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BILL ANALYSIS

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Senate Bill 728 (as enrolled)  
Sponsor: Senator Philip E. Hoffman  
Senate Committee: Natural Resources and Environmental Affairs  
House Committee: Conservation, Environment and Recreation

**PUBLIC ACT 418 of 1998**

Date Completed: 1-12-99

**RATIONALE**

Michigan's forest system is made up of approximately 3.9 million acres of land, making it the largest state forest system in the nation. The forest system provides numerous recreational, economic, and ecological benefits to the State. Despite the value of this resource, the State's forest system has experienced reductions in funding and personnel. The State's General Fund budget for State forests decreased from 1979 to 1984, and has remained largely unchanged since 1985. The State Forest Recreation Advisory Committee was formed in 1990 to address key recreation issues facing the State's forests. In 1995 the committee issued "Forest Recreation 2000", a report that confronted the issues facing the State's recreation and outlined a number of recommendations. It was suggested that some of the recommendations be implemented in order to establish and maintain forest recreation activities.

**CONTENT**

**The bill amended the Natural Resources and Environmental Protection Act (NREPA) to require the Department of Natural Resources (DNR) to develop an integrated recreation system, which includes the granting of concessions within a State forest and leasing of property. The bill added Part 831 to the NREPA to establish the "Forest Recreation Fund" for the development of forest recreation activities; require a person to obtain a permit for camping in a designated State forest campground; permit the DNR Director to commission State forest officers to enforce State laws and rules on DNR-administered property; and, establish a civil penalty for violating Part 831.**

The bill is tie-barred to House Bill 5254 (Public Act 419 of 1998), which authorizes the DNR to grant concessions on DNR-owned or -controlled land,

expands the DNR's authority to lease land, and specifies the funds that will receive money from a concession or a lease; and House Bill 5278 (Public Act 420 of 1998), which revised provisions concerning State forest fees and created the "Forest Land User Fund". A description of the Senate bill follows.

**State Forest Recreation**

The bill requires the DNR to develop, operate, maintain, and promote an integrated recreation system that will provide opportunities for hunting fishing, camping, hiking, snowmobiling, off-road vehicle trail riding, boating, trail-related activities, and other forms of recreation within each State forest. In developing, operating, maintaining, and promoting this recreation system, the DNR must focus on maintaining the integrity of the forest while supporting recreation activities and experiences for which a large land base, rustic nature, and the forest and forest values are critical to the activity.

In implementing this requirement, the Department may do any of the following:

- Enter into contracts or agreements with a person as necessary to implement Part 831.
- Grant concessions within the boundaries of a State forest to a person. ("Concession" means an agreement between the DNR and a person under terms and conditions specified by the Department to provide services or recreational opportunities for public use.)
- Lease property to a person.
- Accept gifts, grants, or bequests from any public or private source or from the Federal government or a local government for furthering the purposes of Part 831.

### Concession

In granting a concession, the DNR must provide that each concession or any related structure, facility, equipment, or service is compatible with the natural resource values of the surrounding forest area and appropriate for the forest recreation system; and awarded at least every seven years based on extension, renegotiation, or competitive bidding. If the DNR determines, however, that a concession requires a capital investment in which reasonable financing or amortization necessitates a longer term, the Department may grant a concession for up to a 15-year term.

The DNR also must provide that a concession requiring a capital expenditure of more than \$100,000 for a building or structure is provided for in the State forest management plan for the State forest in which the concession is proposed to be located. Unless the DNR authorizes otherwise, all buildings and equipment must be removed from the State forest property at the end of a concession's term. In addition, the DNR must provide that no concession or concession operator is granted authority to charge a fee for access to public land or a recreation resource, and that all prices, rates, and charges, and all services or items offered in the operation of a concession must be approved by the Department.

Unless otherwise provided by State or Federal law, all money collected under these provisions must be deposited in the Forest Recreation Fund.

At least three months before granting a concession for more than \$500,000 or that will require a capital expenditure of more than \$500,000, the DNR must give notice of its intention to grant the concession and the nature of the concession to the legislative committees having primary jurisdiction over issues related to natural resources. By December 31 of each year, the DNR must submit to the Legislature a report that provides details on all concessions awarded during the previous year.

### Forest Recreation Fund

The bill creates the Forest Recreation Fund within the State Treasury. The Fund may receive money as provided in the bill and from any other source. The State Treasurer must direct the Fund's investment, and credit to the Fund interest and earnings from its investments. Money remaining in the Fund at the end of the fiscal year must be carried over in the Fund to the next and succeeding fiscal year. The Department must use the money in the Fund to develop, maintain, operate, and

promote forest recreation activities and to implement Part 831.

### Volunteers

The DNR may appoint persons to act as volunteers for facilitating forest recreation activities. While a volunteer is serving in this capacity, he or she has the same immunity from civil liability as a Department employee and must be treated in the same manner as an employee under the governmental immunity Act. A volunteer must not carry a firearm when functioning as a volunteer.

### Permits

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 the camping permit. At least six months before imposing a fee increase for a camping permit, the Department must notify the legislative standing committees having primary jurisdiction over issues related to natural resources and the environment.

The DNR may require a person to obtain a permit, except as otherwise provided by law, for using land and facilities within a State forest as designated by the Department for recreation use. Money collected under this provision must be deposited into the Fund.

### Enforcement

To ensure compliance with Part 831, rules promulgated under it and the Act, including the State land use rules (R 299.331-299.335) of the Administrative Code, and any of the Director's orders, the Director may commission State forest officers to enforce upon property administered by the DNR these rules and any State laws specified in the rules as enforceable by commissioned State forest officers. In performing those enforcement activities, commissioned State forest officers are vested with the powers, privileges, prerogatives, and immunities conferred upon peace officers under State laws.

The Department may promulgate rules to implement Part 831.

### Penalty

A person who violates Part 831 or a rule promulgated under it is responsible for a State civil infraction and may be ordered to pay a civil fine of up to \$500.

## **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**

By creating Part 831 of the NREPA to govern forest recreation activity, and recodifying existing fee provisions, the tie-barred bills may help to improve and protect State forest conditions and funding. Under Senate Bill 728, the new Forest Recreation Fund will receive State forest campground fees, permit fees for other recreational uses of State forests, revenue from concessions, and lease payments, and may receive grants from any other public or private source. The money in this Fund is dedicated to the development and maintenance of State forests and the implementation of Part 831.

The bill also makes it clear that the DNR may grant concessions within State forests. This authority previously existed for concessions in State parks, and now is needed for forests, as well, due to the increased development and use of trailways. In addition, the bill will improve the enforcement of land use rules by enabling commissioned forest officers to enforce the rules on property administered by the DNR. This will give the DNR better control over land use activities and improve the Department's ability to react quickly to violations.

### **Supporting Argument**

The forest system staffing has been down since 1979, which has led to poor maintenance of the campgrounds and trails, and a general deterioration in the State forest system. One of the recommendations made by the State Forest Advisory Committee was for the DNR to use volunteers and student interns to assist DNR employees in operating the forest recreation system. The bill recognizes volunteers by giving them official status and the same immunity from civil liability given to current DNR employees.

**Response:** There is some concern that the increase of volunteers will lead to displacement of current DNR employees because volunteers are not paid and do not receive benefits and stipends.

### **8/S728EA**

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.

### **Opposing Argument**

The bill permits the DNR to grant concessions to provide recreational services within State forests. Some people are concerned that this will leave the DNR in a vulnerable position since concession demand and public taste may change over time. There may be a possibility that the Department will have to buy out the concessionaires after a decrease in public support.

**Response:** The Department will not be required to provide any justification for nonrenewal of a concession. The DNR may set time limits on its contracts to be able to opt out without any reason within the time specified.

Legislative Analyst: N. Nagata

### **FISCAL IMPACT**

The bill will have an indeterminate fiscal impact on State government, depending on potential revenue from concession contracts at State forests.

The bill will have no fiscal impact on local government.

Current law (MCL 324.509) authorizes the Department to enter into concession contracts at State parks and collect fees for both State Park and State Forest uses. The bill separates State Parks from State Forest permit programs, allows concession contracts at State forests, and clarifies what fund will receive forest camping and land use revenue (Forest Recreation Fund). The bill also provides additional clarification of enforcement authority on State forest lands.

Fiscal Analyst: G. Cutler