

Ballot Proposal #1 of 2006



CONSERVATION AND RECREATION LEGACY FUND

Mitchell Bean, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

Ballot Proposal 06-01
November 2006 General Election
Placed on the ballot by the Legislature

Complete to 10-20-06

THE CONTENT OF THE BALLOT PROPOSAL:

The following is the official language as it will appear on the ballot

A PROPOSED CONSTITUTIONAL AMENDMENT TO REQUIRE THAT MONEY HELD IN CONSERVATION AND RECREATION FUNDS CAN ONLY BE USED FOR THEIR INTENDED PURPOSES

The Proposed constitutional amendment would:

- Create a Conservation and Recreation Legacy Fund within the Constitution and establish existing conservation and recreation accounts as components of the fund.
- Use current funding sources such as state park entrance and camping fees; snowmobile, ORV and boating registration fees; hunting and fishing licensing fees; taxes and other revenues to fund accounts.
- Establish the current Game and Fish Protection Fund and the Nongame Fish and Wildlife Fund within the Constitution.
- Provide that money held in Funds can only be used for specific purposes related to conservation and recreation and cannot be used for any purpose other than those intended.

Should this proposal be adopted?

Yes

No

BRIEF SUMMARY: The ballot proposal was placed on the ballot by legislative approval of House Joint Resolution Z during the 2003-2004 Legislative Session. Joint Resolution Z would establish *the Conservation and Recreation Legacy Fund, the Game and Fish Protection Trust Fund, and the Nongame Fish and Wildlife Trust Fund* within the State Constitution. At the same time, the Legislature passed House Bill 5870, which will only take effect if the ballot proposal is approved by the voters. House Bill 5870 would amend the Natural Resources and Environmental Protection Act (NREPA) to establish the Conservation and Recreation Legacy Fund in statute. Several accounts within the new fund would replace similar funds currently established in NREPA.

FISCAL IMPACT: Although the constitutional amendment would preclude transferring monies from the Conservation and Recreation Legacy Fund to other state funds, there would be no revenue increase or impact on license or fee payers, and there would be no fiscal impact on the state or local governmental units.

BACKGROUND INFORMATION:

The programs of the Department of Natural Resources (DNR) are funded by a combination of federal funds, the state General Fund, and several state restricted funds. Money in the DNR-related restricted funds comes from user fees, permits, and licenses, and is intended to be expended only for the support of DNR-related programs.

While the use of money from the state restricted funds is supposed to be limited to certain related programmatic uses, the money is technically available for other purposes, simply by amending the relevant statutes. A recent salient example occurred in fiscal year 2002-2003 when \$7.8 million from the Waterways Fund was used to support the General Fund.

The joint resolution and the accompanying legislation grew out of concern among the DNR's stakeholders (including those who financially support restricted funds through the purchase of permits, fees, licenses, etc.) that the Governor and Legislature could use these funds as a temporary measure in their efforts to resolve the state's chronic budget shortfalls.

Placing DNR-related funds in the State Constitution has occurred before. The Natural Resources Trust Fund received constitutional protection in 1984; the Michigan State Parks Endowment Fund in 1994; and the available funds for land acquisition and state parks were increased in 2002. The current proposal would provide constitutional protection to three additional funds to prevent diversions.

A DESCRIPTION OF HOUSE JOINT RESOLUTION Z AND HOUSE BILL 5870:

House Joint Resolution Z

The joint resolution places the Michigan Conservation and Recreation Legacy Fund, and its related accounts (as later described in House Bill 5870) in the State Constitution as Article IX, Section 40. The joint resolution also specifies revenue sources and allowable expenditures, all of which are consistent with current law and the provisions of House Bill 5870.

In addition, the joint resolution would place the Michigan Game and Fish Protection Trust Fund in the State Constitution as Article IX, Section 41. The trust fund was created by Public Act 73 of 1986, which is now incorporated as Part 437 of the Natural Resources and Environmental Protection Act. Language in Part 437 related to revenue sources and allowable uses for the trust fund would also be placed in the State Constitution as Article IX, Section 41.

Finally, the joint resolution would place the Nongame Fish and Wildlife Trust Fund in the State Constitution as Article IX, Section 42. The trust fund was first created by Public Act 285 of 1986, which is now incorporated as Part 439 of the Natural Resources and Environmental Protection Act. The joint resolution specifies that revenue for the trust fund would be generated from revenue designated by the general public for the benefit of the trust fund (which essentially means money from a now-expired income tax checkoff and money

from the sale of the nongame wildlife habitat license plate), as well as any gifts, grants, and bequests and other revenue as authorized by law.

House Bill 5870

The bill would create a new Part 20 of the Natural Resources and Environmental Protection Act which describes the proposed Michigan Conservation and Recreation Legacy Trust Fund and numerous accounts within the fund. The bill only takes effect if the ballot proposal is approved by voters.

The new fund would include the accounts listed below. In general, these accounts directly replace similar, separate funds already established within the state treasury and, in some instances, several smaller funds established for the same general purpose. Aside from the added language in Part 20, the bill makes numerous technical amendments throughout the rest of the NREPA that are related to the Legacy Fund and accounts within it.

Forest Recreation Account – This account would include revenue from (1) the former Forest Recreation Fund created in Part 831, (2) revenue from recreational activities on state forestland, and (3) other sources as authorized by law. Funds in the account would be expended under Part 831 of NREPA and for account administration. Funds could also be expended for grants to state colleges and universities for related programs.

Game and Fish Protection Account – This account would include revenue from (1) the former Game and Fish Protection Fund created in Part 435; (2) revenue from hunting and fishing licenses, fees, passbooks, and fees; (3) damages paid for the illegal taking of game and fish; (4) revenue related to game, game areas, and game fish; and (5) other sources as authorized by law. Funds in the account would be expended under Part 435 of NREPA and for account administration, which could include making payments in lieu of taxes on state land purchased with funds from the former Game and Fish Protection Fund or the Game and Fish Protection Account. Funds could also be expended for grants to state colleges and universities for related programs.

Off-Road Vehicle Account - This account would include revenue from (1) the former Trail Improvement Fund and former Safety Education Fund, both created in Part 811; (2) ORV registration and use fees; and (3) other sources as authorized by law. Funds in the account would be expended under Part 811 of NREPA and for account administration. Funds could also be expended for grants to state colleges and universities for related programs.

Recreation Improvement Account – This account would include revenue from (1) the former Recreation Improvement Fund created in Part 711; (2) two percent of the gasoline tax sold in the state; and (3) other sources as authorized by law. Funds in the account would be transferred, as prescribed in Part 711 of NREPA to the waterways account and snowmobile account, and for recreation projects and account administration. Funds could also be expended for grants to state colleges and universities for related programs.

Snowmobile Account - This account would include revenue from (1) the former Recreational Snowmobile Trail Improvement Fund and the former Snowmobile Registration Fee Fund, both created in Part 821; (2) snowmobile registration and use fees; (3) revenue from the use of snowmobile trails; (4) transfers from the recreation improvement account; and (5) other sources as authorized by law. Funds in the account would be expended as required by Part 821 of NREPA and for account administration, which could include payments in lieu of taxes

on state land purchased with funds from the Snowmobile Account or the former Snowmobile Trail Improvement Fund. Funds could also be expended for grants to state colleges and universities for related programs.

State Park Improvement Account - This account would include revenue from (1) the former State Park Improvement Fund established in Part 741 of NREPA, (2) activities in state parks and recreation areas, (3) damages paid for illegal activities in state parks and recreation areas, and (4) other sources as authorized by law. Funds in the account would be expended pursuant to Part 741 of NREPA and for account administration. Funds could also be expended for grants to state colleges and universities for related programs.

Waterways Account – This account would include revenue from (1) the former Michigan State Waterways Fund and former Michigan Harbor Development Fund, both established in Part 781; (2) the former Marine Safety Fund established in Part 801; (3) watercraft registration fees; (4) fees for mooring watercraft at state-operated mooring facilities; (5) fees for using state-operated public access sites; (6) transfers from the recreation improvement account; (7) all tax revenue derived from the sale of diesel fuel in the state that is used for vessels on the waterways of the state; and (8) other sources as authorized by law. Funds in the account would be expended pursuant to Parts 781, 791, and 801, and for account administration, which could include payments in lieu of taxes on state land purchased with funds from the Waterways Account or the former Michigan State Waterways Fund.

ARGUMENTS MADE BY PROPONENTS AND OPPONENTS OF THE BALLOT PROPOSAL:

For:

The DNR-related funds that are the subject of the proposal (and the accompanying legislation) are principally financed by users of the state’s vast system of natural resources. The user fees, like other user fees, are intended to make the primary beneficiaries of the DNR’s recreation programs pay for those programs. Correspondingly, the users of these programs pay fees with the expectation that the money will flow to the appropriate funds and be used for the intended purposes. However, when money from these funds is used for purposes unrelated to their primary intent, and more for the benefit of the general public, the user fees become more akin to a tax imposed only on a certain segment of the population. This is analogous to a tax being imposed on, say, only 10 percent of the population to support the operations of the State Police or the Attorney General’s office. This is unfair. Putting these funds within the State Constitution ensures that they will serve the purposes for which they were originally established.

Against:

The ability of the Legislature and Governor to respond to state budgetary troubles is compromised when the use of funds is restricted by the State Constitution. In dire circumstances, and in rare cases, the use of restricted funds can stave off budget cuts that might otherwise damage valuable state programs or result in broad-based tax increases.

Legislative Analyst: Mark Wolf
Chris Couch
Fiscal Analyst: Kirk Lindquist

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.