

careless methods of transportation of live germs and to prescribe penalty for violation. This Act is basically a health measure intended to suppress introduction of disease in the State from germ sources.

We believe that the requirement of reporting to the Michigan Department of Health of pathogenic micro-organisms received from agencies outside of the State is necessary in order to prevent the introduction of disease in the State of Michigan and to carry out the purposes of the powers under Act 146, Public Acts of 1919 and Act 308, Public Acts of 1927. The powers in those Acts were given to protect public health. The rule requiring reporting would be in keeping with the requirements of the Acts relating to the regulation of laboratories.

The only objection that might be made to such reporting is that it would amount to a burden on interstate commerce. Such contention has no validity as the filing of a report amounts to the furnishing of information and this has been held not to unreasonably burden interstate commerce. See *Arkansas Louisiana Gas Co. v. Department of Public Utilities, et al.*, 304 U.S. 61, 82 L. ed. 1149.

It is, therefore, suggested that necessary regulations providing for annual reporting as outlined in your request be promulgated.<sup>4</sup>

FRANK J. KELLEY,  
*Attorney General.*

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**CONSERVATION, DEPARTMENT OF: Parks—Federal Funds.**

The Conservation Department has authority under Michigan statutes to administer the recently enacted Land and Water Conservation Fund under Public Law 88-578.

The Conservation Department has authority to accept and to administer funds, paid under Section 5(f) of the Land and Water Conservation Fund, Public Law 88-578, for approved State projects.

The Conservation Department does not have statutory authority under State law to transfer funds received under Public Law 88-578 to political subdivisions or other appropriate public agencies.

No. 4388

January 29, 1965.

Dr. Ralph A. MacMullan, Director  
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You ask whether existing laws are adequate to permit the Department of Conservation to administer the recently enacted Land and Water Conservation Fund under Public Law 88-578.<sup>1</sup>

<sup>4</sup> Regulations to be adopted in accordance with the Administrative Code, Act 88, Public Acts of 1943, C.L. '48, § 24.71 et seq., as last amended by Act 161, Public Acts of 1964, M.S.A. 1961 Rev. Vol. § 3.560(7) and 1964 Current Material, Stat. § 3.560(7a) et seq.

<sup>1</sup> 88th Congress, 78 Stat. 897.

Section 5 (f) of the Federal Act provides for payments of money to the State for approved projects to be made to the Governor of the State or to a State official or agency, designated by the Governor or by State law, having authority and responsibility to accept and administer the funds and for subsequent transfer of funds to political subdivisions or other appropriate public agencies.

Governor Romney has directed that funds to be granted shall be deposited in the State Treasury and disbursed upon authority of the Conservation Department in carrying out the provisions of the Federal Act. Whether or not such funds can be accepted and administered must be determined from the applicable State law. Examination of the Federal Act indicates the following pertinent sections:

“Section 1. (b) Purposes.—The purposes of this Act are to assist in preserving, developing, and assuring accessibility to all citizens of the United States of America of present and future generations and visitors who are lawfully present within the boundaries of the United States of America such quality and quantity of outdoor recreation resources as may be available and are necessary and desirable for individual active participation in such recreation and to strengthen the health and vitality of the citizens of the United States by (1) providing funds for and authorizing Federal assistance to the States in planning, acquisition, and development of needed land and water areas and facilities and (2) providing funds for the Federal acquisition and development of certain lands and other areas.

\* \* \*

“Section 5(a). The Secretary of the Interior (hereinafter referred to as the ‘Secretary’) is authorized to provide financial assistance to the States from moneys available for State purposes. Payments may be made to the States by the Secretary as hereafter provided, subject to such terms and conditions as he considers appropriate and in the public interest to carry out the purposes of this Act, for outdoor recreation: (1) planning, (2) acquisition of land, waters, or interests in land or waters, or (3) development.”

The Act creating the Department of Conservation<sup>2</sup> provides for the protection and conservation of the natural resources and for authority to provide and develop facilities for outdoor recreation. Section 3<sup>3</sup> of the basic Act provides:

“It is hereby made the duty of the conservation department to protect and conserve the natural resources of the state of Michigan; to provide and develop facilities for outdoor recreation; \* \* \*. On behalf of the people of the state the commission of conservation may accept gifts and grants of land and other property and shall have authority to buy, sell, exchange or condemn land and other property, for any of the purposes contemplated by this act. \* \* \*”

<sup>2</sup> Act 17, Public Acts of 1921 as amended, M.S.A. 1958 Rev. Vol. 13.1 et seq., C.L. '48 § 299.1 et seq.

<sup>3</sup> M.S.A. 1958 Rev. Vol. 13.3, C.L.S. 1961, § 299.3.

Under Section 3(a)<sup>4</sup> the Conservation Department is authorized to make rules and regulations for the purpose of, among other things, carrying out the intent of the Act.

The Conservation Department is the successor of the Michigan State Park Commission and possesses such powers formerly delegated to that Commission under Act 218, Public Acts of 1919.<sup>5</sup> The pertinent provisions of the Act are Section 5<sup>6</sup> and Section 6.<sup>7</sup> Under Section 5 the Commission has the power to:

"Sec. 5. \* \* \* acquire, maintain and make available for the use of the public, open spaces for recreation; shall be authorized to rent or lease public service privileges in any such park or parks; shall be authorized to take in the name of the state and for the benefit of the public, by purchase, condemnation, gift, or devise, lands and rights in lands for public parks; to preserve and care for such public parks, and, in the discretion of the commission and upon such terms as it may approve, such other open spaces within this state as may be entrusted, given, or devised, to the state by the United States or by cities, towns, corporations, or individuals for the purposes of public recreation, or for the preservation of natural beauty or natural features possessing historic information or association: \* \* \*."

Under Section 6 of Act 218 the Commission is authorized to receive grants or devises of land or rights in land and gifts or bequests of money or other personal property to carry out the provisions of the Act. Any money received shall be turned over to the State Treasurer and such funds shall be known as State park funds.

The above Acts provide ample authority for the Department of Conservation to engage in the activities detailed under Public Law 88-578 and to receive any funds, such authority being given it specifically under Act 17, Section 3 and Act 218, Section 6.

As to transfer of funds to political subdivisions or other appropriate public agencies we find no authority for such transfer. It is recommended that legislation be enacted providing for authority to transfer funds granted in accordance with Public Law 88-578.

FRANK J. KELLEY,  
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<sup>4</sup> M.S.A. 1958 Rev. Vol. 13.4, C.L.S. 1961, § 299.3(a).

<sup>5</sup> M.S.A. 1958 Rev. Vol. 13.1011 et seq., C.L. '48 and C.L.S. 1961 § 318.3 et seq.

<sup>6</sup> M.S.A. 1958 Rev. Vol. 13.1013, C.L.S. 1961 § 318.5.

<sup>7</sup> M.S.A. 1958 Rev. Vol. 13.1014, C.L. '48 § 318.6.