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BILL ANALYSIS

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Senate Bills 971 and 972 (as enrolled)

**PUBLIC ACTS 307 & 308 of 2006**

Sponsor: Senator Cameron S. Brown (S.B. 971)

Senator Patricia L. Birkholz (S.B. 972)

Senate Committee: Natural Resources and Environmental Affairs

House Committee: Conservation, Forestry, and Outdoor Recreation

Date Completed: 11-6-06

**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. The Department currently is engaged in Phase II—reviewing its land outside of the project boundaries to determine which parcels contribute to the DNR's mission of conservation and outdoor recreation—and Phase III, in which the DNR is offering 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. It was suggested that a process governing State park land transfers, including a

provision for legislative approval, should be enacted.

**CONTENT**

**Senate Bill 971 amended Part 741 (State Parks System) of the Natural Resources and Environmental Protection Act to do the following:**

- **Require the DNR to notify the Citizens Committee for Michigan State Parks before recommending the transfer of any land that is dedicated as a wilderness area, a wild area, or a natural area.**
- **Prohibit dedicated land from being transferred except as specifically authorized by law.**
- **Require the DNR to submit to the Committee and the Natural Resources Commission (NRC) a proposal regarding the transfer of more than 100 acres or more than 15% of a State park, whichever is less, 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, if the NRC approves it.**
- **Prohibit State park land from being sold unless certain conditions are met.**

- **Prohibit the transfer of more than 100 acres or more than 15% of a State park's total acreage, whichever is less, unless authorized by law.**
- **Require the Committee to submit to the Legislature periodic reports on State parks.**
- **Require the DNR to publish on its website a list of the acreage of each State park on the bill's effective date.**

**Senate Bill 972 amended 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 were tie-barred to each other and took effect on July 20, 2006. They are described below in further detail.

### **Senate Bill 971**

Under the bill, before recommending the transfer of any land that is dedicated as a wilderness area, a wild area, or a natural area under Part 741, the DNR must notify the Citizens Committee for Michigan State Parks and place a public notice in a newspaper of general circulation in the area in which the dedicated land is located describing the proposed transfer. The bill prohibits dedicated land from being transferred except as specifically authorized by law.

These provisions do not apply to dedicated land the DNR exchanges for the purpose of acquiring other land that, in its judgment, is more suitable for the purposes of Part 741.

The Act requires the Committee 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 must 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 must review and make recommendations to the DNR on

whether land within a State park should be transferred as provided below.

Under the bill, before recommending that the State transfer more than 100 acres or more than 15% of the total acreage of a State park, whichever is less, by sale or otherwise, the DNR must submit to the Committee and to the NRC, for their review and recommendation, a proposal with detailed information regarding the potential transfer. Following appropriate public notice, the DNR also must hold a public hearing in the vicinity of the State park.

Upon receiving the proposal, the Committee must review it and make a recommendation to the DNR. The recommendation is not binding on the Department.

After the public hearing and receipt of the Committee's recommendation, if the NRC has approved the proposed transfer, the DNR may prepare a written recommendation for the transfer. The written recommendation must include the Committee's recommendation. The written recommendation must 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 is for the transfer of more than 100 acres or more than 15% of a State park's total acreage, whichever is less, to another public entity without compensation, the recommendation must include a proposed deed restriction on the land that provides for public access to the land for purposes of hunting and fishing and other similar recreational uses.

The bill prohibits the transfer of more than 100 acres or more than 15% of a State park's total acreage, whichever is less, unless authorized specifically by law.

Under the bill, State park land (other than dedicated land the DNR exchanges for the purpose of acquiring other land that is more suitable for the purposes of Part 741) may not be sold unless all of the following conditions are met:

- The DNR has posted on its website notice of the proposed sale.
- The DNR has given 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 NRC has approved the sale.
- The sale is not completed for at least 30 days after the notice is given to the standing committees.

The bill also requires the DNR to publish on its website a list of the acreage of each State park on the bill's effective date.

Under the bill, "State park" means 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 that date.

"Total acreage of a State park" means 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 that date, whichever is greater.

### **Senate Bill 972**

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 prohibits 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 added).

MCL 324.35103 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 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 are shielded from misuse as cash reservoirs to address short-term budget woes.

### **Opposing Argument**

Over the years, the State park system has grown too large to be managed properly. In order to prevent further deterioration of these valuable natural resources, it is critical that the DNR has the flexibility to divest itself of land that does not further its recreation and conservation efforts. Restricting the Department's ability to sell or otherwise transfer unused or underused land is unwise and could contribute to the dilapidation of the State park system as a whole.

### **Opposing Argument**

Under Senate Bill 971, transfers of parcels constituting less than 100 acres or less than 15% of a State park's total acreage are not subject to the review process and legislative authorization. A threshold of any percentage or acreage might result in the whittling away of some of the State's most valuable natural resources. All transfers of State park land, regardless of size, should undergo the review process.

Additionally, the DNR should be prohibited 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 enacted by Senate Bill 971 is an improvement over previous practice. Before the bills were enacted, the DNR had 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 Cassidy

## **FISCAL IMPACT**

The bills will cost the State an indeterminate amount. If the DNR determines that more than 100 acres or 15% of the land currently comprising a State park should be offered for sale, the bills establish a longer process for implementing that decision. The DNR is 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 may not occur unless the transfer is authorized in enacted legislation. Senate Bill 971 also requires enacted legislation to transfer land dedicated

as a wilderness area, a wild area, or a natural area when the transaction is not an exchange for more suitable land. This longer process is more staff-intensive than what previously was required for the sale of DNR-owned land, but is necessary only if the DNR determines that more than 100 acres or 15% of the acreage of a State park should be sold.

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.