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BILL ANALYSIS

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Senate Bill 388 (as enacted)
Senate Bill 389 (as enacted)
Senate Bill 1057 (as enacted)
House Bill 4677 (as enacted)
House Bill 5752 (as enacted)

Sponsor: Senator Patricia L. Birkholz (S.B. 388 & 1057)
Senator Raymond E. Basham (S.B. 389)
Representative Rebekah Warren (H.B. 4677)
Representative Arlan Meekhof (H.B. 5752)

Senate Committee: Natural Resources and Environmental Affairs
House Committee: Great Lakes and Environment

Date Completed: 4-14-10

RATIONALE

Over the last several years, funding for State parks, boating access sites, and other State recreational facilities has become a concern. A reduced revenue stream to the parks--a result of budget cuts and declining attendance--has compromised operations and led to deteriorating infrastructure, which can hinder access to and enjoyment of the parks and jeopardize visitor safety.

The State ended all General Fund support for the State park system in 2004 and began diverting money from the State Park Endowment Fund, which originally was designed to meet infrastructure replacement needs, to help fund general operations and maintenance. Revenue from other sources, such as motor vehicle permit fees and camping fees, has dropped as fewer people have chosen to visit the parks. Many became concerned about the sustainability of the current funding practices, and feared they could result in the closure of State recreational facilities in the near future, causing significant harm to the State's tourism industry and local economies.

To address these issues, it was suggested that resident daily and annual motor vehicle park permits and boating access site passes should be replaced with a "recreation passport", which a resident could obtain by paying an optional additional fee

concurrently with his or her yearly vehicle registration.

CONTENT

Senate Bill 388 amended Part 741 (State Parks System) of the Natural Resources and Environmental Protection Act (NREPA) to delay the sunset on the motor vehicle park permit fee structure from January 1, 2010, until April 1, 2010; and eliminate legislative intent language regarding the use of General Fund/General Purpose money for State park operations.

Senate Bill 389 amends the Michigan Vehicle Code to provide for a State park and State-operated public boating access site recreation passport that a Michigan resident may obtain by paying an additional fee when registering a motor vehicle; set the fee at \$5 for motorcycles and \$10 for all other vehicles; and require the Secretary of State to transfer the fee revenue to the Department of Natural Resources and Environment (DNRE).

Senate Bill 1057 amends Part 741 of NREPA to do the following:

PUBLIC ACT 197 of 2009
PUBLIC ACT 35 of 2010
PUBLIC ACT 33 of 2010
PUBLIC ACT 34 of 2010
PUBLIC ACT 32 of 2010

- Effective October 1, 2010, prohibit the operator of a resident motor vehicle from entering a State park without paying the recreation passport fee.
- Apply existing provisions regarding motor vehicle park permits and fees to nonresident vehicles and commercial motor vehicles (CMVs).
- Extend motor vehicle park permit fees through September 30, 2010, retain the annual and daily fees for nonresident motor vehicles, and prescribe a daily park permit fee for CMVs.
- Prescribe a \$100 maximum civil fine for entering a State park without a required permit or recreation passport.
- Authorize the DNRE to promulgate rules providing an alternative method for payment of the recreation passport fee.
- Eliminate the Citizens Committee for Michigan State Parks and transfer its duties to the Natural Resources Commission (NRC).
- Require the NRC to make recommendations to the Legislature for savings in State park and forest recreation programs.
- Specify legislative findings.

House Bill 4677 amends Parts 781 (Michigan State Waterways Commission) and 831 (State Forest Recreation) of NREPA to do the following:

- Discontinue the DNRE's authority to charge fees for use of State-operated boating access sites.
- Require the DNRE Director to designate boating access sites where a permit is required for entry by a nonresident or CMV and payment of the recreation passport fee is required for entry by a resident.
- Prohibit entry without a required permit or recreation passport and prescribe a \$100 maximum civil fine for a violation.

House Bill 5752 amends Part 20 (Michigan Conservation and Recreation Legacy Fund) of NREPA to do the following:

- Prescribe the distribution of revenue from the recreation passport fee.
- Create the "Local Public Recreation Facilities Fund" to provide grants to local units of government for the development of public recreation facilities.
- Authorize money from specified accounts within the Conservation and Recreation Legacy Fund to be spent as provided in the bill.

Senate Bill 388 took effect on December 28, 2009. Senate Bill 389 and House Bills 4677 and 5752 will take effect on October 1, 2010. Provisions of Senate Bill 1057 related to the extension of current fees, the Citizens Committee, and the NRC report to the Legislature took effect on March 31, 2010; the remainder of the bill will take effect on October 1, 2010.

Senate Bills 389 and 1057 and House Bill 5752 were tie-barred to each other and to House Bill 4677. House Bill 4677 was tie-barred to Senate Bills 388 and 389. All of the bills except Senate Bill 388 are described in detail below.

Senate Bill 389

Under the bill, an applicant for the issuance or renewal of a motor vehicle registration may submit a State park and State-operated public boating access site passport fee to the Secretary of State (SOS) with the application. The recreation passport fee is \$5 for a motorcycle and \$10 for other vehicles. The term "motor vehicle" does not include a commercial motor vehicle.

An application for a motor vehicle registration must contain at least the following information, in substantially the following format and language, except that the amount of the passport fee specified must be \$5 for a motorcycle:

- "\$[amount]- Annual vehicle registration renewal.
- \$10.00- Annual authorization to use this vehicle for unlimited entry into all Michigan State parks and recreation areas and DNR-operated State boating access sites. (Check one of the boxes below.)

____ I elect to pay this \$10.00 fee.
____ I elect not to pay this \$10.00 fee.
This vehicle will not be used to
enter the facilities described above.
\$_____ Total amount due."

If the applicant applies by mail and, in addition to the registration fee, pays an amount equal to the recreation passport fee, he or she will be considered to have elected to pay the passport fee regardless of whether such an election is indicated on the application.

The passport fee requirements do not apply to an application submitted by a dealer for a vehicle sold, lease, or exchanged by the dealer.

At least monthly, the SOS must transfer the passport fee revenue to the DNRE for deposit as provided in House Bill 5752.

For each State fiscal year (FY), beginning with FY 2011-12, the State Treasurer must adjust the fee amounts by an amount he or she determines to reflect the cumulative percentage change in the consumer price index (CPI) since October 1, 2010, using the most recent data available and rounded to the dollar.

The bill requires the Legislature annually to review the amount of revenue raised by the passport fee to ensure that the amount is appropriate for the purposes for which it is assessed and in compliance with the law.

If the SOS issues a registration tab or sticker for a registration plate or personalized registration plate for a vehicle for which a passport fee has been paid, the tab or sticker and any temporary registration plate must be marked in a distinctive manner determined by the SOS after consultation with the Director of the DNRE and the Department of State Police. Before discontinuing the issuance of a tab or sticker, the SOS must consult with the DNRE Director and establish an alternative method or procedure by which the DNRE can determine whether a passport fee has been paid for a motor vehicle.

Whether or not an individual paid or indicated that he or she elected to pay or not to pay a recreation passport fee will be personal information (i.e., information that identifies an individual, which may be

disclosed only as provided in the Vehicle Code).

The bill's provisions will be repealed on April 1, 2014, unless revenue from the passport fee, minus appropriations to the SOS for administrative expenses, equals or exceeds \$12,017,514 during at least one of State fiscal years 2010-11, 2011-12, and 2012-13.

Senate Bill 1057

State Park Motor Vehicle Permits

Part 741 requires the DNRE to designate the State parks in which a park permit is required for lawful entry by a motor vehicle, and allows the Department to designate portions of State parks where a permit is not necessary. The bill instead provides that a motor vehicle park permit is required for lawful entry into a State park by a nonresident motor vehicle or commercial motor vehicle.

Currently, the DNRE is required to post at parks signs stating that a motor vehicle park permit is required. The bill refers to signs stating that a permit is required for entry by a nonresident motor vehicle or CMV.

(Under the bill, "resident motor vehicle" means a motor vehicle other than a CMV that is registered as a motor vehicle in Michigan. "Nonresident motor vehicle" means a motor vehicle other than a CMV that is not registered as a motor vehicle in Michigan.)

Part 741 prohibits a person from entering any State park or portion of a State park in which a permit is required without a valid permit affixed to the vehicle. Under the bill, this will apply to a person entering in a nonresident or commercial motor vehicle. The bill requires an annual motor vehicle park permit to be affixed permanently for that year.

Subject to exceptions described below, a person will be prohibited from entering a State park in a resident motor vehicle without having paid the recreation passport fee.

Under Part 741, a motor vehicle park permit is not required for a motor vehicle while it is being driven or parked within an established

Federal, State, or county highway within a State park, a motor vehicle used in the operation or maintenance of a State park, an emergency vehicle, or a State-owned or law enforcement or private motor vehicle being operated on official State business.

Under the bill, these exceptions will apply to nonresident and commercial motor vehicles that do not have an annual park permit, as well as resident motor vehicles for which a recreation passport fee has not been paid.

Under the bill, if the SOS issues registration tabs or stickers to indicate payment of the recreation passport fee (as provided in Senate Bill 389), the operator of a resident motor vehicle may not enter a State park unless the vehicle has a registration tab or sticker or temporary registration plate marked to show that the recreation passport fee has been paid.

These amendments will take effect on October 1, 2010.

Park Permit Fees

Part 741 allows the DNRE to require park permits and collect park permit fees for entry into a State park or portion of a State park posted in the manner prescribed in Part 741. The DNRE may waive the park permit requirement for Department-sponsored events or other circumstances as determined by the Director or his or her designee. The bill retains this provision for nonresident vehicles and CMVs, and provides for the waiver of the recreation passport fee requirement for resident motor vehicles under these circumstances.

Currently, except as otherwise provided, an annual park permit must be issued and authorize the entry of the motor vehicle to which it is originally attached within any State park or recreation area during the calendar year for which it is issued. Under the bill, this provision will apply through September 30, 2010. Beginning October 1, 2010, this provision will apply to a nonresident motor vehicle. Additionally, the bill deletes the reference to a State recreation area.

Under Part 741, the fee for an annual resident motor vehicle park permit is \$24. If the vehicle owner is at least 65 years old, the fee is \$6. If the vehicle owner has a

food stamp card and personal identification at the time of purchase, the fee is \$18. The bill delayed the sunset on these fees from April 1, 2010, to October 1, 2010.

The bill retains the \$29 annual permit fee for the owner of a nonresident motor vehicle, and prohibits an annual park permit from being used for a CMV.

A daily permit authorizes a motor vehicle to enter a State park during the day for which it is issued. The bill delayed the sunset on the \$6 daily fee for a resident motor vehicle from April 1, 2010, to October 1, 2010. The bill retains the \$8 daily fee for a nonresident motor vehicle and eliminates the sunset on this fee. In addition, effective October 1, 2010, the bill establishes a fee of \$15 for a daily CMV permit.

Under Part 741, if a person has obtained an annual nonresident motor vehicle park permit for a recreational vehicle to be used as a stationary primary camping shelter camped legally in and not moved from a State park campground during the period of the camping stay, he or she may obtain a duplicate permit for a towed second motor vehicle present at the time of entry for a fee of \$6, effective for the duration of the camping stay. Under the bill, this provision will apply to a nonresident motor vehicle beginning October 1, 2010.

The bill requires the State Treasurer, for each State fiscal year, beginning with FY 2010-11, to adjust the amounts established for annual, daily, and duplicate nonresident vehicle permits by amount he or she determines to reflect the cumulative percentage change in the CPI for the most recent one-year period for which data are available and rounded to the nearest five cents.

Under Part 741, commercial motor coaches or vans with a capacity of more than 12 passengers are not eligible to enter a State park with an annual park permit. The daily fee for such a vehicle is \$15. The bill delayed the sunset on the fee from April 1, 2010, to October 1, 2010.

Currently, if a person's annual park permit is lost or destroyed, the DNRE must give him or her a replacement permit free of charge. The DNRE may require the person to supply sufficient evidence of the loss or destruction

of the original permit. Under the bill, beginning October 1, 2010, these provisions will apply to a nonresident motor vehicle permit.

Alternative Method: Recreation Passport Fee

The bill authorizes the DNRE to promulgate rules providing a method for an individual to pay a recreation passport fee in addition to the method provided for in Senate Bill 389. The amount of the fee required under this method may not exceed twice the amount of a passport fee submitted with a vehicle registration application. During 2010, however, the amount of the fee required under the additional method must equal the amount of the fee under Senate Bill 389. A rule must provide for a method evidencing payment of the passport fee, such as by the issuance and display of a permit.

A rule promulgated under these provisions will not apply after April 1, 2014, unless, during at least FY 2010-11, FY 2011-12, or FY 2012-13, revenue from the recreation passport fee, minus appropriations to the SOS under House Bill 5752, equals or exceeds \$12,017,514.

Penalties

Currently, a person who violates Part 741 or a rule promulgated under it is guilty of a misdemeanor. Under the bill, this provision will not apply to violations involving entry by a nonresident or commercial motor vehicle without a park permit; entry by a resident motor vehicle without payment of the recreation passport fee; or entry by a resident motor vehicle without a registration tab, sticker, or temporary registration plate marked to show that the passport fee has been paid. A person who commits any of those violations will be responsible for a State civil infraction and may be ordered to pay a civil fine of up to \$100. A person may not be cited for violating both the prohibition against entry without paying the passport fee and the prohibition against entry without a tab, sticker, or plate evidencing payment of the fee for the same incident.

Under Part 741, in any proceeding for a violation, if a motor vehicle is found parked in a State park without the required motor vehicle park permit affixed, the registration plate constitutes prima facie evidence that the owner was the person who parked or

placed the vehicle at the location where it was found. Under the bill, this provision also will apply to a motor vehicle found parked in a State park without payment of the recreation passport fee.

These amendments will take effect on October 1, 2010.

Citizens Committee; NRC Report

Part 741 established the Citizens Committee for Michigan State Parks within the DNRE and prescribed its membership. The Committee was required to do all of the following:

- Advise and make recommendations to the Governor, the NRC, and the Legislature on State parks policy and provide guidance on State parks development, management, and planning issues.
- Seek the development of a broad variety of programs, facilities, and services for Michigan citizens using the State parks.
- Inform and educate the public about the importance of and need for State parks.
- Strive to involve citizens in the planning and development of State parks and to ensure that the facilities, programs, and projects are barrier-free and accessible to all citizens.
- Establish and maintain effective public relations regarding State parks, using all appropriate communications media.
- Advise on financial planning and pursue adequate budget support for State parks.
- Serve as a liaison and coordinate with other agencies to ensure a cooperative effort to provide the most effective and economical services possible at State parks.
- Periodically evaluate the State parks programs, facilities, services, and relationships, and report to legislative standing committees.
- Advise and make recommendations to the DNRE on the Gem of the Parks Award, the State Parks Volunteer of the Year Award, and the State Parks Employee of the Year Award.
- Review and make recommendations to the DNRE on whether land within a State park should be transferred as provided in Part 741.

The bill eliminated references to the Citizens Committee and transferred its duties to the NRC. The bill also deleted provisions for the Committee's membership and meetings.

Under the bill, within 180 days after its effective date, the NRC must submit a report to the standing committees and Appropriations subcommittees of the Legislature with jurisdiction over issues pertaining to natural resources and the environment. The report must contain recommendations for savings in State park and forest recreation programs. Savings in State park programs equivalent to at least 10% of the cumulative expenditures for those programs during FY 2008-09 must be identified. In developing recommendations, the NRC must consult with the DNRE and interested parties. The NRC must consider at least all of the following:

- Increased preventative maintenance.
- Energy conservation and efficiency.
- Contracting concessions, major maintenance or renovation work, and other park operations to private parties.
- Sharing resources and coordinating activities with parks or public recreation facilities owned by local units of government.

Part 741 requires the DNRE to report annually to the standing committees of the Legislature along with the appropriate budget subcommittees that primarily consider issues pertaining to natural resources. The report must detail the revenue stream generated by the State park permit fee structure. The report also must include information on the impact of the revenue stream on the Michigan State Parks Endowment Fund, the use of the General Fund for funding the State park system, and other relevant issues that have an impact on funding needs for the system. Under the bill, these provisions will apply until October 1, 2010.

Legislative Findings

Part 741 contains various legislative findings regarding the State park system. Effective October 1, 2010, the bill adds the following findings:

- "A holistic, integrated park system that reflects the unique value of both state and local parks is a goal of this state."

- "State and local park planners should work in concert for a coordinated Michigan park and recreation plan."

House Bill 4677

State-Operated Public Boating Access Sites

Under Part 781, the DNRE may charge fees for both daily and seasonal use of State-operated public access sites, if the cost of collecting the fees will not exceed the revenue derived from them. All revenue derived from this source must be deposited in the Waterways Account. A seasonal pass must grant the permittee the right to enter any State-operated public access site without paying an additional fee. The bill deletes these provisions.

Under the bill, the DNRE Director must designate State-operated public boating access sites that may not be entered by a resident motor vehicle unless the recreation passport fee has been paid or by a nonresident motor vehicle or CMV unless a pass has been purchased and affixed to the vehicle as described below.

The bill requires the DNRE to charge fees for passes authorizing daily or seasonal entry by nonresident motor vehicles and CMVs at designated access sites. Fee revenue must be deposited in the Waterways Account.

The bill prohibits a person from entering, in a nonresident motor vehicle or CMV, a designated access site without a valid pass affixed to the lower right-hand corner of the windshield. A seasonal pass must be affixed permanently for the season. A person may not enter in a resident motor vehicle without having paid the recreation passport fee.

Under the bill, if the SOS issues registration tabs or stickers to indicate payment of the recreation passport fee (as provided in Senate Bill 389), the operator of a resident motor vehicle may not enter a designated boating access site unless the vehicle has a registration tab or sticker or temporary registration plate marked to show that the recreation passport fee has been paid.

A pass will not be required and a passport fee will not have to be paid for entry into a designated public boating access site if the motor vehicle is used in the operation or maintenance of the site, is an emergency

vehicle, is a State-owned or law enforcement vehicle, or is a private motor vehicle being operated on official State business.

The bill authorizes the DNRE to waive the pass requirement for nonresident motor vehicles and CMVs and the recreation passport fee requirement for resident motor vehicles for Department-sponsored events or other circumstances as determined by the Director or his or her designee.

Penalties

Under the bill, a person who enters a designated State-operated public boating access site without purchasing the required pass or paying the recreation passport fee, or without displaying SOS-issued proof of payment, will be responsible for a State civil infraction and may be ordered to pay a civil fine of up to \$100. A person may not be cited for violating both the prohibition against entry without paying the passport fee and the prohibition against entry without a tab, sticker, or plate evidencing payment of the fee for the same incident.

Under the bill, in any proceeding for the violation of Part 781 or a rule promulgated under it, if a motor vehicle is found parked in a designated access site without the required pass affixed or passport fee having been paid, the registration plate constitutes prima facie evidence that the owner is the person who parked or placed it at the location where it was found.

State Forest Land Use

Part 831 authorizes the DNRE to require a person to obtain a permit for camping in designated State forest campgrounds, and allows the Department to establish and collect a fee for the permit. Also, the DNRE may require a person to obtain a permit, except as otherwise provided by law, for the use of land and facilities within a State forest as designated by the Department for recreational use. Under the bill, the Department may not require a permit or payment of a fee for use of a State forest nonmotorized trail or pathway or State forest campground facility except as provided for campgrounds or otherwise provided in NREPA.

House Bill 5752

Distribution of Fee Revenue

The bill adds Section 2045 to Part 20 of NREPA, to require the DNRE to distribute recreation passport fee revenue transferred to the Department under Section 805 of the Michigan Vehicle Code (added by Senate Bill 389) as follows:

- First, up to \$1.0 million per fiscal year must be allocated for necessary expenses incurred by the SOS in administration and implementation of the passport fee.
- The next \$10,700,000 received each fiscal year must be deposited in the State Park Improvement Account.
- The next \$1,030,000 received each fiscal year must be deposited in the Waterways Account.
- The balance must be deposited as described below.

Funds appropriated to the SOS for necessary expenses must be based upon an established cost allocation methodology that reflects actual costs.

For each State fiscal year, beginning with FY 2011-12, the State Treasurer must adjust the amounts allocated to the State Park Improvement Account and the Waterways Account by an amount he or she determines to reflect the cumulative percentage change in the CPI for the most recent one-year period for which data are available.

The remaining revenue must be deposited and used as follows:

- 50% in the State Park Improvement Account for capital improvements at State parks, including recreation areas.
- 30% in the State Park Improvement Account for operations and maintenance at State parks, including recreation areas.
- 2.75% in the State Park Improvement Account for operations, maintenance, and capital improvements of State park cultural and historic resources.
- 0.25% in the State Park Improvement Account to promote, in concert with other State agencies, the use of State parks, State-operated public boating access sites, State forest campgrounds, and State forest nonmotorized trails and pathways; and to promote the use of the internet for State park camping

reservations and for payment of the recreation passport fee in conjunction with motor vehicle registration.

- 10% in the Local Public Recreation Facilities Fund for development of public recreation facilities for local units of government.
- 7.0% in the Forest Recreation Account for the operation of, maintenance of, and capital improvements to State forest campgrounds and the State forest system of pathways and nonmotorized trails, including equestrian trails.

Reports

Under the bill, by February 1 each year, starting in 2012, the DNRE must submit a report to the standing committees and Appropriations subcommittees of the Legislature with jurisdiction over issues pertaining to natural resources and the environment. The report must provide information on all of the following for the preceding State fiscal year:

- The total amount of recreation passport fee revenue the Department received from resident vehicles and the amounts allocated as prescribed by the bill.
- The total amount of annual and daily State park motor vehicle permit fee revenue from nonresident and commercial motor vehicles the DNRE received.
- The total amount of seasonal or daily State-operated public boating access site revenue the DNRE received from nonresident and commercial motor vehicles.
- Details on the specific uses of the revenue and the amounts spent for each specific use.
- The adequacy of the recreation passport fee revenue for each of the purposes for which it was allocated.
- The impact of the State park revenue stream from recreation passports and annual and daily motor vehicle permits on the Michigan State Parks Endowment Fund.
- Other relevant issues that affect funding needs for the State park system.

By February 1, 2012, and every two years after that, the DNRE must submit to the same legislative standing committees and Appropriations subcommittees a report on how frequently motor vehicles for which the

registrant declined to pay the passport fee entered State parks and designated State-operated public boating access sites during the registration period. This information must be based on random audits conducted by the Department. The report may be combined with the report on passport fee and motor vehicle permit revenue.

The DNRE may prepare a list of frequently asked questions and answers concerning the recreation passport fee. The DNRE and the Department of State may post the information on their websites. The Department of State also may provide the information with any applications for motor vehicle registration that it mails.

Local Public Recreation Facilities Fund

The bill creates the Local Public Recreation Facilities Fund within the State Treasury. The State Treasurer may receive money or other assets from any source for deposit into the Fund. The Treasurer must direct the investment of the Fund and credit to it the interest and earnings from the investments. Money in the Fund at the close of the fiscal year will remain in the Fund and will not lapse to the General Fund.

The DNRE is the administrator of the Fund for auditing purposes. The DNRE must spend money from the Fund, upon appropriation, only for grants to local units of government for the development of public recreation facilities pursuant to the procedures of the Michigan Natural Resources Trust Fund board under Section 1907.

(Under that section, the board must determine which land and rights in land should be acquired and which public recreation facilities should be developed with money from the Trust Fund, and submit to the Legislature each January a prioritized list of those parcels, rights in land, and facilities, along with estimates of total costs. The Legislature must approve the land and rights in land and the public recreation facilities to be acquired or developed each year with money from the Trust Fund.)

Repealed Sections

The bill repeals Section 74123, which authorizes the DNRE to establish a fine for failure to purchase a park permit. The fine

must be twice the cost of the permit as established by Part 741 or the Department.

The bill also repeals Sections 1909 and 1910. Section 1909 required the State Treasurer, on October 1, 1985, to transfer to the Game and Fish Protection Fund and the Natural Resources Trust Fund the balances of several other funds. Section 1910 required the Department of Treasury, on that date, to transfer documents of the former State Recreational Land Acquisition Trust Fund board of trustees and the Heritage Trust Fund board of trustees to the Natural Resources Trust Fund board.

Forest Recreation & State Park Improvement Accounts

Part 20 establishes the Forest Recreation Account and the State Park Improvement Account within the Michigan Conservation and Recreation Legacy Fund. Money in those accounts may be spent, upon appropriation, only as provided in Part 831 and Part 741, respectively, and for the administration of each account. Under the bill, the money also may be spent, upon appropriation, as provided in Section 2045.

MCL 324.74117 (S.B. 388)
257.805 (S.B. 389)
324.74101 et al. (S.B. 1057)
324.78101 et al. (H.B. 4677)
324.2001 et al. (H.B. 5752)

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

Without the establishment of an increased, sustainable source of revenue, the State's outdoor recreation facilities would continue to deteriorate and some might have to be closed. This could be devastating to the State's tourism industry as a whole and to the nearby communities in particular. The poor condition of many State parks and boating access sites demonstrates that continued reliance on a shrinking visitor pool and funds cobbled together from various sources would be inadvisable. The bills will implement a more reliable, adequate revenue stream while making recreational opportunities more affordable and accessible to Michigan residents.

The recreation passport fee represents significant savings for residents over the existing \$24 annual permit, which might encourage more people to visit the parks. Reportedly, a similar fee system implemented in Montana has been successful, with more than 75% of vehicle registrants participating. No Michigan resident is ever more than an hour's drive from a State park or recreation area, but tough economic times and fluctuating gas prices have put recreational activities out of reach for many. The recreation passport fee might give families an opportunity to take an affordable vacation without traveling to and spending money in another state. In addition to increasing the number of park visitors, the access and affordability the recreation passport will provide might help reverse downward trends in hunting and fishing.

State parks and recreation areas contain many of Michigan's valuable natural resources and unique geographic features. For some people, a State facility might offer one of few opportunities for outdoor recreation and physical activity. In recent years, much attention has been given to the health risks and costs associated with a sedentary lifestyle, particularly for children. The closure of some of these facilities would hamper efforts to encourage more active lifestyles and promote the conservation of natural resources. The recreation passport fee will generate revenue to ensure that the park system is viable for future generations and make it easier for residents to take advantage of the available opportunities.

The recreation passport fee also will eliminate lines at park entrances, as well as the need for DNRE personnel to issue daily permits and check vehicles for annual permits. These employees will be available for duties more directly related to park operations, maintenance, and law enforcement, which will enhance the visitor experience.

Reportedly, travel is a \$17 billion industry in Michigan, and more than 200,000 jobs in the State depend on it. The economies of many local units rely on tourism associated with State recreational facilities, as users spend money at restaurants, gas stations, and other local businesses. In order to support the State and local economies, restore the State park system to excellent

condition and ensure its stability, and protect Michigan's invaluable natural resources, this legislation meets the critical need to replace the existing funding structure.

Response: Because park personnel will no longer be checking for permits at park entrances, it might be easier for people to enter the parks without paying the required fee. Although the DNRE will perform spot checks of license plates, that might not be a strong-enough deterrent for those who would cheat the system. Some park employees still will be needed at park offices to issue permits to out-of-State tourists and to residents who do not pay the recreation passport fee with their registration but want to visit the parks occasionally (if an alternative payment method is established). Additionally, the passport fee might cause confusion for motorists as to which facilities it covers, especially in areas containing State, local, and Federal facilities, or whether they need to pay a separate fee for each vehicle they own. The recreation passport also might deter people from visiting local parks that charge entry fees if they are located near State facilities covered by the passport, which could reduce revenue to local units of government.

Supporting Argument

House Bill 5752 recognizes the complementary nature of local recreational facilities by allocating a portion of the recreation passport fee to local parks and requiring collaboration between the State park system and local parks and recreation entities. This dedicated funding and emphasis on resource-sharing and improving efficiency will contribute to enhanced opportunities for residents.

Opposing Argument

The bills will present several problems for the Secretary of State and residents registering their vehicles. First, using the vehicle registration process to raise funds for the State park system might set a precedent for use of the Department of State as a fund-raising conduit for various causes that fall outside of the Department's core functions. Furthermore, vehicle registration forms already contain a lot of information that can be confusing to motorists. Adding the recreation passport fee option might lead to more misunderstandings, questions, and bungled

transactions, which might result in longer waits at Secretary of State branch offices.

Opposing Argument

The recreation passport fee might put privately owned campgrounds at a disadvantage to State park and State forest campgrounds if the revenue results in lower campsite fees at the State facilities. Particularly during the current economic downturn, it is ill-advised to make competition more difficult for private campgrounds, many of which are family-owned independent businesses.

Opposing Argument

It is questionable whether the mechanism for collecting the recreation passport fee is constitutional. Article IX, Section 9 of the State Constitution states, "All specific taxes, except general sales and use taxes and regulatory fees, imposed directly on...registered motor vehicles...shall, after the payment of necessary collection expenses, be used exclusively for transportation purposes...". If the fee is collected in the manner prescribed in the bills, it actually will be a specific tax and will not be exempt from the requirement that it be used for transportation purposes. In *Bolt v City of Lansing*, the Michigan Supreme Court specified a three-prong test to distinguish between a fee and a tax: 1) whether the charge serves a regulatory purpose rather than operates as a means of raising revenue; 2) whether the charge is proportionate to the necessary costs of the service to which it is related; and 3) whether the payor has the ability to refuse or limit its use of the service to which the charge is related.

With regard to the first point, a "fee" is exchanged for a service rendered or a benefit conferred, and some reasonable relationship exists between the fee and the value of the service or benefit. Under the bills, however, the recreation passport fee is not related to a specific benefit for the user but will raise revenue for State and local parks. Furthermore, there is no connection between park access and any regulatory function, transportation-related or otherwise. Since the passport fee does not meet the first criterion identified in *Bolt*, it must be classified as a tax and used as specified in the State Constitution.

Response: The charge for the recreation passport is a fee, not a tax. The

vehicle registration tax is a "specific tax" that must be used for transportation purposes, according to the Constitution; the recreation passport fee, however, is ancillary to the motor vehicle registration process. In addition, the passport fee arguably will serve a regulatory purpose, as it will replace the existing user fee structure that is used to maintain State-owned outdoor recreational facilities. The legislation specifies the purposes for which the fee revenue must be used and prescribes the amounts to be dedicated to each purpose. Also, the recreation passport fee is voluntary; people who do not want to pay it simply can refrain from using State recreational facilities. The passport charge clearly satisfies the criteria for a fee, eliminating any uncertainty regarding its constitutionality.

Opposing Argument

The mechanism established by the bills is not an appropriate way to fund Michigan's State parks and boating access sites. All Michigan residents benefit from the conservation of natural resources and the tourism revenue connected with these facilities; thus, the responsibility for their continued maintenance and operation should not fall solely upon those people who use them directly. Given the significance of these outdoor recreation facilities to the State's environmental and economic well-being, they should be supported through the appropriation of General Fund dollars rather than user fees.

Legislative Analyst: Julie Cassidy

FISCAL IMPACT

This package of bills repeals the current \$24 motor vehicle permit fee that Michigan residents currently pay to use State Parks, and replaces it with a \$10 passport fee that may be paid when residents renew their vehicle registrations, and the \$5 fee for motorcycles. In FY 2008-09, Michigan State parks received approximately \$10.9 million for operational and maintenance purposes from the motor vehicle permits. These funds are deposited into the Park Improvement Fund and the Michigan State Waterways Fund.

For nonresident and commercial vehicles, the current fees that are levied to enter State parks will remain essentially unchanged, with the exception that the fees

must also be paid to use State-owned public boating access sites. Additionally, nonresidents will still be allowed to pay a smaller fee for secondary vehicles towed into State parks behind their primary vehicles. For example, someone who tows a car behind a motorhome will pay the nonresident fee for the motorhome (the primary vehicle) and a \$6 fee for the towed car (the secondary vehicle). This \$6 fee allows the secondary vehicle to come and go from the park for the duration of the camping trip. In FY 2008-09, the towed vehicle fees brought in \$28,400. These fees will continue to be charged according to the scheme outlined in Table 1. In FY 2008-09, nonresident and commercial permits together brought in a total of \$2.3 million, and like the motor vehicle permit fees paid by Michigan residents, this revenue was deposited into the Park Improvement Fund and the Michigan State Waterways Fund.

Table 1

Type of Permit	Daily	Annual
NonResident	\$8	\$29
NonResident Secondary	\$6*	
Commercial Vehicle	\$15	N/A
*Secondary vehicle permits are valid for an entire single stay at a State park, and therefore cannot be categorized as "daily" or "annual".		

The bills additionally provide a mechanism to help ensure that the fees adequately fund the State parks and DNRE-operated State boating access sites. Each year, the State Treasurer is required to adjust the fees according to changes in the consumer price index, a widely used measure of economic inflation. Over the last 20 years, the CPI has grown at an average rate of about 2.9% annually.

Approximately 7.2 million passenger vehicle, and 254,000 motorcycle registration transactions are recorded by the Secretary of State each year. Assuming those numbers remain relatively constant, the new passport fee will need to have 17% participation for it to generate as much revenue as the motor vehicle permit fee has. This rate reflects \$1.0 million in extra costs that will be incurred, as House Bill 5752 allows up to \$1.0 million to be reimbursed to the Secretary of State for actual costs incurred as a result of implementation of the passport fee program. The SOS has

estimated that it will face approximately \$3.1 million in costs in the first year, as well as an additional \$2.5 million in subsequent years. However, most of these costs will take the form of extra counter-time, as SOS representatives explain the fee to residents and as residents decide whether to pay the fee. Therefore, if the Legislature does not appropriate extra funding for the operation of SOS branch offices (above and beyond the \$1.0 million provided for in the bill), the result will likely be longer wait times in SOS offices, rather than higher costs.

It is unknown exactly how many residents will participate in the passport program. Table 2 below shows four scenarios using various participation rates.

After April 14, 2014, the authorization to charge fees as described above will no longer apply, unless in fiscal year 2010-11, 2011-12, or 2012-13, revenue from the passport program, minus appropriations to the Secretary of State, exceeds \$12,017,514. Discontinuing this

authorization would have a dramatic, negative effect on revenue, since it would eliminate the ability of the DNRE to receive money for State parks and boat launches from these sources. In such a situation, legislative action would be necessary to ensure adequate funding for State parks and State-operated boating access sites.

Finally, the legislation requires the Natural Resources Commission to prepare and submit a report containing recommendations for savings measures in State park programs. The measures suggested must be 10% of the expenditures for State park programs in fiscal year 2008-09, which is approximately \$4.5 million. If these measures are identified and brought to fruition by the Department, they may result in substantial savings.

Fiscal Analyst: Josh Sefton

Table 2

Recreation Passport Fee Distribution				
Participation Rate	10% ¹	25%	50%	75%
Total Estimated Revenue ²	\$7,361,700	\$18,404,250	\$36,808,500	\$55,212,750
SOS Administration Costs	1,000,000	1,000,000	1,000,000	1,000,000
State Park Improvement Fund	6,361,700	10,700,000	10,700,000	10,700,000
Waterways Account	0	1,030,000	1,030,000	1,030,000
New Recreation Passport Fee Revenue (Total less three reductions above)	0	\$5,674,250	\$24,078,500	\$42,482,750
State Park Capital Improvements (50%)	0	2,837,125	12,039,250	21,241,375
State Park Operations and Maintenance (30%)	0	1,702,275	7,223,550	12,744,825
Local Public Recreation Facilities (10%)	0	567,425	2,407,850	4,248,275
State Forest Recreation Account (7%)	0	397,198	1,685,495	2,973,793
State Park Cultural, Historic Resources (2.75%)	0	156,042	662,159	1,168,275
Marketing, Internet Promotion (0.25%)	0	14,185	60,196	106,207
¹ A 10% participation rate reflects a level of funding lower than what is currently experienced with the motor vehicle permit fee. ² Total revenue based on a three-year average (2006-2008) of passenger vehicle and motorcycle registration transactions.				

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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.