



Olds Plaza Building, 10th Floor  
Lansing, Michigan 48909  
Phone: 517/373-6466

ENV'L. PROTECTION ACT  
AS ENROLLED

House Bills 4348 and 4385 with committee amendments

Sponsor: Rep. James Middaugh

House Bill 4349 with committee amendments

Sponsor: Rep. Tom Alley

House Bill 4350 as introduced

Sponsor: Rep. Sandra Hill

House Bill 4351 as introduced

Sponsor: Rep. Raymond Murphy

First Analysis (3-1-95)

Committee: Conservation, Environment, and Great Lakes

**THE APPARENT PROBLEM:**

The Natural Resources Management and Environmental Code Commission was formed under Executive Order 1991-32, and was charged with the task of creating a cohesive code that integrated existing natural resources management and environmental protection laws into a more understandable and workable statute. The ultimate goal was the creation of a code that was simpler and more user-friendly than existing statutes. Commission members were appointed in December, 1992, reviewed and analyzed current laws during the following year, and prepared and presented a draft code for public review. The structural outline, or "functional taxonomy", of the draft assembled various laws in a logical framework, so that laws of similar purpose were located together. Public Act 451 of 1994 created the Natural Resources and Environmental Protection Act, and incorporated some of the concepts (commonly referred to as Part 1 of the recommendations) in the code commission's recommendations into Articles I and II of the new statute. It included acts that had been established since the code's introduction, and Executive Order 1994-7, relating to the administration of the state's underground storage tank programs. Legislation has been proposed that would complete Part 2 of the recommendations by incorporating the remainder of the statutes which

relate to natural resources management and recreation into Articles I, II, and III.

**THE CONTENT OF THE BILLS:**

House Bills 4348, 4349, 4350, 4351 and 4385 would amend the Natural Resources and Environmental Protection Act (NREPA) to recodify current natural resources management statutes concerning wildlife conservation, recreation, habitat protection, and environmental issues, respectively, repealing and reenacting existing laws by inserting them into the NREPA. (The 1994 act was enacted as the beginning of the recodification of the statutes into one code, and contained parts of Articles I and II). In addition, House Bills 4348-4351 would delete references to -- and, in instances, repeal -- various natural resources' acts which created certain committees, boards and commissions; and House Bill 4385 would transfer the powers and duties of these committees, boards and commissions to the Department of Natural Resources (DNR). Most of the language of existing laws would be retained under the bills, although many archaic references would be deleted. The bills are tie-barred to each other. The following is a brief outline of the contents of the bills, including the public act numbers from which each subsection was derived.

House Bills 4348-4351 and House Bill 4385 (3-1-95)

House Bill 4351. House Bill 4351 would repeal and reenact various statutes concerning definitions; DNR responsibilities -- including its real estate powers; and pollution control; and insert them into Articles I and II of the NREPA (MCL 324.101 et al.) as follows:

ARTICLE I. The first article contains general provisions, definitions, and savings clauses to assure the continuation of enforcement actions and rules. The first article also sets forth the general powers and duties of the Department of Natural Resources and of conservation officers, and the provisions of the Environmental Protection Act, as follows:

Part 7: Public Act 188 of 1988 - Forest and Mineral Resource Development.

Part 16: Public Act 109 of 1929 - Enforcement of Laws for Protection of Wild Birds, Wild Animals and Fish.

Part 18: Public Act 517 of 1988 - Uniform Transboundary Pollution Reciprocal Access.

Part 19: Public Act 101 of 1985 - Natural Resources Trust Fund.

Part 21: General Real Estate Powers:

Subpart 1: Public Act 223 of 1909 - Sale of State Lands for Public Purposes.

Subpart 2. Public Act 44 of 1883 - Delinquent Taxes on Part-paid Lands.

Subpart 3. Public Act 193 of 1911 - Exchange of State Lands.

Subpart 4. Public Act 137 of 1913 - Record of Deeds for Tax Homestead Lands.

Subpart 6. Public Act 187 of 1851 - Sale and Reclamation of Swamp Lands.

Subpart 7. Public Act 76 of 1853 - Receipt of Money from Sale of Swamp Lands.

Subpart 8. Public Act 421 of 1982 - Easements over State Owned Lands.

Subpart 9. Public Act 10 of 1953 - Easements of Public Utilities.

Subpart 10. Public Act 86 of 1989 - Land Exchange Facilitation Fund.

Subpart 11. Public Act 197 of 1980 - Conservation and Historic Preservation Easement.

Subpart 12. Public Act 314 of 1968 - Acquisition of Surface Lands for Water Quality Control.

Subpart 13. Public Act 116 of 1917 - Tax on Tax Reverted, Recreation, and Forest Lands.

Subpart 14. Public Act 91 of 1925 - Payment in Lieu of Taxes on Certain State Land.

Subpart 15. Public Act 298 of 1993 - Protection of State Owned Lands.

Subpart 16. Public Act 66 of 1869 - Certified Copies of Field Notes, Maps, Records, and Papers.

Part 25: Public Act 310 of 1994 - Environmental Education.

ARTICLE II. Article II incorporates pollution control statutes.

#### CHAPTER 1: POINT SOURCE POLLUTION CONTROL

Part 35: Public Act 143 of 1959 - Use of Water in Mining Low-Grade Iron Ore.

Part 37: Public Act 222 of 1966 - Water Pollution Control Facilities; Tax Exemption.

#### SEWAGE DISPOSAL AND WATERWORK SYSTEMS

Part 45: Public Act 76 of 1968 - Bonds for Prevention and Abatement of Water Pollution.

#### AIR POLLUTION CONTROL

Part 59: Public Act 250 of 1965 - Air Pollution Control Facility; Tax Exemption.

Part 61: Public Act 159 of 1973 - Emissions from Vessels.

Part 63: Public Act 234 of 1993 - Motor Vehicle Testing for West Michigan.

Part 65: Public Act 232 of 1993 - Motor Vehicle Testing for Southeast Michigan.

#### CHAPTER 2: NONPOINT SOURCE POLLUTION CONTROL

Part 85: Public Act 198 of 1975 - Fertilizers.

#### SOIL CONSERVATION, EROSION AND SEDIMENTATION CONTROL

Part 91: Public Act 347 of 1972 - Soil Erosion and Sedimentation Control.

Part 93: Public Act 297 of 1937 - Soil Conservation Districts.

#### CHAPTER 3: WASTE MANAGEMENT

Part 119: Public Act 345 of 1978 - Waste Management and Resource Recovery Finance.

#### CHAPTER 6: ENVIRONMENTAL FUNDING

Part 193: Public Act 326 of 1988 - Environmental Protection Bond Authorization.

Part 195: Public Act 328 of 1988 - Environmental Protection Bond Implementation.

House Bill 4350. House Bill 4350 would repeal and reenact the following natural resources management statutes, inserting them under Article III of the code (MCL 324.101 et al.):

ARTICLE III. Article III incorporates natural resources management statutes.

#### CHAPTER I: HABITAT PROTECTION, INLAND WATERS

Part 301: Public Act 346 of 1972 - Inland Lakes and Streams

Part 303: Public Act 203 of 1979 - Wetlands Protection.

Part 305: Public Act 231 of 1970 - Natural Rivers.

Part 307: Public Act 146 of 1961 - Inland Lake Level.

Part 309: Public Act 345 of 1966 - Inland Lake Improvement.

Part 311: Public Act 253 of 1964 - Local River Management.

Part 313: Public Act 20 of 1964 - Surplus Waters.

Part 315: Public Act 300 of 1989 - Dam Safety.

#### THE GREAT LAKES

Part 321: Public Act 89 of 1954 - The Great Lakes Compact.

Part 322: Public Act 28 of 1955 - Great Lakes Basin Compact.

Part 323: Public Act 245 of 1970 - Shorelands Protection and Management.

Part 325: Public Act 247 of 1955 - Great Lakes Submerged Lands.

Part 327: Public Act 130 of 1985 - Great Lakes Preservation.

Part 329: Public Act 128 of 1985 - Great Lakes Protection.

Part 331: Public Act 155 of 1989 - State Great Lakes Protection Fund.

Part 333: Public Act 44 of 1952 - Coastal Beach Erosion.

Part 337: Public Act 278 of 1952 - Flood, Drainage, or Beach Erosion Control.

Part 339: Public Act 326 of 1913 - Control of Certain State Lands.

Part 341: Public Act 205 of 1967 - Irrigation Districts.

#### LAND HABITATS

Part 351: Public Act 241 of 1972 - Wilderness and Natural Areas.

Part 353: Public Act 222 of 1976 - Sand Dunes Protection and Management.

Part 355: Public Act 93 of 1992 - Biological Diversity Conservation.

Part 357: Public Act 150 of 1970 - Natural Beauty Roads.

Part 361: Public Act 116 of 1974 - Farmland and Open Space Preservation.

#### ENDANGERED SPECIES

Part 365: Public Act 203 of 1974 - Endangered Species Protection.

House Bill 4348. House Bill 4348 would repeal and reenact the following acts concerning the management of renewable resources, inserting them into the code (MCL 324.101 et al.) as follows:

#### CHAPTER 2: MANAGEMENT OF RENEWABLE RESOURCES

##### SUBCHAPTER 1: WILDLIFE

##### WILDLIFE CONSERVATION

Part 401: Public Act 256 of 1988 - Wildlife Conservation.

Part 403: Public Act 179 of 1974 - Wildlife Preservation.

Part 405: Public Act 281 of 1939 - Wildlife Restoration, Management, and Research.

Part 409: Public Act 269 of 1925 - Homing Pigeons.

Part 411: Public Act 230 of 1925 - Protection and Preservation of Fish, Game, and Birds.

##### SHOOTING AND HUNTING GROUNDS

Part 415: Public Act 66 of 1891, Public Act 112 of 1895, and Public Act 171 of 1899 - Public Shooting and Hunting Grounds.

Part 417: Public Act 134 of 1957 - Private Shooting Preserves.

Part 419: Public Act 159 of 1967 - Hunting Area Control.

Part 421: Public Act 82 of 1947 - Dog Training Areas.

#### POSSESSION, SALE, REGULATION OF WILDLIFE

Part 425: Public Act 308 of 1929 - Furs, Hides, and Pelts.

Part 427: Public Act 191 of 1929 - Breeders and Dealers.

Part 431: Public Act 103 of 1941 - Foxes in Captivity.

Part 433: Public Act 207 of 1923 - Limitation Acreage for Propagation or Sporting Purposes.

#### SUBCHAPTER 2: HUNTING AND FISHING LICENSING

Part 435: Public Act 86 of 1980 - Hunting and Fishing Licenses.

Part 437: Public Act 73 of 1986 - Game and Fish Protection Trust Fund.

Part 439: Public Act 285 of 1986 - Nongame Fish and Wildlife Trust Fund.

Part 441: Public Act 94 of 1988 - Game and Fish Lifetime License Trust Fund.

#### SUBCHAPTER 3: FISHERIES

##### CHARTER AND LIVERY BOATS

Part 445: Public Act 244 of 1986 - Charter and Livery Boat Safety.

##### AQUATIC SPECIES

Part 451: Public Act 14 of 1923 - Fishing from Inland Waters.

Part 453: Public Act 121 of 1891 - Fishing with Hook and Line.

Part 455: Public Act 156 of 1933 - Frogs.

Part 457: Public Act 261 of 1915 - Mussels.

Part 459: Public Act 196 of 1957 - Propagation of Game Fish in Private Waters.

Part 461: Public Act 180 of 1931 - Special Provisions Regulating Fishing in Bays and Harbors.

Part 463: Public Act 57 of 1931 - St. Joseph River.

Part 465: Public Act 274 of 1993 - Structures Used While Fishing Through Ice.

Part 467: Public Act 218 of 1955 - Modification of the Commercial Fishing Laws.

Part 469: Public Act 194 of 1925 - Taking Rainbow Trout in Soo Rapids and St. Mary's River.

Part 471: Public Act 63 of 1885 - Board of Fish Commissioners.

Part 473: Public Act 84 of 1929 - Commercial Fishing Law.

Part 475: Public Act 175 of 1956 - Fish Hatcheries to Restock the Great Lakes.

Part 477: Public Act 111 of 1951 - Fish Restoration and Management Projects.

Part 479: Public Act 350 of 1865 - Fisheries.

Part 483: Public Act 123 of 1929 - Passage of Fish Over Dams.

Part 485: Public Act 4 of 1939 - Spearing of Fish in Houghton Lake.

Part 487: Public Act 165 of 1929 - Sportsmen Fishing Law.

Part 489: Public Act 92 of 1931 - Whaiska Bay.

Part 491: Public Act 158 of 1949 - Reciprocal Agreements with Adjoining States.

#### SUBCHAPTER 4: FORESTS

##### THE TIMBER INDUSTRY

Part 501: Public Act 298 of 1980 - Forest Improvements.

Part 503: Public Act 150 of 1984 - State Forest Product Industry Development.

Part 505: Public Act 280 of 1990 - Michigan Forest Finance Authority.

Part 507: Public Act 214 of 1982 - Forest Management Demonstration Program.

#### TAX INCENTIVES

Part 511: Public Act 94 of 1925 - Commercial Forests.

Part 513: Public Act 86 of 1917 - Private Forestry.

#### FOREST FIRES

Part 515: Public Act 329 of 1969 - Prevention and Suppression of Forest Fires.

Part 517: Public Act 366 of 1976 - Prevention of Forest Fires.

Part 519: Public Act 35 of 1955 - Slash Disposal.

#### MISCELLANEOUS TOPICS

Part 525: Public Act 178 of 1935 - Disposal of Timber from State Lands.

Part 527: Public Act 217 of 1931 - Municipal Forests.

Part 529: Public Act 182 of 1962 - Christmas Trees, Boughs, Plants, and Other Trees.

### CHAPTER 3: MANAGEMENT OF NONRENEWABLE RESOURCES

#### SUBCHAPTER 1: GEOLOGICAL SURVEY DIVISION

Part 601: Public Act 65 of 1869 - Geological Survey of the State.

Part 603: Public Act 373 of 1917 - Soil and Economic Survey.

Part 605: Public Act 248 of 1937 - Aerial Photos, Maps.

Part 607: Public 268 of 1977 - State Soil Survey.

Part 609: Public Act 204 of 1979 - Resource Inventory.

**SUBCHAPTER 2: REGULATION OF OIL  
AND GAS WELLS**

Part 615: Public Act 61 of 1939 - Supervisor of Wells.

Part 616: Public Act 308 of 1994 - Orphan Well Fund.

Part 617: Public Act 197 of 1959 - Utilization.

Part 619: Public Act 316 of 1980 - Drilling in the Pigeon River State Forest.

Part 621: Public Act 138 of 1947 - Interstate Oil and Gas Compact.

**SUBCHAPTER 3: MINERAL WELLS**

Part 625: Public Act 315 of 1969 - Mineral Wells.

**SUBCHAPTER 4: MINERAL MINING.**

Part 631: Public Act 92 of 1970 - Reclamation of Mining Lands.

Part 633: Public Act 59 of 1945 - Mineral Mining.

Part 635: Public Act 303 of 1982 - Surface and Underground Coal Mine Reclamation.

Part 637: Public Act 222 of 1976 - Sand Dune Mining.

**PEAT EXTRACTION FROM STATE OWNED  
LANDS**

Part 641: Public Act 204 of 1984 - Peat Extraction from State Owned Lands.

House Bill 4349 would repeal, reenact, and insert provisions of the following acts concerning recreation into the code (MCL 324.101 et al.), as follows:

**CHAPTER 4: RECREATION**

**SUBCHAPTER 1: RECREATION**

**ADMINISTRATION**

Part 701: Public Act 326 of 1965 - Recreation and Cultural Arts.

Part 703 - Public Act 316 of 1965 - Outdoor Recreation.

Part 711: Public Act 221 of 1987 - Recreation Improvement Fund

Part 713: Public Act 327 of 1988 - Recreation Bond Authorization.

Part 715: Public Act 329 of 1988 - Recreation Bond Implementation.

**TRAILWAYS**

Part 721: Public Act 27 of 1993 - Michigan Trailways.

Part 723: Public Act 225 of 1964 - Trails.

**RECREATIONAL TRESPASS**

Part 731: Public Act 323 of 1976 - Recreational Trespass.

Part 733: Public Act 201 of 1953 - Liability of Landowners.

**SUBCHAPTER 2: PARKS**

**PARKS**

Part 741: Public Act 149 of 1960 - State Parks System.

Part 742: Public Act 48 of 1952 - Camp Registration Cards.

Part 743: Public Act 130 of 1994 - State Parks Foundation.

Part 751: Public Act 57 of 1993 - Dark Sky Preserve.

**ABORIGINAL RECORDS AND ANTIQUITIES  
AND ABANDONED PROPERTY**

Part 761: Public Act 173 of 1929 - Aboriginal Records and Antiquities.

**SUBCHAPTER 3: MACKINAC ISLAND  
STATE PARK**

Part 765: Public Act 355 of 1927 - Mackinac Island State Park.

Part 767: Public Act 201 of 1958 - Mackinac Island State Park Commission.

Part 769: Public Act 22 of 1907 - Mackinac Island State Park - Rules.

Part 771: Public Act 45 of 1943 - Mackinac Island State Park

Part 773: Public Act 20 of 1955 - Old Mission Church at Mackinac Island.

Part 775: Public Act 70 of 1957 - Mackinac Island; Clerk's Quarters - American Fur Company.

Part 777: Public Act 54 of 1909 - Michilimackinac State Park.

#### SUBCHAPTER 4: THE MICHIGAN STATE WATERWAYS COMMISSION

##### GENERAL

Part 781: Public Act 320 of 1947 - Michigan State Waterways Commission.

Part 783: Public Act 125 of 1959 - Ferry Docks at the Straits of Mackinac.

Part 785: Public Act 187 of 1964 - Cheboygan Lock and Dam.

##### HARBOR DEVELOPMENT

Part 791: Public Act 79 of 1988 - Harbor Development.

Part 793: Public Act 66 of 1952 - Harbors, Channels, and Other Navigational Facilities.

#### SUBCHAPTER 5: WATERCRAFT AND MARINE SAFETY

Part 801: Public Act 303 of 1967 - Marine Safety.

Part 803: Public Act 160 of 1976 - Watercraft Transfer and Certificate of Title.

#### SUBCHAPTER 6: MOTORIZED RECREATIONAL VEHICLES

##### OFF-ROAD RECREATION VEHICLES

Part 811: Public Act 319 of 1975 - Off-Road

Recreation Vehicles.

##### SNOWMOBILES

Part 821: Public Act 74 of 1968 - Snowmobiles.

ARTICLE VII. Repealers.

Part 901: Et Seq. Repealers.

House Bill 4385. House Bills 4348-4351 would repeal laws that created certain boards and commissions. House Bill 4385 would amend NREPA (MCL 324.502 et al.) to delete references to those acts and to transfer the powers and duties of these entities to the Department of Natural Resources (DNR). House Bill 4385 would also make various technical amendments to NREPA.

Transfers of Duties to DNR. Under the bill, the powers and duties of the following commissions, boards, and committees would be transferred to the DNR: the Nongame Fish and Wildlife Advisory Committee; the Great Lakes Fishery Advisory Committee; the Hunting Area Control Committee; the Forest and Mineral Resource Development Fund Board; the State Forest Products Industry Development Council; the Advisory Board created under former Public Act 61 of 1939; the Mineral Well Advisory Board (Note: House Bill 4348 would abolish the Mineral Well Advisory Board); the Michigan Unitization Law Appeal Board; the Inventory Advisory Committee; the Marine Safety Education Commission; the Marine Safety Advisory Council; the Wilderness and Natural Areas Advisory Board; the State Recreation and Cultural Arts Advisory Committee; the Air Pollution Control Commission; the Water Resources Commission; the Critical Materials Advisory Committee; the Clean Michigan Fund Act Advisory Panel; and the Hazardous Waste Policy Committee.

#### **FISCAL IMPLICATIONS:**

According to House Fiscal Agency estimates, the bills would have no impact on state funds. (2-23-95)

#### **ARGUMENTS:**

##### **For:**

By drawing the statutes pertaining to conservation and the environment together into a coherent, uniform code, the bills would complete the incorporation of the state's natural resources laws

introduced under Public Act 451 of 1994. By doing so, the responsibilities for providing adequate protection of the environment can be clearly and rationally assigned. The bills make no changes to existing laws; they do change the structure of the law by bringing together separate natural resources and environmental statutes into an orderly framework.

***Against:***

The bills reflect both the Environmental Code Commission's recommendations and the provisions of two executive orders (E.O. 1991-22 and 1991-31), which reorganized the Department of Natural Resources (DNR) and eliminated several boards and commissions. Many people are of the view that the DNR reorganization was not in the public interest, since it virtually eliminated public review of environmental decisions. These views were strengthened by the recent revelation that the Natural Resources Commission improperly held a closed session at its January, 1995 meeting. (The commission has since acknowledged its mistake and has agreed to make the minutes of the closed meeting available to the public.) Some feel that the DNR should be governed by the same requirements regarding open meetings and public disclosure that bind other state agencies, and would support a version of House Bill 4385 that would explicitly require DNR compliance with both the Freedom of Information Act (FOIA) and the Open Meetings Act.

Further, Public Act 12 of 1993 established the Clean Air Assistance Program and the Small Business Clean Air Compliance Advisory Panel -- consisting primarily of members of the small business community -- to assist small businesses in complying with the state's air quality enforcement program. In testimony presented to the House Conservation, Environment, and Great Lakes Committee, a member of the panel expressed the opinion that public participation would be increased if more funds were allocated toward augmenting DNR's computer systems to allow citizens to participate in public meetings via Internet.

***POSITIONS:***

The Michigan Chemical Council supports the bills. (2-28-95)

The Small Business Association supports the concept of the bills. (2-28-95)

Representatives of the following testified before the House Conservation, Environment, and Great Lakes Committee in support of the package of bills (2-28-95):

The Department of Natural Resources

The Michigan State Chamber of Commerce

The Michigan Municipal League

The Michigan United Conservation Clubs (MUCC)

The Michigan Manufacturers Association

Representatives of the following testified in support of House Bills 4348-4351, but expressed concern regarding the absence of provisions under House Bill 4385 that would require DNR compliance with the Freedom of Information Act and the Open Meetings Act. (2-28-95):

The Michigan Environmental Council

The Sierra Club - Mackinac Chapter

The Small Business Clean Air Compliance Advisory Panel -- created under Public Act 12 of 1993 to assist small businesses in complying with the state's air quality enforcement program -- testified in support of the bills, but expressed concerns regarding the insufficiency of funds allocated to the DNR computerization program. (2-28-95)