

COUNTY PARKS AND RECREATION COMMISSION MEMBERSHIP

House Bill 4967 as passed by the House Second Analysis (8-14-03)

Sponsor: Rep. Sal Rocca
Committee: None

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 a site that encompasses 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 also 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 certain highly populated counties.

Currently Public Act 261 of 1965, which regulates county and regional parks, allows a county board of commissioners to create a county parks and recreation commission with the membership to consist of the chair of the county road commission (or another road commissioner so designated); the county drain commissioner; either the elected county executive when there is one or the chair of the county planning commission (or a designee) or the chair or other member of the regional planning commission who is a county resident; and seven members appointed by the commissioners, including from one to three members of the county commission itself.

Legislation addressing this issue passed both houses of the legislature earlier this session but was vetoed by the governor on the grounds its language was technically deficient. (See Background Information below.) A new bill has been introduced to address the issue and to address concerns noted in the veto message.

THE CONTENT OF THE BILL:

House Bill 4967 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 a neighborhood representative to the county parks and recreation commission.

Under the bill, the appointee to the 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 1,000 feet of the property boundary of the most frequently used county park. If there was no such association within 1,000 feet, or if no officer of an existing association was willing to serve, then the appointee would have to be a resident within a half-mile of that park. If no resident lived within a half-mile of that park, or if no resident was willing to serve, then the appointee would have to be a resident of the city, village, or township in which that 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 more than 60 days after the effective date of the bill, or not more than 60 days from the date a county qualified for an appointment under this subdivision of the law. Further, the first neighborhood representative appointed by a qualifying county would serve a term that ended two years from the following January 1. Subsequent neighborhood representatives would serve three-year terms.

Public Act 261 authorizes a county board of commissioners to create a ten-member county parks and recreation commission and prescribes its membership and its powers and duties. House Bill 4967 would eliminate the ten-member limit on the total size of the commission so as to accommodate an eleventh member in those cases when a neighborhood representative must be appointed, but otherwise leaves the composition of the board as it is now.

MCL 46.351

BACKGROUND INFORMATION:

Governor's veto of similar bill. A substantially similar bill, House Bill 4456 was vetoed by the governor on 7-11-03, on the grounds that its language failed to 1) clearly describe the area within which an appointee to the parks and recreation commission could reside, and 2) apply to all counties (not only Macomb) that might eventually meet the population threshold in the bill.

More specifically, Governor Granholm vetoed House Bill 4456 because of what she described as the bill's

"technical deficiencies". First, the bill said that if no neighborhood association existed within 500 feet of the county's most frequently used park or if no officer of that association was 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". The bill, however, did 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 argued that the bill did 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).

Freedom Hill clean-up plan. 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 House Fiscal Agency reports that there would be no fiscal impact on state or local government. (HFA analysis dated 8-13-03)

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. Putting a resident from one of the neighborhoods near Freedom Hill County Park on the Macomb County Parks and Recreation Commission will ensure that those who book events at the park take neighbors' concerns about noise, congestion, and safety into consideration. 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. (See Background Information.) Those who have oversight responsibility for the park, 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:

Opponents have said that by requiring county commissioners to reserve a position on the parks and recreation commission for homeowners, the bill runs counter to the principle of local control. The legislature should not involve itself in every case where local officials do not behave as some of their constituents desire. Pressure for change would be better applied by local residents at the local level. And, while this bill is intended to apply only to one county (and one special set of circumstances), over time it could apply to others if they met the population requirement.

Response:

The act already spells out quite specifically who is to fill most of the seats on a county parks and recreation commission. The bill would simply provide criteria for one additional member.

POSITIONS:

There are no positions at present.

Analyst: J. Hunault

■ 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.