

1998 PUBLIC AND LOCAL ACTS

[No. 117]

(HB 4061)

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," 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:

324.503 Duties of department of natural resources; jurisdiction; outdoor recreation; destruction of timber; reforestation; pollution; protection of game and fish; gifts; acceptance of funds from federal government; purpose; use; lease and sale of land; reservation of mineral rights; sale of economic share of royalty interests; definitions. [M.S.A. 13A.503]

Sec. 503. (1) The department shall protect and conserve the natural resources of this state; provide and develop facilities for outdoor recreation; prevent the destruction of timber and other forest growth by fire or otherwise; promote the reforestation of forest lands belonging to the state; prevent and guard against the pollution of lakes and streams within the state and enforce all laws provided for that purpose with all authority granted by law; and foster and encourage the protecting and propagation of game and fish. The department has the power and jurisdiction over the management, control, and disposition of all land under the public domain, except for those lands under the public domain that are managed by other state agencies to carry out their assigned duties and responsibilities. On behalf of the people of the state, the department may accept gifts and grants of land and other property and may buy, sell, exchange, or condemn land and other property, for any of the purposes contemplated by this part. The department may accept funds, money, or grants for development of salmon and steelhead trout fishing in this state from the government of the United States, or any of its departments or agencies, pursuant to the anadromous fish conservation act, Public Law 89-304, 16 U.S.C. 757a to 757g, and may use this money in accordance with the terms and provisions of that act. However, the acceptance and use of federal funds does not commit state funds and does not place an obligation upon the legislature to continue the purposes for which the funds are made available.

(2) The department may lease lands owned or controlled by it that have been designated for use for recreational purposes, but only to responsible legal units, within this state, of national or state recognized groups devoted principally to development of character and citizenship training and physical fitness of youth, the financial support of which is by voluntary public subscriptions or contributions, and the property of which is exempt from taxation under the laws of this state. The department may lease land in the Porcupine Mountain state park to third parties for purposes as it considers desirable. Any lease entered into under this subsection shall limit the purposes for which the leased land is to be used and shall authorize the department to terminate the lease upon a finding that the land is being used for purposes other than those permitted in the lease.

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(3) When the department sells land, the deed by which the land is conveyed may reserve all mineral, coal, oil, and gas rights to the state only when the land is in production or is leased or permitted for production, or when the department determines that the land has unusual or sensitive environmental features or that it is in the best interest of this state to reserve those rights as determined by commission policy. However, the department shall not reserve the rights to sand, gravel, clay, or other nonmetallic minerals. When the department sells land that contains subsurface rights, the department shall include a deed restriction that restricts the subsurface rights from being severed from the surface rights in the future. If the landowner severs the subsurface rights from the surface rights, the subsurface rights revert to this state. The deed may reserve to the state the right of ingress and egress over and across land along watercourses and streams. Whenever an exchange of land is made, either with the United States government, a corporation, or an individual, for the purpose of consolidating the state forest reserves, the department may issue deeds without reserving to the state the mineral, coal, oil, and gas rights and the rights of ingress and egress. The department may sell the limestone, sand, gravel, or other nonmetallic minerals. However, the department shall not sell a mineral or nonmetallic mineral right if the sale would violate part 353 or part 637 or any other provision of law. The department may sell all reserved mineral, coal, oil, and gas rights to such lands upon terms and conditions as the department considers proper and may sell oil and gas rights as provided in part 610. The owner of such lands as shown by the records shall be given priority in case the department authorizes any sale of such lands, and, unless the landowner waives such rights, the department shall not sell such rights to any other person. For the purpose of this section, mineral rights do not include rights to sand, gravel, clay, or other nonmetallic minerals.

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

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

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

(5) As used in subsection (4):

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

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

324.2132 Sale of surplus land; price; methods; sale to highest bidder; condition to acceptance of bid; notice; disposition of proceeds; quitclaim deed. [M.S.A. 13A.2132]

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

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

- (a) A sealed or oral bid public auction sale.
- (b) A negotiated sale.

(3) The sale of surplus land through a sealed or oral bid public auction sale shall be to the highest bidder. A bid shall not be accepted for less than the fair market value of the surplus land as determined by an appraisal.

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

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

(6) Surplus land that is sold under this subpart shall be conveyed by quitclaim deed approved by the attorney general.

PART 610 UNIFIED SURFACE AND SUBSURFACE OIL OR GAS OWNERSHIP

324.61001 Definitions. [M.S.A. 13A.61001]

Sec. 61001. As used in this part:

- (a) "Department" means the department of natural resources.
- (b) "Severed oil and gas rights" means those subsurface oil and gas rights held by the department on land in which the department does not own the surface rights to the land.

324.61002 Inventory and categorization of land; contract.
[M.S.A. 13A.61002]

Sec. 61002. (1) Within 4 years after the effective date of this section, the department shall complete an inventory of all land under the jurisdiction of the department and shall categorize the land as follows:

- (a) All land in which the department owns both the surface rights and the oil and gas rights.
- (b) All land in which the department owns the surface rights but not the oil and gas rights.
- (c) All land in which the department owns the oil and gas rights but not the surface rights.

(2) The department may contract for the completion of the inventory under subsection (1).

324.61003 Divestiture of severed oil and gas rights; reuniting oil and gas rights with surface rights; deed restriction; reversion of subsurface rights. [M.S.A. 13A.61003]

Sec. 61003. (1) The department shall implement procedures in compliance with this part that allow 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 department is not required to divest itself of oil and gas rights to land that is in production or is leased or permitted for production, or to land which the department determines has unusual or sensitive environmental features that should be reserved by the state and maintained in an undeveloped state, or to land which the department may consider offering for exchange to consolidate inholdings within management areas.

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(2) When the department transfers oil and gas rights under this part, the department shall include a deed restriction that restricts the oil and gas rights from being severed from the surface rights in the future. If the landowner severs the subsurface rights from the surface rights, the subsurface rights revert to this state.

324.61004 Divestiture of severed oil and gas rights; basis; priority; plan for attaching monetary value; offer to sell or transfer severed rights to surface owner; notice; duration of designated price; petition; disposition of money received. [M.S.A. 13A.61004]

Sec. 61004. (1) The department may divest itself of severed oil and gas rights on a county-by-county basis. The department may prioritize counties in the order in which it intends to offer divestiture sales or transfers pursuant to this part.

(2) Prior to divesting itself of severed oil and gas rights, the department shall develop a plan for attaching a monetary value to those rights based upon current market conditions. This plan may include requiring the purchasing party to pay all costs associated with completing the transaction including a proportional share of the costs of completing the inventory. Additionally, the department may trade severed oil and gas rights for other land or rights in land if such a trade is in the best interest of the state. At the time the department transfers oil and gas rights for land held by a local unit of government, and for parcels of land smaller than 5 acres in size, the department shall transfer the oil and gas rights only for the cost of processing the transaction.

(3) In each county in which the department offers to sell or transfer severed oil and gas rights to the surface owner, the department shall publish a notice in a newspaper of general circulation in the county where the oil and gas rights are located and provide notification to the local taxing authority of this state's offer to sell severed oil and gas rights to surface owners. A price designated by the department for the purchase of oil and gas rights shall be valid for a minimum of 90 days. A landowner who desires to accept the department's offer to sell or transfer the severed oil and gas rights shall provide the department with a copy of a recorded deed showing the person's ownership of the land. A person who attempts to purchase oil and gas rights from the department who is not the surface owner forfeits any money given to the department.

(4) After the 90-day period described in subsection (3), the surface owner or a subsequent surface owner may petition the department for sale of the severed oil and gas rights at a price agreeable to the department.

(5) All money received by the department for the sale or transfer of oil or gas rights pursuant to this part shall be forwarded to the state treasurer for deposit into the Michigan natural resources trust fund established in part 19.

This act is ordered to take immediate effect.

Approved June 9, 1998.

Filed with Secretary of State June 9, 1998.
