

Legislative Analysis



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WOLF HUNT INITIATIVE

Proposed Initiated Law
Placed before the Legislature by Petition
By Citizens for Professional Wildlife Management

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ISSUE BEFORE THE LEGISLATURE:

On July 24, the Michigan Board of Canvassers certified that an initiative petition filed by *Citizens for Professional Wildlife Management* (CPWM) had an adequate number of signatures for it to move forward. The legislature received the initiative, which is named the Scientific Fish and Wildlife Conservation Act (SFWCA), that same day.

As per Article 2, Section 9 of the Michigan Constitution of 1963, "any law proposed by initiative petition shall be either enacted or rejected by the legislature without change or amendment within 40 session days from the time such petition is received by the legislature." (It appears the legislature has until September 2 to act.)

If the legislature enacts the initiative, it becomes law. If the legislature rejects (or does not act on) the initiative, it would go before the voters on the November 2014 ballot. The legislature also has the option of proposing a different measure on the same subject, which if approved by a roll call vote, would appear on the November ballot alongside the CPWM initiative.

If the initiative goes to the voters, it would become the third question on the November ballot relating to legislative approval of a limited wolf hunt in the state. The first two ballot questions are referendums sponsored by *Keep Michigan Wolves Protected* (KMWP). One would repeal Public Act 520 of 2012 and the other would repeal Public Act 21 of 2013; both of those acts allow for the hunting of wolves and the establishment of an open season. Generally speaking, the CPWM initiative is considered pro-wolf hunt while the KMWP referendums are anti-wolf hunt.

THE CONTENT OF THE PROPOSED INITIATED LAW:

The CPWM initiative would amend the Natural Resources and Environmental Protection Act (NREPA) to do the following:

- Retain the designation of wolves as a game species. Both Public Act 520 and Public Act 21 have already designated wolves as a game species, though those acts are currently suspended and thus not in effect, pending the outcome of referendum. (Section 40103)

- Retain the Natural Resources Commission's (NRC) authority to designate a wildlife species as game. Prior to the passage of Public Act 21, only the legislature had the ability to designate a species as game. Public Act 21 gave the NRC the ability to designate game species, though the legislature remains the only entity able to remove a species from that list. (Section 40110)
- Re-enact all or portions of Public Act 520 of 2012 (Senate Bill 1350) and Public Act 21 of 2013 (Senate Bill 288). The initiative contains an enacting section that, generally speaking, says passage of the initiative reenacts those two acts, as well as Public Acts 22 and 108 of 2013, if any portions of those acts are invalidated by referendum or any other reason.

(It is generally understood that passage of the initiative by the legislature would render the referendums on PA 520 and PA 21 moot because NREPA would still be amended to designate wolves as a game species, and to allow the NRC to regulate the wolf hunting season and designate other game species.)

- PA 21 made military personnel meeting certain criteria eligible for a free non-lottery hunting and fishing licenses. Prior to PA 21, eligible military personnel stationed outside Michigan paid \$1 for licenses, which were valid for two weeks during season. The initiative would change the term "military personnel," to "active military personnel," but it would not change any of the criteria.
- Appropriate \$1 million for the Michigan Department of Natural Resources to implement management practices regarding aquatic invasive species, including Asian Carp, in the Great Lakes. (Section 48703a)

The initiative contains a legislative finding and declaration that aquatic invasive species, including Asian carp, represent a significant threat to the state's fisheries, aquatic resources, outdoor recreation and tourism economies, and public safety.

- Name the act, the Scientific Fish and Wildlife Conservation Act.

Descriptions of the bills that led to the 2012 and 2013 acts regarding wolf hunting are available on the Michigan Legislature website. For information on Public Act 520 of 2012, see:

[http://www.legislature.mi.gov/\(S\(hiap2ezoaz5zwd45jhlw5ymd\)\)/mileg.aspx?page=getObject&objectName=2012-SB-1350](http://www.legislature.mi.gov/(S(hiap2ezoaz5zwd45jhlw5ymd))/mileg.aspx?page=getObject&objectName=2012-SB-1350)

For information on Public Act 21 of 2013, see:

[http://www.legislature.mi.gov/\(S\(hiap2ezoaz5zwd45jhlw5ymd\)\)/mileg.aspx?page=getObject&objectName=2013-SB-0288](http://www.legislature.mi.gov/(S(hiap2ezoaz5zwd45jhlw5ymd))/mileg.aspx?page=getObject&objectName=2013-SB-0288)

With the exception of the \$1 million appropriation to combat Asian Carp, the changes the initiative would make to NREPA are substantially the same as the earlier amendments made by PA 520 and PA 21.

BACKGROUND INFORMATION:

Chronology

PA 520 of 2012 amended Parts 401 (Wildlife Conservation) and 435 (Hunting and Fishing Licensing) of NREPA to add wolves to the list of game species in the state and authorize the NRC to establish an open hunting season for wolves. Following its passage, petitions were filed to subject PA 520 to referendum in November 2014, thus suspending the public act.

Following the act's suspension, the legislature revisited the issue and enacted PA 21 of 2013, which amended Parts 401, 435, and 487 (Sport Fishing) of NREPA to: allow the Natural Resources Commission to designate a species as game; provide certain licenses free of charge to members of the military; and specify that the Natural Resources Commission has the exclusive authority to regulate the taking of fish.

Sufficient signatures were collected to also subject this act to referendum in November 2014, and so PA 21 also was suspended, although a wolf hunt did occur in 2013 in the meantime, with a hunt quota of 43 wolves and 1,200 wolf hunt licenses issued. A total of 22 wolves were taken during that hunt.

The initiative currently before the legislature is a result of a petition drive in response to the referendums.

Potential Referendum on the Initiated Law

Article II, Section 9 of the State Constitution says:

Any law proposed by initiative petition shall be either enacted or rejected by the legislature without change or amendment within 40 session days from the time such petition is received by the legislature. If any law proposed by such petition shall be enacted by the legislature it shall be subject to referendum, as hereinafter provided.

The proposed initiated law contains a \$1 million appropriation to the Department of Natural Resources. Earlier in Article II, Section 9 of the State Constitution it says:

The power of referendum does not extend to acts making appropriations for state institutions or to meet deficiencies in state funds . . .

The governing court decision in this area is *Michigan United Conservation Clubs v Secretary of State*, in 2001. In that case the Michigan Supreme Court overruled the state Court of Appeals, and in a 4-3 decision said that an attempt to subject Public Act 381 of 2000 (on concealed weapon licensing) to referendum could not go forward because the act contained an appropriation of \$1 million to the Department of State Police. This

appropriation was deemed by the majority of the court sufficient to fall under the constitutional language about "making appropriations for state institutions."

CPWM response to potential referendum

Legal counsel for the Citizens for Professional Wildlife Management have circulated a letter expressing the opinion that the constitutional language prohibiting a referendum on a law making appropriations for state institutions applies to laws enacted by initiative, and thus the *MUCC* decision applies to this initiative (which has a \$1 million appropriation to the Department of Natural Resources). The letter says this is "consistent with the principle that there is no distinction between enacted initiated laws and acts which originate in the Legislature."

FISCAL IMPACT:

In fall 2013, the DNR managed the first wolf hunt in Michigan. In 2011 the Department estimated that there were approximately 700 wolves in the state. The fee for a wolf hunting license is \$100 for residents and \$500 for nonresidents. In addition, because there was no lottery conducted for this wolf hunt, military personnel and disabled veterans received licenses at no cost. In the first wolf hunt in 2013, the 1,200 licenses sold brought in \$115,300 in revenues to the Department. Hunting license fees are required to be deposited into the Game and Fish Protection Fund.

The initiative would appropriate an additional \$1.0 million funding to the DNR to be used for the response, prevention, control, and elimination of aquatic invasive species, including Asian Carp. This \$1.0 million would be additional funding to the Department outside of its current enacted budget and is expected to be appropriated from the state's General Fund. Thus, the State of Michigan would experience an additional expenditure of \$1.0 million General Fund dollars if the initiative is enacted. Any unexpended funding would not lapse to the General Fund, but be carried forward as a work project into the following year.

POSITIONS:

The sponsor of the initiative is the Citizens for Professional Wildlife Management:

<http://www.citizenswildlife.com/endorsements/>

The referendums that would repeal laws to allow wolf hunting are supported by the organization Keep Michigan Wolves Protected:

<http://keepwolvesprotected.com/about/endorsements>

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■ 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.