

Senate Bill 1343 (Substitute H-1)
First Analysis (12-5-00)

Sponsor: Sen. Dave Jaye
House Committee: Conservation and
Outdoor Recreation
Senate Committee: Local, Urban,
and State Affairs

THE APPARENT PROBLEM:

Various portions of the Rochester-Utica Recreation Area, located within the boundaries of Rochester, Rochester Hills, Utica, and Shelby Township, were conveyed by the Department of Natural Resources (DNR) to the respective cities and township in 1993 under the provisions of Public Acts 111 and 123. Most of the land had been donated by private individuals during the 1920s, with one of the conditions being that it be perpetually maintained by the state as a non-discriminatory public park. However, at that time, because of budget cuts, the DNR was in the process of turning over several parcels of land to local governments who, in any case, had operated and maintained the property during the previous year under a use permit (a legal means by which the DNR can allow someone other than the department to operate DNR lands), which expired in 1993. It was intended that the conveyance would allow needed improvements to be made on the property.

The central portion of the recreation area, consisting of some 200 acres, was not conveyed, however. That property was controlled by neighboring landfills, and was not transferred because it was contaminated. According to the DNR, this part of the recreation area has undergone remediation, has now received a "clean bill of health," and is safe for public recreation purposes (remediation work on the property's groundwater, however, will continue far into the future). Accordingly, legislation has been introduced that would convey this last portion of the recreation area to Shelby Township.

THE CONTENT OF THE BILL:

The bill would require that the Department of Natural Resources (DNR) convey, on behalf of the state, property, as described in the bill, located in Macomb County to the charter township of Shelby for \$1. The conveyance would have to be made by quitclaim deed,

approved by the attorney general, and could not reserve mineral rights to the state. Revenue received under the bill would have to be deposited in the state treasury and credited to the general fund. The bill would require that the property would have to be used exclusively for public park and recreation purposes, or for a wildlife habitat, or both. Further, if any fee, term, or condition for the use of the property was imposed on or waived for members of the public, then resident and nonresident members of the public would be subject to the same fees, terms, conditions, and waivers. Under the bill, the conveyance would have to include the following provisions:

Provisions. The conveyance would have to provide that the property would be transferred back to the state if the township no longer made it available for public recreation, and that the attorney general could bring an action to quiet title to the property and regain possession of it on behalf of the state if the grantee disputed the state's right of reentry and did not promptly deliver possession of the property to the state.

Restrictive Covenant. 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, to specify the land use or resource use restrictions, or both, 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 of the Natural Resources and Environmental Protection Act (NREPA), which concerns environmental remediation, and with the federal Comprehensive Environmental Response Compensation and Liability Act (CERCLA) (94 Stat. 2767). The bill would specify that the form and content of the restrictive covenant would be subject to the approval of the Department of Environmental Quality (DEQ).

The bill would also specify that its provisions pertained solely to the conveyance and restricted use of the property described in the bill, and that it would not alter the obligations, rights, or duties – either substantive or procedural – of any party under any judicial or administrative act that took effect before the bill's effective date.

HOUSE COMMITTEE ACTION:

The House committee adopted a substitute (H-1), which added provisions regarding a restrictive covenant.

FISCAL IMPLICATIONS:

The Senate Fiscal Agency (SFA) estimates that the bill would have no fiscal impact on the state. However, the SFA notes that the conveyance could result in some savings, since the state would no longer have to maintain and oversee the property. (9-27-00)

ARGUMENTS:

For:

By conveying ownership of the last portion of state-owned land in the Rochester-Utica Recreation Area, the bill would relieve the state of the responsibility of upgrading and maintaining the park in accordance with existing safety codes. The state would still have the responsibility of ascertaining that park grounds comply with current environmental regulations, and the bill includes provisions for a restrictive covenant to ensure that environmental contamination remedies comply with current laws regarding environmental remediation. Cleanup costs incurred by the landfills that previously controlled this portion of land would still be the responsibility of the landfill owners, however, and the bill includes provisions which make it clear that the former landfill owners' obligations could not be altered.

POSITIONS:

The Department of Natural Resources supports the bill. (11-30-00)

Shelby Township supports the bill. (12-1-00)

Analyst: R. Young

#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.