
- **Require the DNR to consider access to and use of public land and the existence of natural resources-based industries on the land, before officially designating or classifying any of its land.**
- **Prohibit the DNR from promulgating a rule or issuing an order to protect and preserve property under its control that limited the use of or access to any land, unless the land was acquired with certain Federal funds or the State's Game and Fish Protection Account or the order was in response to an emergency.**
- **Prescribe procedures by which a local unit of government or an organization could request that the DNR remove a human-made barrier to Department land, and require the DNR to remove a barrier within 180 days after approving a request.**
- **Require the DNR to work with a local unit upon request to allow use of State land that would benefit the local community by increasing access to outdoor recreation and natural resources, and allow the DNR to charge the local unit a reasonable fee for the use.**
- **Require the DNR to manage land acquired with money from the Game and Fish Protection Account for the primary purpose of managing habitat and thereby enhancing recreational hunting opportunities.**
- **Require the DNR to manage land acquired with money received under the Federal Pittman-Robertson Wildlife Restoration Act to manage game and fish habitats or to increase recreational hunting, fishing, and shooting opportunities.**
- **Require the DNR to consider a request to sell or lease Department land if the prospective buyer or lessee were a business seeking expansion that was limited by adjacent State land, and other conditions were met.**
- **Require proceeds from the sale to be deposited in the fund that provided the revenue for the DNR's initial acquisition of the land, or, if the land had been acquired with**

- other than with restricted fund revenue, in the Land Exchange Facilitation and Management Fund.
- Require the DNR to charge a \$300 application fee for the exchange or purchase of State-owned land, or if the State land were more than 300 acres in size, \$300 plus the actual reasonable cost of processing the application.
 - Allow the DNR to charge an application fee of \$300 or actual processing costs for an easement over State-owned land.
 - Allow the DNR to sell surplus land if the sale would promote economic activity in the State, and other conditions were met.
 - Delete a provision prohibiting the DNR from authorizing the sale of surplus land if the proceeds will cause the balance of the Land Exchange Facilitation Fund to exceed \$25.0 million.
 - Prescribe procedures for determining the value of land for purposes of a purchase, sale, or exchange involving the DNR, if two or more appraisals that met Department standards were made.
 - Require the DNR, upon request, to consider selling land that was not designated as surplus land.
 - Provide that Part 355 (Biological Diversity Conservation) would not require a State department or agency to designate or classify an area of land specifically for the purpose of achieving or maintaining biological diversity.
 - Revise the DNR's duties with regard to sustainable management of State forestland, and require the Department to perform certain functions while minimizing loss of economic values.
 - Require the DNR's forestry development, conservation, and recreation management plan, by October 1, 2017, to include yearly harvest objectives for all State forestland by forest region for a 10-year period; and require the DNR to prepare for sale at least 90% of the yearly statewide harvest objective.

Senate Bill 303 (S-1) would amend Part 511 (Commercial Forests) of NREPA to:

- Allow money in the Land Exchange Facilitation Fund to be used for the costs of surveys and environmental assessments incurred by the DNR in land transactions, and the costs of natural resource management for public recreation activities and public recreation development projects on DNR land.
- Rename the Fund the "Land Exchange Facilitation and Management Fund".
- Eliminate a provision allowing the DNR to make a proposed land purchase if the Michigan Natural Resources Trust Fund Board does not act on the Department's recommendation to purchase the land within 60 days.

The bills are tie-barred. Each bill would take effect 90 days after enactment.

Senate Bill 302 (S-1)

Designation/Classification of DNR Land

Under the bill, before issuing an order or promulgating a rule that would designate or classify land managed by the DNR for any purpose, the Department or its Director would have to consider, in addition to any other matters required by law, both of the following:

- Providing for access to and use of the public land for recreation and tourism.
- The existence of natural resources-based industries, including forest management, mining, or oil and gas development on the public land.

Strategic Plan

Part 5 (Department of Natural Resources) required by DNR, by October 1, 2014, to develop a written strategic plan to guide the acquisition and disposition of State land managed by the

Department, submit it to the Legislature, and post it on the Department's website. Among other things, the strategic plan must divide the State into regions; identify by parcel land managed by the DNR in each region; set forth for each region measurable strategic performance goals; and, to assist in achieving the goals, identify land to be acquired and disposed of and plans for natural resource management.

The bill states, "The legislature approves the strategic plan entitled 'Department of Natural Resources Managed Public Land Strategy' issued by the department and dated July 1, 2013." The bill would require the DNR to implement the most recent legislatively approved strategic plan. The Department could not change the plan except by a proposed update (as described below) that subsequently was approved by the Legislature.

The bill would delete the requirement that the DNR annually report on implementation of the plan and submit the report to the Legislature and post it on the Department's website. Instead, the bill would require the DNR, annually, to submit to the Senate and House Committees with primary responsibility for natural resources and outdoor recreation, as well as the corresponding Appropriations subcommittees (the "relevant legislative committees"), and post and annually update on the Department's website, all of the following:

- A report on implementation of the plan.
- The number of acres of land in which the Department owned surface rights north of the Mason-Arenac line, south of that line, and in total for the State.
- Information on the total number of acres of land managed by the DNR, acres of State park and State recreation area land, acres of State game and State waterfowl areas, acres managed by the DNR and open for public hunting, acres of State-owned mineral rights managed by the DNR that were under a development lease, acres of State forestland, public boating access sites managed by the DNR, and miles of motorized and nonmotorized trails managed by the DNR.

Part 5 requires the DNR to update the strategic plan beginning July 2, 2020, and every six years after that, and submit the update to the relevant legislative committees and post it on the Department's website. Under the bill, instead, the DNR would have to propose an update to the plan for legislative consideration and approval by July 1, 2021, and every five years after that. The Department would have to submit the proposed updated plan to the relevant legislative committees and post it on the Department's website.

At least 60 days before posting the updated plan, the DNR must prepare, submit to the relevant legislative committees, and post on the Department's website a report on progress toward the performance goals set forth in the strategic plan and any proposed changes to the goals, including the rationale for any changes. Under the bill, the report also would have to include progress on the DNR's engagement and collaboration with local units of government.

In addition, the bill would require the plan to identify critical trail connectors to enhance motorized and nonmotorized natural-resource-dependent outdoor recreation activities for public enjoyment.

Northern Michigan Land Acquisition Cap; Plan Implementation

Part 5 prohibits the DNR from acquiring surface rights to land north of the Mason-Arenac line if the Department owns, or as a result of the acquisition will own, the surface rights to more than 3,910,000 acres north of that line. This prohibition does not apply after the enactment of legislation adopting the strategic plan.

The bill would delete these provisions. Instead, if any payment under Subpart 13 or 14 of Part 21 or Section 51106 for land north of the Mason-Arenac line were not made in full and on time, until December 31 of that year, the DNR could not acquire surface rights to land located anywhere in the State, unless full payment were made later during that fiscal year or the specific acquisition

were approved by resolution adopted by the legislative body of the county where the land was located.

(Under Subpart 13 of Part 21, on December 1 of each year, the Department of Treasury must pay a tax to each county that contains tax reverted, recreation, forest, or other land under the control and supervision of the DNR (commonly referred to as swamp and tax-reverted land). The tax is in lieu of all other taxes levied against the land under any existing law. The tax does not apply to land purchased after January 1, 1933, for natural resource purposes or State land on which PILT are made (as described below).

Under Subpart 14 of Part 21, the State Tax Commission annually must determine the valuation of all real property owned by the State and controlled by the DNR that was or is acquired by purchase on or after January 1, 1933. The Commission must report to the assessing districts where the property is located, and the assessing officer must enter the valuation upon the assessment rolls of each municipality or assessing district, and assess the property at the same rate as other real property in the district. The treasurer or other tax-collecting officer must forward a statement of the assessment of all property for which PILT are claimed to the respective county by December 1. The county must forward the statements to the Lansing DNR office by December 15. The Lansing office must review each one and, if the assessment has been determined properly, authorize the State Treasurer to pay the amount of the assessment. The State Treasurer annually must forward a separate payment to each affected assessing district in the county by February 14.

Under Part 511 of NREPA, at least 40 contiguous acres or a survey unit consisting of $\frac{1}{4}$ of $\frac{1}{4}$ of a section of forestland may be classified as a commercial forest, according to production criteria described in Part 511. Commercial forest property is exempt from ad valorem property taxation, and instead is subject to a specific tax currently set at \$1.30 per acre. Additionally, under Section 51106, local governments receive another \$1.30 per acre from the State as a PILT, which generally must be distributed in the same manner and proportions as ad valorem property taxes.)

Part 5 contains a number of exceptions to the current 3,910,000-acre limit. These exceptions would apply to the proposed limit under the bill, and also would include land acquired under an option agreement in effect on the date when the required payment became due if the acquisition took place within 60 days after that date.

Until the enactment of legislation adopting the strategic plan, Part 5 prohibits the DNR from implementing the strategic plan as it applies to land north of the Mason-Arenac line. The bill would delete this provision.

County/Local Approval for DNR Land Purchase

Under the bill, if land owned by the State and managed by the DNR, land owned by the Federal government, and land that was commercial forestland constituted at least 40% of the land in a county, before acquiring land in that county, the DNR would have to give written notice of the proposed acquisition to the legislative bodies of the county and the township or townships where the land was located. The notice would have to include information described below (for acquisition of land in a county not meeting those criteria). At the request of the legislative body of the county or a township, the DNR would have to send a representative to a meeting of the county board of commissioners to testify on the proposed acquisition. The DNR could not acquire land if, within 60 days after sending the notice, the Department received a copy of a resolution adopted by the county board rejecting the proposed acquisition. Despite the county's rejection, however, the DNR could acquire land if it received a copy of a resolution approving the acquisition adopted by the board of each township where the land was located. A township board also would have to send a copy of the resolution to the county board of commissioners.

If land owned by the State or Federal government and land that was commercial forestland did not constitute at least 40% of the land in a county, the DNR could not acquire land in that county unless the Department had done both of the following:

- At least 45 days before the acquisition, notified the legislative bodies of the county and the township or townships where the land was located in writing of the location and acreage of the land, how the land would be used and estimated PILT, the anticipated effect of the proposed acquisition on achieving the performance goals set forth in the strategic plan, and DNR contact information and the duration of the comment period, for people who wished to comment on the proposed acquisition.
- Provided an opportunity for representatives of all local units of government where the land was located to meet in person with a DNR representative to discuss the proposed acquisition.

Public Access to DNR Land

Part 5 requires the DNR to promulgate rules to protect and preserve land and other property under its control from depredation, damage, or destruction, or wrongful or improper use or occupancy; and to issue orders necessary to implement the rules. Under the bill, if the DNR issued an order that limited the use of or access to more than 500 acres of State forest or significantly restricted current practices in State forest, the DNR would be required to provide a copy of the order to each member of a standing committee of the Senate or House of Representatives that considers legislation pertaining to conservation, the environment, natural resources, recreation, tourism, or agriculture. This copy would have to be provided at least 30 days before the order was issued and not later than 10 days after. The DNR would be required to provide testimony on the implementation and effects of such an order at a committee hearing within six months of the order, if requested by the chair of the committee. The chair also could request testimony on the implementation and effects of any rule promulgated by the DNR that similarly limited the use of or access to State forest.

Under the bill, the DNR would be "urged" to promote public enjoyment of the State's wildlife and other natural resources by providing public access to land under the Department's control for all outdoor recreation activities dependent on natural resources, including motorized and nonmotorized activities.

If the DNR received a written resolution from a recreational users organization or the legislative body of a local unit of government requesting the removal of a berm, gate, or human-made barrier on land under the Department's control, the Department would have to notify the requestor in writing within 60 days of either of the following:

- That the barrier would be removed, in which case the Department would have to remove it within 180 days after receiving the request.
- The reasons the Department believed the barrier should not be removed and the requestor's right to request, within 21 days after the Department sent the notice, a public meeting on the matter.

If the person requested a public meeting, the Department would have to conduct a meeting within the city, village, or township where the barrier was located to explain the Department's position and receive comments on the proposed removal. After the meeting and within 180 days after receiving the removal request, the Department would have to approve or deny the request and notify the requestor in writing, including the reasons for a denial. If the request were approved, the Department would have to remove the barrier within 180 days after receiving the request, or within 30 days if the requestor agrees to remove the barrier under the DNR's oversight and at the requestor's expense.

Upon a local unit's request, the DNR would have to work with the local unit to allow use of State land located within the local unit that would benefit the local community by increasing outdoor recreation opportunities and expanding access to and use of the natural resources and outdoors. The DNR could charge the local unit a reasonable fee for the use that did not exceed the costs incurred by the Department for the use.

Natural Resources Trust Fund

Under Part 19 (Natural Resources Trust Fund) and in accordance with Article IX, Section 35 of the State Constitution (which established the Michigan Natural Resources Trust Fund and governs the expenditure of Fund money), the interest and earnings of the Michigan Natural Resources Trust Fund (MNRTF) in a 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 its scenic beauty.
- The administration of the MNRTF, including payments in lieu of taxes on State-owned land purchased through the Trust Fund.
- The development of public recreation facilities.

In addition, Part 19 allows one-third of the money, excluding interest and earnings, received by the MNRTF in any fiscal year to be spent in subsequent fiscal years for the specified purposes. This authorization, however, does not apply after the fiscal year in which the total balance of the Trust Fund, excluding interest and earnings and amounts authorized for expenditure, exceeds \$500.0 million. (The \$500.0 million cap was reached in May 2011.)

Under the bill, Part 19 would be subject to proposed Section 2132a. Under that section, if land were proposed for sale by or exchange with the DNR based on its appraised value, if two or more appraisals that met Department standards were made on behalf of the parties to the proposed transaction, and if the high appraisal were less than 10% higher than the low appraisal, the accepted value for purposes of the purchase, sale, or exchange would have to be the average of all of the appraised values. If the high appraisal were at least 10% higher than the low appraisal, the parties could agree upon a new appraiser, whose appraisal or determination based on review of the existing appraisals would be the accepted value. The DNR would be responsible for the new appraiser's fee.

Game & Fish Protection Account

Money in the Account must be spent, upon appropriation, only as provided in Part 435 (Hunting and Fishing Licensing) and for the Account's administration, which may include PILT on State-owned land purchased through the Account or the former Game and Fish Protection Fund.

The bill would require the DNR to manage land acquired with money from the Account or the former Fund through the use of scientific game species management for the primary purpose of managing habitat and thereby enhancing recreational hunting opportunities. Unless the DNR could demonstrate that the expenditure was for the primary purpose of enhancing game populations, and benefits to nongame species were a result of the primary purpose, both of the following would apply:

- Money in the Account could not be spent for management of nongame species.
- Forest treatments on land acquired with money from the Account or the former Fund could not be undertaken to benefit nongame species.

Money in the Account may be spent for grants to State colleges and universities to implement programs funded by the Account. Under the bill, this provision would apply if the DNR did not have the staff or other resources to implement the programs itself.

Sale or Lease of Tax-Reverted Land for Public Purposes

Part 21 (General Real Estate Powers) authorizes the DNR to sell sites to school districts and churches, sell land for public purposes to public educational institutions, and sell land to the United States and to governmental units of Michigan and their agencies from tax-reverted State land

under the Department's control. The bill would refer to other religious organizations in addition to churches.

Part 21 requires this tax-reverted land to be sold at a price fixed by a formula determined by the State Tax Commission. Under the bill, instead, the land would have to be sold at a price determined by an appraisal, subject to proposed Section 2132a (regarding situations in which two or more appraisals were made).

The DNR may sell tax-reverted land to any agency prescribed in Part 21, and the transfer of the land is not subject to a reverter clause. If a conveyance or transfer is made to any governmental unit without a reverter clause, the DNR may convey or transfer the land at an appraisal value as determined by the State Tax Commission. Under the bill, instead, the DNR could convey or transfer the land at a price determined by an appraisal, subject to proposed Section 2132a.

Request to Sell or Lease DNR Land

The bill would require the DNR, upon request, to consider selling or leasing land if both of the following requirements were met:

- The prospective buyer or lessee was a business seeking expansion, but was limited by adjacent State land.
- The sale or lease would result in an economic or other benefit for a local unit of government or region.

Notice of the sale or lease would have to be given as provided in Section 2133(2) (which requires newspaper publication for the negotiated sale of surplus land). In making its decision on the request, the DNR would have to consider any comments on the proposed sale or lease from local units of government or others, as well as the impact on natural resources and outdoor recreation in the State, giving due regard to the variety, use, and quantity of land then under the Department's control.

The price for the sale would have to be established by a method determined appropriate by the DNR, including appraisal (subject to the provisions regarding multiple appraisals), fee schedule, or true cash value of adjoining land, as agreed to by the applicant.

Proceeds from sale of the land would have to be deposited in the fund that provided the revenue for the DNR's acquisition of the land. If there were more than one, the revenue would have to be deposited in the funds in amounts proportionate to their respective contributions for the acquisition. To the extent that the land was in whole or in part acquired other than with restricted fund revenue, a proportionate amount of the proceeds would have to be deposited in the Land Exchange Facilitation and Management Fund.

DNR Land Exchange

Under Subpart 3 (Exchange of State Lands) of Part 21, any of the land under the Department's control may be exchanged for land of equal area or approximately equal value belonging to the United States or owned by private individuals if, in the Department's opinion, it is in the State's interest to do so. The bill would delete the reference to the Department's opinion.

Under the bill, effective 60 days after the DNR received an application from a private individual to exchange his or her land for surplus State land, the application would be considered complete unless the Department proceeded as described below.

If the Department notified the applicant in writing before the 60-day period expired that the application was not complete or that the fee had not been paid, specifying the information necessary to make it complete, the running of the 60-day period would be tolled until the applicant

submitted the specified information and paid the fee, at which time the application would be considered complete.

When the application was complete, the DNR would be required to post it on the Department's website with information on how and when to comment on it. Within 180 days after the application was considered complete, or a later date agreed to by the applicant and the DNR, the Department would have to approve or deny it and notify the applicant in writing. If the Department denied the application, the notice would have to set forth the reasons for the denial.

The bill would require the DNR to maintain on its website and make available in writing to people seeking to purchase land from, sell land to, or exchange land with the Department information about these requirements and other relevant requirements and procedures under Part 21.

The Department would have to charge an application fee for the exchange of State land. The fee would have to be \$300 plus, if the State land were more than 300 acres in size, the actual reasonable cost of processing the application.

Under Part 21, if it is in the State's best interest to exchange land under the DNR's control for land of an equal area or approximately equal value belonging to private individuals, the DNR must maintain a description of land to be conveyed and land belonging to individuals to be deeded to the State.

Before any land is deeded to an individual, the person or people owning land to be deeded to the State must execute a conveyance of that land to the State. The bill would require the DNR to accept delivery of the deed. The Attorney General must examine the title to the land deeded to the State and certify to the DNR whether the conveyance is sufficient to vest in the State a good and sufficient title to the land free from any liens and encumbrances. If the Attorney General certifies that the conveyance is sufficient, the DNR must execute a deed to the individual of the land to be conveyed by the State. The bill would require the Department to execute the deed within 30 days.

Individual Easement

Part 21 authorizes the DNR to grant an easement for a road over State-owned land under the Department's jurisdiction to an individual who does not have other legal access to his or her land, if certain conditions are met. Before such an easement may be granted, the applicant must pay charges required by the Department. The charges must be the same as those required for the granting of an easement to a public utility. Under the bill, however, the Department could charge an application fee for the grant of an easement. The fee could not exceed the actual reasonable cost of processing an application for an easement or \$300, whichever was less.

Sale of Surplus Land

Under Part 21, the DNR may designate as surplus land any State-owned land that is under the Department's control and that has been dedicated for public use, and may sell the land on behalf of the State if various requirements are satisfied and the Department determines certain conditions. The bill would eliminate the reference to dedication for public use.

One of these conditions is that the land has been dedicated for public use for at least five years preceding its sale and is not needed to meet a DNR objective. The bill would delete this condition.

Another condition is that the sale will promote the development of the forestry or forest products industry or the mineral extraction and use industry in Michigan. The bill also would refer to other economic activity.

Currently, the DNR may not authorize the sale of surplus land if the proceeds from the sale will cause the balance of the Land Exchange Facilitation Fund to exceed \$25.0 million. The bill would delete this provision.

Part 21 authorizes the DNR to sell surplus land at a price established using the method that the Department determines to be most appropriate, including appraisal. Under the bill, an appraisal would be subject to proposed Section 2132a.

Effective 60 days after the DNR received an application to purchase surplus land through a negotiated sale, the application would have to be considered complete unless the Department proceeded as provided below.

If the DNR notified the applicant in writing before the 60-day period expired that the application was not complete, specifying the information necessary to make the application complete, or that the required fee had not been paid, the running of the 60-day period would be tolled until the applicant submitted the specified information. At that time, the application would be considered complete.

Within 180 days after the application was considered complete, or a later date agreed to by the applicant and the Department, the DNR would have to approve or deny the application and notify the applicant in writing, setting forth the reasons for any denial.

The DNR would have to charge an application fee for the purchase of surplus land. The fee would have to be \$300 plus, if the land were more than 300 acres in size, the actual reasonable cost of processing the application.

The bill specifies that, in a land transaction, the DNR could give preference to a local unit of government but could not give preference to any other person.

Sale/Exchange of Nonsurplus Land

The bill would require the DNR, upon request, to consider selling land that was not designated as surplus land. The sale or exchange would be subject to the procedures that apply to the sale of surplus land.

These provisions would not apply to land in a State park, recreation area, or game area, and would not apply to a request to sell land if the request met the bill's criteria related to a proposed business expansion that was limited by adjacent State land.

Biological Diversity

Part 355 contains a number of legislative findings related to biological diversity, including a finding that "most losses of biological diversity are unintended consequences of human activity". The bill would delete this finding. ("Biological diversity" means the full range of variety and variability within and among living organisms and the natural associations in which they occur. The term includes ecosystem diversity, species diversity, and genetic diversity.)

Part 355 states, "It is the goal of this state to encourage the lasting conservation of biological diversity." "Conservation" means measures for maintaining natural biological diversity and for restoring natural biological diversity through management efforts in order to protect, restore, and enhance as much of the variety of native species and communities as possible in quantities and distributions that provide for the continued existence and normal functioning of native species and communities, including the viability of populations throughout the natural geographic distributions of native species and communities. The bill would delete the term and definition. Instead, the bill would define "conservation of biological diversity" as measures for maintaining, managing, or enhancing biological diversity while ensuring accessibility, productivity, and use of the natural resources for present and future generations.

The bill provides that Part 355 would not require a State department or agency to designate or classify an area of land specifically for the purpose of achieving or maintaining biological diversity.

The bill would repeal Sections 35504, 35505, and 35506, which created the joint legislative working committee on biological diversity (and dissolved it on December 30, 1995), authorized the committee to require reports from State departments and agencies, and required it to develop a State strategy, respectively.

Pittman-Robertson Wildlife Restoration Act Money

Part 405 (Wildlife Restoration, Management, and Research) requires the DNR to perform acts necessary to conduct and establish wildlife restoration, management, and research projects in areas in cooperation with the Federal government under the Pittman-Robertson Wildlife Restoration Act and regulations promulgated by the U.S. Secretary of the Interior under that Act. In compliance with that Act, funds accruing to the State from hunting license fees may not be used for any purpose other than game and fish activities under the DNR's administration.

The bill would require the DNR to manage land acquired with money received under the Pittman-Robertson Wildlife Restoration Act to manage game and fish populations to ensure increased recreational hunting and fishing opportunities. Expenditures to enhance game and fish habitat would have to be primarily for the management of game species, but could benefit nongame species.

Sustainable Management of State Forest

Under Part 525 (Sustainable Forestry on State Forest Lands), the DNR must manage the State forest in a manner that is consistent with principles of sustainable forestry.

In fulfilling this requirement, the Department must manage forests with consideration of their economic, social, and environmental values by engaging in a number of prescribed actions. These include planning and managing plantations in accordance with sustainable forestry principles and in a manner that complements the management of and promotes the restoration and conservation of natural forests. The bill would delete this requirement.

The bill would include the following among the DNR's required actions:

- Promoting working forests for the production of forest products and ecological value, where appropriate.
- Actively managing for enhanced wildlife habitat.

The DNR also must conserve and protect forestland by taking certain actions, including managing the quality and distribution of wildlife habitats, contributing to the conservation of biological diversity, and developing and implementing stand- and landscape-level measures that promote habitat diversity and the conservation of forest plants and animals. The bill would require the Department to perform these functions while minimizing loss of economic values.

The Department is required to manage activities in high conservation value forests by maintaining or enhancing the attributes that define them. Under the bill, the Department would have to do this while minimizing loss of economic values.

The bill would require the DNR to inform the public of the positive aspects of managed forests.

Forestry Development, Conservation, & Recreation Mgmt. Plan

Part 525 requires the DNR to adopt a forestry development, conservation, and recreation management plan for State-owned land owned or controlled by the Department. Parks and

recreation areas, State game areas, and other wildlife areas on that land must be managed according to their primary purpose. Among other things, the plan and any updates must identify the annual capability of the State forest, as well as management goals based on that level of productivity. The bill would delete this requirement.

The bill would require the plan and any updates to include yearly harvest objectives for all State forest land by forest region for a 10-year period. At least every five years, the DNR would have to review the yearly harvest objectives. At least once every 10 years, the DNR would have to update the yearly harvest objectives for all State forest land for a 10-year period. The DNR would have to post and maintain the current objectives on its website. For each forest region, the harvest objectives could not exceed the sustainable yields. In setting harvest objectives, the DNR could consider physical, biological, environmental, and recreational objectives.

Beginning October 1, 2017, and each subsequent year, the DNR would have to prepare for sale a minimum of 90% of the yearly statewide harvest objective.

Senate Bill 303 (S-1)

Land Exchange Facilitation & Management Fund

Part 21 creates the Land Exchange Facilitation Fund. The Fund exists in the State Treasury and is administered by the DNR. Under the bill, 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 from the investments.

The DNR may use Fund money only for the following purposes:

- Upon the recommendation of the DNR and authorization of the MNRTF Board, the purchase of land for natural resources management, administration, and public recreation that has been approved by the Legislature for purchase.
- The costs of advertising, appraisals, negotiations, and closings incurred by the DNR in the sale of surplus land.
- The costs of appraisals, negotiations, and closings incurred by the DNR in the purchase of land.

Under the bill, instead of the first purpose listed above, money in the Fund could be used for the purchase of land for natural resources management if the land met the needs outlined in the strategic plan most recently approved by the Legislature under Part 5.

The bill also would allow Fund money to be used for the costs of surveys incurred by the Department in the purchase of land. Additionally, the money could be used for the costs of managing the natural resources for public recreation activities and public recreation development projects on DNR-managed land.

The bill would eliminate a provision allowing the DNR to purchase land identified in a Department recommendation if the MNRTF Board does not authorize or reject the recommendation within 60 days.

Commercial Forest Certification

On December 1 of each year, the DNR must certify to the State Treasurer the number of acres that are commercial forestland in each county, and the State Treasurer must transmit to each county treasurer a warrant on the State Treasurer for an amount equal to \$1.30 per acre of commercial forest in the county. Under the bill, the DNR would have to make the certification by November 1, and the State Treasurer would have to transmit the warrant to each county by December 1.

MCL 324.301 et al. (S.B. 302)

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

The number of acres managed by the DNR statewide totals approximately 4,595,280. When the State continues to buy land in areas where it already owns a large portion of the township or county, the tax base and economic development of the local government are negatively affected. If PILT payments are not made on time or in full, local government infrastructure can fall into disrepair. To increase the amount of privately owned land and mitigate this problem, the bills would prohibit the State from buying more land when it does not make full PILT payments. The bills also would make the process of buying land from the State easier for private individuals or entities by ensuring that the DNR justified any rejection of an offer to purchase land. In addition, the bills would make it easier for the DNR to sell the land it wants to sell.

The land purchased by the State should be available for public enjoyment. The bills would require the DNR to justify the construction of berms and gates that impede access to public land.

Opposing Argument

Under Senate Bill 302 (S-1), when the State owned at least 40% of the land in a county and wanted to acquire more, the county would have the ability to reject that purchase. The bill should also include a provision to give townships the same ability. There are many townships with very high percentages of land owned by the State or the Federal government situated in counties with low percentages. These townships' perspectives on the State's purchasing more of their land would be very different from the perspectives of the counties where the townships are located.

Response: Requiring the DNR to gain approval from only one local unit of government would streamline this process and make it easier for both the Department and the person wishing to sell the land.

Opposing Argument

Payments in lieu of taxes are appropriated by the Legislature and the DNR has no power to ensure that these payments are paid in full or on time. Capping the acreage of public land purchased by the DNR would not be an effective way to ensure that the Legislature appropriated the right amount of money for PILT payments. The DNR is a statewide agency tasked with creating and implementing a management strategy that encompasses resources throughout the State on behalf of all residents of Michigan. Though the DNR should consult with local governments on land purchases, the local governments should not hold veto authority over land purchase decisions that are made based on a statewide management strategy. Giving this power to local governments would infringe on private property rights, hinder the State's overarching land management strategy, and prevent the State from acquiring high-value land for public use. Legislation should not limit land purchases based on the percentage of public land owned in a township or county. Final purchase authority should remain with the DNR.

Opposing Argument

The proposed definition of "conservation of biological diversity" and the related changes are similar to Senate Bill 78 of the 2013-2014 legislative session, which the Governor vetoed. Biodiversity is an essential component of natural resources management.

Furthermore, any language that bars the DNR from managing for nongame species should be opposed. Management decisions made primarily for a nongame species will have beneficial effects for game and other species as well. Allowing funds to be used to benefit only some species and not others would compromise the DNR's ability to properly manage certain habitats.

Opposing Argument

Senate Bill 303 (S-1) would undermine the DNR's ability to soundly manage the State's public land. The bill would allow funds previously restricted to land acquisition to go toward development projects. The proceeds from the sale of State land are currently deposited into the Land Exchange Facilitation Fund and used to acquire additional land as replacement for property sold. The Fund is used only for acquiring public land (including land for public recreation) and paying the costs incurred in the sale or purchase of land, such as surveys and appraisals. By expanding the use of the Land Exchange Facilitation Fund to cover recreation management and development, the bill would result in less funding for the purchase of land for Michiganders.

Opposing Argument

Senate Bill 302 (S-1) would prohibit money in the Game and Fish Protection Account from being spent for the management of nongame species, unless the expenditure were for the primary purpose of enhancing game populations. The language would create the appearance that hunters are concerned only with taking animals and not with the conservation of all species of wildlife. The bill would give nonhunters a negative opinion of hunters and could encourage future legislation that would be detrimental to hunting in Michigan. Hunting controls the population of game species and is an important part of wildlife conservation in this State.

Response: The bill would require the DNR to manage land acquired with money from the Game and Fish Protection Account to ensure increased recreational hunting and fishing opportunities. Efforts that benefit the habitats of game species also benefit nongame species living in the same habitats. These benefits are easily understood by those who do not hunt.

Legislative Analyst: Nathan Leaman

FISCAL IMPACT

Senate Bill 302 (S-1)

The bill would have an indeterminate fiscal impact on the Department of Natural Resources and no fiscal impact on local units of government.

The bill would require the DNR to charge a fee of \$300 (or \$300 plus actual processing costs if the land were more than 300 acres) to process an application to exchange private land for State-owned land deemed surplus or to buy surplus land directly. The bill would allow the DNR to charge an application fee of \$300 or actual reasonable processing costs for an easement over State-owned land. Over the last three years, the average number of applications received for each type of transaction was 18 exchanges, 23 direct sales, and 19 easements. According to the DNR, each application costs the Department at least \$1,000, depending on the actual amount of staff time spent on the application. While the bill's cost-recovery provision apparently would not cover all of these costs, it would generate about \$18,000 to help offset some of the costs.

Senate Bill 303 (S-1)

The bill would have a neutral fiscal impact on the Department of Natural Resources, and no fiscal impact on local units of government. The bill would change the name of the Land Exchange Facilitation Fund to the Land Exchange Facilitation and Management Fund and allow it to be used for environmental assessments, surveys, and various natural resource-related activities. Current law allows the Fund to be used to purchase land with natural resource or recreational value. The Fund receives revenue from the proceeds of the sale of surplus State-owned land. In fiscal year 2015-16, the Fund received about \$2.6 million in revenue, had \$3.4 million in expenditures, and ended the year with a balance of about \$4.3 million.

Fiscal Analyst: Josh Sefton

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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.