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MOBILE HOME COMM. MEMBERSHIP

House Bill 4181 (Substitute H-4) First Analysis (6-6-00)

Sponsor: Rep. Gloria Schermesser
Committee: Economic Development

THE APPARENT PROBLEM:

Local units of government want more control over the siting and development of mobile home parks. They say their zoning and land use regulation powers are insufficient given current state law. Under state law, the Mobile Home Commission is charged with promulgating a mobile home code to govern, among other things, "the licensure, density, layout, permits for construction, [the] construction of mobile home parks, including standards for roads, utilities, open space, proposed recreational facilities, and safety measures sufficient to protect [the] health, safety, and welfare of mobile home park residents." Mobile home parks or communities require a license from the Department of Consumer and Industry Services. The Mobile Home Commission Act gives the regulation of water supply, sewage collection and treatment, and drainage to the state health officials (and that function is now carried out by the Department of Environmental Quality). The mobile home code also addresses the business, sales, and service practices of mobile home dealers, installers, and repairers; governs the setup and installation of mobile homes inside parks; and regulates aspects of the business of mobile home manufacturers and assemblers. The act contains limits on mobile home ordinances of local units of government. A local unit can propose mobile home park standards higher than those found in the code, but they require the approval of the commission before local adoption.

While representatives of local government are seeking more comprehensive legislation that would increase mobile home regulation at the local level, legislation has been introduced that would at least increase the voice of local government over mobile home issues by increasing the number of local government representatives on the Mobile Home Commission.

THE CONTENT OF THE BILL:

The bill would amend the Mobile Home Commission Act to change the composition of the commission membership. The 11-member commission currently contains "an elected official of a local government"; under the bill, there would instead be three elected

officials: one township official, one city or village official, and one county official. Removed from the commission would be one mobile home park operator (leaving two mobile home park operators on the commission) and a representative of organized labor (although one of the mobile home residents on the commission would now have to be a member of organized labor).

The bill also would alter the selection process for commission members. Currently, commission members are appointed by the governor with the advice and consent of the Senate. The bill would give the advice and consent function to the House of Representatives. Further, there would be no need for advice and consent if the governor chose members from lists of recommendations provided by specified interested groups. Members would be selected as follows.

The representative of an organization whose membership consists of mobile home residents would be selected from a list of three recommendations provided by the Michigan Manufactured Homeowners Association.

A representative of financial institutions would be selected from lists provided by the Michigan Bankers Association, the Michigan Credit Union League, the Michigan Association of Savings Banks, and the Michigan Mortgage Bankers Association.

The two operators of licensed mobile home parks would be selected from a list of three recommendations provided by the Michigan Manufactured Housing, RV and Campground Association; a licensed mobile home dealer would be selected from three recommendations from the same organization; and a manufacturer of mobile homes would be selected from three recommendations from the organization. Currently, the commission includes two operators of mobile home parks with 100 or more sites, and one operator of a park with fewer than 100 sites. The bill would leave

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two park operators on the commission and remove the distinction between larger and smaller parks.

An elected township official would be selected from a list of three recommendations provided by the Michigan Townships Association; an elected official from a city or village would be selected from a list of three recommendations provided by the Michigan Municipal League; and an elected county official would be selected from a list of three recommendations provided by the Michigan Association of Counties.

Two residents of licensed mobile home parks would be selected, one of whom would be a representative of organized labor selected from a list of three recommendations provided by the American Federation of Labor-Congress of Industrial Organizations (AFL-CIO). The bill does not specify how the other park resident would be selected.

In each case, the bill would provide that an appointment would not require the advice and consent of the House of Representatives if the appointment was made from the recommendations of the particular interested organization. (The bill actually would say that the homeowners association selection does require the advice and consent of the House, but this appears to be a typographical error.)

Currently, the act says a commission member “may be removed from office by the governor for inefficiency, neglect of duty, or misconduct or malfeasance in office.” The bill would substitute “shall” for “may” and would specify that three unexcused absences in one calendar year is grounds for removal from the commission.

Currently, the act restricts some members of the commission (those representing residents, labor, and elected officials), and their immediate families, from having more than a one percent ownership interest in or income benefit from a manufacturer or retailer of mobile homes, a mobile home park, or a supplier of mobile home products or services. The bill would remove the reference to “more than one percent” ownership and would make the provision apply also to the representative of financial institutions. However, the provision would not apply in that case to income benefit from providing mortgages, loans, or other financial products to the mobile home industry in the ordinary course of employment and any ownership interest a commission member representing financial institutions had in his or her employer who was supplying services to the mobile home industry.

The bill also would replace references to the Department of Public Health with references to the Department of Environmental Quality, in order to recognize current practices. The DEQ regulates water supply, sewage collection and treatment, and drainage facilities for mobile home parks and seasonal mobile home parks.

MCL 125.2303

BACKGROUND INFORMATION:

Article 5, Section 6 of the State Constitution says: “Appointment by and with the advice and consent of the senate when used in this constitution or laws in effect or hereafter enacted means appointment subject to disapproval by a majority vote of the members elected to and serving in the senate if such action is taken within 60 session days after the date of such an appointment. Any appointment not disapproved within such a period shall stand confirmed.” Article 4, Section 19 of the constitution says, “All elections in either house or in joint convention and all votes on appointments submitted to the senate for advice and consent shall be published by vote and name in the journal.” The constitution does not appear to contain any similar provisions regarding advice and consent to appointments by the House of Representatives.

FISCAL IMPLICATIONS:

There is no information at present.

ARGUMENTS:

For:

The aim of the bill is give local units of government more voice on mobile home issues. It would do this by increasing the number of representatives of local units on the Mobile Home Commission from one to three. Since local units are often greatly affected by the development of mobile home parks, and since the commission has a major voice in deciding how mobile home parks will be designed and developed, it makes sense for local elected officials to have more influence on commission decisions. While local units would prefer more far reaching legislation allowing them more local control over mobile home siting issues, this bill is at least a first step towards increasing the influence of townships, cities, villages, and counties. Further, the bill would address complaints about lack of participation by some current commission members by specifying that three unexcused absences in one calendar year would be grounds for removal. The bill

also spells out a procedure by which the parties most affected by commission decisions can recommend prospective appointees to the governor.

Response:

In order to add two representatives of local units and keep the commission the same size, obviously two members must be dropped. The bill would remove the separate slot for a representative of organized labor (although requiring one resident representative to be a labor representative) and would remove one mobile home park operator, thus reducing the industry's voice in commission decisions that vitally affect the industry.

Against:

Is it necessary or wise to alter the process by which members are appointed to the commission (in addition to changing the membership)? Currently, the governor appoints the members with the advice of the consent of the Senate. The bill would instead give that role to the House of Representatives. Is there precedent for this? Is it justified? Further, there would be no advice and consent of the legislature if the governor picked members from lists of certain named interest groups. Doesn't this essentially give those groups the advice and consent function? Is this appropriate?

POSITIONS:

The Michigan Townships Association considers the bill a first step toward increased local control over the development of mobile home parks. (6-1-00)

The Michigan Municipal League supports the concept of having greater local involvement on the commission. (6-5-00)

The Michigan AFL-CIO supports the bill. (6-1-00)

The Department of Consumer and Industry Affairs has serious concerns about the bill as written. (6-5-00)

The Michigan Manufactured Housing Association would oppose losing a member from the commission. (6-5-00)

Analyst: C. Couch

■ 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.