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To: Members of the State Park System Advisory Council
From: Joel Anderson, Committee Researcher *JA*
Date: September 26, 2009
Re: Self-funding of the State Park System

The question arose at the last meeting of the State Park System Advisory Council as to whether the State Park System is legislatively required to be self-funded. The Chair of the Council, Richard Ober, asked the legislative members of the Council who were in attendance to look into this question. This memorandum is a response to that request.

Appropriations

Operating Budget

For purposes of this inquiry, it is probably reasonable to classify a state program as self-funded if it does not rely upon any General Fund moneys. During the 2009 session, the Legislature did not appropriate any General Fund moneys to the State Park System in the Operating Budget (HB 1). Therefore, the State Park System has a self-funded operating budget for the next two fiscal years. Looking back at the two prior Operating Budgets passed by the Legislature in 2005 and 2007, no General Fund monies were appropriated in then either.

Capital Budget

The Capital Budget (HB 25) passed in 2009 contains appropriations for construction projects at state parks, most notably \$14,500,000 for the Hampton Seashell and bathhouses and \$3,065,000 for the Mittersill Expansion. Bonds will provide the money for the appropriations which will be repaid by the General Fund, except for a lesser portion to be repaid from another source.¹ Therefore, the State Park System is not self-funding these construction projects.

Looking back at the two prior Capital Budgets passed by the Legislature in 2005 and 2007, appropriations were also made for state parks which were funded through bond issuances to be repaid by the General Fund. Only a minor amount of such appropriations

¹ \$1,532,500 of the bond issuance for the Mittersill Expansion will be repaid using the Canon Mountain Capital Improvement Fund which receives proceeds from the Mount Sunapee ski operations lease.

were made in 2005, followed by a significant amount in 2007, most notably \$6,000,000 for Statewide Park Funding.

Revised Statutes Annotated

It is also worthwhile to look at the Revised Statutes Annotated (RSAs) to see what policies the Legislature has established relative to self-funding of the State Park System. Though appropriations made by the Legislature will determine the actual extent of self-funding, the RSAs can establish critical elements of the policy framework.

State Park Fund

In 1991 the Legislature established the State Park Fund in RSA 216-A:3-i through passage of HB 53 (Chapter 40, Laws of 1991). Into the fund was to be deposited “actual revenue derived by the Commissioner of Resources and Economic Development in excess of budget expenses from fees, services, accommodations, rentals, retail sales, and net profit from concession operations, and including any federal moneys which become available, and all donations and gifts.” Revenues from ski operations were not included. What was deposited in the fund was to only be expended by the Commissioner with the prior approval of the Governor and Council and the Fiscal Committee, in the event that “additional funds above those authorized in the budget are necessary for the Division of Parks and Recreation to provide an adequate level of service and maintenance in the state park system and to restore park facilities.

It appears that the Legislature was establishing a financial system wherein park revenues were expected to or at least hoped to pay for park expenses, with any extra revenues being deposited in the State Park Fund to take care of needs not addressed in the budget process. Expenditure of these excess revenues by the Department still had to be approved by Governor and Council and the Fiscal Committee.

The Appropriations Committee that deliberated on HB 53 reported to the full House of Representatives that the bill should pass on a vote of 21-0. The report of the Committee is very telling as to what the Committee thought would be accomplished by passing the bill. The report read:

This bill establishes the New Hampshire state park and ski areas as an enterprise-type self-funded, accountable business entity to provide improved park and ski recreation facilities and services to New Hampshire citizens and tourists alike.

In 1996 the Legislature modified the State Park Fund statute to include within it a ski area account, separate from the park account. Ski area revenues were to be handled in the same manner as park revenues. Since then, the statute (attached) has not been changed.

Setting of Fees - Revenues

The modern version of the statute that governs fee setting for state parks was established by the Legislature in 1985 as RSA 216-A:3-g (attached) through passage of HB 132 (Chapter 389). The statute has been amended over the years, but its basic provisions have remained the same. The Commissioner of Resources and Economic Development is authorized to establish fees (originally under RSA 541-A, the rulemaking chapter, but now with the approval of the Fiscal Committee) for access to and use of the State Park System. The fees need to be consistent with the following criteria:

- I. Fees for the use of park areas shall be designed to recover a reasonable portion of budget expenses consistent with the purposes of RSA 216-A:1 and 216-A:3. The general court does not intend that all park facilities be self-supporting.
- II. Fees for the use of campgrounds and ski lifts shall be comparable with the fees for use of similar privately owned facilities. The operation of all enterprise functions within the park system, including ski lifts, food service, retail facilities, campgrounds, and other concession activities, shall be as profitable as possible, within the purposes of the park system.

This statute makes a distinction between setting fees for the use of park areas and setting fees for what are considered enterprise functions within the parks. The fees for the use of park areas under paragraph I need only meet a reasonable portion of expenses. It is also made clear that not every park facility needs to bring in enough through fees to run the facility. However, paragraph II provides that all of the enterprise functions in state parks must be as profitable as possible.

It is important to note that both paragraphs have provisions requiring that all fees be consistent with the purposes of the park system. Paragraph I uses the phrase “consistent with the purposes of RSA 216-A:1”, which lists the purposes of the state park system. Paragraph II uses the phrase “within the purposes of the park system”, which would be the same purposes found under RSA 216-A:1. Therefore, this statute limits the commissioner to establishing fees that are not contrary to the purposes provided under RSA 216-A:1 (attached).

The Legislature makes clear that it wants revenues to be maximized at all of the enterprise functions within the park system (though within the purposes of the park system, as addressed above). The importance of enhanced revenues to the Legislature is seen again in SB 74, which was passed in 2007. The bill, in addition to creating the State Park System Advisory Council, modified many of the issues to be addressed in the 10-year strategic plan that the Director of Parks and Recreation is presently working on. Two of the modified issues have to do with state revenues and read as follows:

- (b) An evaluation of overall state park system operations to identify strengths, weaknesses, and future approaches **to increase revenue** and simplify operations.

(l) An analysis of whether leasing or outsourcing certain state park functions, or entering into public/private partnerships would **increase revenues** and simplify operations.

Currently, there is nothing in statute requiring that state park fees bring in enough revenue to cover all expenses of the State Park System. However, the Legislature has certainly indicated its strong desire that revenues be enhanced where possible, within the constraints of the purposes of the State Park System.

TITLE XIX PUBLIC RECREATION

CHAPTER 216-A EXPANSION OF STATE PARK SYSTEM

Section 216-A:3-i

216-A:3-i State Park Fund Established. –

I. The state treasurer shall establish a separate and distinct account to be known as the state park fund. The treasurer shall establish within the state park fund separate and distinct accounts known as the park account and the ski area account. The treasurer shall deposit in said accounts actual revenue derived by the commissioner of the department of resources and economic development in excess of budget expenses from fees, services, accommodations, rentals, revenue from lift and tramway operations, retail sales, and net profit from concession operations, and including any federal moneys which become available, and all donations and gifts. The accounts shall be continuing and nonlapsing.

II. Any funds deposited into the park account and ski account are hereby continually appropriated to and may be expended by the commissioner of the department of resources and economic development only with the prior approval of the governor and council and the fiscal committee, provided that additional funds above those authorized in the budget are necessary for the division of parks and recreation to provide an adequate level of service and maintenance in the state park system, restore park facilities and for proper operation of the state-owned ski areas.

Source. 1991, 40:2, eff. April 26, 1991. 1996, 210:7, eff. June 10, 1996.

TITLE XIX PUBLIC RECREATION

CHAPTER 216-A EXPANSION OF STATE PARK SYSTEM

Section 216-A:3-g

216-A:3-g Fees for Park System. – The commissioner of the department of resources and economic development, in consultation with the director of parks and recreation, shall establish fees for access to and use of the state park system. The fees approved by the commissioner, after prior approval of the fiscal committee, shall not be subject to the provisions of RSA 541-A, so as to provide the department with the ability to maximize revenues and to adjust fees according to market conditions and trends as is the common practice in private industry. Said fees shall be consistent with the following criteria:

I. Fees for the use of park areas shall be designed to recover a reasonable portion of budget expenses consistent with the purposes of RSA 216-A:1 and 216-A:3. The general court does not intend that all park facilities be self-supporting.

II. Fees for the use of campgrounds and ski lifts shall be comparable with the fees for use of similar privately owned facilities. The operation of all enterprise functions within the park system, including ski lifts, food service, retail facilities, campgrounds, and other concession activities, shall be as profitable as possible, within the purposes of the park system.

III. [Repealed.]

IV. No disabled veteran of this state, upon providing satisfactory proof of a service-connected disability, shall be charged a fee for day-use admission to the state park system. Special number plates issued to disabled veterans pursuant to RSA 261:86 or a letter issued by the United States Department of Veterans Affairs certifying that the veteran suffers from a service-connected disability shall constitute satisfactory proof under this section. Any fees for the use of enterprise activities as defined in paragraph II shall be charged.

V. (a) Any active member of a federally recognized unit of the New Hampshire national guard who is a legal resident of this state, and who meets the minimum requirements for satisfactory membership, as defined in the United States Department of the Army and the United States Department of the Air Force regulations, and is serving in pay grades E1 through E6 shall not be charged a fee for admission to the state park system. This section shall apply to members of the Active Guard and Reserve program in the New Hampshire national guard.

(b) Any New Hampshire national guard member who retired in pay grade E6 or below shall not be charged a fee for day-use admission to the state park system.

(c) Any fees for the use of enterprise activities as described in paragraph II of this section shall be charged.

Source. 1985, 389:6. 1991, 355:62. 1993, 358:24. 1995, 308:127, X, eff. July 1, 1995. 1996, 210:6, eff. June 10, 1996. 2003, 153:1, eff. Aug. 16, 2003; 282:1, eff. July 18, 2003.

TITLE XIX PUBLIC RECREATION

CHAPTER 216-A EXPANSION OF STATE PARK SYSTEM

Section 216-A:1

216-A:1 Intent. – It is the intent of the general court that a comprehensive state park system shall be developed, operated, and maintained to achieve the following purposes in order of the following priority:

I. To protect and preserve unusual scenic, scientific, historical, recreational, and natural areas within the state.

II. To continually provide such additional park areas and facilities as may be necessary to meet the recreational needs of the citizens of all regions of the state.

III. To make these areas accessible to the public for recreational, education, scientific, and other uses consistent with their protection and preservation.

IV. To encourage and support tourism and related economic activity within the state.

Source. 1961, 263:1. 1985, 389:3, eff. June 25, 1985.