

Senate Fiscal Agency
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House Bill 4547 (Substitute H-1 as reported without amendment)
Sponsor: Representative Alan Sanborn
House Committee: Regulatory Reform
Senate Committee: Local, Urban and State Affairs

Date Completed: 6-6-01

RATIONALE

Public Acts 111 and 123 of 1993 authorized the Department of Natural Resources (DNR) to convey 1,087 acres of land known as the Rochester-Utica Recreation Area to the Cities of Rochester, Rochester Hills, and Utica, and the Charter Township of Shelby. Prior to the conveyances, the local units had a use permit arrangement with the State to operate the property for public park and other recreational purposes. The cities and township wanted to make some improvements on the property but hesitated to do so unless they owned it. The conveyances allowed the cities and township to own the land located within their respective boundaries for the purpose of a public park. Public Act 111, however, excluded from the transfer 200 acres of State-owned land located within Shelby Township. The DNR retained this parcel, which was adjacent to a privately owned landfill, in order to give the State an adequate land base for access, pipelines, and other remediation activity associated with cleaning up the landfill. The remediation project evidently was completed in 1999 and, according to the Department, the land now can be transferred to the township for public park purposes.

CONTENT

The bill would authorize the Department of Natural Resources on behalf of the State, to convey for \$1 to the Charter Township of Shelby, property under the DNR's jurisdiction and located in Macomb County, as described in the bill, to be used for public park purposes.

The conveyance would have to require the property to be used exclusively for public park purposes, and provide that if any fee, term, or condition for the use of the property were

imposed on or waived for the members of the public, resident and nonresident members of the public would be subject to the same fees, terms, conditions, and waivers.

The conveyance also would have to provide that upon termination of that use or use for any other purpose, the State could reenter and repossess the property, terminating the grantee's estate in it. In addition, the conveyance would have to provide that if the grantee disputed the State's right of reentry and did not promptly deliver possession of the property to the State, the Attorney General, on behalf of the State, could bring an action to quiet title to, and regain possession of, the property.

Further, the conveyance would have to require that, within 30 days after its date, a restrictive covenant be filed with the register of deeds for recording. The restrictive covenant would have to specify the land use and/or resource use restrictions 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 (Environmental Remediation) of the Natural Resources and Environmental Protection Act and with the Federal Comprehensive Environmental Response Compensation Liability Act (CERCLA). The bill specifies that the form and content of the restrictive covenant would be subject to the approval of the Department of Environmental Quality.

The conveyance would have to be by quitclaim deed approved by the Attorney General and could not reserve mineral rights to the State.

The bill also specifies that it would pertain solely to the conveyance and restricted use of the property described in the bill, and would not alter the obligations, rights, or duties, either substantive or procedural, of any party under any jurisdictional or administrative action that took effect before the bill's effective date.

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

By authorizing the conveyance of the last portion of State-owned land in the former Rochester-Utica Recreation Area, the bill would complete the transfer of ownership begun in 1993. According to the DNR, the surrounding area is highly developed with housing subdivisions, and the recreation area "is one of the few openings in the urban sprawl". The conveyance would relieve the State of the responsibility for upgrading and maintaining the land. The State still would be responsible for determining that the land was used exclusively for park purposes, and the bill includes provisions for a restrictive covenant to ensure that environmental contamination remedies complied with current laws regarding environmental remediation. According to the township, the land is considered a natural area, and could be used for the expansion of hiking trails and a nature center.

Legislative Analyst: N. Nagata

FISCAL IMPACT

Since the bill would require the land to remain for public park purposes, there would be no direct fiscal impact on the State or the local units as a result of the conveyance. The State could realize some savings from no longer maintaining and overseeing the property, while the township would acquire these responsibilities. If the township no longer made the land available for public park purposes, the land would be transferred back to the State.

Fiscal Analyst: M. Hansen

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.