

WESTERN MICHIGAN PROPERTY CONVEYANCES

Mitchell Bean, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 5207 (Substitute H-1)

Sponsor: Rep. Robert Jones

Committee: Commerce

Complete to 9-1-09

A SUMMARY OF HOUSE BILL 5207 AS REPORTED FROM COMMITTEE

House Bill 5207 (H-1) contains three separate conveyances of property that previously were contained in three House bills, HB 5205-5207. Each involves property being conveyed to Western Michigan University.

First conveyance

The first conveyance would authorize the State Administrative Board to convey to Western Michigan University (WMU) the right of reverter and the right of reentry for property located in Kalamazoo County for \$1.00. The public use reverter and right of reentry language is contained in the quitclaim deed dated July 22, 1989.

The property houses the original State Tuberculosis Sanitarium, which is said to be in a state of disrepair. According to the University, they continue to secure the property with fencing and lighting, but the property remains a concern and liability. Conveying the public use reverter and right of reentry would permit WMU and the city of Kalamazoo to use the property for other purposes, such as low-income housing.

An approximate legal description of the property is set forth in the bill. The conveyance would be by instrument approved by the Attorney General. Net revenue received under the bill would be credited to the General Fund.

Second conveyance

The second conveyance would authorize the State Administrative Board to convey state-owned property located in Kalamazoo County, now under the jurisdiction of the Department of Corrections, to Western Michigan University (WMU) for \$1.00. An approximate legal description of the property is set forth in the bill and the property would include all surplus, salvage, and scrap property or equipment remaining on the property at the time of conveyance.

The property is the site of the former Kalamazoo Regional Psychiatric Hospital and is currently in state surplus. The property is adjacent to the current WMU Health and Human Services campus.

The property would be required to be used exclusively for public purposes, and any fees, terms, or conditions for the use of the property would have to be applied uniformly to all

members of the public. The State would be authorized to reenter and repossess the property if these conditions were not met.

If the property is not sold to Western Michigan University within six months of the effective date of the bill, the Department of Management and Budget (DMB) would be required to take the necessary steps to convey the property through competitive bidding, a public auction, use of real estate brokerage services, a value for value conveyance, offering the property for sale for fair market value to a local unit or units of government, or offering the property for sale for less than fair market value to a local unit or units of government. If the property is sold to a local unit or units of government, the property would be required to be used exclusively for public purposes, and any fees, terms, or conditions for the use of the property would be required to be applied uniformly to all members of the public.

If the local unit or units of government intend to convey the property within three years of the conveyance from the State, notice to DMB would be required. The State would retain a right to first purchase the property at the original sale price. If the State waives the right, the local unit would have to pay the State 40% of the difference between the sale price of the conveyance from the State and the sale price of the local units' subsequent sale or sales to a third party.

The property would be conveyed by a quitclaim deed approved by the Attorney General. The State would not reserve oil, gas, or mineral rights to the conveyed property, but the purchaser or any grantee would have to pay the State one-half of any gross revenue generated from the development of oil, gas, or minerals. The State would reserve all rights in aboriginal antiquities, including the right to explore, excavate, and take them. Aboriginal antiquities include mounds, earthworks, forts, burial and village sites, mines, and other relics, on, within, or under the property.

Net revenue received under the bill would be credited to the General Fund.

Third conveyance

The provisions of the third conveyance would first authorize the State Administrative Board to accept property back from Western Michigan University (WMU) for \$1.00. The property is located in Kalamazoo County and was originally conveyed to WMU on June 25, 1978 via quitclaim deed. The quitclaim deed contained public use reverter and right of reentry language. The original conveyance authorized Michigan State University (MSU) to use the property for performing entomology research. An agreement has been reached between WMU and MSU to terminate use of the property for that purpose. In order to change the allowable uses, the property has to be conveyed back to the State. An approximate legal description of the property is set forth in the bill.

Second, the bill would authorize the State Administrative Board to convey the property back to WMU for \$1.00 via quitclaim deed or other instrument approved by the Attorney General. The property would then have to be used exclusively for the purpose of expanding and improving the Business Technology and Research Park located on

Western Michigan University's Parkview Campus. Any fees, terms, or conditions imposed for the use of the property would be required to be applied uniformly to all members of the public. The State would be authorized to reenter and repossess the property if these conditions were not met.

The State would reserve all rights in aboriginal antiquities, including the right to explore, excavate, and take them. Aboriginal antiquities include mounds, earthworks, forts, burial and village sites, mines, and other relics, on, within, or under the property.

FISCAL IMPACT AND BACKGROUND INFORMATION:

First Conveyance: The property houses the original State Tuberculosis Sanitarium. Net revenue of \$1.00 would be credited to the General Fund.

Second Conveyance: The property is the site of the former Kalamazoo Regional Psychiatric Hospital and is currently in state surplus. The property is adjacent to the current WMU Health and Human Services campus. As stated in the bill, net revenue received under the bill would be credited to the General Fund. There would be an indeterminate amount of revenue to the state if the purchaser or any grantee developed oil, gas, or minerals found on, within, or under the property.

Third Conveyance: The property is currently used by Michigan State University for entomology research. This use reportedly will end over the next three years. The property is adjacent to the WMU Parkview Campus and its Business Technology and Research Park. The bill allows for the expansion of that facility into the property being re-conveyed. According to WMU, the BTR Park has consistently been rated one of the most successful smart zones in the State. It houses 31 companies and 645 jobs specializing in life-science, advanced engineering, and information technology. It contributes \$24.9 million in annual payroll and \$811,000 in annual property taxes. The bill would have no direct fiscal impact on the State.

POSITIONS:

Western Michigan University testified in support of the bill. (8-26-09)

The Department of Management and Budget - Real Estate Division indicated support for the bill. (8-26-09)

The Michigan Environmental Council indicated opposition to the bill—specifically the third conveyance which allows property currently used for entomological research to be used to expand the WMU Business Technology and Research Park at the Parkview Campus. An article provided by the MEC points out that the original conveyance restricted the use of the property "*solely for public park, recreation, or open space purposes, except that the legislature, by statute, may authorize Western Michigan University to utilize the property for some other public purpose.*" This language would be removed by the conveyance provisions of HB 5207. (8-26-09)

A representative of the Asylum Lake Preservation Association testified in opposition to the elimination of the existing public use restrictions on property involved in the third conveyance, which will allow WMU to expand its Business Technology and Research Park into what is now the Colony Farm Orchard property. According to information provided at the committee hearing, "ALPA believes that developing this tract will pose a serious risk to the watershed and sensitive ecosystems of the neighboring Asylum Lake Preserve and decrease protection of the preserve from the impact of the high traffic volumes on US-131 west of the Orchard." (9-26-09)

A representative of the Oakland Drive/Winchell Avenue Neighborhood Association indicated opposition to the bill's third conveyance provisions.

Note: Testimony provided in support and opposition at the committee hearing is available here:

<http://www.house.mi.gov/committeeinfo.asp?lstcommittees=commerce&submit=Go>

Fiscal Analyst: Robin R. Risko
Legislative Analyst: Chris Couch

■ 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.