

MACOMB COUNTY CONVEYANCE

House Bill 4547 (Substitute H-1) First Analysis (5-1-01)

Sponsor: Rep. Alan Sanborn
Committee: Regulatory Reform

THE APPARENT PROBLEM:

In the early 1990s, primarily due to budget cuts, the Department of Natural Resources (DNR) began to evaluate its programs and to explore ways to run those programs at the least cost and most benefit to the citizens of the state. In particular, the department explored the practice of turning over state property to local units of government. Under a special use agreement (a legal means by which the DNR can allow someone other than the department to operate DNR lands), four local governments – the charter township of Shelby, in Macomb County, and the cities of Rochester, Utica, and Rochester Hills – began to manage the Rochester-Utica State Recreation Area. The recreation area was a state park of about 2,000 acres located where the boundaries of these four local units meet. Private individuals had donated most of the land during the 1920s, with one of the conditions being that it be perpetually maintained by the state as a non-discriminatory public park.

The special use agreement expired in 1993, and legislation was passed to convey the land to the four local governments. Public Act 111 of 1993 conveyed about 838 acres to Shelby Township and Public Act 123 of 1993 conveyed about 18.5 acres to the City of Rochester, about 210 acres to the City of Rochester Hills, and about 21 acres to the City of Utica. However, Public Act 111, which authorized the Shelby Township conveyance, withheld about 200 acres in the middle of the land conveyed to the township due to contamination by an adjacent landfill.

According to the DNR, this part of the recreation area has undergone remediation, has now received a “clean bill of health,” and is safe for public recreation purposes (remediation work on the property’s groundwater, however, will continue far into the future). Accordingly, legislation has been introduced that would convey this last portion of the recreation area to Shelby Township.

THE CONTENT OF THE BILL:

The bill would convey land currently under the jurisdiction of the Department of Natural Resources to Shelby Township, in Macomb County, for \$1. The approximately 200-acre parcel is part of land dedicated as the Rochester-Utica State Recreation Area. The conveyance would be by quitclaim deed approved by the attorney general and would not retain mineral rights to the state. Revenue received under the bill would be deposited in the state treasury and credited to the general fund.

The property could only be used for public park purposes. Any fees, terms, or conditions for the use of the property imposed on the public would have to be the same for residents and nonresidents. If the land were used for anything other than a public use purpose, it would revert to state ownership. The attorney general could bring an action to quiet title to the land and regain possession if the township disputed the state’s right to reclaim the land.

In addition, the conveyance would require that, within 30 days after its date, a restrictive covenant be filed with the register of deeds for recording, to specify the land use or resource use restrictions, or both, that were necessary to protect the public health, safety, or welfare, or the environment, and to assure the effectiveness and integrity of the environmental contamination remedies consistent with Part 201 of the Natural Resources and Environmental Protection Act (NREPA), which concerns environmental remediation, and with the federal Comprehensive Environmental Response Compensation and Liability Act (CERCLA) (94 Stat. 2767). The bill would specify that the form and content of the restrictive covenant would be subject to the approval of the Department of Environmental Quality (DEQ).

Further, the bill would also specify that its provisions pertained solely to the conveyance and restricted use of the property described in the bill, and that it would not alter the obligations, rights, or duties - either

substantive or procedural - of any party under any judicial or administrative act that took effect before the bill's effective date.

BACKGROUND INFORMATION:

The bill is similar to Senate Bill 1343 of the 1999-2000 legislative session, which passed the Senate, and to Senate Bill 171 of the current legislative session, which has also passed the Senate.

FISCAL IMPLICATIONS:

Fiscal information is not available.

ARGUMENTS:

For:

By conveying ownership of the last portion of state-owned land in the Rochester-Utica State Recreation Area, the bill would relieve the state of the responsibility of upgrading and maintaining the park in accordance with existing safety codes. The state would still have the responsibility of ascertaining that park grounds comply with current environmental regulations, and the bill includes provisions for a restrictive covenant to ensure that environmental contamination remedies comply with current laws regarding environmental remediation. Cleanup costs incurred by the landfills that previously controlled this portion of land would still be the responsibility of the landfill owners, however, and the bill includes provisions which make it clear that the former landfill owners' obligations could not be altered.

POSITIONS:

The Department of Natural Resources supports the bill.
(4-26-01)

Shelby Township supports the bill. (4-26-01)

Analyst: S. Stutzky

■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.