

Senate Fiscal Agency
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SFA**BILL ANALYSIS**

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Senate Bills 727 and 728(as passed by the Senate)
Sponsor: Senator Philip E. Hoffman
Committee: Natural Resources and Environmental Affairs

Date Completed: 10-21-97

RATIONALE

Michigan's forest system is made up of approximately 3.9 million acres of land, making it the largest state forest system in the nation. The forest system provides numerous recreational, economic, and ecological benefits to the State. Despite the value of this resource, the State's forest system has experienced reductions in funding and personnel. The State's General Fund budget for State forests decreased from 1979 to 1984, and has remained largely unchanged since 1985. The State Forest Recreation Advisory Committee was formed in 1990 to address key recreation issues facing the State's forests. In 1995 the committee issued "Forest Recreation 2000", a report that confronted the issues facing the State's recreation and outlined a number of recommendations. It has been suggested that some of the recommendations be implemented in order to establish and maintain forest recreation activities.

CONTENT

The bills would amend to the Natural Resources and Environmental Protection Act (NREPA) to govern forest recreation and require the Department of Natural Resources (DNR) to develop an integrated recreation system, which could include the granting of concessions within a State forest and leasing of property. Senate Bill 727 would add Part 831 to the NREPA to establish the "Forest Recreation Fund" for the development of forest recreation activities; permit the DNR to appoint volunteers to facilitate forest recreation activities; require a person to obtain a permit for camping in a designated State forest campground; permit the DNR Director to commission State forest officers to enforce State laws and rules in State forests; and, establish a civil penalty for violating the bill. Senate Bill 728 would delete provisions concerning State forest campground fees, and

would create the "Forest Land User Fund". The bill also would delete the current provisions that permit the DNR to lease lands to certain groups, and specifies the funds that would receive money from a lease.

The bills are tie-barred to each other. The following is a brief description of the bills.

Senate Bill 727

State Forest Recreation

The bill would require the DNR 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.

In implementing this requirement, the Department could do any of the following:

- Enter into contracts or agreements with a person as necessary to implement the bill.
- Grant concessions within the boundaries of a State forest to a person. ("Concession" would mean an agreement between the DNR and a person under terms and conditions specified by the Department to provide services or recreational opportunities for public use.)
- Lease property to a person.
- Accept gifts, grants, or bequests from any public or private source or from the Federal government or a local government for furthering the purposes of Part 831.

In granting a concession, the DNR would have to provide that each concession was awarded at least every seven years based on extension, renegotiation, or competitive bidding. If the DNR

determined, however, that a concession required a capital investment in which reasonable financing or amortization necessitated a longer term, the Department 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.

Unless otherwise provided by State or Federal law, all money collected under these provisions would have to be deposited in the Forest Recreation Fund.

Forest Recreation Fund

The Forest Recreation Fund would be created within the State Treasury. The Fund could receive money as provided in the bill and from any other source. The State Treasurer would have to direct the Fund's investment, and would have to credit to the Fund interest and earnings from its investments. Money remaining in the Fund at the end of the fiscal year would have to be carried over in the Fund to the next and succeeding fiscal year. The Department would have to use the money in the Fund to develop, maintain, operate, and promote forest recreation activities and to implement Part 831.

Volunteers

The DNR could appoint persons to act as volunteers for facilitating forest recreation activities. While a volunteer was serving in this capacity, he or she would have the same immunity from civil liability as a Department employee and would be treated in the same manner as an employee under the governmental immunity Act. A volunteer could not carry a firearm when functioning as a volunteer.

Permits

The DNR could require a person to obtain a permit for camping in designated State forest campgrounds and could establish and collect a fee for the camping permit. At least six months before imposing a fee increase for a camping permit, the Department would have to notify the legislative standing committees having primary jurisdiction over issues related to natural resources and the environment.

The DNR could require a person to obtain a permit, except as otherwise provided by law, for using land and facilities within a State forest as designated by

the Department for recreation use.

Enforcement

To ensure compliance with Part 831, rules promulgated under it and the Act, including the State land use rules (R 299.331-299.335) of the Administrative Code, and any of the Director's orders, the Director could commission State forest officers to enforce within the boundaries of the State forest these rules and any State laws specified in the rules as enforceable by commissioned State forest officers. In performing those enforcement activities, commissioned State forest officers would be vested with the powers, privileges, prerogatives, and immunities conferred upon peace officers under State laws. The Department could promulgate rules to implement the bill's provisions.

Penalty

A person who violated Part 831 or a rule promulgated under it would be responsible for a State civil infraction and would be subject to a civil fine of up to \$500.

Senate Bill 728

Forest Use Fees

Currently, the DNR may require a person to obtain a permit for the use of a State park or a State forest campground, and may establish and collect fees for permits to use State parks, State forest campgrounds, and specific State forest areas. The bill would delete references to State forest campgrounds and forest areas in those provisions. The bill also would delete a requirement that the permit fees for State forest campgrounds be used for the operation, maintenance, and development of those campgrounds.

The Act also provides that 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 Department's cost for processing the applications. The bill provides, instead, that the DNR could establish and collect fees to cover the costs to the Department for processing applications and for monitoring permits for the use of State forests that required extensive review. This fee revenue would have to be deposited to the Forest Land User Fund, which the bill would create in the State Treasury. The State Treasurer would have to direct investment of the Fund, and credit to it interest and earnings from the

Fund investments. Money in the Fund at the end of a fiscal year would have to be carried over in the Fund to the next fiscal year. Money in the Fund could be appropriated to the DNR to cover the costs of reviewing applications and monitoring permits for the use of State forests and State forest lands.

Land Leases

The bill would delete provisions under the Act that permit the Department to lease lands it owns or controls that have been designated for recreational purposes, but only to responsible legal units, within the State, of national or State-recognized groups devoted principally to development of character and citizenship training and physical fitness of youth, the financial support of which is by voluntary public subscriptions or contributions, and the property of which is exempt from taxation under State law. The bill also would delete a provision that permits the DNR to lease land in the Porcupine Mountain State Park to third parties for purposes as it considers desirable.

Under the bill, the DNR could lease lands it owned or controlled or could grant concessions on lands it owned or controlled to any person for any purpose the Department determined to be necessary to implement the Act. In granting a concession, the DNR would have to provide that each concession was awarded at least every seven years based on extension, renegotiation, or competitive bidding. If the DNR determined, however, that a concession required a capital investment in which reasonable financing or amortization necessitated a longer term, the Department 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.

Unless otherwise provided by law, money received from a lease of tax-reverted lands would have to be credited to the fund receiving financial support for the management of those leased lands. Money received from a lease of all other lands would have to be credited to the fund from which the lands were purchased, except for money received from program-related leases, in which case the money would have to be credited to the fund providing financial support for the management of those leased lands. For lands managed by the forest management division of the DNR, this would be either the Forest Development Fund or the proposed Forest Recreation Fund. For lands

managed by the wildlife fisheries division, this would be the Game and Fish Protection Fund.

Proposed MCL 324.83101-324.83109 (S.B. 727)
MCL 324.503 & 324.509 (S.B. 728)

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

By creating Part 831 of the NREPA to govern forest recreation activity, and recodifying existing fee provisions, the bills could help to improve and protect State forest conditions and funding. Under Senate Bill 727, the new Forest Recreation Fund would receive State forest campground fees, permit fees for other recreational uses of State forests, revenue from concessions, and lease payments, and could receive grants from any other public or private source. The money in this Fund would be dedicated to the development and maintenance of State forests and the implementation of Part 831. The Forest Land User Fund would be created by Senate Bill 728 as a separate fund to cover the costs of processing applications and monitoring permits for State forest land uses; this provision would recodify language currently in the NREPA and in annual DNR appropriations legislation.

Senate Bill 727 also would make it clear that the DNR could 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 bill 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.

Supporting Argument

The forest system staffing has been down since 1979, which has led to poor maintenance of the campgrounds and trails, and a general deterioration in the State forest system. 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 forest recreation system. The bills would recognize volunteers by giving them official status and the same immunity

from civil liability given to current DNR employees.

Response: There is some concern that the increase of volunteers would lead to displacement of current DNR employees because volunteers would not be paid or receive benefits and stipends.

Opposing Argument

The bills would permit the DNR to grant concessions to provide recreational services within State forests. Some people are concerned that this would leave the DNR in a vulnerable position since concession demand and public taste could change over time. There could be a possibility that the Department would have to buy out the concessionaires after a decrease in public support.

Response: The Department would not be required to provide any justification for nonrenewal of a concession. The DNR could set time limits on its contracts to be able to opt out without any reason within the time specified.

Legislative Analyst: N. Nagata

FISCAL IMPACT

The bills would have an indeterminate fiscal impact on State government, depending on potential revenue from concession contracts at State forests.

The bills would have no fiscal impact on local government.

Current law (MCL 324.509) authorizes the Department to enter into concession contracts at State parks and collect fees for both State Park and State Forest uses. The bills would separate State Parks from State Forest permit programs, allow concession contracts at State forests, and clarify what fund would receive forest camping revenue (Forest Recreation Fund) and forest land use revenue (Forest Development Fund). The bills also provide additional clarification of enforcement authority on State forest lands.

Fiscal Analyst: G. Cutler

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.