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BILL ANALYSIS



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Senate Bill 881 (Substitute S-2 as passed by the Senate)
Senate Bill 882 (Substitute S-1 as passed by the Senate)
Sponsor: Senator Bruce Patterson
Committee: Senior Citizens and Veterans Affairs

Date Completed: 9-21-06

RATIONALE

A veterans memorial in Wayne, Michigan, has been the subject of some controversy as the city decided to develop property directly next to the memorial. When the memorial was originally built, evidently it was surrounded by open space on both sides that was suitable for staging marching bands and holding gatherings and events to honor the city's veterans. The city later built a public library north of the memorial, which some felt encroached on the memorial's property. More recently, the city sold the land to the south of the memorial for construction of condominium units, leading to further complaints of encroachments. To prevent similar disputes in the future, it has been suggested that State law should protect veterans memorial property from encroachment, and establish a commission that could recommend the acquisition of veterans memorial property by the State.

CONTENT

Senate Bill 881 (S-2) would create the "Veterans Memorial Property Commission Act" to establish the Veterans Memorial Property Commission, which would have to determine whether any military-related site in the State should be acquired on behalf of the State for protection, and report its recommendations to the Legislature.

Senate Bill 882 (S-1) would create the "Veterans Memorial Property Act" to state that the Veterans Memorial Park and other specified property could be used only to honor and memorialize

veterans of the State, and could not be encroached.

Senate Bill 881 (S-2) is tie-barred to Senate Bill 882.

Senate Bill 881 (S-2)

Within 90 days of the bill's effective date, the Governor would have to appoint seven members to the proposed Veterans Memorial Property Commission, from a list of recommended members provided by the Senate Majority Leader and the Speaker of the House of Representatives. One member would have to represent the Department of Veterans and Military Affairs. The Commission members would serve at the pleasure of the Governor. The Governor could remove a Commission member for incompetence; dereliction of duty; malfeasance, misfeasance, or nonfeasance in office; or any other good cause. If a vacancy occurred, it would have to be filled for the unexpired term in the same manner as the original appointment.

The Commission would have to meet at least once a year. Members would serve without compensation, but could be reimbursed for expenses incurred in the performance of their official duties.

The Commission would have to determine whether any military-related site in the State should be acquired, by purchase or other means, so that it could be protected as a military or veterans memorial site. In deciding whether property was available for acquisition, the Commission could consider input from all of the following:

- The Department of Military and Veterans Affairs.
- The Department of History, Arts, and Libraries.
- The Michigan Historical Museum.
- The general public.

Within 180 days of considering input from those parties, the Commission could determine whether to recommend that the property be acquired for protection. If a majority of members recommended acquisition of specific property, the Commission could report that recommendation to the Legislature. After reviewing the report, the Legislature would have to determine how and whether to proceed.

Upon a request from a member of the Legislature concerning an existing military-related site or veterans memorial on public property that could be subject to encroachment, the Commission would have to review the request and make recommendations to the Legislature about addressing the encroachment, including a recommendation to relocate the memorial or a recommendation to the local unit of government where the memorial was located.

The bill would define "military-related site" as property where a military base, installation, or reserve unit operation once stood; a site where a battle took place in this nation's history; or any veterans memorial site or other site owned by local government honoring veterans. "Encroachment" would mean any obstruction of a military-related site that has the result of obscuring the view of the public or otherwise reducing the public enjoyment and usefulness of the site.

Senate Bill 882 (S-1)

Under the bill, the Veterans Memorial Park and any other property owned by the State that was dedicated to memorializing veterans would have to be used solely for the purpose of honoring and memorializing veterans of the State.

The bill specifies that the boundaries of State-owned property that was dedicated to memorializing veterans could not be encroached or desecrated.

A person who violated the bill would be responsible for a State civil infraction and could be ordered to pay a maximum civil fine of \$500.

"Encroachment" would mean any obstruction of property that has the result of obscuring the view of the public or otherwise reducing the public enjoyment and usefulness of the site.

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

The recent difficulties in Wayne over the placement of buildings next to the veterans memorial there have brought to light the fact that there is little statutory protection for these memorials in Michigan. According to the U.S. Census Bureau, the State has over 820,000 veterans who have served in combat from World War II up to the current wars in Iraq and Afghanistan. The service of those individuals should be honored and remembered through local memorials, and those sites should be protected against improper development that obstructs the view or diminishes the quality of the memorial. In Wayne, when the memorial was constructed, it reportedly occupied 800,000 square feet of open space that could be used for parades, memorial services, and other events. Trees shaded parts of the open area surrounding the memorial, and its view was unobstructed from the north and the south.

The green space around the memorial has been reduced drastically, to only 8,000 square feet, with the construction of a library on one side and the more recent addition of condominiums on the other side (although the city reportedly indicated that it has no records that the open lot south of the memorial was ever included as part of the memorial property). The spatial limitations have made proper ceremonies difficult to conduct. In the 2005 Memorial Day parade, *The Detroit News* reported, marching bands had to perform across the street from the memorial, and city officials were positioned with their backs to the flag during the ceremony, an improper gesture.

Senate Bill 881 (S-2) would require the Veterans Memorial Property Commission to determine whether sites such as the Wayne Veterans Peace Memorial should be acquired by the State, or whether other action should be taken to preserve the sites. Particularly at a time when the nation is at war, places honoring the sacrifices of men and women in uniform should be protected. Senate Bill 882 (S-1) would establish a civil infraction penalty for anyone who encroached on or desecrated a State-owned memorial, and would ensure that memorial property could be used only to honor and memorialize veterans. These measures would protect memorials across the State, and help ensure that the sacrifices of veterans are remembered into the future.

Opposing Argument

The Commission proposed under Senate Bill 881 (S-2) would parallel the already existing Veterans Memorial Park Commission, and the duties of the two bodies could overlap. In addition, the bill would provide no increased funding for the operation of the proposed Commission. Although the bill states that the members would serve without compensation, members still would incur necessary expenses in carrying out their duties. Commission members presumably would have to travel around the State to review sites as required under the bill, and would need to cover basic administrative costs as well. Those expenses should be taken into account in the bill.

Legislative Analyst: Curtis Walker

FISCAL IMPACT

Senate Bill 881 (S-2)

The costs of the Commission would be minimal for actual and necessary expenses of Commission members. The actual purchase of property would be contingent upon appropriations by the Legislature.

Senate Bill 882 (S-1)

Enforcement costs and fines would depend on the number of violations.

Fiscal Analyst: Bill Bowerman

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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.