

Legislative Analysis



RECREATION PASSPORT FEES

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House Bill 4677 (Substitute H-2)
Sponsor: Rep. Rebekah Warren

House Bill 4678 (Substitute H-2)
Sponsor: Rep. Arlan Meekhof
Committee: Great Lakes and Environment

Revised First Analysis (8-03-09)

BRIEF SUMMARY: House Bill 4678 would amend the Michigan Vehicle Code to provide for a recreation passport fee (\$5 for motorcycles; \$10 for all other motor vehicles) that Michigan residents would pay when registering a motor vehicle *unless they declined payment of the fee*. A motor vehicle for which the fee had been paid could lawfully enter any state park, state recreation area, or designated state-operated public boating access site without payment of an additional entry fee. Persons in commercial vehicles or in vehicles without Michigan license plates would still need an annual or daily entry permit.

(For nonresident motor vehicles, the park entry permit fee would be \$8 (daily) or \$29 (annual); a commercial vehicle would have to purchase a daily permit for \$15. These are the current fee amounts for nonresident and commercial vehicles. The bill doesn't specify the fees for nonresident or commercial motor vehicles entering state-operated public boating access sites.)

House Bill 4677 would prescribe the distribution of revenue from the recreation passport fee. The Secretary of State would receive an amount equal to 0.5 percent of the revenue to defray its administrative costs. The rest would go to the DNR for deposit into specified funds used to support state and local parks recreation areas. House Bill 4678 and specified sections of House Bill 4677 would take effect on January 1, 2010.

FISCAL IMPACT: The total amount available for state parks, forest campgrounds, and local recreation grants depends on the number of state vehicle registrants opting into the legacy program. The total appropriation from the Park Improvement Fund in FY 2008-09 is \$40 million. Of this amount, about \$11 million is realized from motor vehicle permits. If the program as proposed is to be significantly beneficial, a participation rate greater than 30 percent must occur. Since it is likely that registrants will understand that they will have full access to state parks even if they choose not to pay the \$10 legacy charge, a significant number of "free riders" might be expected. See the charts on the last page (Page 16) for detailed revenue estimates.

THE APPARENT PROBLEM:

Michigan—blessed with the Great Lakes, inland lakes, rivers, and streams, sand dunes, and forests—has one of the largest and most heavily-used state park systems in the United States, providing abundant opportunities for outdoor recreation. With the auto industry in decline, the tourism industry is more important than ever to the state's economy. Michigan's 98 state parks attract approximately 22 million visitors each year, many of whom are from outside of Michigan. Presently, however, many state park facilities are showing their age, and the park system lacks adequate funds for ordinary maintenance and operations, much less improvements. For example, many park roads, bridges, buildings, and trails need repairs; some sewer systems and electrical hookups are outdated and need upgrading or replacing. There is little or no money available to make facilities more accessible to the disabled. An official advisory group, the Citizens Committee for Michigan State Parks, created by Public Act 293 of 2004, recently determined that approximately \$341 million is needed to address existing infrastructure needs.

In 2004, the state ended all General Fund support for the state park system, reportedly the only state to do so, forcing the park system to operate solely from user fees and the State Park Endowment Fund. Most observers acknowledge that the current situation is unsustainable and that the parks need additional funding if they are going to be maintained for current and future generations. If not maintained, some facilities may have to be closed or sold, harming the state's tourism industry, local economies, and access to the outdoors for Michigan residents and visitors.

The Citizens Committee for Michigan State Parks, after reviewing numerous options, proposed the voluntary fee contained in the bills as the best solution to the park system's current funding crisis. This approach is modeled after Montana legislation that supporters say has been successful. Instead of purchasing annual or daily state park entry permits or state-operated public boating access site permits, Michigan residents could purchase a low-cost "recreation passport" when registering their motor vehicles. Then, the vehicle's Michigan license plate would serve as a pass to enter all state parks, recreation areas, and designated public boating access sites. Nonresidents and persons driving commercial vehicles would still need to purchase traditional entry permits.

The legislation's supporters say that the State of Montana has successfully used this approach to fund its park system, and that over 75 percent of Montana residents choose to pay the voluntary fee when registering their vehicles. This funding approach would allow the cost of operating and maintaining state parks to be spread more broadly, keeping the annual fee for using parks low for Michigan residents while yielding additional funds.

In addition, some of the revenue generated would fund grants to local units of government for the development of their public recreation facilities. Cities, villages, township, and counties are also facing severe budget pressures. These bills would also help support local park facilities.

THE CONTENT OF THE BILLS:

House Bill 4678 (H-2) would add Section 805 to the Michigan Vehicle Code to prohibit the Secretary of State from issuing or renewing a motor vehicle registration unless a **state park and state-operated public boating access site recreation passport fee (recreation passport fee)** is submitted to the Secretary of State with the application, along with usual registration fee. The recreation passport fee would apply to all motor vehicles, including motorcycles, except for commercial motor vehicles. A registrant could opt out of paying the passport fee, as described below, by affirming that the vehicle would not be used to enter any state park or recreation area during the registration period. The recreation passport fee would be set initially at \$10 (\$5 for a motorcycle), subject to an annual adjustment for inflation. As introduced, House Bill 4678 was identical to Senate Bill 389, as introduced, sponsored by Senator Raymond Basham, Jr..

Declining payment of the fee. A motor vehicle registrant could elect not to pay the recreation passport fee by a checkmark on the application by which the applicant adopted the following statement: "I elect not to pay this \$10.00 fee. This vehicle will not be used to enter any Michigan State Park or Recreation Area during the registration period." (By adopting a substantially similar statement, a motorcycle registrant could decline to pay the \$5 passport fee applicable to motorcycles.) [Note: This opt out" statement may need to be revised to require the registrant to also promise not to enter a **state-operated public boating access site** during the registration period to be consistent with other provisions in the package.]

Allocation of recreation passport fees. The Secretary of State would be required to allocate revenue from recreation passport fees as follows:

- One half of one percent (0.5%) of all fees collected would be retained by the Secretary of State to defray its administrative costs.
- The balance of revenue would have to transferred at least weekly to the Department of Natural Resources (DNR) for deposit as provided in Section 2045 of NREPA. (That section, to be added by House Bill 4577, describes how the DNR would allocate the rest of the revenue between various funds for state and local parks.)

Data; payment of passport fee considered "personal information." Upon request, the Secretary of State would have to furnish a list of information from its records to the DNR or to a private person acting on the DNR's behalf for the DNR's use in carrying out its functions, such as marketing and advertising, under specified Parts of NREPA. Whether a particular individual paid a recreation passport fee would be considered "personal information" as defined in Section 40b of the Motor Vehicle Code, MCL 257.40b (meaning that it could not be disclosed except in accordance with Section 208c, MCL 257.208c).

Effective date. The bill would take effect January 1, 2010.

Tie-bar. House Bill 4678 is tie-barred to House Bill 4677, meaning unless that bill is also enacted into law, House Bill 4678 would not take effect.

MCL 257.805

House Bill 4677 (H-2) would amend several parts of the Natural Resources and Environmental Protection Act (NREPA): Part 19 (Natural Resources Trust Fund), Part 20 (Michigan Conservation and Recreation Legacy Fund), Part 741 (State Parks System), Part 781 (State Waterways Commission), and Part 831 (State Forest Recreation). As introduced, House Bill 4677 was identical to Senate Bill 388, as introduced by Senator Patricia L. Birkholz. The bracketed section numbers following headings in this summary refer to bill section numbers.

Part 19 (Natural Resources Trust Fund)

Local Public Recreation Facilities Fund. [§1911] A new section would be added to Part 19 creating a Local Public Recreation Facilities Fund within the state treasury, and administered by the DNR for auditing purposes, that could accept money or assets from any source. The state treasurer would direct the investment of the fund and credit it with its investment interest and earnings. At the end of a state fiscal year, money would remain in the fund rather than lapse to the General Fund. The DNR could spend money from this fund, upon appropriation, only for grants to local units of government for the development of public recreation facilities under the procedures and guidelines provided in Section 1907. (Section 1907 of NREPA (MCL 324.1907) describes the procedures by which the Michigan Natural Trust Fund Board acquires and develops land for public recreation purposes, which include legislative approval.)

Part 20 (Michigan Conservation and Recreation Legacy Fund)

Forest Recreation Account. [§2005] [Eff. date 1-10-10.] Money in the Forest Recreation Account within the Legacy Fund (described in Part 20 of NREPA), may currently be spent, upon appropriation: (1) only as provided in Part 831 (State Forest Recreation), and (2) for administration of the account, including grants to colleges and universities to implement programs funded by the account. The bill would also allow money in this account to be spent, upon appropriation, as provided in new Section 2045, described below).

State Park Improvement Account. [§2030] [Eff. date 1-10-10.] The State Park Improvement Account (described in Part 20 of NREPA) is an account within the Legacy Fund. Currently, money in this account may be spent, upon appropriation: (1) only as provided in Part 741 (State Parks System), and (2) for administration of the account, including grants to state colleges and universities to implement programs funded by the account. The bill would also allow money in this account to be spent, upon appropriation, as provided in new Section 2045, described below).

A similar change to Section 2035, which describes the Waterways Account within the Legacy Fund was contained in the introduced version of the bill but no longer appears in the H-2 Substitute.

Allocation of recreation passport revenue. [§2045(1)-(2)] The DNR would have to distribute recreation passport fee revenue it receives as follows:

- The **State Park Improvement Account** would receive the first \$10.7 million of recreation passport fee revenue received each fiscal year.
- The **Waterways Account** would receive the next \$1.03 million of this revenue each fiscal year.

(Beginning in 2011, the state treasurer would adjust the specific amounts going to these two funds for inflation in accordance with a specified index of consumer prices at the end of each calendar year.)

Any remaining revenue would be deposited as follows:

- The **State Park Improvement Account** would receive 83 percent of the remainder, to be used as follows: (1) 50 percent for capital improvements at state parks, including state recreation areas; (2) 30 percent for operations and maintenance at state parks, including state recreation areas; (3) 2.75 percent for operations, maintenance, and capital improvements of state park cultural and historic resources; and (4) 0.25 percent (a) to promote, (along 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 (b) 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.
- The new **Local Public Recreation Facilities Fund**, described above, would receive 10 percent for development of public recreation facilities for local units of government. "Local unit of government" means a municipality (city, village, or township) or county in NREPA, MCL 324.301.)
- The **Forest Recreation Account** would receive 7 percent for operations, maintenance, and capital improvements for state forest campgrounds and the state forest nonmotorized trail and pathway system.

Annual report [§2045(3)] Beginning in 2011, the DNR would have to submit a report to the legislative standing committees and Appropriations subcommittees with jurisdiction over issues pertaining to natural resources and the environment by February 1 each year. The report would describe the following items for the preceding state fiscal year:

- The total amount of recreation passport fee revenue received and how it was allocated.
- The total amount of annual and daily state park motor vehicle permit fee revenue received.

- Details about the specific uses of recreation passport and permit fee revenue and amount spent for each specific use.
- The adequacy of passport revenue for the purposes for which it is allocated.
- The impact of the passport fee and permit fee revenue streams on the Michigan State Parks Endowment Fund.
- Other issues affecting the state park system's funding needs.

The introduced version required a second annual report describing how many motor vehicles entered state parks and designated state-operated boating access sites in vehicles for which the recreation passport fee was not paid, based on random audits conducted by the DNR. This report is no longer required in the H-2 Substitute. [In addition, as noted below, current Section 74117(5), which requires an annual report by December 31 regarding park revenue would be eliminated.]

FAQs. The introduced version of the bill allowed the DNR to prepare a list of frequently asked questions and answers regarding the recreation passport fee for posting on the DNR or Department of State websites and to be mailed out with motor vehicle registrations. This section of the bill has been removed.

Part 741 (State Parks System)

Legislative findings. [§74102(1)] Part 741 currently contains several legislative findings regarding the purpose and value of Michigan's *state* parks. The bill would add two more findings dealing with the coordination of *state and local* parks:

- "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."

10 percent savings report. [§74102a(13)] By December 31, 2010, the Citizens Committee for Michigan State Parks would be required to submit a report identifying and recommending savings in state park and forest recreation programs to specified legislative committees. The report would have to identify savings equivalent to at least 10 percent of the cumulative expenditures for state park program during the fiscal year ending September 30, 2010. In developing its recommendations, the committee would have to consult with the DNR and interested parties, and consider at least the following: (1) increased preventive maintenance; (2) energy conservation and efficiency; (3) contracting concessions, major maintenance or renovation work, and other park operations to private parties; (4) sharing resources and coordinating activities with local parks or recreation facilities.

Designation of parks needing permits for entry; permit requirement; signage. [§74116] [Eff. date 1-10-10.] Under current Section 74116, the DNR must designate which state parks or portions of state parks can only be entered by someone with a park permit. In addition, the DNR is only allowed to designate parks that provide public facilities or

services. The bill would delete the current language requiring the DNR designation of which parks require permits for entry. Instead, this section would now require that a motor vehicle park permit under Section 74117 would be required for lawful entry into a state park by a nonresident motor vehicle or commercial motor vehicle. [Note: Neither "nonresident motor vehicle" nor "commercial motor vehicle" is defined in the bills. "Motor vehicle" is defined in Part 741 of NREPA as "a self-propelled vehicle."]

State park signs. [Eff. date 1-10-10.] The DNR would have to revise signs to indicate that a motor vehicle park permit is required only of nonresident motor vehicles and commercial motor vehicles. Except as described below, a nonresident or commercial motor vehicle could not enter these areas without a valid motor vehicle park permit affixed to the lower right-hand corner of the windshield. An annual permit would have to be affixed permanently for that year.

Recreation passport fees for resident motor vehicles. [§74116(3)] [Eff. date 1-10-10.] Except as described below, a person could not enter a state park in a resident motor vehicle without having paid the recreation passport fee for that motor vehicle as provided in Section 805 of the Motor Vehicle Code.

Exceptions. [§74116(4)] [Eff. date 1-10-10.] Neither a recreation passport (for a Michigan vehicle) nor a motor vehicle park permit (for a nonresident or commercial vehicle) would be needed in the following situations: (1) while a motor vehicle was being driven or on an established federal, state, or county highway within a state park; or (2) if the motor vehicle entering a park was one used for park operations or maintenance, an emergency motor vehicle, or a private motor vehicle being operated on official state business.

Posting. [§74117(1)] [Eff. date 1-10-10.] Existing language that allows the DNR to require park permits or collect park permit fees only for entry into posted state parks or portions of state park would be removed.

Waiver of park permit or recreation passport requirements. [§74117(1)] [Eff. date 1-10-10.] Currently, the DNR may waive the park permit requirement for a department-sponsored event or in other circumstances as determined by the director or the director's designee. This would remain the case under the bill for the permits now required of nonresident and commercial motor vehicles or for the passport fee required for resident motor vehicles.

Annual nonresident motor vehicle park permit fee. [§74117(2)] [Eff. date 1-10-10.] Currently, annual park permits under this subsection are issued to resident and nonresident motor vehicles, and they authorize the motor vehicle to which it was originally attached to enter any state park or recreation area during the calendar year of issuance. Current annual park permit fees for resident motor vehicles, in effect until January 1, 2010, are \$24 for a resident motor vehicle, generally; \$6 for a resident motor vehicle (owner aged 65 or older); and \$18 for resident motor vehicle (if owner has a food

stamp card and personal identification at time of purchase). The current annual park permit fee—in effect until January 1, 2010—for a nonresident motor vehicle is \$29.

Under the bill, annual permits under this subsection would be issued only to nonresident motor vehicles and would authorize the vehicle to which it was original attached to enter state parks during the calendar year of issuance. [Note: Although the bill would no longer give such vehicles express authority to enter state parks or recreation areas, under Section 74101 of Part 741, MCL 324.74101, the term "state park" means "a state park or state recreation area designated by the director."] The nonresident annual park permit fee would remain at the current level of \$29, and the sunset date of January 1, 2010 on this fee would be removed. All other annual permit fees for resident vehicles currently set forth in this subsection would be deleted. The bill specifies that an annual park permit could not be obtained for a commercial motor vehicle, but does not define that term. As described below, commercial motor vehicles would have to purchase daily permits.

Daily nonresident or commercial motor vehicle park permit fees. [§74117(3)] [Eff. date 1-10-10.] Currently, the daily park permits authorized under this subsection apply to resident and nonresident motor vehicles, with the following fees in effect until January 1, 2010: \$6 for resident motor vehicles; \$8 for nonresident motor vehicles.

Under the bill, daily permits would be issued only to nonresident motor vehicles and commercial motor vehicles. The fee for daily permit for a nonresident motor vehicle would remain at the current level of \$8, but the sunset date of January 1, 2010 on this fee would be removed. The fee for a daily commercial motor vehicle park permit would be set at \$15.

Fee for second vehicle towed by nonresident recreational vehicle. [§74117(4)] [Eff. date 1-10-10.] Currently, a person who has an annual motor vehicle permit for a recreational vehicle used as a stationary primary camping shelter, if legally parked in a state park campground and not moved for the duration of the camping stay, may obtain a duplicate motor vehicle park permit for a towed second motor vehicle, present at the time of entry, for a fee of \$6 for the duration of the camping stay. This section would remain in effect, with no change to the \$6 fee, but it would apply only to towed second motor vehicles associated with nonresident recreational vehicles.

Report requirement removed. [Eff. date 1-10-10.] Current Section 74117(1), requiring an annual legislative report regarding park funding would be eliminated. As described above, however, the bill would add Section 2045, which would also require an annual legislative report on park funding.

Additional permits; surety bonds. [§74117(6)] [Eff. date 1-10-10.] Current subsection 74117(6) says that "[t]his part," apparently meaning Part 741 (State Parks System), applies only to the entry of motor vehicles into state parks and park permits and does not obviate the need for additional permits for special services or park privileges under law or DNR rules previously or subsequently adopted. This provision would be revised to refer to "[t]his section [Section 74117] and Section 74116," rather than "[t]his part," and would

be moved to subsection (8). The bill would retain a second existing provision contained in this subsection requiring that persons authorized to sell park permits furnish a surety bond in an amount acceptable to the department.

Commercial motor coaches; vans seating more than 12 passengers. [Eff. date 1-10-10.] Under current subsection 74117(7), commercial motor coaches or vans seating more than 12 passengers cannot obtain an annual park permit for entry into state parks. The current daily fee for these coaches and vans is \$15 per day, until January 1, 2010. This provision would be deleted. [Note, however, that the daily permit fee for a "commercial motor vehicle," an undefined term, would be set at \$15 under subsection 74117(3), as described above.]

Replacement annual permits. [§74117(7)] [Eff. date 1-10-10.] As is currently the case under subsection 74117(9) for annual park permits provided to persons with resident or nonresident vehicles, a person whose annual nonresident motor vehicle park permit is lost or destroyed could obtain a replacement motor vehicle park permit free of charge from the DNR. The DNR may require the person requesting a replacement permit to supply sufficient evidence of the loss or destruction of the original permit.

General Fund support for state park operations. [Eff. date 1-10-10.] Current subsection 74117(10) says that it is the intent of the Legislature that if the Countercyclical Budget and Economic Stabilization Fund (sometimes referred to as the "Rainy Day" fund) created in Section 351 of the Management and Budget Act, exceeds \$250 million at the close of a state fiscal year, then the amount of General Fund/General Purpose support for state parks operations for the following state fiscal year would equal at least 50 percent of the revenues generated by motor vehicle entrance fees under Section 74117. The bill would delete this subsection. [This fund has not exceeded \$250 million in recent years.]

Fees for use of a credit card. [§74117(7)] [Eff. date 1-10-10.] The bill would retain an existing provision allowing the DNR to add a charge to a fee for a reservation, motor vehicle park permit, or camping when a credit card is used for payment. However, this provision would now be found in subsection (7), rather than subsection (8).

Resident motor vehicle. [Eff. date 1-10-10.] Section 74117(11) currently defines "resident motor vehicle" as "a vehicle that is registered as a motor vehicle in this state" for purposes of Section 74117. The bill would delete this definition. Note, too, that the bill would no longer insert definitions of "resident motor vehicle" and "nonresident motor vehicle" into Section 74101, as did the introduced version of the bill. (Also, the bill would add a definition of "nonresident motor vehicle" to Part 781 (State Waterways Commission) that says "nonresident motor vehicle means that term as defined in section 74101," but section 74101 would no longer defines "nonresident motor vehicle.")

Rules; alternative method for purchasing recreation passport. [§74120] The H-2 Substitute would retain the current provision authorizing the DNR to promulgate rules to implement Part 741 and would add a second provision authorizing the DNR to promulgate rules regarding "a method for an individual to pay a recreation passport fee in

addition to the method provided for in Section 805 of the Michigan Vehicle Code...." This amount could not be more than twice the amount of a passport fee paid when registering a motor vehicle.

Penalties. [§74122(1)-(2)] [Eff. date 1-10-10.] It is currently a misdemeanor to violate Part 741 or its rules. Under the bill, this would remain the general rule, except for violations of Section 74116(2) or (3). A violation of those sections would now be a civil infraction, subject to a civil fine of not more than \$100, rather than a misdemeanor. [Section 74116(2) makes it unlawful for a person to enter a state park in a nonresident or commercial motor vehicle without a park permit when one is required. Section 74116(3) makes it unlawful for a person to enter a state park without having paid the recreation passport fee for that motor vehicle as provided in Section 805.]

Presumption. [§74122(3)] [Eff. date 1-10-10.] Currently, in any proceeding for a violation of Part 741 or its rules, when a motor vehicle is found in a state park without a required permit affixed, the motor vehicle's registration plate constitutes prima facie evidence that the vehicle's owner placed it where it was found. The bill would retain this presumption but modify to apply to a vehicle found "without the required motor vehicle park permit affixed or recreation passport fee having been paid."

Vandalism. [§74122(4)] [Eff. date 1-10-10.] Currently, in any proceeding for a violation of Part 741 or its rules, a person convicted of an act of vandalism must reimburse the DNR up to three times the amount of the damage, as determined by the court, to be credited to the State Park Improvement Account, in addition to the penalty for violating Part 741 provided for in subsection (1). [Note: Most violations of Part 741 would now be covered by the penalties provided for in the new subsection (2).] This provision would be modified to refer to an act of vandalism "to state park equipment, facilities, or resources.

Part 781 (State Waterways Commission)

Definitions. [§78101] [Eff. date 1-10-10.] The bill would amend some of the definitions found in Part 781:

- "**Designated state-operated public boating access site**" would mean "a state-operated public boating access site designated under section 78105(2)."
- The bill makes editorial changes to the definition of "**gasoline.**"
- "**Motor vehicle**" would mean "that term as defined in Section 74101." [Under existing Section 74101 (MCL 324.74101), a "motor vehicle means a vehicle that is self-propelled."]
- "**Nonresident motor vehicle**" would mean "that term as defined in Section 74101. [Note, however, that there is no definition of "nonresident motor vehicle" in current Section 74101 or in the H-2 Substitute version of the bill. The bill as introduced would have added the following definition to Section 74101: "Nonresident motor vehicle" as "a vehicle other than a commercial vehicle that is not registered as a motor vehicle in this state." That section was removed from the bill.]

- **"Recreation passport fee"** would mean "that term as defined in Section 805 of the Michigan Vehicle Code, 1949 PA 300, MCL 257.805." [Note: There is no reference in this definition to the alternative method of paying the recreation passport fee that the DNR could adopt by rule under Section 74120 of the bill.]
- **"Resident motor vehicle"** would mean "that term as defined in Section 74101. [As is the case with the term "nonresident motor vehicle," there is currently no definition of the term "resident motor vehicle" in Section 74101 either in existing law or in the bill. The bill as introduced would have added the following definition to Section 74101: "Resident motor vehicle means a vehicle other than a commercial vehicle that is registered as a motor vehicle in this state." That section was removed from the bill.]
- **"Waterways account"** currently means "the waterways account of the Michigan conservation and recreation legacy fund provided for in section 2035. *This subdivision does not apply unless 2004 PA 587 takes effect, as a result of Joint Resolution Z of the 92nd Legislature becoming a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963.*" The bill would delete the italicized sentence. [Joint Resolution Z was approved by Michigan voter on November 7, 2006.]

Powers and duties of DNR. [§78105(1)] [Eff. date 1-10-10.] The bill would revise this section which describes the powers and duties of the DNR with respect to waterways. Under current subdivision (b), the DNR has the power "to acquire, by purchase, lease, gift or condemnation the lands, rights of way, and easements necessary for harbors and channels," and the DNR is considered a state agency under 1911 PA 149, MCL 213.21 to 213.25 "relative to condemnation by state agencies." Under the bill, the DNR would be considered a state agency under the specified statute with respect to all forms of acquisitions described in the subdivision, not just condemnation.

The bill would also eliminate the DNR's authority to charge fees for the use of state-operated public access sites found in subdivision (h) and the requirement that such revenue be deposited in the waterways account. [Note, however, that the DNR would still be required to charge fees for annual and daily passes for nonresident and commercial motor vehicles under Section 78105(3), and that revenue is deposited in the waterways account.]

Designation of boating access sites requiring passes or passports. [§78105(2)-(3)] [Eff. date 1-10-10.] The director would be required to designate state-operated public boating access that could only be entered by resident motor vehicles for which the recreation passport fee has been paid or by nonresident or commercial motor vehicles with affixed daily or seasonal passes. The DNR would have to charge fees for daily or seasonal passes for nonresident motor vehicles and commercial motor vehicles at designated boating access sites and deposit the revenue from such passes into the waterways account.

Unlawful entry. [§78119(1)-(2)] Subject to exceptions described below, a person could not enter a designated state-operated public boating access site in a nonresident motor vehicle or a commercial motor vehicle without a valid pass affixed to lower right-hand

corner of the vehicle's windshield. A seasonal pass would have to be affixed permanently for the season. Subject to the same exceptions, a person could not enter a designated state-operated public boating access site in a resident motor vehicle without having paid the recreation passport fee for that motor vehicle as provided in Section 805 of the Michigan Vehicle Code.

Exceptions. [§78119(3)-(4)] The following would not need either an entry pass or payment of the recreation passport fee to enter a designated state-operated public boating access site: (1) motor vehicles used in the operation or maintenance of the boating access site; (2) emergency motor vehicles; or (3) private motor vehicles being operated on official state business. In addition, the DNR could waive entry pass or passport requirements for events it sponsors or in other circumstances as determined by the director or the director's designee.

Penalties. [§78119(5)-(6)] A person who entered a designated state-operated public access boating access site without a daily or seasonal pass (nonresident or commercial motor vehicle) or in a vehicle for which the recreation passport was not paid (resident motor vehicle) would commit a state civil infraction and be subject to a civil fine of not more than \$100.

Presumption. [§78119(7)] The bill would create a presumption (similar to the one for vehicles found in state parks) for proceedings for a violation of Part 781 or its rules. If a motor vehicle is found parked in a designated state-operated public boating access without the required motor vehicle pass affixed or recreation passport having been paid, the motor vehicle's registration plate would constitute prima facie evidence that the vehicle's owner was the person who parked or placed where it was found.

Part 831 (State Forest Recreation)

State forest permits and fees. [§83106] [Eff. date 1-10-10.] Under Section 831106, the DNR may require a person to obtain a permit for camping in designated state forest campgrounds, and may establish and collect a fee for this type of permit. At least six months before increasing a camping permit fee, the DNR must provide written notice of intent to do so to the legislative standing committees with primary jurisdiction over legislation concerning natural resources and the environment. In addition, the DNR may require a permit, except as otherwise provided by law, for the use of lands and facilities within the state forest designated by the DNR for recreation use. Money collected under this section goes to the forest recreation account.

Under the bill, the DNR could not require a permit or payment of a fee for use of a state forest nonmotorized trail or pathway or state forest campground facility, (1) "except as provided in subsection (1)," presumably referring to providing six months' written notice of intent to appropriate legislative standing committees, or (2) as "otherwise provided in this act."

Enacting Sections

Repealed Sections. The bill would repeal the following sections of NREPA:

- Section 1909 (MCL 324.1909), which directed the state treasurer to transfer, on October 1, 1985, certain funds from the Game and Fish Protection Fund and other funds into the Natural Resources Trust Fund established in the state constitution and NREPA).
- Section 1910 (MCL 324.1910), which required writings and documents relating to the State Recreational Land Acquisition Trust Fund and the Heritage Trust Fund to be transferred to the board of the Natural Resources Trust Fund on October 1, 1985.
- Section 74123 (MCL 324.74123), which allowed the DNR to establish a fine for failure to purchase a park permit at twice the cost of an entrance permit.
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Effective date. In the H-2 Substitute, the bill as a whole no longer has an effective date of January 1, 2010 but, as noted above, the following sections would have that effective date: Sections 2005, 2030, 74116, 74117, 74122, 78101, 78105, and 83106.

Tie-bar. House Bill 4677 is tie-barred to House Bill 4678, meaning that House 4677 would not take effect unless House Bill 4678 is also enacted into law.

MCL 324.1911 et al.

ARGUMENTS:

For:

Michigan's state park and recreation areas are an invaluable legacy from previous generations and must not be allowed to further deteriorate or, worse, be sold off to private interests. These places of natural beauty provide wildlife habitat and abundant opportunities for outdoor activities such as camping, hunting, fishing, swimming, hiking, snowmobiling, horseback riding, and skiing. The parks benefit all of Michigan's residents and must be preserved. This proposal would provide a stable and long-term source of funds for the parks, providing additional funds for annual operations as well as pressing infrastructure needs.

In particular, the state parks provide crucial benefits to Michigan's economy, which is becoming more reliant on tourism as the auto industry declines. Approximately 22 million people visit our state parks each year. However, visitors expect and need to have well maintained facilities. The parks must be maintained or improved to keep Michigan's tourism sector strong. The recreation passport fees will bring much needed funds to the park system to address pressing infrastructure needs such as replacing a collapsed bridge at Warren Dunes and repairing the interpretative center at the Ludington State Park, which is closed indefinitely because no funds are available to repair a collapsed roof.

The funding approach contained in the bill has the advantage of keeping the cost of outdoor recreation low while yielding additional revenue for the parks. For regular park users, a \$10 license plate fee would be a bargain. It would represent a good deal even for infrequent park users, to ensure that state parks are maintained and available for future use. Persons not intending to visit parks during the registration period could opt out of paying the fee, if they so chose. This funding mechanism will allow a broader range of individuals to support the parks at a low cost.

Contrary to what opponents say, this voluntary fee is not a tax imposed on registered motor vehicles under Michigan law, and so the constitutional provision requiring taxes on motor vehicles to be used for transportation does not apply.

Against:

Some persons, even some who generally support the concept of the bills, are concerned that many people will cheat the system if adopted in its current form. Some persons will opt out of paying the recreation passport fee but enter parks and boat launch sites anyway because they know that there will no easy way to catch them: individuals who pay the recreation passport fee are not given any special license plate or windshield sticker or even a notation on their registration certificate. Moreover, the DNR has indicated that it would employ fewer people in entry booths at state parks if the proposal passes. In the unlikely event that someone were caught entering a park in a Michigan vehicle for which the recreation passport fee had not been paid, the penalty would be at most a \$100 civil fine, which is not a strong deterrent.

Other opponents say that the recreation passport fee, in its current form, is a tax imposed directly or indirectly on registered motor vehicles, and, as such, the fee revenue would have to be used exclusively for transportation purposes under Article IX, Section 9 of the Michigan Constitution of 1963. Using this revenue for parks instead of transportation would be unconstitutional. (Some opponents note, however, that the fee might be constitutional if it were changed from one that is mandatory unless a registrant "opts out," to one that that a registrant affirmatively chooses to pay by "opting in.")

Opponents also say Michigan roads and bridges are also deteriorating and the state lacks the necessary funds to maintain roads and bridges properly. Tacking on a park fee to vehicle registrations may make it harder to implement additional fees needed for transportation purposes. They point to the recent Transportation Funding Task Force (TF2) report recommending that Michigan double its investment in roads, bridges, airports, and transit systems in order to maintain the status quo. They note also that Michigan currently stands to lose over \$600 million in federal aid because it cannot come up with a \$100 million match. Gas taxes and registration fees may need to be raised to meet Michigan's pressing transportation needs, so this is not the time to place a new, separate fee on vehicle registrations to fund parks.

The Secretary of State's office says that the this proposal would inappropriately shift administrative costs from the DNR to the Secretary of State without providing adequate funding to defray significant new administrative costs. They also say it would set a bad

precedent of using the vehicle registration process to collect money for departments unrelated to transportation. They also say that the "opt out" provision would be confusing to registrants, and that the timetable for implementation of the proposal is unrealistic.

A very different argument against the proposal comes from park supporters who contend that a public park system should be publicly funded from tax revenues, rather than voluntary fees paid only by some people. While the proposal is well-intentioned and appears reasonable on the surface, they say it is the wrong approach in the long run. Previous generations have supported our park system with tax dollars and so too must current generations to maintain them in perpetuity for everyone. To have parks supported on a voluntary basis erodes their public nature and may be the first step on the road to their being sold to private interests, should voluntary payment revenues fall short of projections.

POSITIONS:

The following testified in favor of or otherwise indicated support for the bills:

The Department of Natural Resources the Natural Resources Commission, the Citizens Committee for Michigan State Parks, A Piece of Paradise, the Fort Custer Horse Friends Association, the Friends of Mitchell State Park, the Friends of Pontiac Lake Recreation Area, the Highland Field Trial Grounds Association, the Kalamazoo Nature Center, the Michigan Environmental Council, the Michigan Horse Council, Michigan's Sunrise Side Travel Association, the Michigan Manufacturers Association, the Michigan Mountain Biking Association, the Michigan Trails and Greenways Association, the Michigan United Conservation Clubs, the Michigan Recreation and Park Association, the Muskegon Sports Council, Inc., North Coast Realty, the Oakland County Sheriff's Office Benefit for the Disabled, the Oakland Equestrian Coalition, the Paradise Area Chamber of Commerce, the Scenic Motel (Rose City, MI), South Lyon High School Cross Country, the Michigan Chapter of the Sierra Club, and many individuals.

The following testified against or otherwise indicated opposition to the bills:

The Secretary of State, the County Road Association of Michigan, Defense of Place, the Michigan Infrastructure and Transportation Association, and the Michigan Municipal League.

Legislative Analyst: Shannan Kane
Fiscal Analyst: Kirk Lindquist

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.

**RECREATION PASSPORT FEES
HB 4677 & 4678**

The following charts provide estimates of revenue from the Recreation Passport Fee bills based on the rate of participation by motorists. In the four columns indicating revenue for the various specific funds and accounts, the revenue amounts represent net new revenue, outside of the proposed earmarked revenue that is intended to hold harmless the Park Improvement Fund and Waterways Account from the revenue loss that would otherwise result from the proposed elimination of resident motor vehicle park permit fees and resident boating access permits fees.

Participation Rate*	Total Revenue	Secretary of State Costs	Park Improvement Account	Waterways Account	Local Public Recreational Facilities Fund	Forest Recreation Account
			Net New Annual Revenue**	Net New Annual Revenue***	Net New Annual Revenue	Net New Annual Revenue
100%	\$72,240,000	\$361,200	\$49,923,504	\$0	\$6,014,880	\$4,210,416
90%	\$65,016,000	\$325,080	\$43,957,564	\$0	\$5,296,092	\$3,707,264
80%	\$57,792,000	\$288,960	\$37,991,623	\$0	\$4,577,304	\$3,204,113
70%	\$50,568,000	\$252,840	\$32,025,683	\$0	\$3,858,516	\$2,700,961
60%	\$43,344,000	\$216,720	\$26,059,742	\$0	\$3,139,728	\$2,197,810
50%	\$36,120,000	\$180,600	\$20,093,802	\$0	\$2,240,940	\$1,694,658
40%	\$28,896,000	\$144,480	\$14,127,862	\$0	\$1,702,152	\$1,191,506
30%	\$21,672,000	\$108,360	\$8,161,921	\$0	\$983,364	\$688,355
20%	\$14,448,000	\$72,240	\$2,195,981	\$0	\$264,576	\$185,203

* Based on 7,348,000 registered motor vehicles, including 1,240,000 motorcycles.

** This amount does not include the required distribution in HB 4677 of \$10.70 million to replace loss of current revenue from eliminated permits.

*** This amount does not include the required distribution in HB 4677 of \$1.03 million to replace the loss of current revenue from eliminated permits.

Distributions of net new revenue within the Park Improvement Fund

Participation Rate	Capital Improvements	Operations & Maintenance	Cultural/Historic Resources	Marketing	Total
100%	\$30,074,400	\$18,044,640	\$1,654,092	\$150,373	\$49,923,504
90%	\$26,480,460	\$15,888,276	\$1,456,425	\$132,402	\$43,957,564
80%	\$22,886,520	\$13,731,912	\$1,258,759	\$114,433	\$37,991,623
70%	\$19,292,580	\$11,575,548	\$1,061,092	\$96,463	\$32,025,683
60%	\$15,698,640	\$9,419,184	\$863,425	\$78,493	\$26,059,742
50%	\$12,104,700	\$7,262,820	\$665,759	\$60,524	\$20,093,802
40%	\$8,510,760	\$5,106,456	\$468,092	\$42,554	\$14,127,862
30%	\$4,916,820	\$2,950,092	\$270,425	\$24,584	\$8,161,921
20%	\$1,322,880	\$793,728	\$72,758	\$6,614	\$2,195,981