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**SFA****BILL ANALYSIS**

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House Bill 4061 (Substitute S-2 as reported)

Sponsor: Representative William Bobier

House Committee: Forestry and Mineral Rights

Senate Committee: Economic Development, International Trade and Regulatory Affairs

## **CONTENT**

The bill would amend Parts 503 and 2132 of the Natural Resources and Environmental Protection Act, which pertain to State land acquisition and sale, to require deeds to reserve coal, oil, gas, and other mineral rights upon the sale of State land that was in production. The bill also would add Part 610 to require the divestiture of severed oil and gas rights, to provide for the unification of surface and subsurface oil or gas ownership, and to establish the "William R. Bobier Unified Property Rights Fund".

Under the bill, if the Department of Natural Resources (DNR) sold land, the deed by which the land was conveyed would have to reserve all mineral, coal, oil, and gas rights to the State only when the land was in production or was leased or permitted for production, or when the DNR determined the land had unusual environmental or sensitive features. When the DNR sold land that contained subsurface rights, it would have to include a deed restriction that would restrict the subsurface rights from becoming severed from surface rights in the future.

The DNR would have to complete an inventory of all land under its jurisdiction within four years after the bill's effective date, and categorize the land as all land in which the DNR owned the following: the surface, oil, and gas rights; the surface rights but not the oil and gas rights; and the oil and gas rights, but not the surface rights.

The DNR would have to implement procedures that allowed the Department, after consultation with the Natural Resources Trust Fund Board and approval of the Natural Resources Commission, to divest itself of severed oil and gas rights and reunite the oil and gas rights with the surface rights. The DNR would not be required to divest itself of oil and gas rights to land that was in production, was leased or permitted for production, was determined by the DNR to have unusual environmental features of exceptional sensitivity that should be reserved and maintained in an undeveloped state, or was considered by the DNR to be an offer for exchange to consolidate inholdings within management areas.

When the DNR transferred oil and gas rights, it would have to include a deed restriction that restricted the oil and gas rights from becoming severed from the surface rights in the future. ("Severed oil and gas rights" would mean those subsurface oil and gas rights held by the DNR in land in which it did not own the surface rights.)

In each county in which the DNR offered to sell or transfer severed oil and gas rights, the DNR would have to notify the owner of surface rights or the property taxpayer, of the opportunity to obtain the severed oil and gas rights. The DNR would have to publish a notice in a newspaper of general circulation in the county where oil and gas rights were located and provide notification through the local taxing authority's tax notice of the offer to sell severed oil and gas rights to the surface owner. A landowner who desired to accept the DNR's offer would have to provide a copy of a recorded deed showing the person's ownership of the land. Further, a person who attempted to purchase oil and gas rights from the DNR and who was not the surface owner would forfeit any money given to the

DNR.

The bill would create the William R. Bobier Unified Property Rights Fund in the State Treasury, and require that all money received by the DNR for the sale or transfer of oil or gas rights be deposited in the Fund. The DNR would have to spend money from the Fund, upon appropriation, only to purchase the severed oil and gas rights and other subsurface rights for property in which the State owned the surface rights but not the subsurface rights, or to pay for the DNR's costs of administering Part 610 but not exceeding 15% of the amount of money received by the DNR through the sale of severed oil and gas rights. Further, if the balance of the Fund exceeded \$500,000 at the close of the State fiscal year, that portion of the Fund that exceeded \$500,000 would be deposited in the Michigan Natural Resources Trust Fund.

MCL 324.503 et al.

Legislative Analyst: N. Nagata

### **FISCAL IMPACT**

The bill would have an indeterminate fiscal impact on State and local government, depending on the value and amount of State mineral rights sold and non-State mineral rights purchased, and the administrative costs associated with these transactions. Since ongoing oil and gas production would not be affected, the bill would have no impact on current revenues to the State; however, the sale of inactive mineral rights could reduce future revenues by an indeterminate amount.

According to the DNR, the value of mineral rights cannot be determined since there has been no market in the State for the purchase of mineral rights. Therefore, the potential revenues to the State from the sale of 1.5 million acres of State-owned mineral rights, and the costs to purchase 700,000 acres of private mineral rights, are unknown at this time.

The Department estimates that the administrative cost to sell and purchase mineral rights would be between \$19 million and \$38 million. This range is based on whether Department personnel or contractors would be used to facilitate the sale transactions. To cover the administrative costs using 15% of the sales revenue, the mineral rights sold would need to be worth a minimum of \$85 and \$169 per acre.

The bill would not affect current State revenues, but could reduce future revenues by eliminating additional oil and gas leases on the inactive properties. This revenue loss cannot be determined since it is unknown how many of the State's inactive mineral rights properties are capable of generating revenue.

Date Completed: 4-14-98

Fiscal Analyst: G. Cutler

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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.