



HOUSE BILL No. 4265

February 1, 1995, Introduced by Reps. Llewellyn, Rhead, McBryde, Cropsey, Horton, Gernaat, Law, Bodem, Wetters, London, Alley and Nye and referred to the Committee on Conservation, Environment and Great Lakes.

A bill to amend the title and sections 1, 2, 3, 3a, 3b, 8, 8b, and 9 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 and 9 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, 299.8, 299.8b, and 299.9 of the Michigan Compiled Laws; and to add section 1a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. The title and sections 1, 2, 3, 3a, 3b, 8, 8b,
2 and 9 of Act No. 17 of the Public Acts of 1921, sections 2 and 3a
3 as amended by Act No. 92 of the Public Acts of 1992, sections 8
4 and 9 as added by Act No. 91 of the Public Acts of 1987, and sec-
5 tion 8b as added by Act No. 72 of the Public Acts of 1993, being
6 sections 299.1, 299.2, 299.3, 299.3a, 299.3b, 299.8, 299.8b, and
7 299.9 of the Michigan Compiled Laws, are amended and section 1a
8 is added to read as follows:

9

TITLE

10 An act to provide for the protection and conservation of the
11 natural resources of the state; to provide and develop facilities
12 for outdoor recreation; to create a ~~conservation~~ department OF
13 NATURAL RESOURCES; to define the powers and duties thereof; TO
14 PRESCRIBE CERTAIN POWERS AND DUTIES OF THE DEPARTMENT OF AGRICUL-
15 TURE AND THE DEPARTMENT OF FISH AND WILDLIFE; to provide rules
16 and regulations concerning the use and occupancy of lands and
17 property under ~~its~~ THEIR control and penalties for the viola-
18 tion thereof; to provide for the transfer to ~~said~~ THE depart-
19 ment OF NATURAL RESOURCES of the powers and duties now vested by
20 law in certain boards, commissions and officers of the state; and
21 for the abolishing of the boards, commissions and offices the
22 powers and duties of which are hereby transferred.

23 Sec. 1. (1) A department of natural resources for this
24 state is created which shall possess the powers and perform the
25 duties ~~granted and imposed~~ RELATED TO AIR QUALITY, WATER
26 QUALITY, WASTE MANAGEMENT, ENVIRONMENTAL RESPONSE AND

1 REMEDIATION, ENVIRONMENTAL LABORATORIES, RECREATION, STATE PARKS,
2 AND THE MACKINAC ISLAND STATE PARK AS PROVIDED by this act AND AS
3 OTHERWISE PROVIDED BY LAW.

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

26 (3) The commission, within 30 days after having qualified
27 and annually after that time, shall meet at its office in Lansing

1 and organize ~~by electing a chairperson and~~ by appointing a
2 secretary, who need not be a member of the commission. THE GOV-
3 ERNOR SHALL APPOINT A CHAIRPERSON OF THE COMMISSION FROM AMONG
4 ITS MEMBERS, WHO SHALL SERVE AS CHAIRPERSON AT THE PLEASURE OF
5 THE GOVERNOR. Four members of the commission constitute a quorum
6 for the transaction of business. The business ~~which~~ THAT the
7 commission ~~of natural resources~~ may perform shall be conducted
8 at a public meeting of the commission held in compliance with THE
9 OPEN MEETINGS ACT, Act No. 267 of the Public Acts of 1976, being
10 sections 15.261 to 15.275 of the Michigan Compiled Laws. Public
11 notice of the time, date, and place of the meeting shall be given
12 in the manner required by Act No. 267 of the Public Acts of
13 1976. A meeting may be called by the chairperson and shall be
14 called on request of a majority of the members of the
15 commission. A meeting may be held as often as necessary and at
16 other places than the commissioners' offices at Lansing. ~~Not~~
17 ~~less than 1 meeting shall be held~~ THE COMMISSION SHALL MEET AT
18 LEAST ONCE each month.

19 (4) The commission shall appoint and employ a director ~~of~~
20 ~~the department of natural resources~~ who shall continue in office
21 at the pleasure of the commission. ~~and who shall receive a~~
22 ~~salary not to exceed \$12,000.00 per year.~~ The director shall
23 appoint ~~with the approval of the commission a~~ 1 OR MORE deputy
24 ~~director~~ DIRECTORS and other assistants and employees as are
25 necessary to implement this ~~act~~ PART and any other law of this
26 state affecting the powers and duties of the department OF
27 NATURAL RESOURCES. ~~The deputy director~~ A PERSON TO WHOM THE

1 DIRECTOR HAS LAWFULLY DELEGATED DECISION MAKING AUTHORITY IN
2 WRITING may perform a duty or exercise a power conferred by law
3 upon the ~~director~~ DEPARTMENT at the time and to the extent the
4 duty and power is delegated to ~~the deputy~~ THAT PERSON by the
5 director. When a vacancy in the office of director occurs, or
6 the director is unable to perform the director's duties or is
7 absent from the state, the powers and duties of the director as
8 prescribed by law shall be imposed on and transferred to ~~the~~ A
9 deputy director until the vacancy is filled ~~—~~ or the director's
10 inability or absence from the state ceases.

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

1 SEC. 1A. AS USED IN THIS ACT:

2 (A) "COMMISSION" MEANS THE COMMISSION OF NATURAL RESOURCES.

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

6 (C) "DIRECTOR" MEANS THE DIRECTOR OF THE DEPARTMENT OF NATU-
7 RAL RESOURCES.

8 (D) "RULE" MEANS A RULE PROMULGATED PURSUANT TO THE ADMINIS-
9 TRATIVE PROCEDURES ACT OF 1969, ACT NO. 306 OF THE PUBLIC ACTS OF
10 1969, BEING SECTIONS 24.201 TO 24.328 OF THE MICHIGAN COMPILED
11 LAWS.

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

22 (2) The commission ~~of natural resources~~ may promulgate
23 rules, not inconsistent with law, governing its organization and
24 procedure, ~~and the administration of this act,~~ as considered
25 ~~expedient~~ NECESSARY. The ~~commission~~ DEPARTMENT may promul-
26 gate and enforce reasonable rules concerning the use and
27 occupancy of lands and property under its control in accordance

1 with section 3a; may provide and develop facilities for outdoor
2 recreation; may conduct investigations it considers necessary for
3 the proper administration of this ~~act,~~ PART.

4 (3) THE DEPARTMENT OF AGRICULTURE may remove and dispose of
5 forest products as required for the protection, reforestation,
6 and proper development and conservation of the lands and property
7 under ~~its~~ control ~~, and~~ OF THE DEPARTMENT OF AGRICULTURE

8 (4) THE DEPARTMENT OF FISH AND WILDLIFE may require the pay-
9 ment of a fee as provided by law for a daily permit or other
10 authorization ~~which~~ THAT allows the person to hunt and take
11 waterfowl on a public hunting area managed and developed for
12 waterfowl. ~~The commission may require the wearing of a special~~
13 ~~tag or license as a condition of issuing a permit under this~~
14 ~~section.~~

15 (5) ~~(3)~~ Except as provided in subsection ~~(4)~~ (6), the
16 ~~commission~~ DEPARTMENT OF AGRICULTURE may enter into contracts
17 ~~with persons, sole proprietorships, partnerships, associations,~~
18 ~~and corporations~~ for the taking of coal, oil, gas, and other
19 mineral products from state owned lands, upon a royalty basis or
20 upon another basis, and upon the terms the ~~commission~~
21 DEPARTMENT OF AGRICULTURE considers just and equitable. This
22 contract power includes authorization to enter into contracts for
23 the storage of gas or other mineral products in or upon state
24 owned lands, if the consent of the state agency having jurisdic-
25 tion and control of the state owned land is first obtained. A
26 contract permitted under this section for the taking of coal,
27 oil, gas, or metallic mineral products, or for the storage of gas

1 or other mineral products, is not valid unless the contract is
2 approved by the state administrative board. Money received from
3 a contract permitted under this subsection, except money received
4 from lands acquired with money from the game and fish protection
5 fund CREATED IN SECTION 601 OF THE HUNTING AND FISHING LICENSE
6 ACT, ACT NO. 86 OF THE PUBLIC ACTS OF 1980, BEING SECTION 316.601
7 OF THE MICHIGAN COMPILED LAWS, shall be transmitted to the state
8 treasurer for deposit in the ~~general fund of the state to be~~
9 ~~used for the purpose of defraying the expenses incurred in the~~
10 ~~administration of this act and other purposes provided by law~~
11 MICHIGAN NATURAL RESOURCES TRUST FUND CREATED IN SECTION 35 OF
12 ARTICLE IX OF THE STATE CONSTITUTION OF 1963. However, the money
13 received from the payment of service charges by a person using
14 areas managed for waterfowl shall be credited to the game and
15 fish protection fund and used only for the purposes provided by
16 law. Money received from bonuses, rentals, delayed rentals, roy-
17 alties, and the direct sale of resources, including forest
18 resources, from lands acquired with money from the game and fish
19 protection fund shall be credited to the game and fish protection
20 trust fund CREATED IN THE GAME AND FISH PROTECTION TRUST FUND
21 ACT, ACT NO. 73 OF THE PUBLIC ACTS OF 1986, BEING
22 SECTIONS 300.211 TO 300.216 OF THE MICHIGAN COMPILED LAWS, except
23 as otherwise provided by law.

24 (6) ~~(4)~~ The ~~commission~~ DEPARTMENT OF AGRICULTURE shall
25 not enter into a contract that permits drilling operations for
26 the taking of oil or gas from the lake bottomlands of the Great
27 Lakes or connecting or connected bays, harbors, or waterways,

1 unless all drilling operations originate from locations above and
2 inland of the ordinary high-water mark. The ~~commission~~
3 DEPARTMENT OF AGRICULTURE shall not enter into a contract for
4 exploration of the lake bottomlands of the Great Lakes or con-
5 necting or connected bays, harbors, or waterways that permits
6 drilling operations unless all drilling operations originate from
7 locations above and inland of the ordinary high-water mark.

8 (7) ~~(5)~~ This section does not permit a contract for the
9 taking of gravel, sand, coal, oil, gas, or other metallic mineral
10 products that does not comply with applicable local ordinances
11 and state law.

12 Sec. 3. (1) The department ~~of conservation~~ shall protect
13 and conserve the natural resources of ~~the~~ THIS state ~~of~~
14 Michigan, AS PROVIDED BY THIS ACT AND AS PROVIDED BY LAW AND
15 SHALL provide and develop facilities for outdoor recreation. ~~→~~

16 (2) THE DEPARTMENT OF AGRICULTURE SHALL prevent the destruc-
17 tion of timber and other forest growth by fire or otherwise ~~→~~
18 AND promote the reforesting of forest lands belonging to the
19 state. ~~→~~

20 (3) THE DEPARTMENT SHALL prevent and guard against the pol-
21 lution of lakes and streams within the state ~~→~~ and enforce all
22 laws provided for that purpose with all authority granted by
23 law. ~~→, and~~

24 (4) THE DEPARTMENT OF FISH AND WILDLIFE SHALL foster and
25 encourage the protecting and propagation of game and fish.

26 (5) On behalf of the people of the state, the ~~commission of~~
27 ~~conservation~~ DEPARTMENT AND THE DEPARTMENT OF AGRICULTURE may

1 accept gifts and grants of land and other property and ~~shall~~
2 ~~have authority to~~ MAY buy, sell, exchange, or condemn land and
3 other property, for any of the purposes contemplated by this
4 act.

5 (6) The department of ~~conservation~~ FISH AND WILDLIFE may
6 accept funds, ~~moneys~~ MONEY, or grants for development of salmon
7 and steelhead trout fishing in this state from the government of
8 the United States, or any of its departments or agencies, pursu-
9 ant to ~~federal Public Law 89-304~~ THE ANADROMOUS FISH CONSERVA-
10 TION ACT, PUBLIC LAW 89-304, 16 U.S.C. 757a TO 757g, and may use
11 ~~the same~~ THIS MONEY in accordance with the terms and provisions
12 ~~thereof: Provided, That~~ OF THAT ACT. HOWEVER, the acceptance
13 and use of federal funds ~~commits no~~ DOES NOT COMMIT state funds
14 and ~~places no~~ DOES NOT PLACE AN obligation upon the legislature
15 to continue the purposes for which the funds are made available.

16 (7) ~~(2)~~ The department ~~of conservation~~ may lease lands
17 owned or controlled by it ~~which~~ THAT have been designated for
18 use for recreational purposes, but only to responsible legal
19 units, within this state, of national or state recognized groups
20 devoted principally to development of character and citizenship
21 training and physical fitness of youth, the financial support of
22 which is by voluntary public subscriptions or contributions, and
23 the property of which is exempt from taxation under the laws of
24 this state. The department ~~of conservation shall also have the~~
25 ~~authority to~~ MAY lease land in the Porcupine mountain state park
26 to third parties for ~~such~~ purposes as it ~~shall consider~~
27 CONSIDERS desirable. Any lease ~~so made~~ ENTERED INTO UNDER THIS

1 SUBSECTION shall ~~contain provisions limiting~~ LIMIT the purposes
2 for which the LEASED land ~~so leased~~ is to be used and ~~a provi-~~
3 ~~sion authorizing~~ SHALL AUTHORIZE the department ~~of~~
4 ~~conservation~~ to terminate the lease upon a finding that the land
5 is being used for purposes other than ~~as so limited or contrary~~
6 ~~to the intent hereof~~ THOSE PERMITTED IN THE LEASE.

7 Sec. 3a. (1) The ~~commission of natural resources~~
8 DEPARTMENT AND THE DEPARTMENT OF AGRICULTURE shall promulgate
9 rules for the protection of the lands and property under ~~its~~
10 THEIR control against wrongful use or occupancy as will ~~insure~~
11 ENSURE the carrying out of the intent of this act to protect the
12 lands and property from depredations and to preserve the lands
13 and property from molestation, spoilation, destruction, or any
14 other improper use or occupancy. This section does not allow the
15 ~~commission of natural resources~~ DEPARTMENT OR THE DEPARTMENT OF
16 AGRICULTURE to promulgate ~~any~~ A rule that applies to commercial
17 fishing except as otherwise provided by law. ~~Rules affecting~~
18 ~~the use and occupancy of lands and property shall be promulgated~~
19 ~~pursuant to the administrative procedures act of 1969, Act~~
20 ~~No. 386 of the Public Acts of 1969, being sections 24.201 to~~
21 ~~24.328 of the Michigan Compiled Laws.~~ The ~~director of the~~
22 ~~department of natural resources~~ DEPARTMENT AND THE DEPARTMENT OF
23 AGRICULTURE shall issue orders necessary to implement rules
24 promulgated under this section. These orders shall be effective
25 upon posting.

26 (2) A person who violates a rule promulgated under this
27 section or an order issued under this section is guilty of a

1 misdemeanor, punishable by imprisonment for not more than 90 days
2 or community service of not more than 30 days, or by a fine of
3 not more than \$500.00, or both.

4 (3) On and after the date the civil procedures act is
5 enacted into law, a person who violates a rule promulgated under
6 this section or an order issued under this section is responsible
7 for a civil infraction and subject to a civil fine of not more
8 than \$500.00.

9 Sec. 3b. The ~~conservation commission or~~ department of
10 ~~conservation,~~ FISH AND WILDLIFE in pursuing the state's policy
11 of propagating fish for the purpose of stocking the streams and
12 lakes of the state ~~shall not refuse to~~ accept federal fish
13 stock for such programs ~~and~~ shall apply for all federal fish
14 stock programs ~~which~~ THAT do not commit the state to future
15 expenditures. The department shall provide a listing to the leg-
16 islature of all federal fish stock programs by April 15 of each
17 year.

18 Sec. 8. (1) The ~~commission~~ DEPARTMENT may require that a
19 person obtain a permit for the use of a state park or a state
20 forest campground. The ~~commission~~ DEPARTMENT may establish and
21 collect fees for permits to use state parks, state forest camp-
22 grounds, and specific state forest areas. The revenue realized
23 by the ~~commission~~ DEPARTMENT from permit fees and concessions
24 at state parks shall be credited to a separate fund of the STATE
25 TREASURY AND SHALL BE AVAILABLE FOR APPROPRIATION TO THE depart-
26 ment OF NATURAL RESOURCES for improvement and maintenance of
27 state parks. The permit fees for state forest campgrounds shall

1 be used for the operation, maintenance, and development of state
 2 forest campgrounds. Any unexpended permit fees for state forest
 3 campgrounds, along with any excess collections from prior fiscal
 4 years, shall be carried over into subsequent fiscal years and
 5 shall be available for appropriation for the operation, mainte-
 6 nance, and development of state forest campgrounds.

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

11 Sec. 8b. The MacMullan conference center shall be available
 12 only to the following:

13 (a) The department. ~~of natural resources.~~

14 (B) THE DEPARTMENT OF FISH AND WILDLIFE.

15 (C) THE DEPARTMENT OF AGRICULTURE.

16 (D) ~~(b)~~ Federal, state, and local government agencies.

17 (E) ~~(c)~~ Education institutions.

18 (F) ~~(d)~~ Nonprofit ~~corporation~~ CORPORATIONS or
 19 ~~association~~ ASSOCIATIONS organized pursuant to the nonprofit
 20 corporation act, Act No. 162 of the Public Acts of 1982, being
 21 sections 450.2101 to 450.3192 of the Michigan Compiled Laws.

22 (G) ~~(e)~~ Community service clubs.

23 (H) ~~(f)~~ Handicapper groups.

24 (I) ~~(g)~~ Members of the legislature for purposes related to
 25 the business of the legislature.

1 (J) ~~(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 AND THE DEPARTMENT OF AGRICULTURE for reimbursement of
6 damages to department OF NATURAL RESOURCES AND DEPARTMENT OF
7 AGRICULTURE property, reimbursement of land recording fees, sale
8 of farm animals from Maybury state park, reimbursement for utili-
9 ties for the Michigan state exposition and fairgrounds, reproduc-
10 tion of the agenda of the ~~commissions~~ COMMISSION OR OTHER
11 MEETINGS of the department OR THE DEPARTMENT OF AGRICULTURE,
12 reimbursement for forest fire protection services provided to the
13 federal government or other states, and money received from for-
14 feited cash bonds, security bonds, and court ordered reimburse-
15 ments may be credited to the accounts from which these disburse-
16 ments were or are to be made.

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

1 Section 2. This amendatory act shall not take effect unless
2 Senate Bill No. _____ or House Bill No. 4266 (request
3 no. 02091'95) of the 88th Legislature is enacted into law.