



Senate Fiscal Agency
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BILL



ANALYSIS

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House Bill 4111 (Substitute S-1 as reported)
Sponsor: Representative Bruce Rendon
House Committee: Natural Resources, Tourism, and Outdoor Recreation
Senate Committee: Outdoor Recreation and Tourism

Date Completed: 5-2-11

RATIONALE

The Natural Resources and Environmental Protection Act (NREPA) authorizes the Department of Natural Resources (DNR) to appoint volunteers to assist the Department in carrying out its duties related to State parks. While serving in such a capacity, a volunteer is protected from civil liability under the governmental immunity law (described below, under **BACKGROUND**). Evidently, the DNR engages volunteers to help with other responsibilities outside the State park system although NREPA does not specifically authorize this practice, leading to concerns regarding liability for volunteers. It has been suggested that the Act's provisions outlining the general duties of the DNR should authorize the use of volunteers.

CONTENT

The bill would amend Part 5 of the Natural Resources and Environmental Protection Act, which governs the Department of Natural Resources, to authorize the DNR to appoint volunteers to facilitate certain responsibilities.

Part 5 requires the DNR to do all of the following:

- Protect and conserve the State's natural resources.
- Provide and develop facilities for outdoor recreation.
- Prevent the destruction of timber and other forest growth by fire or otherwise.
- Promote the reforestation of forestland belonging to the State.
- Prevent and guard against the pollution of lakes and streams within the State

and enforce all laws provided for that purpose with all authority granted by law.

- Foster and encourage the protection and propagation of game and fish.

The bill would allow the DNR to appoint people to serve as volunteers to facilitate the Department's responsibilities under Part 5. The bill also would allow a volunteer, subject to the DNR's direction, to use equipment and machinery necessary for the volunteer service, including equipment and machinery to improve wildlife habitat on State game areas.

BACKGROUND

Under the governmental immunity law, a volunteer acting on behalf of a governmental agency is immune from tort liability for an injury to a person or damage to property he or she causes while acting on behalf of the agency if all of the following are met:

- The person is acting or reasonably believes he or she is acting within the scope of his or her authority.
- The governmental agency is engaged in the exercise or discharge of a governmental function.
- The person's conduct does not amount to gross negligence that is the proximate cause of the injury or damage.

A governmental agency may provide and pay for the services of an attorney to advise and represent a volunteer in a civil action arising from the person's negligence while

acting on behalf of the agency; and also may compromise, settle, and pay claims.

MCL 324.503

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

Due to budget cuts in recent years, the DNR staff has been reduced and the Department cannot perform important work related to wildlife and natural resources management and outdoor recreation to the extent that it did in the past. Some of Michigan's outdoor enthusiasts would like to contribute their valuable skills and knowledge to fill in the staffing gaps and aid the DNR in its mission. While volunteers already are assisting the Department in this capacity, some people are concerned about liability issues because NREPA does not specifically authorize the use of volunteers to fulfill the duties set forth in Part 5. The explicit authorization under the bill would grant volunteers protection under the governmental immunity law, facilitating cooperative partnerships between the DNR and individuals and conservation organizations.

Opposing Argument

The bill could result in additional downsizing of the DNR in favor of volunteers, further harming natural resources and outdoor recreation opportunities and exacerbating the State's unemployment situation. To prevent more job losses, the bill should preclude the use of a volunteer to carry out a task that was performed by a Department employee in the previous six months.

Response: Presumably, volunteers would do work that previously was done by employees who already have been eliminated, rather than replace remaining staff. Volunteer labor allows current employees to focus on other duties, facilitating the completion of more work. A six-month ban on volunteers' performing certain tasks would be excessive and unproductive.

Legislative Analyst: Julie Cassidy

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

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.