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BILL



ANALYSIS

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Senate Bill 617 (as enacted)
Sponsor: Senator Tom Casperson
Senate Committee: Natural Resources, Environment and Great Lakes
House Committee: Government Operations

PUBLIC ACT 116 of 2012

Date Completed: 11-19-12

RATIONALE

Federal legislation establishing the Pictured Rocks National Lakeshore (PRNL) along the southern shore of Lake Superior was enacted in 1966. Under the legislation, the land lying within the boundaries of the PRNL was divided into two zones: the shoreline zone and the inland buffer zone. The National Park Service owns almost all of the land within the shoreline zone, and manages it for the preservation of geographic, scientific, scenic, and historic features, and to provide public recreational opportunities. The inland buffer zone was created to allow the continued economic use of the area's natural resources, such as timber. In this zone, ownership is split between the Federal government, the State of Michigan, and individual and commercial private owners.

In 1967, Michigan enacted legislation to formally convey to the United States the land within the shoreline zone, as well as to cede jurisdiction over that land upon the express condition that the State would retain concurrent jurisdiction. On the federally owned land within the PRNL, there are three types of jurisdiction that apply to different parcels. Under exclusive Federal jurisdiction, only Federal statutes apply and the Federal government has exclusive law enforcement and prosecutorial authority. On parcels subject to concurrent jurisdiction, both Federal and State laws apply, allowing for law enforcement and prosecution by Federal, State, and local authorities. Under proprietary jurisdiction, the U.S. government has the same authority that a private landowner would have.

Previously, the land on which concurrent jurisdiction was in effect constituted only a small portion of the PRNL. The patchwork of ownership and different types of jurisdiction in the inland buffer zone created confusion as to the geographic scope of a particular entity's authority to make arrests and investigate and prosecute crimes. This problem was highlighted by a 2006 homicide within the PRNL. Evidently, at the beginning of the investigation, law enforcement authorities spent valuable time attempting to determine which agency had jurisdiction. Ultimately, responsibility for investigation and prosecution fell on Alger County, and the costs of the trial were substantial. It was noted that enabling the Federal justice system to be involved in such cases could ease the burden on local governments. Therefore, it was suggested that a mechanism should be created to establish concurrent jurisdiction over potentially all of the federally owned land within the PRNL.

CONTENT

The bill amended Public Act 168 of 1967, which authorized the State to convey title to and cede jurisdiction over certain land and water within the Pictured Rocks National Lakeshore to the United States, to do the following:

- **Establish procedures by which the U.S. may acquire concurrent legislative jurisdiction over PRNL land and water not ceded previously.**
- **Prescribe the extent to which the State reserves jurisdiction over**

- **PRNL land and water to which legislative jurisdiction is ceded to the U.S.**
- **Authorize the Governor to accept the relinquishment by the U.S. of legislative jurisdiction over PRNL land.**

The bill took effect on May 2, 2012.

Cession of Jurisdiction

The Act authorized the State Administrative Board to convey to the U.S. the title to certain land "within the boundaries of the shoreline zone" of the Pictured Rocks National Lakeshore, and to cede the offshore water area, for use by the U.S. Department of the Interior. Jurisdiction of that land and water area was ceded to the U.S. upon the express condition that the State of Michigan would retain concurrent jurisdiction over people on the land and water area, so that all civil and criminal process could be executed in the same manner as if jurisdiction had not been ceded. The bill deleted the reference to land *within the shoreline zone*, and refers instead to land within the boundaries of the Pictured Rocks National Lakeshore.

Under the bill, if the U.S. desires to acquire concurrent legislative jurisdiction over land and water within the PRNL that had not been ceded previously, the U.S. must submit a written application to the Governor. Upon receiving the application, the Governor may cede to the U.S. jurisdiction over any or all of the land or water for which jurisdiction was applied, reserving to the State of Michigan concurrent jurisdiction as he or she considers appropriate. The Governor may not cede jurisdiction exceeding that requested by the U.S.

The application must state the measure of jurisdiction desired and be accompanied by an accurate description of the land and/or water over which jurisdiction is desired and information as to which land is owned by the U.S.

The cession of jurisdiction under the bill becomes effective when accepted on behalf of the U.S. Acceptance must be indicated in writing upon the instrument of cession by an authorized U.S. official and be filed with Michigan's Secretary of State.

Reservation of Jurisdiction

The bill provides that the State of Michigan reserves jurisdiction over land and water within the PRNL, to which legislative jurisdiction is ceded to the U.S. under the Act, as follows:

- The State's entire legislative jurisdiction with respect to taxation by the State or a political subdivision of the State.
- The State's entire legislative jurisdiction with respect to marriage, divorce, annulment, adoption, commitment of the mentally incompetent, and descent and distribution of property.
- Concurrent or separate power to enforce the criminal law.
- The power to execute any process, civil or criminal, issued under authority of the State of Michigan.

A person residing on land within the PRNL, to which legislative jurisdiction is ceded to the U.S., may not be deprived of any civil or political rights, including the right of suffrage, by reason of the cession.

Relinquishment of Jurisdiction

Under the bill, if the U.S. offers to the State a relinquishment of legislative jurisdiction over land within the PRNL, the Governor may accept it on behalf of the State. The Governor must indicate his or her acceptance by a writing addressed to the head of the appropriate U.S. department or agency. The acceptance is effective when deposited in a U.S. post office or mailbox.

MCL 3.451 et al.

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

The mix of property owners and types of jurisdiction within the PRNL inland buffer zone resulted in confusion regarding the exercise of authority on different parcels, as the boundaries generally are not marked. Over the years, expansion of the PRNL territory and changes in ownership further complicated matters. This made it difficult for public safety personnel to respond quickly to emergency situations.

Additionally, due to the Federal government's limited authority in certain areas, local units of government had to bear all of the costs of law enforcement. For example, Alger County, one of the State's smallest and poorest counties, shouldered the entire burden of investigation and prosecution in the 2006 homicide case. The trial lasted eight weeks and involved more than 130 witnesses. A case of this magnitude would be better handled by the Federal government, which has more extensive resources than a small county does.

Cession of concurrent jurisdiction, as authorized by the bill, will alleviate the onus on local units and enable local, State, and Federal jurisdictions to better coordinate their efforts. This will provide for more effective natural resource protection, emergency response, and law enforcement within the PRNL.

Legislative Analyst: Julie Cassidy

FISCAL IMPACT

The bill will result in administrative efficiencies regarding law enforcement issues. Pictured Rocks National Lakeshore includes 73,000 acres along 42 miles of Lake Superior's south shore.

Fiscal Analyst: Bill Bowerman

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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.