

SENATE BILL No. 248

March 9, 2011, Introduced by Senators CASPERSON, ROBERTSON, GREEN, MARLEAU, BRANDENBURG and PAPPAGEORGE and referred to the Committee on Natural Resources, Environment and Great Lakes.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending section 503 (MCL 324.503), as amended by 2004 PA 587.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 503. (1) The department shall protect and conserve the
2 natural resources of this state; provide and develop facilities for
3 outdoor recreation; prevent the destruction of timber and other
4 forest growth by fire or otherwise; promote the reforestation of
5 forestlands belonging to the state; prevent and guard against the
6 pollution of lakes and streams within the state and enforce all
7 laws provided for that purpose with all authority granted by law;
8 and foster and encourage the protecting and propagation of game and
9 fish. The department has the power and jurisdiction over the

1 management, control, and disposition of all land under the public
2 domain, except for those lands under the public domain that are
3 managed by other state agencies to carry out their assigned duties
4 and responsibilities. On behalf of the people of ~~the~~**THIS** state,
5 the department may accept gifts and grants of land and other
6 property and may buy, sell, exchange, or condemn land and other
7 property, for any of the purposes contemplated by this part. The
8 department may accept funds, money, or grants for development of
9 salmon and steelhead trout fishing in this state from the
10 government of the United States, or any of its departments or
11 agencies, pursuant to the anadromous fish conservation act, 16 USC
12 757a to 757f, and may use this money in accordance with the terms
13 and provisions of that act. However, the acceptance and use of
14 federal funds does not commit state funds and does not place an
15 obligation upon the legislature to continue the purposes for which
16 the funds are made available.

17 **(2) THE DEPARTMENT SHALL NOT ACQUIRE SURFACE RIGHTS TO LAND IF**
18 **THE DEPARTMENT OWNS OR CONTROLS, OR AS A RESULT OF THE ACQUISITION**
19 **WILL OWN OR CONTROL, THE SURFACE RIGHTS TO MORE THAN 4,475,000**
20 **ACRES OF LAND. THE DEPARTMENT SHALL POST AND MAINTAIN ON ITS**
21 **WEBSITE THE NUMBER OF ACRES OF LAND OWNED BY THE DEPARTMENT, IN**
22 **TOTAL, AND BY PROGRAM.**

23 **(3)** ~~(2)~~The department may lease lands owned or controlled by
24 the department or may grant concessions on lands owned or
25 controlled by the department to any person for any purpose that the
26 department determines to be necessary to implement this part. In
27 granting a concession, the department shall provide that each

1 concession is awarded at least every 7 years based on extension,
2 renegotiation, or competitive bidding. However, if the department
3 determines that a concession requires a capital investment in which
4 reasonable financing or amortization necessitates a longer term,
5 the department may grant a concession for up to a 15-year term. A
6 concession granted under this subsection shall require, unless the
7 department authorizes otherwise, that all buildings and equipment
8 shall be removed at the end of the concession's term. Any lease
9 entered into under this subsection shall limit the purposes for
10 which the leased land is to be used and shall authorize the
11 department to terminate the lease upon a finding that the land is
12 being used for purposes other than those permitted in the lease.
13 Unless otherwise provided by law, money received from a lease or a
14 concession of tax reverted land shall be credited to the fund
15 providing financial support for the management of the leased land.
16 Money received from a lease of all other land shall be credited to
17 the fund from which the land was purchased. However, money received
18 from program-related leases on these lands shall be credited to the
19 fund providing financial support for the management of the leased
20 lands. For land managed by the forest management division of the
21 department, that fund is either the forest development fund
22 established pursuant to ~~part 505~~ **SECTION 50507** or the forest
23 recreation account of the Michigan conservation and recreation
24 legacy fund provided for in section 2005. For land managed by the
25 wildlife or fisheries division of the department, that fund is the
26 game and fish protection account of the Michigan conservation and
27 recreation legacy fund provided for in section 2010.

1 (4) ~~(3)~~—When the department sells land, the deed by which the
2 land is conveyed may reserve all mineral, coal, oil, and gas rights
3 to the state only when the land is in production or is leased or
4 permitted for production, or when the department determines that
5 the land has unusual or sensitive environmental features or that it
6 is in the best interest of this state to reserve those rights as
7 determined by commission policy. However, the department shall not
8 reserve the rights to sand, gravel, clay, or other nonmetallic
9 minerals. When the department sells land that contains subsurface
10 rights, the department shall include a deed restriction that
11 restricts the subsurface rights from being severed from the surface
12 rights in the future. If the landowner severs the subsurface rights
13 from the surface rights, the subsurface rights revert to this
14 state. The deed may reserve to the state the right of ingress and
15 egress over and across land along watercourses and streams.
16 Whenever an exchange of land is made, either with the United States
17 government, a corporation, or an individual, for the purpose of
18 consolidating the state forest reserves, the department may issue
19 deeds without reserving to the state the mineral, coal, oil, and
20 gas rights and the rights of ingress and egress. The department may
21 sell the limestone, sand, gravel, or other nonmetallic minerals.
22 However, the department shall not sell a mineral or nonmetallic
23 mineral right if the sale would violate part 353, part 637, or any
24 other provision of law. The department may sell all reserved
25 mineral, coal, oil, and gas rights to such lands upon terms and
26 conditions as the department considers proper and may sell oil and
27 gas rights as provided in part 610. The owner of such lands as

1 shown by the records shall be given priority in case the department
2 authorizes any sale of such lands, and, unless the landowner waives
3 such rights, the department shall not sell such rights to any other
4 person. For the purpose of this section, mineral rights do not
5 include rights to sand, gravel, clay, or other nonmetallic
6 minerals.

7 (5) ~~(4)~~—The department may enter into contracts for the sale
8 of the economic share of royalty interests it holds in hydrocarbons
9 produced from devonian or antrim shale qualifying for the
10 nonconventional fuel credit contained in section 29 of the internal
11 revenue code of 1986, **26 USC 29**. However, in entering into these
12 contracts, the department shall assure that revenues to the natural
13 resources trust fund under these contracts are not less than the
14 revenues the natural resources trust fund would have received if
15 the contracts were not entered into. The sale of the economic share
16 of royalty interests under this subsection may occur under
17 contractual terms and conditions considered appropriate by the
18 department and as approved by the state administrative board. Funds
19 received from the sale of the economic share of royalty interests
20 under this subsection shall be transmitted to the state treasurer
21 for deposit in the state treasury as follows:

22 (a) Net proceeds allocable to the nonconventional fuel credit
23 contained in section 29 of the internal revenue code of 1986, **26**
24 **USC 29**, under this subsection shall be credited to the
25 environmental protection fund created in section 503a.

26 (b) Proceeds related to the production of oil or gas from
27 devonian or antrim shale shall be credited to the natural resources

1 trust fund or other applicable fund as provided by law.

2 (6) ~~(5)~~—As used in subsection ~~(4)~~—(5):

3 (a) "Natural resources trust fund" means the Michigan natural
4 resources trust fund established in section 35 of article IX of the
5 state constitution of 1963 and provided for in section 1902.

6 (b) "Net proceeds" means the total receipts received from the
7 sale of royalty interests under subsection ~~(4)~~—(5) less costs
8 related to the sale. Costs may include, but are not limited to,
9 legal, financial advisory, geological or reserve studies, and
10 accounting services.

11 (7) ~~(6)~~—As used in this section:

12 (a) "Concession" means an agreement between the department and
13 a person under terms and conditions as specified by the department
14 to provide services or recreational opportunities for public use.

15 (b) "Lease" means a conveyance by the department to a person
16 of a portion of the state's interest in land under specific terms
17 and for valuable consideration, thereby granting to the lessee the
18 possession of that portion conveyed during the period stipulated.