

# Legislative Analysis

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## STATE PARK LAND TRANSFER

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**Senate Bill 971 (Substitute H-3)**

**Sponsor: Sen. Cameron S. Brown**

**Senate Bill 972 (Substitute S-1)**

**Sponsor: Sen. Patricia L. Birkholz**

**House Committee: Conservation, Forestry, and Outdoor Recreation**

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

### **First Analysis (5-31-06)**

**BRIEF SUMMARY:** The bills would amend two acts to prohibit the transfer or sale of state parkland without the approval of the Department of Natural Resources Commission, a non-binding recommendation from the Citizens Committee for State Parks, and notice to the legislature of a proposed sale. Further, the DNR would be prohibited from designating as surplus land any land within a state park or state recreation area.

**FISCAL IMPACT:** While the revised procedure may require more department staff effort, there would not be a need for a budget adjustment or to change staff assignments. There would be no fiscal impact on the state or on local governmental units.

### **THE APPARENT PROBLEM:**

In 2004, the Department of Natural Resources (DNR) implemented a three-phase land consolidation strategy in an effort to reduce costs and improve efficiency. The department has completed Phase I, which consisted of reviewing and updating DNR project boundaries, and currently is engaged in Phase II---reviewing its lands outside of the project boundaries to determine which parcels contribute to the DNR's mission of conservation and outdoor recreation. During Phase III, the department plans to offer for sale or exchange parcels it determines do not warrant continued protection or public accessibility, or could be managed more effectively by an alternative conservation entity.

In October 2005, the Mackinac Center for Public Policy published a document entitled "Privatization in Michigan State Parks," in which it suggested that selling "a number of state parks" could generate revenue for the state and enable the DNR to focus its resources on the remaining parks. The paper listed 13 state parks and one state recreation area "that may be good candidates for private ownership." This proposition raised concerns about the DNR's unilateral ability to sell or exchange land under its control. Although the department presently is seeking land consolidation and not the sale of entire parks, it was pointed out that nothing in the law would prevent the DNR from selling parks in the future.

Some believe that a process governing state park land transfers, including a provision for legislative approval, should be enacted.

### ***THE CONTENT OF THE BILLS:***

Senate Bill 971 (H-3) would amend Part 741 (State Parks System) of the Natural Resources and Environmental Protection Act to do the following:

-- Require the DNR to submit to the Citizens Committee for Michigan State Parks any proposal regarding the transfer of more than 100 acres or more than 15 percent of the total acreage of a state park, hold a public hearing (in the vicinity of the state park) on the proposed transfer, and receive the approval of the Department of Natural Resources Commission.

-- Require the committee to review and make a non-binding recommendation on, and the DNR commission to approve, the proposed transfer before the department prepares a written recommendation.

-- Require the DNR to make a recommendation on the transfer to the legislature.

-- Prohibit the transfer of more than 100 acres or more than 15 percent of a state park's total acreage unless authorized by law.

-- Require the committee to submit to the legislature periodic reports on state parks.

-- Require the DNR to notify the committee prior to recommending the transfer of any land dedicated as a wilderness area, wild area, or a natural area, and place a notice in a newspaper of general circulation describing the proposed transfer.

Senate Bill 972 (S-1) would amend Part 21 (General Real Estate Powers) of the act to prohibit the DNR from designating as surplus land any land within a state park or state recreation area, except as provided in Senate Bill 971.

The bills are tie-barred to each other so that neither would go into effect unless both were enacted into law. The bills are described below in further detail.

### **Senate Bill 971 (H-3)**

The bill would amend the Natural Resources and Environmental Protection Act (MCL 324.74102a et al). Currently under the law, the Citizens Committee for Michigan State Parks is required to periodically evaluate state parks programs, facilities, services, and relationships to assure that the committee's goals and objectives are being achieved. Under the bill, within two years after the legislation's effective date and periodically after that date, the committee also would have to submit reports on the state parks programs, facilities, services, and relationships to the legislative standing committees with jurisdiction over issues pertaining to natural resources and the environment.

Additionally, the committee would have to review and make recommendations to the DNR on whether land within a state park should be transferred as provided in the bill.

Under the bill, before recommending that the state transfer more than 100 acres or more than 15 percent of the total acreage of a state park, by sale or otherwise, the DNR would have to submit to the committee for its review and recommendation, and to the DNR Commission, a proposal with detailed information regarding the potential transfer. The DNR also would have to hold a public hearing in the vicinity of the state park.

Upon receiving the proposal, the committee would have to review it and make a recommendation to the DNR; however, the recommendation would not be binding on the department.

After the public hearing and receipt of the committee's recommendation, and if the commission had approved the proposed transfer, the DNR could prepare a written recommendation for the transfer. The written recommendation would have to include the committee's recommendation and be submitted to the standing committees of the Senate and the House of Representatives with jurisdiction over natural resources and environmental issues, as well as the Senate and House Appropriations committees. If the recommendation were for the transfer of more than 100 acres or more than 15 percent of a state park's total acreage, whichever is less, to another public entity without compensation, the recommendation would have to include a proposed deed restriction on the land that provided for public access to the land for purposes of hunting and fishing and other similar recreational uses.

The bill would prohibit the transfer of more than 100 acres or more than 15 percent of a state park's total acreage unless authorized specifically by law.

The bill specifies that state park land, other than park land described above, cannot be sold unless all of the following conditions are met:

\*\* The department has posted on its website notice of the proposed sale.

\*\* The department has provided written notice of the proposed sale to the standing committees of the legislature with jurisdiction over issues primarily dealing with natural resources and the environment.

\*\*The DNR commission has approved the sale.

\*\* The sale is not completed for a period of at least 30 days after the notice has been provided to the standing committees.

Further, the bill would require the department to publish on its website a list of the acreage of each state park on the effective date of the legislation.

Under the bill, "state park" would mean land within the dedicated boundary of a state park or state recreation area that was designated as such on the bill's effective date and any land within the dedicated boundary of a state park or state recreation area designated by the DNR director after the bill took effect.

"Total acreage of a state park" would mean the total acreage within the dedicated boundaries of a state park on the bill's effective date, or the largest amount of acreage included within the dedicated boundaries of a state park after the bill's effective date, whichever was greater.

### **Senate Bill 972 (S-1)**

The bill would amend the Natural Resources and Environmental Protection Act (MCL 324. 2131). Under Part 21 of NREPA, with some exceptions, the DNR may designate as surplus any state-owned land under its control that has been dedicated for public use. The DNR may, on the state's behalf, sell the land if it determines all of the following:

- \*\*The sale will not diminish the quality or utility of other state-owned land.

- \*\* The sale is not otherwise restricted by law.

- \*\* The sale is in the state's best interests.

- \*\* The land either is occupied for a private use through inadvertent trespass, or has been dedicated for public use for at least five years and is not needed to meet a DNR requirement.

The bill would prohibit the DNR from designating any land within a state park or state recreation area as surplus land, except as provided in Section 74102b—which Senate Bill 971 (H-3) would add.

### ***HOUSE COMMITTEE ACTION:***

The House Conservation, Forestry, and Outdoor Recreation Committee reported out Senate Bill 972 (S-1) without amending the Senate-passed version of the bill.

In addition, the committee reported out Senate Bill 971 (H-3) after adopting four changes to the Senate-passed version of the bill. The changes are as follows:

First, the Department of Natural Resources would be required to submit a proposal with detailed information regarding the potential land transfer to the *DNR Commission* for its *review and approval*, as well as to the Citizens Committee for Michigan State Parks for its review and recommendation, in the instance of state parkland transfers of more than 100 acres or more than 15 percent of total acreage of a state park. Under the Senate-passed version of the bill, the proposal had to be presented only to the Citizens Committee for Michigan State Parks for its recommendation.

Second, following a public hearing and the receipt of the citizens committee's recommendation, the department could prepare a *written recommendation for the transfer* of land within a state park, *if the commission had approved* the proposed transfer.

Third, the commission could prepare a written recommendation for the transfer of land within a state park following a public hearing, if the committee had made its recommendation, and the *commission had approved the proposed transfer*.

Fourth, the bill would prohibit the sale of state park land unless the commission had approved the sale.

Information in this analysis was derived from the analysis of the bills by the Senate Fiscal Agency dated 3-20-06.

## **ARGUMENTS:**

### ***For:***

Tourism is an essential component of the state's economy, and state parks and recreation areas attract visitors from all over the nation.

Also, the state park system plays a vital role in preserving Michigan's natural resources and making them accessible for enjoyment and appreciation by the public. Indeed, for some families, the system provides the only affordable and practical vacation opportunity.

While it might be necessary to sell state park land from time to time, it is critical that this valuable asset be protected from inappropriate liquidation in order to generate short-term revenue for the state's coffers during an economic downturn. Sales of other state land with less recreational value and economic potential are subject to thorough review and require legislative authorization. These bills would require proposed state park land sales and transfers to undergo a process including public input at a hearing, multiple levels of review, and both DNR commission and legislative approval.

### ***Against:***

Under Senate Bill 971 (H-3), transfers of parcels constituting less than 15 percent of a state park's total acreage would not be subject to the review process and legislative authorization. A threshold of any percentage could result in the whittling away of some of the state's most valuable natural resources. Rather than codifying this flaw, the bill should require all transfers of state park land, regardless of size, to undergo the review process.

Additionally, Senate Bill 972 (S-1) *should* prohibit the DNR from declaring as surplus *any* state park land—even small parcels. It would be better public policy for the state to keep all the land the DNR owns currently, to ensure that the department has enough land in the future to fulfill its mission of conserving natural resources and providing recreational opportunities for the public.

***Response:***

The process proposed by Senate Bill 971 (H-3) would be an improvement over current practice. Presently, the DNR has the sole authority to evaluate the worth of its land and make decisions regarding sales or exchanges.

Additionally, requiring the DNR to submit transfers of smaller parcels to the review process could interfere with the department's ability to manage land effectively. Occasionally, for example, municipalities desire to purchase small plots of state park land that are not critical to the park's nucleus, in order to enhance local recreational programs. Subjecting such transfers to the review program under the bill could be unnecessarily cumbersome.

Further, it is necessary that the DNR have the authority to declare state park land "surplus land." In some cases, the department obtained land near significant natural features, such as lakes, and anticipated buying adjacent property in the future. Sometimes, the adjacent land was sold to private interests and developed as the population grew, preventing the DNR from using the original land as intended. In these situations, this land does not serve a specific purpose, and interferes with the effective allocation of department resources.

***POSITIONS:***

The Sierra Club supports the bills as amended. (5-30-06)

Concerned Citizens for Saugatuck Dunes State Park supports the bills. (5-30-06)

The Michigan Environmental Council supports the bills as amended. (5-30-06)

The Department of Natural Resources supports the bills. (5-30-06)

The Michigan United Conservation Clubs supports the bills. (4-27-06)

Save Our State Land (of Commerce Township) opposes the bills without further amendment. (5-30-06)

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■ 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.