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TESTIMONY IN OPPOSITION TO SENATE BILL 389 & HOUSE BILL 4678

Let me begin by saying Secretary Land is a strong supporter of our parks, and while she supports the end of this thought – getting enough support for parks – we do oppose the means of these bills of adding a \$10 tax to vehicle registrations for a number of reasons:

1) From a policy standpoint this bill would – using the old cliché – create a slippery slope by setting precedent to add non-road related causes to vehicle registrations.

Some have advocated that “this is no different than fundraising plates” where funds go to non-road purposes but in those cases the law specifies that they are “donations” for the special license plate with its logo. In addition, those donations are purely voluntary choices as opposed the opt out provisions of this bill.

By mandating that everyone must pay this additional tax unless they read the fine print and opt out sets a questionable taxation precedent and it increases the amount of information that is currently contained on registration renewals. People already make a number of mistakes with the existing renewal forms.

Regarding opt out provisions – during the Miller administration the legislature created another opt out law in the form of the list sales for vehicle related information. The public found having to opt out so offensive that the legislature quickly changed the law.

2) The bill would also create a number of substantial administrative burdens and costs particularly at our branch offices and call center. As the DNR testified, a lot of their staff time would be freed up not having to issue passes – those functions would be transferred to the Department of State. No offense, but we don’t want our people to become DNR parks staff answering the whole host of questions that may sound silly to you but will be asked of our staff:

- a) do I have to pay this fee
- b) why am I made to opt out
- c) how many times can I go into the parks
- d) is it a better deal to pay this tax or the daily pass – how much are they
- e) what happens if I opt out & go later
- f) do I have to get one for each car – my RV
- g) where are the parks
- h) are they good for federal, county and local parks
- i) can I make a reservation – why not
- j) etc

As an example - people were not happy and asked a bunch of questions when the legislature raised vehicle registration fees in 2003 and created the Driver Responsibility Fee - and continue to ask questions.

In addition, on the back end we would also see an increase in costly refund requests:

- a) I paid the tax last year and couldn't get into the park I wanted so I want a refund
- b) I paid but changed by vacation plans for the year and want my money back
- c) My husband paid the tax on his car so I need a refund

Secretary Land has been achieving her goal of reducing branch office transactions and wait times and modernizing how we do business. This proposal would be a step in the wrong direction and cost the department and estimated \$600,000 in start up programming and training fees, and an ongoing \$2.5 million each year for this shift.

3) The implementation schedule of January 1, 2010 is also problematic. In 2003 the legislature appropriated \$30M for our business application modernization initiative to phase out of our ancient, cobol-programming spider web of computer servers and systems to modern technology. Currently there are *13 public acts* that are not effective until at least October of 2010. This bill would be in the same situation.

4) On questions of constitutionality, the Dept. of State has been a defendant in many cases involving taxes added onto registration fees. While we we're not a beneficiary of this money and it's not our fight, we would be named as a defendant and are aware of the legal arguments. Article 9 Section 9 of the constitution reads in relevant part:
“ All specific taxes, except general sales and use taxes and regulatory fees, imposed directly or indirectly... on motor vehicles...shall be used exclusively for transportation purposes as set forth in this section.”

It is well settled in the courts that the name the legislature gives a funding mechanism (user fee, regulatory fee, tax, charge) is not controlling.

Proponents have labeled this a regulatory fee to fit into one of the exceptions of article 9. One aspect of the difference between a tax and a regulator fee is that a regulatory fee is voluntary. However, in addition, an examination of whether the fee is used for regulating the activity charged the fee or whether it is used for other revenue-generating purposes such as those proposed by this bill is also done.

So it raises the question if this is a good use of taxpayer dollar to pursue this. An AG opinion that Sen. Birkholz has requested should settle the matter unless that is challenged.

In summary, Secretary Land supports our parks, wants to express her thanks to Sen. Birkholz for meeting with her to discuss the funding needs of the parks. We are hear to work with to explore alternatives that may reach the same ends such as:

- a) selling passes/stickers at our self service stations OR at DNR self service stations at parks
- b) including an advertising piece in our reg. renewals
- c) selling passes/stickers online as a separate transaction or a link to the DNR
- d) selling a purely voluntary Parks Fundraising plate”