



**House  
Legislative  
Analysis  
Section**

Olds Plaza Building, 10th Floor  
Lansing, Michigan 48909  
Phone: 517/373-6466

**ROCHESTER-UTICA REC. AREA**

**House Bill 4088 as enrolled  
Second Analysis (1-29-94)**

**Sponsor: Rep. David Jaye  
House Committee: State Affairs  
Senate Committee: State Affairs &  
Military/Veteran Affairs**

***THE APPARENT PROBLEM:***

Like many other public entities operating under budget constraints, the Department of Natural Resources (DNR) has been evaluating its programs and considering how these programs can be run at the least cost and the most benefit to the citizens of the state. As part of an ongoing review of the state parks system, in particular, the department has been considering when and where it might be feasible to turn over certain property it currently operates to local units of government. For the past year, under a use agreement with the DNR, four local governments -- the charter township of Shelby, in Macomb County, and the cities of Rochester, Utica, and Rochester Hills -- have been managing the Rochester-Utica Recreation Area, a state park of about 2,000 acres located where the boundaries of these four local units meet. Legislation has been introduced that would convey the part of the recreation area in Shelby Township to the township.

***THE CONTENT OF THE BILL:***

The bill would allow the Department of Natural Resources (DNR) to convey, for one dollar, the part of the Rochester-Utica Recreation Area located in the charter township of Shelby, Macomb County, to the township.

The conveyed land would have to be used for a public park, open to the public on the same terms, fees and conditions. If it were no longer used for a public park, or was used for any other purpose, title to the property would immediately revert to the state (which would not be liable for any improvements made by the township). The conveyance would require that the park be open to all members of the public under the same fees (both annual and daily), terms, and conditions. However, Shelby Township could waive certain fees (daily fees or fees for the use of specific areas or facilities) for specified groups or classes of people,

provided that the waiver applied to all members of that group or class regardless of where they lived. The shooting range and the Shadbush Nature Study Area located on the property would have to remain open unless the DNR approved its closure. If either the range or the nature study area was closed without DNR approval, it would, at the option of the department, revert to the state.

The conveyance would be by quitclaim deed, and the state would retain oil, coal, gas, and other materials (except for sand, gravel, clay, and other nonmetallic minerals).

The bill is tie-barred to Senate Bill 331 (Public Act 123 of 1993), which would convey the rest of the Rochester-Utica Recreation Area to the cities of Rochester Hills, Utica, and Rochester under the same terms and conditions. (Originally, House Bill 4088 would have conveyed the recreation area to all four local units of government.)

***FISCAL IMPLICATIONS:***

According to the Senate Fiscal Agency, the Department of Natural Resources reported that the conveyance of the Rochester-Utica Recreation Area to the four local units of government would save the state approximately \$400,000 a year: \$200,000 annually in payments in lieu of taxes and \$200,000 annually in additional operational costs. (6-25-93)

***ARGUMENTS:***

***For:***

The conveyance would save money for the state by releasing the state from payments in lieu of taxes on the parcel, as well as relieving the state of the responsibility to see that the park is maintained and

House Bill 4088 (1-29-94)

upgraded to meet existing safety codes and the requirements of the federal Americans with Disabilities Act. According to the Department of

Natural Resources (DNR), if the conveyance did not go through the state would have to continue operating the park but this would be difficult to do given the department's current funding.

The DNR has been working with the four local units of government within whose boundaries the Rochester-Utica Recreation Area is located. The local governments have operated the recreation area for the last year under a use permit (a legal means by which the DNR can allow someone other than the department to operate DNR lands), and, according to the department, have done a good job. In fact, a department representative testified that the department could not maintain the land as well as the local units of government. By allowing the conveyance, the total recreational opportunities would be enhanced; without the conveyance, these opportunities would be reduced rather than enhanced.

***Against:***

Because local residents will be paying the major costs for maintaining and upgrading the recreation area, once the land is conveyed to a local unit of government the local unit ought to be allowed to charge differential use permit fees for residents and non-residents. This has been DNR policy in the past and ought to be allowed in this case too. Reportedly, at least one of the four local units of government operating a part of the Rochester-Utica Recreation Area already charges a larger annual use permit fee for non-residents than for residents (though the daily fees are the same). And at least one of the local units of government involved says that it will be unable to bring existing deteriorated park facilities up to safety code standards and to meet requirements of the new federal Americans with Disabilities Act without being allowed to charge some differential fees. It seems only fair that since the tax burden for maintaining, improving, and operating this park would fall on local residents, they should get a break on the park fees.

***Response:***

Shelby Township (and, under Senate Bill 331, the other local units of government) is going to be sold valuable state land for a single dollar, which means, in effect, that the land will be a gift to the township from all of the citizens of the state. The township

in all likelihood would not be able to afford to buy the area if it had to pay the fair market value, and certainly local residents will benefit more than other state citizens from keeping this park open. What is more, apparently most of the land in the Rochester-Utica Recreation Area was donated by private individuals in the 1920s (so the land was not acquired with tax dollars), with one of the conditions of the donation being that the donated lands be perpetually maintained by the state as a non-discriminatory public park. Clearly all citizens should be able to use the park under the same terms, conditions, and fees.

***Against:***

There is a structural problem with state park funding in that park fees do not now pay for park maintenance. Rather than turn more and more state land over to local units of government, with the attendant possible problems of access for all state citizens, the underfunding of the state park system ought to be tackled head on.