



**House
Legislative
Analysis
Section**

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MACOMB/OAKLAND CONVEYANCE

**Senate Bill 331 (Substitute H-2)
First Analysis (6-22-93)**

**Sponsor: Sen. Doug Carl
Senate Committee: State Affairs and
Military/Veteran Affairs
House Committee: State Affairs**

THE APPARENT PROBLEM:

Like many other public entities operating under budget constraints, the Department of Natural Resources (DNR) has been evaluating its programs and considering how these programs can be run at the least cost and the most benefit to the citizens of the state. As part of an ongoing review of the state parks system, in particular, the department has been considering when and where it might be feasible to turn over certain property it currently operates to local units of government. For the past year, under a use agreement with the DNR, four local governments -- the charter township of Shelby, in Macomb County, and the cities of Rochester, Utica, and Rochester Hills -- have been managing the Rochester-Utica Recreation Area, a state park of about 2,000 square feet located where the boundaries of these four local units meet. Legislation has been introduced that would convey the recreation area to these local units of government.

THE CONTENT OF THE BILL:

The bill would allow the Department of Natural Resources to convey the Rochester-Utica Recreation Area, located in Macomb and Oakland counties, to three local governments. Each conveyance would be for one dollar and the land would have to be used for a public park, open to the public on the same terms, fees and conditions. Each conveyance, however, would have to provide that the respective local government to which property would be conveyed could waive daily fees or fees for the use of specific areas or facilities when the property or facilities were to be used by "specified groups or classes of persons," but waived fees would have to apply to all members of that group or class regardless of their residence. If it were used for any other purpose it would

immediately revert to the state, and the state would assume no liability for any improvements made by the grantee. The state would retain all rights to oil, coal, gas and other materials (except for sand, gravel, clay and other nonmetallic minerals). The bill could not take effect unless House Bill 4088 was also enacted.

The Rochester-Utica Recreation Area lies within the boundaries of four local governments in Macomb and Oakland Counties: the city of Utica (in Macomb County), the cities of Rochester and Rochester Hills (both in Oakland County), and the charter township of Shelby (in Macomb County). The bill would convey to three of these municipalities--Utica, Rochester and Rochester Hills--those portions of the Rochester-Utica Recreation Area lying within their respective boundaries. (House Bill 4088, which is currently in the Senate, would convey a portion of this property to Shelby Township.)

HOUSE COMMITTEE ACTION:

Senate Bill 331 as introduced was identical to House Bill 4088 as it was introduced (i.e., both bills proposed to convey separate portions of the Rochester-Utica Recreation Area to the four local governments in which the parcels currently lie). Now, under an agreement reached between the bills' sponsors, the House bill as substituted in the Senate would provide for the conveyance of a portion of the state park located in Shelby Township to this municipality, while Senate Bill 331 as substituted by the House State Affairs Committee would provide for conveyance of the remaining three state-park parcels located in the cities of Utica, Rochester and Rochester Hills to each of them.

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FISCAL IMPLICATIONS:

According to the Department of Natural Resources, prior to the spring of 1992 (when the department entered into current-use permit agreements with each of the local governments whereby each of them operates and maintains each separate parcel), the department incurred costs in excess of \$200,000 annually to operate and maintain the Rochester-Utica State Park. In addition, the DNR made payments to the local governments in lieu of taxes of about \$200,000 annually. As the bill would convey portions of the state park to each of the separate local governments, the DNR annually would save approximately \$200,000 that it otherwise would have to spend to operate/maintain the park and its facilities, and an additional \$200,000 annually for payments it otherwise would have to make in lieu of taxes on the land to the local governments. In addition, each local government would incur separate costs, which would vary depending on the parcel of state property conveyed, to operate and maintain their respective parcels and any facilities located on them, and would no longer receive payments in lieu of taxes on the property from the DNR. Local governments could also charge permit fees for use of the properties. (6-17-93)

ARGUMENTS:

For:

The conveyance would save money for the state by releasing the state from payments in lieu of taxes on the parcel, as well as relieving the state of the responsibility to see that the park is maintained and upgraded to meet existing safety codes and the requirements of the federal Americans with Disabilities Act. According to the Department of Natural Resources (DNR), if the conveyance did not go through the state would have to continue operating the park, but this would be difficult to do given the department's current funding. The bill, in combination with House Bill 4088, to which it is tie-barred, would convey the land to the cities of Utica, Rochester and Rochester Hills, and to Shelby Township. The DNR has been working with these four local units of government within whose boundaries the Rochester-Utica Recreation Area is located. The local governments have operated the recreation area for the last year under a use permit (a legal means by which the DNR can allow someone other than the department to operate DNR lands), and, according to the department, have done a good job. In fact, a department

representative testified that the department could not maintain the land as well as the local units of government. By allowing the conveyance, the total recreational opportunities would be enhanced; without the conveyance, these opportunities would be reduced rather than enhanced.

For:

Substitute H-2 for the bill, adopted by the House State Affairs Committee, includes a provision that would allow each local government to waive daily fees or fees for using areas or facilities located in each municipality's respective park area when the areas or facilities were to be used by certain groups or classes of persons (i.e., scouting groups, senior citizens, and the like). Any waived fees, however, would have to apply to all members of that group or class of people regardless of where they lived. Thus, the municipalities could offer reduced rates to groups that planned to use the parks for special outings, as is customary practice among municipalities having jurisdiction over local parks.

Against:

Because local residents will be paying the major costs for maintaining and upgrading the recreation area, the local units of government ought to be allowed to charge differential use permit fees for residents and non-residents. This has been DNR policy in the past and ought to be allowed in this case, too. Reportedly, at least one of the local units of government already charges a larger annual use permit fee for non-residents than for residents (though the daily fees are the same). And at least one of the local units of government involved says that it will be unable to bring existing deteriorated park facilities up to safety code standards and to meet requirements of the new federal Americans with Disabilities Act without being allowed to charge some differential fees. It seems only fair that since the tax burden for maintaining, improving and operating this park would fall on local residents, they should get a break on the park fees.

Response:

The local units of government are going to be allowed to purchase this valuable land for a single dollar each, which means, in effect, that it will be a gift to the local units of governments from all the state's citizens. The local units of government in all likelihood would not be able to afford to buy the area if they had to pay the fair market value, and certainly local residents will benefit more than other

state citizens from keeping this park open. What is more, in this particular case most of the land apparently was donated by private individuals in the 1920s (so the land was not acquired with tax dollars), with one of the conditions of the donation being that the donated lands be perpetually maintained by the state as a non-discriminatory public park. Clearly all citizens should be able to use the park under the same terms, conditions and fees.

Against:

There appears to be a structural problem with state park funding: park fees do not now pay for park maintenance. Rather than turn more and more state land over to local units of government, which could lead to a situation where not all state citizens have access to it, the underfunding of the state park system ought to be addressed.

POSITIONS:

The Department of Natural Resources supports the bill as long as it remains tie-barred to House Bill 4088. (6-17-93)

The City of Utica supports the bill. (6-18-93)

The City of Rochester supports the bill. (6-18-93)

The City of Rochester Hills supports the bill. (6-18-93)