

**NEIGHBORHOOD REPRESENTATIVE
ON COUNTY PARKS COMMISSION**

**House Bill 4456 as enrolled
Vetoed by the governor
Second Analysis (7-17-03)**

**Sponsor: Rep. Sal Rocca
House Committee: Local Government
and Urban Policy
Senate Committee: Local, Urban and
State Affairs**

THE APPARENT PROBLEM:

Freedom Hill County Park, located in Sterling Heights (on Metropolitan Parkway between Schoenherr and Utica Roads), is a 100-acre public park operated by the Macomb County Parks and Recreation Commission (which leases the land from the Huron-Clinton Metropolitan Authority). The park was opened in 1974, on the site of a closed 40-acre landfill whose clean-up plan continues to be a matter of litigation with the state attorney general. (See *BACKGROUND INFORMATION* below.)

Since the park was opened nearly 30 years ago, its amphitheatre, banquet center, and other entertainment venues have become the site for hundreds of events including ethnic festivals, dances, concerts, and military displays. The amphitheater and lawn seating accommodate 12,000 concertgoers. Recreational sports areas also are available, as well as hike and bike and ski trails, and a remote control race track. The site serves as a regular mid-week outdoor market each Wednesday, from April to October each year. A full calendar featuring more than 25 events is available on the park's website address: <http://www.macomb.lib.mi.us/macpar/events.htm>

Several mature neighborhoods surround the park. When the homes in these neighborhoods were constructed, the nearby parkland was a landfill area. After the landfill closed, nearby residents welcomed the early improvements to the site, as the area was transformed into a recreational area. However, with the coming of the amphitheater, and thousands of concertgoers, the purpose of the park has changed: the concerts are loud, they attract many strangers to the area, and the congestion threatens the quiet and safety of the local residents. County officials have hired a management company to operate the amphitheater, and the company books live entertainment—customarily, bands with amplified

sound—to provide music during evening hours for concertgoers coming to the park in the summer months. According to committee testimony, loud snowmobile races have been held, as well.

When the Macomb County Parks and Recreation Commission expanded Freedom Hill Park, the membership of the commission did not include any residents familiar with the local neighborhood. Without representation on the parks commission, it is alleged, the neighbors' concerns were not addressed. In order to give neighbors a say in matters such as these so that the worst of their complaints can be mitigated, legislation has been proposed which would require neighborhood representation on the county parks and recreation commissions within highly populated counties.

Currently Public Act 261 of 1965, which regulates county and regional parks, specifies that a county board of commissioners may create a county parks and recreation commission, whose membership is to consist of the chair of the county road commission (or another road commissioner so designated), the county drain commissioner, either the county executive or the chair of the county planning commission (or a designee), and seven members appointed by the commissioners. Legislation as proposed would alter this law, but only as it applies to Macomb County, which has a single county park: Freedom Hill.

THE CONTENT OF THE BILL:

The bill would amend Public Act 261 of 1965 to require that for counties with a population greater than 750,000 but less than one million (Macomb County), the county board of commissioners appoint

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a neighborhood representative to the county parks and recreation commission.

Under the bill, the appointee to county parks and recreation commission must be an officer of the homeowners' or property owners' association that represents the largest area geographically that is located totally or partially within 500 feet of the property boundary of the most frequently used county park. If there was no such association within 500 feet, or if no officer of such an association was willing to serve, then the appointee would have to be a resident within a half-mile area [of the park]. If no resident lived within that half-mile area, or if no such resident was willing to serve, then the appointee would have to be a resident of the city, village, or township in which the park was located who was willing to serve on the commission. The bill specifies that the first appointment under this subdivision would be made not less than 30 days after the effective date of the bill. Further, the first neighborhood representative appointed would serve a term that ended two years from the following January 1.

Public Act 261 authorizes a county board of commissioners to create a county parks and recreation commission and describes its powers and duties. The act says that such a commission is to consist of ten members: the chair of the county road commission or another commissioner; the county drain commissioner; either the county executive or the executive's designee (where a county executive is elected) or, in a county with a population under one million, the chair of the county planning commission or another planning commission member selected by the chair; and seven members appointed by the county board of commissioners, not less than one or more than three of whom must be county commissioners. House Bill 4456 would eliminate the 10-member limit on the total size of the commission so as to accommodate an eleventh member when a neighborhood representative must be appointed, but otherwise leaves the composition of the board as it is now.

MCL 46.351

BACKGROUND INFORMATION:

According to the *Detroit Free Press* (5-1-03), Michigan Attorney General Mike Cox alerted officials that the former landfill at Freedom Hill was still in need of a clean-up plan, and alerted parties involved in litigation who had missed an April 15 deadline, that the state was closer to bringing them

back to court. The Freedom Hill landfill was closed in 1968, and Freedom Hill County Park opened on the site in 1974, but complaints of odors and strange substances bubbling from the ground surfaced in the interim. After years of testing, the state concluded there are hazardous substances at the site in higher concentrations than regulations allow. A 2001 study found pollutants running from the site into the nearby Red Run Drain, which feeds into the Clinton River and Lake St. Clair.

In 1995, then Attorney General Frank Kelley filed a lawsuit in Macomb County Circuit Court, alleging that the landfill had not been properly capped and posed a threat to public health. The lawsuit sought a full clean-up of the site and reimbursement for testing and litigation expenses. The state named several parties as possibly responsible for the site, including the South Macomb Disposal Authority (SMDA), the agency that ran the landfill; the Huron-Clinton Metropolitan Authority, which bought the land in 1973, and the Macomb County Parks and Recreation Department, which operates the park and leases it from Huron-Clinton.

FISCAL IMPLICATIONS:

The bill would have no fiscal impact on state or local government, according to the Senate Fiscal Agency. (SFA floor analysis dated 6-13-03)

ARGUMENTS:

For:

When a new and incompatible land use such as a 100-acre public park is approved near residential areas, those who must live with the changes that occur within their neighborhoods deserve a voice—both in the development of the site plan, and in the ongoing operations of the park. Representation on the Macomb County Parks and Recreation Commission by a resident from one of the neighborhoods near Freedom Hill County Park will ensure that those who book events at the park take neighbors' concerns about noise, congestion, and safety into consideration as they make decisions that can disrupt their residential neighbors' lives. That way, the park's hours of operation and the types of entertainment can be modified so there is greater compatibility and understanding between neighbors in the mixed-use environment.

Response:

Freedom Hill County Park is the site of an improperly capped landfill, closed in 1968 but according to the state's attorney general, still the

subject of ongoing litigation. It may well be that the noise pollution that the local residents suffer from the park is severe. It also seems that water pollution is a significant problem near the site. According to press reports (*Detroit Free Press* 5-1-03), after years of testing, the state has concluded there are hazardous substances at the site in higher concentrations than regulations allow. And a 2001 study found pollutants running from the site into the nearby Red Run Drain, which feeds into the Clinton River and Lake St. Clair. Those who have responsibility for the site, including appointed officials, may well bear responsibility for the site's environmental clean-up, and they should be alerted to that possibility before they volunteer for public service.

Against:

Governor Granholm vetoed House Bill 4456 because of what she described as the bill's "technical deficiencies". First, the bill says that if no neighborhood association exists within 500 feet of the county's most frequently used park or if no officer of that association is willing to serve on the park commission, then the appointee shall be "a resident within that one-half mile area who is willing to serve", but the bill does not define the one-half mile area. [Note: in an earlier version of the bill, the neighborhood association was to be within a one-half mile of the park's property boundary and then if no association existed or no association member wanted to serve, a resident from within that one-half mile area was to be selected instead. The bill was later amended to make it apply to an association within 500 feet, but the one-half mile provision was left in the bill for the alternative resident appointment.] The governor's veto message also argues that the bill does not adequately provide for appointments of neighborhood representatives in a county other than Macomb (should another county qualify in the future by meeting the population requirements).

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■ 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.