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BILL ANALYSIS

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Senate Bill 971 (Substitute S-3 as reported)
Senate Bill 972 (Substitute S-1 as reported)
Sponsor: Senator Cameron S. Brown (S.B. 971)
Senator Patricia L. Birkholz (S.B. 972)
Committee: Natural Resources and Environmental Affairs

Date Completed: 3-20-06

RATIONALE

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, "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.

CONTENT

Senate Bill 971 (S-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 a proposal regarding the transfer of more than 15% of a State park, and hold a public hearing on the proposed transfer.
- Require the Committee to review the proposal and make a recommendation to the DNR regarding the proposed transfer.
- Require the DNR to make a recommendation on the transfer to the Legislature.
- Prohibit the transfer of more than 15% of a State park's total acreage unless authorized by law.
- Require the Committee to submit to the Legislature periodic reports on State parks.

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 (S-3).

The bills are tie-barred to each other. They are described below in further detail.

Senate Bill 971 (S-3)

The Act requires the Citizens Committee for Michigan State Parks to evaluate periodically

the 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 its 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 15% 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 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. The recommendation would not be binding on the Department.

After the public hearing and receipt of the Committee's recommendation, the DNR could prepare a written recommendation for the transfer. The written recommendation would have to include the Committee's recommendation. The written recommendation would have to 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 15% of a State park's total acreage 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 15% of a State park's total acreage unless authorized specifically by law.

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)

Under Part 21, except as otherwise provided, 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 (S-3) would add).

MCL 324.74102a et al. (S.B. 971)
324.2131 (S.B. 972)

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

Tourism is an essential component of the State's economy, and State parks and recreation areas attract visitors from all over the nation. 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. Although it might be necessary to sell State park land from time to time, it is critical that this valuable asset is protected from inappropriate liquidation in order to generate revenue for the State's coffers. Sales of other State land with less recreational value and economic potential are subject to thorough review and require legislative authorization. The bills would require proposed State park land sales and transfers to undergo a process including public input, multiple levels of review, and legislative approval, ensuring that the parks were shielded from misuse as cash reservoirs to address short-term budget woes.

Opposing Argument

Under Senate Bill 971 (S-3), transfers of parcels constituting less than 15% 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-2) should prohibit the DNR from declaring any State park land surplus. It is good 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 (S-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.

Also, it is necessary that the DNR has 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.

Legislative Analyst: Julie Koval

FISCAL IMPACT

The bills would cost the State an indeterminate amount. If the DNR determined that more than 15% of the land currently comprising a State park should be offered for sale, the bills would establish a longer process for implementing that decision. The DNR would be required to hold a public hearing, obtain a recommendation from the Citizens Committee for Michigan State Parks, and make a recommendation to the Legislature. Finally, transfer of the parcel could not occur unless the transfer was authorized in enacted legislation. This longer process would be more staff-intensive than what is currently required for the sale of DNR-owned land, but would be necessary only if the DNR determined that more than 15% of the acreage of a State park should be sold or otherwise transferred.

Fiscal Analyst: Jessica Runnels

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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.