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FOREST RECREATION

House Bill 5254 as enrolled

Public Act 419 of 1998

Sponsor: Rep. Tom Alley

House Bill 5278 as enrolled

Public Act 420 of 1998

Sponsor: Rep. Beverly Bodem

Senate Bill 728 as enrolled

Public Act 418 of 1998

Sponsor: Senator Philip Hoffman

Second Analysis (1-13-99)

**Senate Committee: Natural Resources and
Environmental Affairs**

**House Committee: Conservation,
Environment and Recreation**

THE APPARENT PROBLEM:

Michigan's state forest system is composed of approximately 3.9 million acres, and contains over 148 campgrounds, thousands of miles of snowmobile trails and off-road vehicle trails, and many rivers. It occupies a unique niche in the state's natural resources, providing many recreational, economic, and ecological benefits. Visitors enjoy a wide array of recreational opportunities, including camping, hiking, cross country skiing, mountain biking, horseback riding, and canoeing, and, for those in search of activities that don't require special facilities, there is nature observation, fishing, hunting, and mushroom and berry picking. The state also receives economic benefits from the forest system from hunting and campground fees, and from the billions spent by tourists. The raw materials provided to the lumber, paper, and furniture industry, and oil and gas revenues from the wells beneath the forest floor, also contribute to the economy. Ecologically, the forests provide a diverse habitat and a wide range of animal and plant species. In addition, forests act to filter surface runoff, and their wetlands help absorb flood waters, provide water filtration, and recharge groundwaters.

The Michigan State Forest Recreation Advisory Committee, composed of representatives from the DNR, the forest industry, and from conservation, environmental, and recreational associations, was

established in 1990 to address key recreation issues facing the state's forests. In 1995, the committee issued "Forest Recreation 2000," a report that outlines goals that the committee hopes will be achieved by the year 2000. Specifically, it contains recommendations on the creation of a stable funding source for the state forest system: the establishment of a Forest Recreation Endowment Fund, similar to the Genevieve Gillette State Parks Endowment Fund, with continued appropriations from the general fund until the interest from the endowment fund is sufficient to replace these appropriations; and, to provide funds to renovate existing facilities, a Recreation Bond Proposal that would be placed on the ballot. Among other proposals, the report recommends that designated DNR recreation officers receive appropriate law enforcement training to enforce state forest recreation rules; that DNR Forest Management employees have appropriate backgrounds in natural resources and recreation management; that trails, campgrounds, roads, waterways, and other state forest areas be managed as an integrated system, and not as isolated facilities; that the state forest system be renovated and modified to meet established standards for safe, environmentally sound facilities; that master plans be developed to guide future recreation development and land acquisitions; that signs be placed to indicate clearly the location and extent of facilities from main

House Bills 5254 and 5278 and Senate Bill 728 (1-13-99)

roads, and to ensure user-friendly access to public facilities; that a transportation plan be developed for the forest road system for vehicle access, and for forest management activities, such as fire protection; that necessary equipment be purchased and maintained to improve the efficiency of forest recreation operations and the safety and appearance of forest recreation facilities; that volunteers, student interns and contracted services be strongly considered by the DNR Forest Management Division as options in managing forest recreation; and that the DNR provide more facilities for trail users and others, such as hunters and mushroom pickers, who do not need special facilities. The plan was approved by the Natural Resources Commission on November 9, 1995. Some of the recommendations outlined in "Forest Recreation 2000" have been incorporated into legislation.

THE CONTENT OF THE BILLS:

House Bills 5254, 5278, and Senate Bill 728 would amend the Natural Resources and Environmental Protection Act (NREPA) to require, among other things, that the Department of Natural Resources (DNR) develop an integrated state forest recreation system; to permit the DNR to grant concessions on lands it owns or controls; to require that the department promulgate rules to implement the provisions of the bills; and to establish a Forest Recreation Fund, which would be used by the DNR to develop, maintain, operate, and promote forest recreation activities and to implement the provisions of the bills, and a Forest Land User Fund to cover the costs of reviewing applications for permits for using state forests. The bills are tie-barred to each other. Senate Bill 728 (MCL 324.83101 et al.) would add a new Forest Recreation category (Subchapter 7) to Chapter 2 of NREPA, which pertains to the management of renewable resources. Part 831 of the new section would require the following:

Department Responsibilities. The DNR would be required to develop, operate, maintain, and promote an integrated recreation system that provided opportunities for hunting, fishing, camping, hiking, snowmobiling, boating, trail related activities, and other forms of recreation within each state forest. The bill would also specify that the DNR should focus on maintaining the integrity of the forest, while supporting recreation activities and experiences whose integrity was dependent on a large land base, rustic nature, and the forest and forest values. The DNR

could enter into contracts; lease property; and accept gifts and grants to implement these provisions. Unless otherwise provided by state or federal law, all money collected by the department under these provisions would be deposited into the Forest Recreation Fund, which the bill would create.

Concessions on State Forest Lands. Under the bill, the DNR could also grant concessions within state forest boundaries. In granting a concession, certain conditions would be required, as follows:

- That a concession or any related structure, facility, equipment or service was compatible with the natural resource values of the surrounding forest area and was appropriate for the forest recreation system.
- That each concession was awarded at least every seven years, based on extension, renegotiation, or competitive bidding. However, the department could grant a concession for up to a 15-year term if it determined that the concession required a capital investment in which a reasonable financing or amortization necessitated a longer term.
- That a concession requiring a capital expenditure of more than \$100,000 for a building or structure be provided for in the State Forest Management Plan for the state forest in which the concession was proposed.
- That all buildings and equipment would be removed from state forest property at the end of a concession term, unless the department authorized otherwise.
- That no concession or concession operator was granted the authority to charge a fee for access to public land or a public recreation resource.
- That all prices, rates, and charges, and all services or items offered in the operation of a concession, would be approved by the department.

In addition, the bill would specify that, at least three months before granting a concession for more than \$500,000, or one that would require a capital expenditure of more than \$500,000, the department would have to notify each member of the House and Senate committees that have primary responsibility for natural resources' issues of its intention to grant the concession, and of specific details on the nature of the concession. Also, by December 31st of each year, the department would be required to submit a report to the legislature that provided details on all concessions awarded during the previous year.

Volunteers. The DNR could appoint volunteers to assist in forest recreation activities. A volunteer would be treated in the same manner and would have the

same immunity from civil liability as a department employee, as specified under Public Act 170 of 1964, which pertains to governmental liability for negligence. They would, however, be prohibited from carrying firearms when functioning as a volunteer.

Camping Permits. The DNR could require that fees be established for camping permits in designated state forest campgrounds. However, the DNR would have to provide written notice of its intent to increase camping permit fees six months before doing so to the Senate and House standing committees with jurisdiction over natural resources and environmental legislation. The DNR could also require that a permit would have to be obtained to use state forest lands and facilities that were designated by the department for recreational use. Money from fees would be deposited in the Forest Recreation Fund.

Enforcement. Compliance with the provisions of Part 831 would be governed by the state land use rules provided in the Administrative Code (R 299.331 to R 299.335), and any orders of the director. In addition, the director could commission state forest officers to enforce these rules and any laws of the state upon properties administered by the department. The officers would be vested with the powers, privileges, prerogatives, and immunities conferred upon peace officers under state law while performing these enforcement activities.

Penalties. A violation of Part 831, or a rule promulgated under Part 831, would be a civil infraction, punishable by a possible civil fine of up to \$500.

House Bill 5254 (MCL 324.503) would amend Part 503 of the Natural Resources and Environmental Protection Act (NREPA), which outlines the DNR's powers and duties, to conform to the provisions of Senate Bill 728, as follows:

Concessions on State Lands. Currently, the act specifies that the DNR may lease lands that have been designated for use for recreational purposes, but -- with the exception of land in the Porcupine Mountain State Park -- only to public groups that are devoted to certain projects, such as physical fitness training. House Bill 5254 would delete this provision, and would specify, instead, that the DNR could grant

concessions on these lands to any person, for any purpose that it considered necessary to implement the provisions of the act. The department would have to provide that each concession was awarded at least every seven years, based on extension, renegotiation, or competitive bidding.

As with the provisions (under Senate Bill 728) for concessions on state forest lands, each concession would have to be awarded at least every seven years. However, if the department determined that a concession required a capital investment in which reasonable financing or amortization necessitated a longer term, it could grant a concession for up to a 15-year term. Unless the DNR authorized otherwise, a concession granted under these provisions would have to require that all buildings and equipment be removed from the state forest property at the end of the concession's term.

Revenues. Unless otherwise provided by law, money received from a lease or concession of tax-reverted land would be credited to the fund that provides financial support for the management of the leased land; money received from a lease of all other land would be credited to the fund from which that land was purchased. However, money received from program-related leases on these lands would be credited to the fund that provides financial support for the management of the leased lands. Land that was managed by the DNR's Forest Management Division would either be credited to the Forest Development Fund, or to the Forest Recreation Fund created under Senate Bill 728. Land that was managed by the DNR's Wildlife or Fisheries Division would be credited to the Game and Fish Protection Fund.

House Bill 5278 (MCL 324.509) would amend Part 509 of the Natural Resources and Environmental Protection Act (NREPA), which outlines the use of state parks, state forest campgrounds, and other state forest areas, to separate state park from state forest permit programs. The bill would delete references to state forest campgrounds and other state forest areas, which, under the provisions of Senate Bill 728, would be specified in Part 831, and establish a Forest Land User Fund, as follows:

Forest Land User Fund. Currently, the DNR may establish and collect fees for the processing of applications for the use of state forests that require extensive review. The fees must cover the DNR's cost for processing the applications. The bill would provide, instead, that the fees would be deposited in a Forest Land User Fund, which would be created under the bill, and used, as appropriated, to cover the costs of monitoring and reviewing applications for

permits other than camping permits (that is, for state forest permits).

BACKGROUND INFORMATION:

The provisions of Senate Bill 728 were originally proposed under Senate Bill 727. That bill was vetoed by the governor, in part because the bill required that the Department of Natural Resources (DNR) accept the direction of the Snowmobile Advisory Committee in developing and operating snowmobile trails and programs, a provision which -- according to the governor's veto message -- could be construed as an unconstitutional delegation of authority. The veto message also pointed out that the bill was tie-barred to House Bills 5254 and 5278, whose final content was unknown, since they had not yet been passed by the Senate.

FISCAL IMPLICATIONS:

According to the House Fiscal Agency (HFA), the bills would result in an indeterminate increase in state funds. (1-15-99)

The Department of Natural Resources (DNR) notes that the provision allowing the department to grant concessions on state forest land would result in an increase in revenues in the future. (1-15-99)

ARGUMENTS:

For:

By recodifying existing state forest provisions in the Natural Resources and Environmental Protection Act (NREPA), the bills would serve to recognize the significance of forest recreation, would give state forests the same status that recently has been awarded to state parks, and would give the DNR the authority to grant concessions. Under the bills, the new Forest Recreation Fund would receive state forest campground fees, permit fees for recreational use of state forests, and revenue from lease payments. The DNR would also be able to grant concessions within state forests. This authority currently exists for concessions in state parks, and now is needed for forests, as well, due to the increased development and use of trailways. In addition, the bills would improve the enforcement of land use rules by enabling

commissioned forest officers to enforce the rules within the boundaries of state forests. This would give the DNR better control over land use activities and improve the department's ability to react quickly to violations. Since department employees in the state forest system have dwindled since 1979, there is less personal contact with visitors, campgrounds have been closed, trails are poorly maintained and restored, there is no money to manage the roads that lead to state forest access points, illegally dumped trash goes uncollected, and violators go unchecked. Consequently, one of the recommendations made by the State Forest Advisory Committee was for the DNR to use volunteers and student interns to assist DNR employees in operating the system. The bills would recognize these volunteers by giving them official status and the same immunity from civil liability given to current DNR employees.

Response:

Some have expressed concern that the increase of volunteers working in the state forest system would lead to displacement of current DNR employees because volunteers would not be paid or receive benefits and stipends.

Against:

The bills fail to address many of the recommendations outlined in the "Forest Recreation 2000" report, issued by the State Forest Recreation Advisory Committee. Of primary importance in the "Forest Recreation 2000" report issued by a State Forest Recreation Advisory Committee was the recommendation that a stable funding source be created for the state forest system. However, the bills contain no such provision. Currently, Michigan's state forest system does not receive funding in proportion to the recreational, economic, and ecological benefits it contributes to the state. The state general fund once supplied 90 percent of the system's budget; it now provides approximately 50 percent. As general fund appropriations have decreased, campground fees have correspondingly increased. Additional costs to citizens are evidenced by poor maintenance of the campgrounds and trails, and a general deterioration in the state forest system, due to the fact that forest system staffing has decreased by more than fifty percent during the past fifteen years.

Analyst: R. Young

■ 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.