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Senate Bills 873 through 877 (as introduced 3-13-14)

Sponsor: Senator John Moolenaar (S.B. 873)
Senator Arlan Meekhof (S.B. 874)
Senator Dave Hildenbrand (S.B. 875)
Senator Goeff Hansen (S.B. 876)
Senator Tom Casperson (S.B. 877)

Committee: Outdoor Recreation and Tourism

Date Completed: 3-20-14

CONTENT

The bills would amend Part 721 (Michigan Trailways) of the Natural Resources and Environmental Protection Act to replace provisions for Michigan trailways with provisions for the designation of Pure Michigan trails and water trails; allow the designation of Pure Michigan trail towns; require the development of an online database and a mobile software application of Michigan trail maps; transfer authority from the Natural Resources Commission to the Department of Natural Resources; and make related changes.

Senate Bill 873 would do the following:

- Delete provisions authorizing the Natural Resources Commission (NRC) to designate trails meeting specific criteria as "Michigan trailways".
- Authorize the Director of the Department of Natural Resources (DNR) to designate "Pure Michigan" trails and water trails, after receiving the NRC's recommendation.
- Revise the criteria for designation that would apply to a Pure Michigan trail or water trail.
- Delete provisions allowing the NRC to designate "Michigan railway connectors" that do not meet the requirements for a Michigan railway designation.
- Authorize the DNR Director to designate a city, village, or township meeting certain criteria as a "Pure Michigan trail town".
- Transfer from the NRC to the DNR the authority to promulgate rules considered necessary to implement Part 721.
- Require the DNR to work with interested parties to develop an online database of Michigan trail maps that users could download and print, as well as a mobile software application of trail maps and other information related to specific trails.

The bill also would repeal a section providing for a Michigan Heritage Water Trail Program.

Senate Bill 874 would amend Part 13 (Permits) as well as Part 721 to do the following:

- Refer to a "Pure Michigan trail" rather than a "Michigan trailway" in the definition of "permit" and provisions regarding easements, contracts, and leases related to designated trails.
- Transfer to the DNR the NRC's authority with regard to easements, contracts, and leases related to designated trails.
- Change the name of the "Michigan Trailways Fund" to the "Pure Michigan Trails Fund".
- Eliminate a provision allowing the Fund to receive fees collected from users of trailways on State forestland.
- Include nonprofit organizations among the entities eligible for grants from the Fund to operate and maintain designated trail segments.
- Delete specific factors that the DNR must consider in determining expenditures of Fund money.

Senate Bill 875 would do the following:

- Delete the definition of "trailway" (i.e., a trail or other land corridor that features a broad trail capable of accommodating a variety of public recreation uses).
- Include a water trail in the definition of "trail" (which means a right-of-way adapted to foot, horseback, motorized, or other nonmotorized travel).
- Define "water trail" as a designated route on a body of water.

Senate Bill 876 would do the following:

- Refer to trails, rather than Michigan trailways, pack and saddle trails, and rail trails, in provisions regarding operation and maintenance by the DNR or a trail management council and the DNR's adopt-a-trail program.
- Require the DNR to coordinate other volunteer programs operated in the vicinity of an adopted trail.

Senate Bill 877 would do the following:

- Refer to the Michigan Trails Advisory Council, rather than the Michigan Snowmobile and Trailways Advisory Council.
- Include water trails among the types of trails on which the Advisory Council must advise the DNR and the Governor.
- Require the Advisory Council to make certain recommendations to the DNR Director, rather than to the NRC and the Department.
- Refer to Pure Michigan trails and water trails rather than Michigan trailways in provisions regarding the Advisory Council's recommendations.
- Refer to trails rather than trailways in a number of provisions regarding the Equine Trailways Subcommittee and pack and saddle trailways.
- Require the DNR, rather than the NRC, to hold a public meeting on a proposal to restrict access to certain land by pack and saddle animals.

All of the bills are tie-barred to each other. Except for Senate Bill 875, the bills are described below in further detail.

Senate Bill 873

Designation of Pure Michigan Trail

Under Part 721, upon petition by any person or on its own motion, the Natural Resources Commission may designate a trailway in Michigan as a "Michigan trailway". The bill, instead, would authorize the Director of the Department of Natural Resources to designate a trail

located on land as a "Pure Michigan trail". A person could request the Director to make such a designation.

Currently, the NRC may not designate a trailway as a Michigan trailway unless it meets, or will meet when completed, all of the following requirements:

- The land on which the trail is located is owned by the State or a governmental agency, or otherwise under the long-term control of the State or a governmental agency through a lease, easement, or other arrangement.
- The design and maintenance of the trail and its related facilities meet generally accepted standards of public safety.
- The trail meets appropriate standards for its designated recreation uses.
- The trail is available for designated recreation uses on a nondiscriminatory basis.
- The trail is, or has potential to be, a segment of a statewide network of trails, or it attracts a substantial share of its users from beyond the local area.
- The trail is marked with an official Michigan trailway sign and logo at major access points.
- Where feasible, the trail offers adequate support facilities for the public, including parking, sanitary facilities, and emergency telephones, that are accessible to people with disabilities and are at reasonable frequency along the trail.
- Potential negative impacts of trail development on owners or residents of adjacent property are minimized through prescribed measures.
- Other conditions as required by the NRC.

Under the bill, all of these conditions would apply to the designation of a Pure Michigan trail by the DNR Director. In addition, the bill would require the trail to be a model trail for its designated uses and the designation to contribute to a statewide trail network that promoted healthy lifestyles, economic development, recreation, and conservation of the State's resources.

The current conditions for trail designation also include the following:

- The trail is a multiuse trail suitable for use by pedestrians, by people with disabilities, and by other users, as appropriate.
- The trail is not directly attached to a roadway, except at roadway crossings.

The bill would delete these conditions.

Designation of Pure Michigan Water Trail

The bill would authorize the DNR Director to designate a water trail as a "Pure Michigan water trail". A person could request that the Director make such a designation.

The Director could not designate a trail as a Pure Michigan water trail unless it met, or would meet when completed, all of the following requirements:

- The trail and its access points were open to public use and were designed, constructed, and maintained according to best management practices.
- The trail was located on a contiguous waterway or a series of waterways that were contiguous or were connected by portages.
- The trail was consistent with applicable land use plans and environmental laws.
- The trail would be open for public use for at least 10 consecutive years after designation.

Additionally, the water trail would have to function as a model trail and contribute to a statewide network that promoted healthy lifestyles, economic development, recreation, and

resource conservation, as well as meet the criteria applicable to a trail located on land regarding the following:

- Generally accepted standards of public safety.
- Appropriate standards for the trail's designated uses.
- Availability for designated uses on a nondiscriminatory basis.
- Potential as a segment of a statewide network or attraction of a substantial share of non-local users.
- Sign and logo requirements.
- Support facilities for the public.
- The minimization of negative impacts.
- Other conditions required by the DNR Director.

The bill would repeal Section 72113, which required the Great Lakes Center for Maritime Studies at Western Michigan University, in conjunction with the DNR, the former Department of History, Arts, and Libraries, and the Michigan 4-H Youth Conservation Council, to develop a plan for a statewide recognition program to be known as the "Michigan Heritage Water Trail Program", designed to do all of the following:

- Establish a method for designating significant water corridors in the State as Michigan heritage water trails.
- Provide recognition for the historical, cultural, recreational, and natural resource significance of Michigan heritage water trails.
- Establish methods for local units of government to participate in programs that complement the heritage water trail designation.
- Assure that private property rights along the water trails are not disturbed or disrupted, or restricted by the State or local units of government.

Public Hearing Requirements; Factors for Consideration

Part 721 prohibits the NRC from designating a trail as a Michigan trailway unless a public hearing has been held in the vicinity of the proposed trailway to take testimony and gather public opinion on the proposal, including the trailway's proposed uses and whether motorized uses are appropriate. When a Michigan trailway is designated, the NRC, in consultation with the applicable governmental agencies, must establish uses to be permitted on the trailway, taking into consideration all of the following:

- The safety and enjoyment of trailway users.
- Impacts on residents, landowners, and businesses adjacent to the trailway.
- Applicable local ordinances.

A change in the permitted uses of the designated trailway relating to whether motorized use is allowed may not be made without NRC approval after a public hearing held in the same manner as provided for original the original designation of the trailway.

The bill would delete all of these provisions.

The bill would require the DNR Director, in designating trails as Pure Michigan trails, to consider all forms of permissible recreation uses equally in order to develop a Pure Michigan trails network that would be representative of the various trail uses.

Before designating either a Pure Michigan trail or water trail, the DNR Director would have to refer the proposed designation to the NRC, which would have to hold a public hearing on the proposed designation. Within 90 days after receiving the referral, the Commission would have to give the Director its recommendation regarding the designation.

Revocation of Designation

Part 721 allows the NRC to revoke a Michigan trailway designation if it determines that the trail fails to meet applicable requirements. Before revoking the designation, the NRC must provide notice to all entities involved in the trail's management. If the trail is brought into compliance within 90 days after the notice is provided, the Commission may not revoke the designation. Under the bill, these provisions would apply to the DNR Director with regard to the revocation of a Pure Michigan trail or water trail designation.

Trailway Connector Designation

Currently, upon petition by any person or on its own motion, the NRC may designate a trailway, bicycle path, sidewalk, road, or other suitable route that does not meet the requirements for a Michigan trailway as a "Michigan trailway connector" all of the following criteria are met:

- The connector meets appropriate safety and design standards for its designated uses.
- The connector connects directly to a Michigan trailway.
- The public agency having jurisdiction over the connector has consented in writing to the designation.
- The connector is marked with an official Michigan trailway connector sign and logo at major access points.

An aquatic corridor capable of accommodating watercraft that connects to a Michigan trailway may be designated as a connector if it meets these requirements.

The bill would delete these provisions.

Pure Michigan Trail Town

The bill would authorize the DNR Director, upon petition by a person, to designate a city, village, or township as a "Pure Michigan trail town" if the Director determined that the city, village, or township met all of the following conditions:

- Was easily accessible to users of a Pure Michigan trail or water trail.
- Adopted a resolution in support of the designation.
- Adopted a plan for providing support services to trail users such as parking, sanitary facilities, restaurants, accommodations, grocery stores, bike shops, boat docks, or other services needed or desired by trail users.

Additionally, the petitioner would have to demonstrate at least three of the following:

- There was community support for the designation as evidence by creation of an advisory committee.
- There had been an annual trail-related project or event within the city, village, or township.
- A school board within the city, village, or township had endorsed a trail-based service learning educational component within its schools.
- Land use plans, planning tools, ordinances, or guidelines that recognized the relationship between the trail and other community assets were in place, or there was support to amend, change, or add these provisions.

Upon being designated as a Pure Michigan trail town, the city, village, or township could erect and maintain along the Pure Michigan trail or water trail at a junction with the city, village, or township an official Pure Michigan trail town sign and logo designed by the DNR.

The Department could provide for the erection and maintenance of an official sign and logo only when sufficient private contributions were received to pay for the costs of doing so.

The Director could revoke a Pure Michigan trail town designation if he or she determined that the city, village, or township failed to meet the requirements prescribed in the bill. Before revoking the designation, the Director would have to notify the city, village, or township. If the city, village, or township were brought into compliance within 90 days after the notice was provided, the Director could not revoke the designation.

Establishment of Statewide Trail Network

Public Act 45 of 2010 amended Part 721 to create the Michigan Snowmobile and Trail Advisory Council and establish the Equine Trails Subcommittee of the Advisory Council. Public Act 45 required the Subcommittee to prepare and submit to the Advisory Council a recommended plan for a statewide network of pack and saddle trailways. Within one year after receiving the recommendations, the Advisory Council had to review them and make recommendations to the DNR for the establishment of a plan for a statewide trail network. Within one year after receiving the Advisory Council's recommendations, the DNR is required to establish a plan for a statewide trail network that includes Michigan trailways, pack and saddle trailways, and other recreational use trails. The plan must be designed to accommodate a variety of public recreation uses and specify the types of uses that are allowed on each trail segment. Before the DNR establishes the plan, the NRC must hold a public meeting to receive testimony from the general public. Upon establishment of the plan, the DNR must make it available on the Department's website.

After the plan is established, if the DNR is informed that additional trails should be added to the plan or that uses on particular segments should be modified, the Department may modify the plan accordingly.

The bill would refer to the statewide trail network rather than the plan in all of these provisions. Before establishment of the network, the bill would require the DNR, rather than the NRC, to hold a public meeting.

The bill would require the DNR to work with interested parties to facilitate the creation and maintenance of a current database of trail maps for all trails within the statewide trail network on the Department's website. The database would have to designate specifically which of the trails were Pure Michigan trails or water trails. The database also would have to allow trail users to download or print trail maps.

Additionally, the DNR would have to work with interested parties to facilitate the development and maintenance of a mobile software application of trail maps and other information related to specific trails that could be downloaded onto smartphones, tablet computers, and other portable electronic devices. The DNR would have to work with these parties to assure that the application was updated to reflect current information from the database.

Senate Bill 874

Part 721 Authority

Part 721 authorizes the NRC to do any of the following:

- Grant easements or use permits or lease land owned by the State that is being used for a Michigan trailway for a use that is compatible with the use of the trailway.
- Enter into contracts for concessions along a State-owned Michigan trailway.
- Lease land adjacent to a State-owned Michigan trailway for the operation of concessions.

The bill would refer to a "Pure Michigan trail" rather than a "Michigan railway" in these provisions. The bill also would transfer this authority to the DNR.

If the NRC approves of the acquisition of land by the DNR, the Commission may state that the land is acquired for use as a Michigan railway. Following the acquisition, any revenue derived from that land, except as otherwise provided by law, must be deposited into the Michigan Trailways Fund (described below).

The bill would refer to a "Pure Michigan trail" rather than a "Michigan railway". Also, the bill would delete the reference to NRC approval of the Department's land acquisition and would authorize the DNR Director, rather than the NRC, to state that specified land is acquired for use as a designated trail.

Pure Michigan Trails Fund

The Michigan Trailways Fund exists within the State Treasury. The bill would change the name of the Fund to the Pure Michigan Trails Fund.

Except as otherwise provided by law, the State Treasurer may receive money or other assets from any of the following for deposit into the Fund:

- Fees collected from users of trailways on State forestland.
- Payments to the State for easements, use permits, leases, or other uses of State-owned Michigan railway property.
- Payments to the State for concessions operated by private vendors on State-owned property located on or adjacent to a Michigan railway.
- Federal funds, gifts or bequests, and State appropriations.
- Money or assets from other sources as provided by law.

The bill would eliminate the reference to fees collected from users of trailways on State forestland. Additionally, the bill would refer to a "Pure Michigan trail" rather than a "Michigan railway".

Fund money may be spent for any of the following purposes:

- The DNR's expenses in operating and maintaining the designated trail system and enforcing trail rules and regulations.
- Grants to or contracts with councils or governmental agencies to operate and maintain segments of designated trails and to enforce the rules and regulations.
- Funding designated trail construction and improvements.
- Acquisition of land or rights in land.
- Publications and promotions of the designated trail system.

The bill also would allow money to be spent for grants to nonprofit organizations to operate and maintain the trail segments and enforce rules and regulations.

The bill would delete a requirement that the DNR consider all of the following in determining the expenditure of Fund money:

- The need for funding each of the purposes prescribed in Part 721.
- The estimated cost of Michigan railway management for each governmental agency that manages a Michigan railway.
- The need of each governmental agency that manages a Michigan railway for financial assistance in managing the railway, and the amount of money from the Fund that agency received in the past.

- The amount of revenue accruing to the Fund that is generated from each Michigan trailway.
- Other factors considered appropriate by the DNR.

Senate Bill 876

Operation & Maintenance of Trails

Part 721 authorizes the DNR to operate and maintain a Michigan trailway that is located on State-owned land or enter into an agreement with a Michigan trailway management council or one or more governmental agencies to provide for the trailway's operation and maintenance. Two or more governmental agencies may establish a Michigan trailway management council for the development and management of a Michigan trailway pursuant to the Urban Cooperation Act. The bill would refer to a trail rather than a Michigan trailway in these provisions.

Volunteer Programs

Part 721 requires the DNR to establish an "adopt-a-trail" program that allows volunteer groups to assist in maintaining and enhancing Michigan trailways, pack and saddle trailways, and rail trails. The bill would refer to trails on State-owned land, rather than Michigan trailways, pack and saddle trailways, and rail trails.

Under the bill, if the DNR operated other programs in the vicinity of the trail that allowed volunteers to adopt a park or other resource, the Department would have to coordinate these programs to provide for efficient and effective volunteer programs in the area.

Senate Bill 877

The bill would change the name of the Michigan Snowmobile and Trails Advisory Council to the Michigan Trails Advisory Council.

Part 721 requires the Advisory Council to advise the DNR Director and the Governor on the creation, development, operation, and maintenance of motorized and nonmotorized trails in Michigan, including snowmobile, biking, equestrian, hiking, off-road vehicle, and skiing trails. The bill also would include water trails.

Part 721 also requires the Advisory Council to make recommendations to the NRC and the DNR on the following:

- Expenditure of money in the Michigan Trailways Fund.
- The implementation of Part 721 and the establishment and operation of Michigan trailways.

Under the bill, the Advisory Council would have to make these recommendations to the DNR Director, rather than the Commission and the Department. In addition, the bill would refer to Pure Michigan trails and water trails, rather than Michigan trailways.

The bill also would refer to trails rather than trailways in a number of provisions regarding the Equine Trailways Subcommittee and pack and saddle trailways.

Part 721 requires that pack and saddle animals be allowed access to pack and saddle trails on public land managed by the DNR, subject to prescribed conditions, and allows access to be restricted only if conditions are not suitable for the animals because of public safety concerns, necessary maintenance, or reasons related to the Department's mission.

The Department may not restrict access unless a number of conditions prescribed in Part 721 are met. These include a requirement that the NRC, upon the Department's request, hold a public meeting on a proposal to restrict access by pack and saddle animals, to receive testimony from the general public. The NRC must invite the Advisory Council, a subcommittee, and the Michigan Horse Council to attend the meeting. The bill would require the Department, rather than the NRC, to hold the public meeting and issue the required invitations.

MCL 324.72103 et al. (S.B. 873)
324.1301 et al. (S.B. 874)
324.72101 & 324.72102 (S.B. 875)
324.72105-324.72106 (S.B. 876)
324.72110 et al. (S.B. 877)

Legislative Analyst: Julie Cassidy

FISCAL IMPACT

The bills would not have a substantial fiscal impact on the Department of Natural Resources or local units of government. From a cost perspective, the Pure Michigan Trails program that would be established by the bills does not appear to require the DNR to engage in activities that would be substantially different from those undertaken for the creation and maintenance of nonmotorized trails currently. Senate Bill 874 would make changes to the Michigan Trailways Fund by eliminating the provision allowing the Fund to receive revenue derived from fees charged to users of trailways. This change would have no practical fiscal impact on the DNR as no such fees are currently charged and subsequently credited to the Fund. Senate Bill 873 would allow for the erection of signs indicating that a municipality was a Pure Michigan Trail Town, but only after the municipality had demonstrated sufficient private funds to pay for the signs. The overall fiscal impact of these bills could vary based on available revenue at both the State and local levels. At the State level, funds for the program would depend on appropriations from the Legislature.

Fiscal Analyst: Josh Sefton

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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.