

work, and the act does not therefore offend against Constitution 1963, art 3, § 6." *In re Constitutionality PA 1966, No 346, supra*, 583; 158 NW 2d 416

Such a holding is consistent with the provision in the act allowing for the investment ". . . in securities specified by law for investment by casualty insurance companies." MCLA 500.2513(1); MSA 24.12513(1). State money on the other hand may not be invested except as authorized by the Michigan Constitution, art 9, §§ 18, 19, 20. This construction is also consistent with the provision that ". . . The state, the commissioner, or the department of treasury shall not be liable or responsible for the payment of claims made against this fund . . ." MCLA 500.2502(1); MSA 24.12502(1). Thus construed the state is not taxing state moneys but a trust fund which the state administers.

The Brown-McNeely Insurance Fund was not created as a profit making venture but rather ". . . to provide malpractice insurance to eligible providers . . ." MCLA 500.2502(1); MSA 24.12502(1). The generation of moneys in the fund more than sufficient to pay all losses and expenses is a possibility inherent in insuring a risk; consequently the legislature wisely provided for distribution of such moneys.

Such factors consequently do not militate against holding the Brown-McNeely Insurance Fund a state agency.

Before concluding that the Brown-McNeely Insurance Fund is a state agency I note that the Michigan Court of Appeals has recently characterized the State Accident Fund, MCLA 418.70 *et seq*; MSA 17.237(701) *et seq* as a "quasi state agency", *Devlin v Kaplanis*, 43 Mich App 519; 204 NW 2d 543 (1972). The State Accident Fund under the supervision of the insurance commissioner provides workmen's compensation insurance in accordance with law.

After reviewing the above authorities I am accordingly of the opinion that the Brown-McNeely Insurance Fund is a state agency.

FRANK J. KELLEY,  
*Attorney General.*

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**FISH AND GAME:** Hunting on township property

**TOWNSHIPS:** Hunting on township property

**WATERS AND WATERCOURSES:** Rights of hunting on inland lakes  
or streams

Where a township is the owner in fee of all of the subaqueous lands of a navigable inland lake and is also the owner of uplands abutting the lake, the township may prohibit the public from hunting on the lake without adoption of an ordinance regulating hunting in the township.

Opinion No. 4974

May 7, 1976.

Howard A. Tanner, Director  
Department of Natural Resources  
Stevens T. Mason Building  
Lansing, Michigan 48926

You have requested my opinion as to the authority of Van Buren Township to control hunting on Belleville Lake, Wayne County.

Van Buren Township claims it is the owner in fee of all of the subaqueous lands of Belleville Lake. The Township also claims it is the owner in fee of all uplands abutting the lake. If Van Buren Township is correct in its assertions as to title, then it has exclusive rights of riparian ownership on Belleville Lake subject to any exceptions or reservations appearing in its claim of title.

I am further informed that the Township has not adopted an ordinance prohibiting hunting on Belleville Lake. Rather, it has posted "No Hunting" signs on Township property and enforces the hunting prohibition by prosecution under 1927 PA 285; MCLA 317.161 *et seq.*; MSA 13.1471 *et seq.*

I am also informed that Belleville Lake is a navigable body of water and that a person can gain access to the lake without trespassing on Township land.

As stated in OAG, 1961-1962, No. 3659, p. 375, p. 378 (April 16, 1962), "townships cannot adopt ordinances . . . so as to interfere with or restrict the hunting of wild birds and animals with firearms."<sup>1</sup> In the instant case, however, the Township has not attempted to restrict hunting by adoption of an ordinance. Rather, it seeks to prohibit hunting by exercise of its riparian rights.

In Michigan when title to the bed of waters is in a private riparian, the right to hunt, trap animals, and shoot wildfowl is reserved exclusively to the riparian and thereby denied to the public. *Sterling v Jackson*, 69 Mich 488; 37 NW 845 (1888). This exclusive right applies even where the waters are navigable. *Sterling v Jackson, supra, St. Helen Shooting Club v Carter*, 248 Mich 376; 227 NW 746 (1929). It is well settled, therefore, that a private riparian may prohibit the public from hunting upon waters over his subaqueous lands. It may be noted, however, that unlike hunting, the public right to take fish extends to all navigable waters regardless of the ownership of the bed. The Michigan Supreme Court has held that the title of the riparian is subordinate to the rights of the public to take fish. *Attorney General, ex rel Director of Conservation v Taggart et al.*, 306 Mich 432; 11 NW2d 193 (1943). This reasoning has never been applied to the public right to hunt.

Therefore, if Van Buren Township, by virtue of its ownership of the bed of Belleville Lake, enjoys the same rights as a private riparian owner, it may prohibit the public from hunting on the lake.

<sup>1</sup>Home Rule Cities on the other hand do have authority to adopt ordinances restricting hunting with firearms. *Michigan United Conservation Clubs v City of Cadillac*, 51 Mich App 299; 214 NW2d 736 (1974).

The powers and duties of townships are granted by law. MCLA 41.2; MSA 5.2, provides in pertinent part:

"Sec. 2. The inhabitants of each organized township shall be a body corporate, and as such, may sue and be sued, and may appoint all necessary agents and attorneys in that behalf; and shall have power to purchase and hold real and personal estate for the public use of the inhabitants . . ." (Emphasis Supplied)

It has been held that townships may purchase land for park and recreational use and may exercise the same proprietary rights as an individual. *Attorney General ex rel Bissell v Burrell*, 31 Mich 25, (1875). It has also been held that a township acting in its proprietary capacity is subject to the same rules that govern private corporations or individuals. *Dohm v Acme Township*, 354 Mich 447; 93 NW2d 323 (1958). I, therefore, conclude that if Van Buren Township is the owner of the bed of Belleville Lake, it may exercise the rights of a riparian owner and prohibit hunting by the public on Belleville Lake.

FRANK J. KELLEY,  
*Attorney General.*

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STATE: Commercial Advertisement in State Publications

ADVERTISEMENTS: State Publications

STATUTES: Authorizing Advertising in State Publications

The legislature may enact a statute permitting the sale of advertising on items or publications produced by state agencies.

Opinion No. 5016

May 11, 1976.

Honorable Robert D. Young  
State Senator  
The Capitol  
Lansing, Michigan 48901

You have submitted for my consideration a copy of proposed legislation designed to authorize the sale of advertising on State items and publications which are made available for public distribution. Your proposed bill reads as follows:

"A bill to permit the sale of advertising on items or publications produced by state agencies.

"THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

"Sec. 1. If a state agency engages in the sale of an item or publication to members of the public, that agency may, if approved by the director of that agency sell advertising space on that item or publication.

"Sec. 2. An advertisement authorized by this act shall be accompanied by a disclaimer statement to the effect that the state agency and the state of Michigan do not indorse, warrant, or guarantee the product or service advertised.