



Senate Fiscal Agency

NOVEMBER
2014
BALLOT PROPOSALS
14-1 and 14-2

An Overview

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On November 4, 2014, Michigan voters will decide whether to approve two pieces of legislation related to wolf hunting and the authority of the Natural Resources Commission to designate species as game. Public Act 520 of 2012 took effect on December 28, 2012, and Public Act 21 of 2013 took effect on May 8, 2013. Both have been suspended, pending the referendum. (As discussed below, however, the recently enacted Scientific Fish and Wildlife Conservation Act, an initiated law, will reinstate provisions of Public Act 520 or Public Act 21, or both, if the voters reject either or both of those Public Acts.) The two questions will appear on the ballot as follows:

PROPOSAL 14-1

A REFERENDUM OF PUBLIC ACT 520 OF 2012, ESTABLISHING A HUNTING SEASON FOR WOLVES AND AUTHORIZING ANNUAL WOLF HUNTING SEASONS

Public Act 520 of 2012 would:

- *Designate wolf as game for hunting purposes and authorize the first wolf hunting season.*
- *Allow the Natural Resources Commission to schedule annual wolf hunting seasons.*
- *Provide criminal penalties for the unlawful possession or taking of wolves, but shield a person who lawfully captures or destroys a wolf from prosecution.*
- *Require a person who wishes to hunt wolves to obtain a wolf hunting license.*
- *Create a Wolf Management Advisory Council for the purpose of making nonbinding recommendations to the legislature regarding the proper management of wolves.*

Should this law be approved?

PROPOSAL 14-2

A REFERENDUM OF PUBLIC ACT 21 OF 2013, GRANTING THE NATURAL RESOURCES COMMISSION THE POWER TO DESIGNATE WOLVES AND CERTAIN OTHER ANIMALS AS GAME WITHOUT LEGISLATIVE ACTION

Public Act 21 of 2013 would:

- *Allow the Natural Resources Commission (NRC) to designate certain animals as game for hunting purposes and establish the first hunting season for game animals without legislative action.*
- *Continue the NRC's designation of wolves as game and allow the NRC to set a wolf hunting season.*
- *Grant the Legislature sole authority to remove a species from the list of designated game animals.*
- *Eliminate the \$1.00 hunting and fishing licensing fee for members of the military, whether stationed inside or outside of Michigan, subject to any lottery.*
- *Give the NRC sole authority to regulate fishing.*

Should this law be approved?

Background

Since both Proposal 14-1 and Proposal 14-2 relate to wolf hunting, the background of the ballot proposals begins with the controversial history of this topic.

Following many years of population decline due to extermination efforts, the gray wolf was listed as an endangered species under State law in 1965 and under Federal law in 1974. The U.S. Fish and Wildlife Service (FWS) implemented a recovery plan for the gray wolf, and target population numbers in specific states, including Michigan, were achieved in the 1990s. Since then, the FWS has attempted to remove the gray wolf from the endangered species list in the Great Lakes region several times, most recently by a final rule that took effect in January 2012. Each time, wildlife protection organizations have sued the FWS and the U.S. Department of the Interior, claiming that the rule violated the Endangered Species Act and the Department's own policy. Historically, U.S. District Courts have agreed with the plaintiffs, granting their motion for judgment and vacating the rule. A decision regarding the 2012 rule is pending in the U.S. District Court for the District of Columbia.

Following the most recent Federal delisting, Public Act (PA) 520 of 2012 amended the Natural Resources and Environmental Protection Act (NREPA) to include wolf in the definition of "game", authorize the

establishment of the first open season for wolf, and allow the Natural Resources Commission to establish annual wolf hunting seasons.¹

Wolf hunting opponents then launched a successful petition drive to compel a statewide referendum on PA 520, suspending the Act and placing the question of approving it on the November 2014 general election ballot, where the question will appear as Proposal 14-1. (The constitutional power of referendum enables the electors to approve or reject a law enacted by the Legislature. When sufficient petition signatures have been gathered, the law is suspended and remains ineffective unless approved by the majority of the electors voting on it.)

The referendum raised concerns among supporters of a wolf hunt, which led to the enactment of Public Act 21 of 2013.² That Act amended NREPA to authorize the Natural Resources Commission (NRC), in addition to the Legislature, to designate species as game. The NRC is a public body whose seven members are appointed by the Governor with the advice and consent of the Senate. Unlike legislation approved by the Legislature, orders of the NRC are not subject to the State Constitution's referendum provisions and cannot be rejected by the voters.

Wolf hunting opponents then collected enough petition signatures to suspend PA 21 and place it before the voters at the November 2014 general election, where the question will appear as Proposal 14-2. Before the Act was suspended, however, the NRC issued orders declaring the gray wolf a game animal and prescribing an open season to take place in 2013. Due to the referendum on PA 21, a wolf hunt season was not scheduled for 2014.

Concerns of Proponents and Opponents

As discussed above, Public Act 520 of 2012 was enacted after years of controversy about wolf hunting in Michigan and other states where the animals are present. While some hunting enthusiasts may view a wolf season as an opportunity to take another type of game, many people believe that wolf hunting is necessary to protect livestock. Also, according to some, reducing the wolf population, or keeping it in check, is necessary to protect people and domestic animals, in the event that wolves encroach upon homesteads or residential neighborhoods.

Opponents of Public Act 520 of 2012 raised concerns that people might want to hunt wolves for trophies rather than for genuine management reasons, and that a hunt could jeopardize the wolf's recovery. They also are worried that killing wolves could interfere with opportunities to observe them in the wild, having a negative impact on the State's tourism industry. In addition, a number of Michigan Indian tribes opposed the hunt and participated in the petition drive, citing the important role of the wolf in their culture.

Supporters of Public Act 21 of 2013 believe that it will ensure that the State's wildlife management decisions are based on scientific evidence, by authorizing the Natural Resources Commission to designate game. Noting that most voters are not experts in the subject of natural resources, some questioned the prudence of allowing wildlife management decisions to be made at the ballot box. Wolf hunt supporters also have noted that some of the opposition has come from people who live in the southern part of the State and thus might have a limited understanding of the problems Upper Peninsula residents experience with regard to wolf encounters.

Scientific Fish and Wildlife Conservation Act

In response to the possibility that voters would prevent future wolf hunting seasons by rejecting PA 520 and PA 21 at the election, wolf hunt supporters proposed an initiated law, the Scientific Fish and Wildlife Conservation Act (SFWCA), to re-enact any invalidated provisions of the earlier legislation.³ Under the

¹ For a detailed description of Public Act 520 of 2012, please see the Senate Fiscal Agency's summary of Senate Bill 1350 of the 2011-2012 legislative session, dated 8-19-13: <http://www.legislature.mi.gov/documents/2011-2012/billanalysis/Senate/pdf/2011-SFA-1350-N.pdf>

² For a detailed description of Public Act 21 of 2013, please see the Senate Fiscal Agency's summary of Senate Bill 288 of the 2013-2014 legislative session, dated 5-7-13: <http://www.legislature.mi.gov/documents/2013-2014/billanalysis/Senate/pdf/2013-SFA-SB02-B.pdf>

³ For a detailed description of the Scientific Fish and Wildlife Conservation Act, please see the Senate Fiscal Agency's summary of Public Act 281 of 2014, dated 9-9-14: <http://www.legislature.mi.gov/documents/2013-2014/initiative/pdf/2013-SFA-PA281-N.pdf>. The language of the Act itself can be found on the Michigan Legislature's website (<http://www.legislature.mi.gov>) under the heading "Initiatives".

State Constitution, invoking the initiative requires petitions signed by at least 8% of the total vote cast for all candidates for Governor at the previous gubernatorial election. The Legislature must enact or reject a law proposed by initiative petition without change or amendment within 40 session days after receiving the petition. If the Legislature does not enact the proposed law within that time period, the law must be submitted to the people for approval or rejection at the next general election. An initiated law is not subject to the Governor's veto power.

In July 2014, after the Secretary of State certified that the initiative petition contained at least the minimum number of valid signatures, it was submitted to the Legislature. Both the Senate and the House of Representatives approved the SFWCA in August 2014, meaning that voter approval is not necessary for the initiated law to take effect. The State Constitution provides that an act takes effect upon the expiration of 90 days after the end of the session at which it was passed, unless two-thirds of each house of the Legislature votes for the act to take effect immediately. In this case, immediate effect was not granted. Assuming that the current legislative session ends at the end of December 2014, therefore, the SFWCA will take effect in late March 2015.

Specifically, the Scientific Fish and Wildlife Conservation Act states that it re-enacts any portion of PA 520 of 2012 and PA 21, 22, and 108 of 2013, not amended by the SFWCA, that is invalidated by referendum or any other reason. (Public Act 22 included in NREPA a legislative declaration regarding hunting and fishing, as well as rights related to those activities. Public Act 108 revised the structure of hunting and fishing licenses, as well as associated fees.) The SFWCA also requires orders of the NRC regarding the designation of game species and the establishment of an open season for a game species to be consistent with the Commission's duty to use principles of sound scientific wildlife management.

In addition, for the 2014-15 fiscal year, the Act appropriates to the Department of Natural Resources \$1.0 million to implement necessary management practices related to aquatic invasive species.

Conclusion

Public Act 520 of 2012 and PA 21 of 2013 remain suspended pending the outcome of the November election. If a majority of the voters vote "yes" on PA 520 or PA 21, or both, the language of the approved law or laws will take effect. When the Scientific Fish and Wildlife Conservation Act becomes effective, the language of the voter-approved legislation will remain in effect, to the extent it is not inconsistent with the SFWCA.

If voters reject PA 520 or PA 21, or both, the Scientific Fish and Wildlife Conservation Act will re-enact the rejected provisions (to the extent they are not otherwise amended by the initiated law) when the SFWCA takes effect. According to its language, if the SFWCA is challenged in court and any part of it is found to conflict with the State Constitution, the U.S. Constitution, or Federal law, the initiated law must be implemented to the extent permitted, and any invalidated provision will be severable from the remainder of the law.