

HOUSE BILL No. 4061

January 8, 1997, Introduced by Rep. Bobier and referred to the Committee on Forestry and Mineral Rights.

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 503 and 2132 (MCL 324.503 and 324.2132), section 503 as amended by 1996 PA 133 and section 2132 as added by 1995 PA 60, and by adding part 610.

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
3 for outdoor recreation; prevent the destruction of timber and
4 other forest growth by fire or otherwise; promote the reforestation
5 of forest lands belonging to the state; prevent and guard against
6 the pollution of lakes and streams within the state and enforce
7 all laws provided for that purpose with all authority granted by
8 law; and foster and encourage the protecting and propagation of
9 game and fish. The department has the power and jurisdiction

1 over the management, control, and disposition of all land under
2 the public domain, except for those lands under the public domain
3 that are managed by other state agencies to carry out their
4 assigned duties and responsibilities. On behalf of the people of
5 the state, the department may accept gifts and grants of land and
6 other property and may buy, sell, exchange, or condemn land and
7 other property, for any of the purposes contemplated by this
8 part. The department may accept funds, money, or grants for
9 development of salmon and steelhead trout fishing in this state
10 from the government of the United States, or any of its depart-
11 ments or agencies, pursuant to the anadromous fish conservation
12 act, Public Law 89-304, 16 U.S.C. 757a to 757g, and may use this
13 money in accordance with the terms and provisions of that act.
14 However, the acceptance and use of federal funds does not commit
15 state funds and does not place an obligation upon the legislature
16 to continue the purposes for which the funds are made available.

17 (2) The department may lease lands owned or controlled by it
18 that have been designated for use for recreational purposes, but
19 only to responsible legal units, within this state, of national
20 or state recognized groups devoted principally to development of
21 character and citizenship training and physical fitness of youth,
22 the financial support of which is by voluntary public subscrip-
23 tions or contributions, and the property of which is exempt from
24 taxation under the laws of this state. The department may lease
25 land in the Porcupine mountain state park to third parties for
26 purposes as it considers desirable. Any lease entered into under
27 this subsection shall limit the purposes for which the leased

1 land is to be used and shall authorize the department to
2 terminate the lease upon a finding that the land is being used
3 for purposes other than those permitted in the lease.

4 (3) When ~~any sales of land are made by~~ the department
5 SELLS LAND, the ~~deeds~~ DEED by which ~~lands are~~ THE LAND IS
6 conveyed ~~may~~ SHALL reserve all mineral, coal, oil, and gas
7 rights to the state ~~, but~~ ONLY WHEN THE LAND IS IN PRODUCTION
8 OR IS LEASED OR PERMITTED FOR PRODUCTION. HOWEVER, THE
9 DEPARTMENT shall not reserve the rights to sand, gravel, clay, or
10 other nonmetallic minerals. ~~The department shall also have the~~
11 ~~power to provide that all deeds issued for lands along water~~
12 ~~courses and streams shall contain a clause reserving the right of~~
13 ~~ingress and egress over and across the lands.~~ THE DEED MAY
14 RESERVE TO THE STATE THE RIGHT OF INGRESS AND EGRESS OVER AND
15 ACROSS LAND ALONG WATERCOURSES AND STREAMS. Whenever an exchange
16 of land is made, either with the United States government, a cor-
17 poration, or an individual, for the purpose of consolidating the
18 state forest reserves, the department may issue deeds without
19 reserving to the state the mineral, coal, oil, and gas rights and
20 the rights of ingress and egress. The department may sell the
21 limestone, sand, gravel, or other nonmetallic minerals. However,
22 the department shall not sell a mineral or nonmetallic mineral
23 right if the sale would violate part 353 ~~(sand dune protection~~
24 ~~and management)~~ of Act No. 451 of the Public Acts of 1994, being
25 sections 324.35301 to 324.35326 of the Michigan Compiled Laws,
26 or part 637 ~~(sand dune mining)~~ of Act No. 451 of the Public Acts
27 of 1994, being sections 324.63701 to 324.63714 of the Michigan

00117'97

1 ~~Compiled Laws,~~ or any other provision of law. The department
2 may sell all reserved mineral, coal, oil, and gas rights to such
3 lands upon terms and conditions as the department considers
4 proper AND AS PROVIDED IN PART 610. The owner of such lands as
5 shown by the records shall be given priority in case the depart-
6 ment authorizes any sale of such lands, and, unless the landowner
7 waives such rights, the department shall not sell such rights to
8 any other person. For the purpose of this section, mineral
9 rights do not include rights to sand, gravel, clay, or other non-
10 metallic minerals.

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

00117'97

1 (a) Net proceeds allocable to the nonconventional fuel
2 credit contained in section 29 of the internal revenue code of
3 1986, 26 U.S.C. 29, under this subsection shall be credited to
4 the environmental protection fund created in section 503a.

5 (b) Proceeds related to the production of oil or gas from
6 devonian or antrim shale shall be credited to the natural
7 resources trust fund or other applicable fund as provided by
8 law.

9 (5) As used in subsection (4):

10 (a) "Natural resources trust fund" means the Michigan natu-
11 ral resources trust fund established in section 35 of article IX
12 of the state constitution of 1963 and provided for in
13 section 1902.

14 (b) "Net proceeds" means the total receipts received from
15 the sale of royalty interests under subsection (4) less costs
16 related to the sale. Costs may include, but are not limited to,
17 legal, financial advisory, geological or reserve studies, and
18 accounting services.

19 Sec. 2132. (1) The department may sell surplus land at a
20 price of not less than its fair market value as determined by an
21 appraisal.

22 (2) The sale of surplus land shall be conducted by the
23 department through 1 of the following methods:

24 (a) A sealed or oral bid public auction sale.

25 (b) A negotiated sale.

26 (3) The sale of surplus land through a sealed or oral bid
27 public auction sale shall be to the highest bidder. A bid shall

1 not be accepted for less than the fair market value of the
2 surplus land as determined by an appraisal.

3 (4) A notice of the sale of surplus land shall be given as
4 provided in section 2133.

5 (5) The proceeds from the sale of surplus land shall be
6 deposited into the fund.

7 (6) Surplus land that is sold under this subpart shall be
8 conveyed by quitclaim deed approved by the attorney general. ~~and~~
9 ~~shall reserve to the state all rights to coal, oil, gas, and~~
10 ~~other minerals, excluding sand and gravel, found on, within, and~~
11 ~~under the land.~~

12

PART 610

13

UNIFIED SURFACE AND SUBSURFACE MINERAL OWNERSHIP

14

SEC. 61001. (1) AS USED IN THIS PART, "MINERAL RIGHTS"

15

MEANS SUBSURFACE OIL OR GAS INTERESTS.

16

(2) THE DEPARTMENT SHALL INVENTORY ALL OF THE PROPERTY OWNED
17 BY THE STATE UPON WHICH THE STATE HOLDS ONLY THE SEVERED MINERAL
18 RIGHTS IN THE PROPERTY. EXCEPT AS OTHERWISE PROVIDED FOR IN THIS
19 SUBSECTION, THE DEPARTMENT SHALL DEVELOP PROCEDURES IN COMPLIANCE
20 WITH THIS PART, AND, WITHIN 2 YEARS OF THE EFFECTIVE DATE OF THIS
21 PART, THE STATE SHALL DIVEST ITSELF OF THOSE MINERAL RIGHTS AND
22 WHEN POSSIBLE REUNITE THE SEVERED MINERAL RIGHTS WITH THE SURFACE
23 HOLDINGS. THE DEPARTMENT SHALL ATTACH A MONETARY VALUE ON THE
24 MINERAL RIGHTS THAT IT HOLDS FOR EACH PARCEL FOR WHICH IT OWNS
25 SEVERED MINERAL RIGHTS BUT NOT THE SURFACE RIGHTS. THE STATE IS
26 NOT REQUIRED TO DIVEST ITSELF OF MINERAL RIGHTS IN PROPERTY WHICH
27 THE DEPARTMENT DETERMINES HAS UNUSUAL ENVIRONMENTAL FEATURES OF

00117'97

1 EXCEPTIONAL SENSITIVITY THAT SHOULD BE RESERVED BY THE STATE AND
2 MAINTAINED IN AN UNDEVELOPED STATE.

3 (3) UPON COMPLETION OF THE INVENTORY UNDER SUBSECTION (2),
4 THE DEPARTMENT SHALL NOTIFY THE OWNERS OF SURFACE RIGHTS FOR
5 WHICH THE STATE HOLDS THE SEVERED MINERAL RIGHTS BENEATH THAT
6 PROPERTY THAT THE STATE WISHES TO SELL ITS MINERAL RIGHTS TO THE
7 SURFACE OWNER. THE NOTICE SHALL INCLUDE AN OFFER TO SELL THE
8 SEVERED MINERAL RIGHTS TO THE SURFACE OWNER AT A DESIGNATED PRICE
9 FOR A PERIOD OF 90 DAYS. THE PERIOD DURING WHICH THE OFFER
10 REMAINS OPEN MAY BE EXTENDED BY MUTUAL AGREEMENT OF THE DEPART-
11 MENT AND THE SURFACE OWNER. THE DEPARTMENT SHALL MAINTAIN A FILE
12 CONTAINING ALL THE RESPONSES THAT IT RECEIVES FROM SURFACE
13 OWNERS, WHETHER THE RESPONSE EXPRESSES AN INTEREST IN PURCHASING
14 THE STATE'S MINERAL RIGHTS OR WAIVES THE RIGHT TO SELL WITHIN THE
15 DESIGNATED PERIOD.

16 SEC. 61002. IF THE STATE HAS REMOVED OR CONTRACTS FOR THE
17 REMOVAL OF SEVERED MINERAL RIGHTS FROM STATE OWNED LAND AND THE
18 DEPARTMENT CERTIFIES THAT THE MINERAL RIGHTS IN THE LAND NO
19 LONGER HAVE A COMMERCIAL VALUE, THE STATE SHALL QUITCLAIM DEED
20 ITS MINERAL RIGHTS IN THAT PROPERTY TO THE SURFACE LAND OWNER
21 WITHOUT COST.

22 SEC. 61003. (1) THE UNIFIED PROPERTY RIGHTS FUND IS CREATED
23 WITHIN THE STATE TREASURY.

24 (2) THE STATE TREASURER MAY RECEIVE MONEY OR OTHER ASSETS
25 FROM ANY SOURCE FOR DEPOSIT INTO THE FUND AND SPECIFICALLY SHALL
26 RECEIVE FUNDS GENERATED FROM THE SALE OF MINERAL RIGHTS UNDER
27 SECTION 61001. THE STATE TREASURER SHALL DIRECT THE INVESTMENT

1 OF THE FUND. THE STATE TREASURER SHALL CREDIT TO THE FUND
2 INTEREST AND EARNINGS FROM FUND INVESTMENTS.

3 (3) MONEY IN THE FUND AT THE CLOSE OF THE FISCAL YEAR SHALL
4 REMAIN IN THE FUND AND SHALL NOT LAPSE TO THE GENERAL FUND.

5 (4) THE DEPARTMENT SHALL EXPEND MONEY FROM THE FUND, UPON
6 APPROPRIATION, ONLY FOR 1 OR MORE OF THE FOLLOWING PURPOSES AND
7 IN THE FOLLOWING ORDER OF PRIORITY:

8 (A) TO PURCHASE THE SEVERED MINERAL RIGHTS FOR PROPERTY THAT
9 THE STATE OWNS BUT FOR WHICH THE STATE DOES NOT HOLD THE MINERAL
10 RIGHTS.

11 (B) TO SELL AT A NOMINAL, BELOW FAIR MARKET VALUE, FEE TO
12 LOCAL UNITS OF GOVERNMENT THE OIL AND GAS RIGHTS IN PROPERTY
13 WHICH IS OWNED BY THE LOCAL GOVERNMENT WHEN THE STATE HOLDS THE
14 SEVERED MINERAL RIGHTS FOR THAT PROPERTY.

15 (C) IF THE BALANCE OF THE FUND EXCEEDS \$500,000.00 IN ANY
16 FISCAL YEAR, THAT PORTION OF THE FUND THAT EXCEEDS \$500,000.00
17 SHALL BE DEPOSITED IN THE MICHIGAN NATURAL RESOURCES TRUST FUND
18 CREATED IN PART 19.

19 SEC. 61004. (1) UPON ANY CONVEYANCE OR TRANSFER OF TITLE,
20 OR FILING OF CLAIM OF CONTINUANCY INTEREST, OF A PRESENT OR
21 FUTURE INTEREST IN MINERAL RIGHTS OR ANY PORTION OF INTEREST IN
22 THOSE RIGHTS, INCLUDING THE BENEFICIAL USE OF THE INTEREST, EACH
23 PERSON IN THIS STATE WHO OWNS SEVERED MINERAL RIGHTS SHALL PRO-
24 VIDE THE REGISTER OF DEEDS IN THE COUNTY IN WHICH THE PROPERTY IS
25 LOCATED WITH THE LEGAL DESCRIPTION OF THE REAL PROPERTY AND PRO-
26 VIDE THE NAME AND ADDRESS OF THE HOLDER OF THE SEVERED MINERAL

00117'97

1 RIGHTS. THE COUNTY SHALL COMPILE THIS INFORMATION TO USE TO
2 ASSURE COMPLIANCE WITH SUBSECTION (2).

3 (2) A PERSON, WHO IS NOT THE STATE OR A GOVERNMENTAL ENTITY,
4 WHO OWNS MINERAL RIGHTS AND WHOSE INTEREST TO THOSE RIGHTS IS ON
5 RECORD AS REQUIRED UNDER SUBSECTION (1) BUT WHO DOES NOT OWN THE
6 SURFACE RIGHTS FOR THAT PROPERTY SHALL, BY FEBRUARY 14 OF EACH
7 YEAR, PAY AN ANNUAL FEE TO THE COUNTY TREASURER IN WHICH THE
8 PROPERTY IS LOCATED IN THE FOLLOWING AMOUNT:

9 (A) \$1.00 PER ACRE OF LAND ON WHICH THE PERSON OWNS OR
10 LEASES SEVERED MINERAL RIGHTS OR A MINIMUM FEE OF \$5.00, WHICH-
11 EVER IS MORE.

12 (B) \$2.00 PER ACRE OF PLATTED LOTS IF THERE ARE 10 OR MORE
13 PLATTED LOTS PER 40-ACRE PARCEL.

14 (3) A PERSON WHO FAILS TO PAY THE FEE PROVIDED UNDER SUBSEC-
15 TION (2) IS SUBJECT TO FORECLOSURE PROCEEDINGS IN THE SAME MANNER
16 AND PURSUANT TO THE SAME PROCEEDINGS FOR TAX FORECLOSURE AND
17 REDEMPTION AS PROVIDED UNDER THE GENERAL PROPERTY TAX ACT, 1893
18 PA 206, MCL 211.1 TO 211.157.

19 (4) THE COUNTY SHALL RETAIN ALL FEES COLLECTED UNDER THIS
20 SECTION AND THOSE FEES SHALL BE UTILIZED ONLY FOR THE FOLLOWING
21 PURPOSES:

22 (A) TO COMPILE A LIST OF PERSONS WITHIN THE COUNTY WHO ARE
23 REQUIRED TO PAY THE FEE UNDER THIS SECTION.

24 (B) TO PAY FOR NOTIFICATION OF MINERAL RIGHTS OWNERS REGARD-
25 ING THEIR OBLIGATION TO REPORT UNDER SUBSECTION (1).

26 (C) TO PAY EXPENSES RELATED TO PROCESSING DELINQUENT PAYMENT
27 OF FEES.

00117'97

1 (D) TO PURCHASE MINERAL RIGHTS FROM THE STATE ON LANDS
2 WITHIN THE COUNTY OR A LOCAL UNIT WITHIN THE COUNTY, WHEN THE
3 LOCAL UNIT HOLDS THE SURFACE INTEREST BUT THE STATE OWNS THE MIN-
4 ERAL RIGHTS.

5 (5) TITLE TO MINERAL RIGHTS THAT REVERT TO THE STATE UNDER
6 THIS SECTION SHALL BE DISPOSED OF BY THE STATE AS PROVIDED IN
7 SECTION 61001(3).