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Senate Bill 785 (as reported with amendments)
Sponsor: Senator Bruce Patterson
Committee: Transportation

Date Completed: 11-6-03

RATIONALE

The Michigan Vehicle Code authorizes the Secretary of State (SOS) to develop and issue up to seven State-sponsored fund-raising registration plates, a fund-raising plate for the Michigan Olympic Education-Training Center, and plates recognizing Michigan universities, as well as matching collector plates. Currently, the SOS issues fund-raising plates for the Michigan Veterans Memorial, Michigan water quality, Michigan's children, historic Michigan lighthouses, critical nongame wildlife habitat, agricultural heritage, and American pride. The provisions authorizing the SOS to develop and issue these plates currently are set to be repealed on October 1, 2005.

Each time a new plate is authorized, a public act amends the Code and the maximum number is raised. The SOS must pay \$15,000 in start-up costs to develop each new license plate, regardless of the number of plates actually sold. A \$10 service fee, paid by the applicant, covers the cost of manufacturing the individual plate but does not reimburse the SOS for its start-up costs, which ultimately are passed on to taxpayers. Some people question whether this cost is appropriate, especially when some plates have limited sales potential. It has been suggested that the sunset should be eliminated and other fund-raising plate provisions changed in order to streamline the authorization process and discontinuation of less popular plates.

CONTENT

The bill would amend the Michigan Vehicle Code to do all of the following:

-- Allow the Legislature, by concurrent resolution, to authorize the Secretary of State (SOS) to develop and issue specialty fund-raising license plates

and collector plates.

- Require a start-up fee of \$15,000 for a new fund-raising license plate, and set sales goals for fund-raising plates.**
- Authorize the SOS to develop, market, and promote a collector plate only with funds available from the collection of service fees.**
- Reduce the maximum duration of a temporary permit for a fund-raising plate from 60 to 30 days.**
- Require royalty fees from the authorized use of a fund-raising plate design, logo, or image to be credited to the Transportation Administration Collection Fund, instead of the Michigan Transportation Fund.**
- Designate the Department of History, Art, and Libraries (HAL) as the entity in charge of administering funds from the sale of lighthouse preservation specialty plates.**
- Repeal the October 1, 2005, sunset date for current fund-raising license plate provisions.**
- Repeal a provision related to a monthly fee for an Olympic Education-Training Center fund-raising plate.**
- Establish an effective date of October 1, 2003, on a provision related to the vehicle registration tax for a trailer.**
- Delete a provision increasing fees for a trailer coach attached to a motor vehicle.**

The bill is described in further detail below.

Fund-Raising License Plates

The Code allows the SOS to develop up to seven State-sponsored fund-raising registration plates. An application for a fund-raising plate must be accompanied by

payment of the regular vehicle registration tax in addition to a service fee, as provided in Section 811f. (Under that section, an application for an original fund-raising plate must be accompanied by a \$25 donation, the regular registration tax, and a \$10 service fee. An application for renewal of a fund-raising plate must be accompanied by payment of the regular registration tax and a \$10 donation.)

The SOS must segregate the fund-raising service fees into a separate account for each type of fund-raising plate. After deducting the manufacturing and administrative costs associated with issuing, replacing, and substituting the plates, the SOS must transfer the balance to the State Treasurer, on a quarterly basis. The State Treasurer then must distribute the funds to the designated entity.

The bill would remove the seven-plate limit and allow the State Legislature, by concurrent resolution, to authorize the SOS to develop and issue fund-raising plates and collector plates. At a minimum, the resolution would have to do all of the following:

- Identify the purpose of the fund-raising registration plate.
- Create a nonprofit fund or designate an existing nonprofit fund to receive any money raised through the sale of the fund-raising plate and collector plate.
- If a fund were created, name the person or entity responsible for administering it.

In addition to the fund-raising plates the Code currently authorizes, a fund-raising plate also could recognize any other entity or event, if the Legislature adopted a concurrent resolution as described above.

The Code specifies that the State, through the SOS, owns all right, title, and interest in all fund-raising plates and collector plates, including the right to use, reproduce, or distribute a fund-raising plate or collector plate, or an image of one, in any form. The SOS may authorize the commercial or other use of a fund-raising or collector plate design, logo, or image if written consent is obtained from the Michigan university or person that sponsored the plate, and the user agrees to the terms and conditions the SOS considers necessary, including the payment of royalty fees to the State. Currently, royalty fees must

be credited to the Michigan Transportation Fund. Under the bill, royalties would be credited to the Transportation Administration Collection Fund.

The Code allows the SOS to issue a temporary registration permit to a person who applies for a fund-raising plate if his or her current vehicle registration will expire before he or she receives the plate. The temporary registration must expire when the applicant receives the plate or after 60 days, whichever is first. The bill would reduce the number of days to 30.

Start-Up Fee

The bill would require a nonrefundable \$15,000 start-up fee to be paid for any new fund-raising plates authorized by the SOS. A start-up fee would have to be deposited in the Transportation Administration Collection Fund to be used for the cost of creating, producing, and issuing the plates. If the start-up payment were not made within six months of the date the concurrent resolution was adopted, then the related fund-raising plate could not be created, produced, or issued.

At least three years after the SOS first issued one of the fund-raising plates, and upon payment of \$2,000, the Michigan university or other person sponsoring that plate could redesign it as approved by the SOS. The \$2,000 payment would have to be deposited in the Transportation Administration Collection Fund to be used for the cost of creating, producing, and issuing the plates. The payment would be nonrefundable.

Sales Goals

A new fund-raising plate would have to meet or exceed the sales goals of 2,000 plates in the first year and 500 original plates in the second and each subsequent year. Currently, the SOS may cease to issue a particular fund-raising plate or a duplicate replacement of a plate if fewer than 500 of that particular plate were issued in the previous 24 months. Under the bill, the SOS could cease to issue a fund-raising plate if the specified sales goals were not met.

Lighthouse Preservation Plates

The SOS currently may issue a lighthouse preservation fund-raising plate and matching

collector plate, for which the service fees are deposited into the Lighthouse Preservation Grant Fund within the Department of Treasury.

Under the bill, HAL, rather than the SOS, would administer the Fund, and could spend money through discretionary historical grants to preserve Michigan lighthouses. Currently, the SOS may use not more than 10% of the Funds for costs that occur from Fund administration and grant project coordination; the bill would retain this provision for HAL.

The bill also provides that HAL, rather than the SOS, could award grants for the preparation of plans and specifications for restoration and stabilization, rehabilitation, or other preservation work on a Michigan lighthouse, and would have to allocate grant funds pursuant to eligibility and scoring requirements that HAL would establish. The bill would require HAL to continue transferring the fund-raising donations to the State Treasurer for credit to the Fund, as the SOS does currently.

Olympic Education-Training Center Plate

Currently, an application for an Olympic Education-Training Center registration plate must be accompanied by payment of the regular registration tax and \$3 for the first month and \$2 per month for each additional month of the plate's registration period. The bill would delete the monthly payment requirements.

October 1, 2005, Sunset Date

The bill would repeal a sunset date of October 1, 2005, for Sections 6d, 17b, 30b, and 811d through 811n. Those sections contain certain definitions; provide for the application process and fees for a fund-raising license plate and matching collector plate; and allow the SOS to issue fund-raising plates recognizing water quality, Michigan's children, Michigan lighthouses, nongame critical wildlife habitat, and agricultural heritage. (Under the bill, the SOS still could develop fund-raising plates for those and other causes.)

Trailer Registration Tax & Fees

Under Section 801 of the Code, the SOS must collect a vehicle registration tax according to

a fee schedule based on the vehicle's weight. For each pole trailer, semitrailer, trailer coach, or trailer, the tax is as follows: for a vehicle weighing up to 2,499 pounds, \$75; for a vehicle between 2,500 and 9,999 pounds, \$200; and for a vehicle weighing over 10,000 pounds, \$300. The Code specifies that a registration plate issued for a trailer expires only when the SOS reissues a new registration plate for all trailers. If the SOS reissues a new registration plate for all trailers, a person who has once paid the tax cannot be required to pay it for that vehicle a second time, but must pay the cost of the reissued plate. The bill would add an effective date of October 1, 2003, for this provision.

Under the Code, for a trailer coach attached to a motor vehicle, the tax must be assessed as described above. Until October 1, 2009, the Code mandates the following fee increases for such a vehicle and for other types of vehicles (e.g., trucks, buses, semitrailers, hearses, and publicly owned vehicles):

- A regulatory fee of \$2.25, which must be credited to the Traffic Law Enforcement and Safety Fund and used for the purpose of regulating highway safety.
- A fee of \$5.75, which must be credited to the Transportation Administration Collection Fund.

The bill would exempt a trailer coach attached to a motor vehicle from the fee increases.

(The Transportation Administration Collection Fund was created within the Department of Treasury on October 1, 2003. Money in the Fund at the close of the fiscal year lapses to the Michigan Transportation Fund. The Department of State must spend money from the Fund, upon appropriation, to pay the necessary expenses it incurs in the administration and enforcement of the Code's registration fee provisions. The Department of Treasury must spend money from the Fund, upon appropriation, to defray the cost of motor fuel tax collection.)

MCL 257.217d 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

There currently are 17 bills pending before the Legislature to amend the Michigan Vehicle Code and create new fund-raising license plates. If this approach is continued, the Code could become cluttered and, when the plates are discontinued, would be littered with outdated language that would need to be eliminated. Senate Bill 785 would create a more streamlined process for issuing fund-raising plates because the Code would not need to be amended each time a new plate was developed. Under the bill, the system would be market-driven. The new start-up fee would subsidize the costs to the SOS of developing a new plate, and the proposed sales goals would give the SOS more leeway to discontinue an unpopular plate.

Supporting Argument

Public Act 152 of 2003 amended the Michigan Vehicle Code to increase a number of license and registration fees; create several new funds; replace the annual registration fee for trailers, pole trailers, semitrailers, and trailer coaches with a one-time charge of \$75, \$200, or \$300, based on weight; and provide for a new service fee of \$5.75 and a new regulatory fee of \$2.25 on various types of vehicles, including trucks and trailers. Previously, the registration fee for trailer coaches was calculated differently than the fee for other trailers; reportedly, making trailer coaches subject to the new service fee and regulatory fee was inadvertent. By exempting trailer coaches from these fees, the bill simply would clean up the earlier amendments.

Opposing Argument

The bill presents a potential constitutional conflict. It is unclear whether the Legislature may, by concurrent resolution, circumvent the presentment and enactment process and the Governor's signature. According to a 1991 Attorney General Opinion, No. 6705, "The people have divided the powers of government among the legislative, executive, and judicial branches" in Article III, Section 2 of the Michigan Constitution, and "The explicit reservation of the right of prior approval by both houses of the Legislature...represents an assumption of executive power by the Legislature...". Although concurrent resolutions are nonbinding, the bill would permit the Legislature to "authorize" the SOS to develop new plates.

The Legislature speaks through the bills it presents to the Governor. If the Legislature

could employ a concurrent resolution, rather than a bill, new fund-raising plates would be authorized simply with the banging of the gavel. The current process provides a more balanced approach to deciding which proposed license plates are appropriate.

Response: The SOS already may issue license plates without the Legislature's or Governor's approval. Under Section 803m of the Code, any nonprofit fraternal or public service organization that submits a service fee of \$500 and can meet a 500-plate sales goal may request that the SOS manufacture special organization plates for its members.

Opposing Argument

Each legislative session, numerous fund-raising license plates are proposed. By removing the current seven-plate limit, and, requiring simple legislative authorization without the Governor's signature, the bill would make it much easier for the various plates to be issued. A plethora of plates is unnecessary and could make it difficult for law enforcement personnel or witnesses to a crime to identify vehicles quickly.

The bill would encourage any group to request a license plate to promote any message as long as it established a nonprofit fund. For example, Blue Cross and Blue Shield of Michigan could use a license plate to advertise, or political parties could promote themselves through a plate. Specialty license plates put the State in the position of endorsing a particular group or message. Eliminating the seven-plate limit and relaxing the requirement for legislative approval could facilitate this. If organizations want to engage in fund-raising and promotion, they can do so using methods that do not involve State endorsement, such as selling bumper stickers.

Response: If sponsoring groups had to pay the significant start-up fee, they likely would carefully consider whether they could meet the required sales goals. Though there would be no numerical limit on the new plates the SOS could develop, the fee would prevent an explosion of requests. Giving people the option to purchase a newly developed license plate would not qualify as an official endorsement any more than it currently does. The cause supported by any new plate still would require legislative approval through a concurrent resolution.

Legislative Analyst: Julie Koval

FISCAL IMPACT

For the first two quarters of FY 2002-03 (October 1, 2002, through March 31, 2003), the Department of State reported 40,467 special cause transactions that generated \$587,805 for the special cause, and 39,215 university transactions that generated \$517,640 for the universities. The new start-up fee and redesign fee for fund-raising plates would offset costs of creating, producing, and issuing fund-raising plates which are currently absorbed by the Department of State. The bill also would exclude the permanent trailer plate from the service fee and regulatory fee.

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.