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## DNR PARK AND RECREATION OFFICERS' JURISDICTION: INCLUDE WATERWAYS

### House Bill 4388 (Substitute H-1) First Analysis (3-21-00)

**Sponsor: Rep. Ron Jelinek**  
**Committee: Conservation and Outdoor  
Recreation**

#### ***THE APPARENT PROBLEM:***

In 1993, two formerly separate divisions in the Department of Natural Resources were merged. The former Recreation Division was merged with the former Parks Division into the new Parks and Recreation Division. Each of the former divisions had had their own commissioned officers, with their powers and duties specified in different parts of the Natural Resources and Environmental Protection Act (NREPA). [See BACKGROUND INFORMATION.] Problems have arisen because the enforcement powers of the formerly two different kinds of commissioned officers were slightly different, which has resulted in these officers sometimes being unable to enforce relevant NREPA provisions, rules, and orders promulgated under these rules.

At the request of the Department of Natural Resources, legislation has been introduced to consolidate the provisions in the NREPA concerning state park officers and park and recreation officers and to extend their jurisdiction to state waterways.

#### ***THE CONTENT OF THE BILL:***

The bill would amend the Natural Resources and Environmental Protection Act to consolidate the provisions regarding "state park officers" and "park and recreation officers" by repealing -- and reinserting under Part 16, with some modifications -- the current section of the act authorizing park and recreation officers to perform certain duties and allowing them to issue citations and perform warrantless arrests, and by replacing current references in Part 16 to "state park officers" with references to "park and recreation officers." The bill also would extend the jurisdiction of park and recreation officers to include both state parks and waterways.

Warrantless arrests, citations. More specifically, the bill would amend Part 16 of the NREPA to repeal and reinsert (with minor modifications) current provisions in the state parks part (Part 741) of the act that allow park and recreation officers to issue citations and to place people under arrest without first obtaining a warrant, under one or more of the following circumstances:

- If, in a park and recreation officer's presence, someone committed an assault, or an assault and battery, in violation of the Penal Code's provisions on assault, assault and battery, and assault and infliction of serious injury (Sections 81 or 81a, MCL 750.81 and 750.81a).
- If an officer had reasonable cause to believe that a felony had been committed, and reasonable cause to believe that an individual had committed it.
- If an officer had received affirmative written or verbal notice (instead of "positive information by written, telegraphic, teletypic, telephonic, radio, or other authoritative source") from a law enforcement officer or agency that a peace officer had a warrant for someone's arrest.
- If someone violated the Michigan Vehicle Code's provisions regarding reckless driving (MCL 257.626) and those prohibiting operating a vehicle while under the influence of liquor (OUIL) or operating while impaired by alcohol (OWI) [MCL 257.625(1) or (3)];
- If someone violated the parts of the NREPA dealing with state parks (Part 741), off-road recreation vehicles (Part 811), snowmobiles (Part 821), or the section dealing with swimming on public beaches (Section 80198b).

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- If someone violated the Personal Watercraft Safety Act provisions governing the operation of personal watercraft and personal floatation devices, and the maintenance of personal watercraft at a designated distance from shorelines or other areas (MCL 281.1411 and 281.1419).

Repealer. The bill would repeal, and reinstate, with certain modifications, the current section of the NREPA delineating the warrantless arrest and citation powers of park and recreation officers (MCL 324.74124).

MCL 324.1606

### ***BACKGROUND INFORMATION:***

State park officers. Currently, within the boundaries of the state parks, state park officers are authorized to enforce state park rules promulgated by the DNR, as well as “any laws of this state specified in those rules as enforceable by commissioned state park officers.” In carrying out their enforcement duties, state park officers are vested with the powers, privileges, prerogatives, and immunities conferred upon peace officers under state laws. Both conservation officers and state park officers also can issue appearance tickets for 90-day misdemeanors (instead of immediately bringing the person in for arraignment in court).

Park and recreation officers. Under the state parks part of the NREPA, park and recreation enforcement officers currently have limited arrest powers to enforce this part of the act and rules promulgated under this part of the act, as well as any state laws specified in those rules as enforceable by commissioned park and recreation officers. In performing their duties, park and recreation officers also are vested with the powers, privileges, prerogatives, and immunities conferred on peace officers by the state’s general laws. In addition to their limited arrest powers, the act authorizes park and recreation officers to arrest someone without a warrant under a list of specified conditions.

State forest officers. Another bill reported from the House Committee on Conservation and Outdoor Recreation, Senate Bill 876, would amend the Revised Judicature Act to include in the definition of “law enforcement officer” a “state forest officer” commissioned under Part 831 (State Forest Recreation) of the Natural Resources and Environmental Protection Act (this definition in the RJA already includes “park and recreation officer,” as well as “conservation officer”). According to the Senate Fiscal Agency analysis of Senate Bill 876 dated 11-10-99, there are

approximately 100 forest officers throughout the state who provide fire protection and general maintenance services within state forests, as well as enforcing state land use statutes and regulations issued by the Department of Natural Resources.

### ***FISCAL IMPLICATIONS:***

According to the House Fiscal Agency, the bill would expand the scope of enforcement duties of park and recreation officers to include water resources laws administered through the waterways commission. There may be an increase in the total number of enforcement hours for individual officers, but a more precise estimate of workload is not currently available. There may be an increase in overtime hours charged to the parks budget but the impact on the budget is not known at this time. The funding source for any additional enforcement effort would be the state waterways fund. (3-20-00)

### ***ARGUMENTS:***

#### ***For:***

The bill would implement needed changes to the Natural Resources and Environmental Protection Act, updating and consolidating the provisions concerning the once separate powers and duties of state park officers and park and recreation officers and giving them authority to enforce certain provisions of the Personal Watercraft Safety Act. Since the two divisions were merged in 1993, problems have arisen when park and recreation officers have attempted to enforce some of the act’s provisions, rules, or departmental orders issued under promulgated rules. When the officers have turned to local law enforcement officials for aid, they reportedly have been told (erroneously) that the park and recreation officers could act under their commissions and did not need local law enforcement help. The bill would provide authority, in statute, for commissioned park and recreation officers to enforce NREPA provisions, rules, and DNR orders, as well as extend their jurisdiction to include enforcement on state waterways as well as on state park lands.

### ***POSITIONS:***

The Department of Natural Resources supports the bill. (3-20-00)

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■ 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.