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BILL ANALYSIS



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Senate Bill 881 (as enacted)
Sponsor: Senator Mike Nofs
Senate Committee: Local Government
House Committee: Appropriations

PUBLIC ACT 512 of 2016

Date Completed: 4-19-17

CONTENT

The bill created a new act to do the following:

- Permit the Department of Technology, Management, and Budget (DTMB) to convey or transfer by affidavit of jurisdictional transfer certain real property owned by the State that is under the jurisdiction of the Michigan Department of State Police (MSP) or the Department of Corrections (DOC).
- Permit the DTMB to transfer by affidavit of jurisdictional transfer to specific State departments or agencies land that is under the jurisdiction of the DTMB or the Department of Health and Human Services.
- Allow property to be transferred with or without consideration to another State agency.
- Allow the DTMB to take other necessary steps to convey the MSP or DOC property using various means, including offering it for less than fair market value to the local unit in which a parcel is located.
- Require property conveyed for less than fair market value to be used exclusively for public use for 30 years.
- Require conveyances to be approved by the State Administrative Board, and establish other conditions for them, including that property used by the State for certain purposes be maintained for those purposes in perpetuity.
- Require net revenue from the sale of property to be credited to the General Fund.
- Allow the State to re-enter and take conveyed property that is used in a manner that violates certain restrictions.

In addition, the bill requires the DTMB to convey by quitclaim deed a particular parcel in the Village of Blissfield, Lenawee County, to the village for \$1.

The bill took effect on January 9, 2017.

Property to be Conveyed; Methods of Conveyance

The DTMB may convey by quitclaim deed, or transfer by affidavit of jurisdictional transfer, all or portions of the following real property owned by the State that is under the jurisdiction of the Department of State Police:

- Two parcels of land in the Village of L'Anse in Baraga County.
- Certain lots located in Bangor Township in Bay County.
- Two parcels located in Battle Creek Township in Calhoun County.
- Land located in Emerson Township in Gratiot County.

- A parcel in Lenawee County along N. Adrian Highway (M-52), with the exception of certain property identified in the bill, and subject to an easement described in the bill.
- Property in the City of Manistee in Manistee County.
- A parcel located in the City of South Haven in Van Buren County.

In addition, the DTMB may convey, by quitclaim deed or transfer by affidavit of jurisdictional transfer, all or portions of the following real property owned by the State that is under the jurisdiction of the Department of Corrections:

- A parcel in Adams Township in Houghton County.
- Property in the City of Iron River in Iron County.
- Property in Chocoday Township in Marquette County.
- Property in the City of Monroe in Monroe County.
- A parcel, including certain bottomland, in the Township of Indian Fields in Tuscola County.

The DTMB may transfer the MSP or DOC property with or without consideration to another State agency. Such a transfer must be by affidavit of jurisdictional transfer in recordable form, rather than a quitclaim deed.

The DTMB also may take the necessary steps to convey the property using any of the following means:

- Any publicly disclosed competitive method of sale, selected to realize the fair market value to the State, as determined by the Department.
- Offering the property for sale for fair market value to one or more units of local government in which the property is located.
- Exchanging some or all of the property for other real property, if the Department determines the other property to be of reasonably equal value to the State.
- Offering the property for less than fair market value to the local units in which the property is located.
- Transferring the property to the Land Bank Fast Track Authority.

The bill defines "fair market value" as the highest estimated price that the property will bring if offered for sale on the open market, allowing a reasonable time to find a purchaser who would buy with knowledge of the property's possible uses. "Unit of local government" means a township, village, city, county, school district, intermediate school district, or community college district.

Transfer of DTMB or DHHS Property

The DTMB may transfer by affidavit of jurisdictional transfer to specific departments or agencies, with or without consideration, all or portions of State-owned property that is under the jurisdiction of the Department of Technology, Management, and Budget or the Department of Health and Human Services (DHHS), as follows:

- Two parcels in the City of Lansing in Ingham County under the DTMB's jurisdiction, which may be transferred to the Department of Military and Veterans Affairs.
- Eight parcels in Green Oak Township in Livingston County under the DHHS's jurisdiction, which may be transferred to the Department of Corrections.
- One parcel in Burr Oak Township in St. Joseph County under the DTMB's jurisdiction, which may be transferred to the Michigan Land Bank Fast Track Authority.

Conveyance for Less than Fair Market Value

The following provisions apply if the MSP or DOC property is offered to the units of local government in which the property is located for less than fair market value.

If a local unit makes an offer to purchase the property for less than fair market value and the DTMB accepts the offer, the local unit must enter into a purchase agreement within 60 days after making the offer and complete the conveyance within 180 days. The DTMB may extend the time to complete the conveyance as needed.

The property must be used exclusively for public use for 30 years after the conveyance, except that property used by the State as a historical monument, memorial, burial ground, park, or protected wildlife habitat must be maintained and protected for that purpose in perpetuity. If a fee, term, or condition is imposed on members of the public for use of the property, or a fee, term, or condition is waived, all members of the public must be subject to the same fees, terms, conditions, and waivers. The public use restriction must be included in the deed.

If the local unit intends to convey the property within 30 years after the conveyance from the State, the local unit first must offer the property for sale, in writing, to the State, which may purchase the property at the original sale price. The local unit must give the State 120 days to consider reacquiring the property. If the State agrees to reacquire the property, it will not be liable for improvements to or liens placed on the property. If the State declines to reacquire the property, the public use restrictions will remain in effect.

Except as required for a historical monument, memorial, burial ground, park, and wildlife habitat, the public use restrictions will automatically terminate if the local unit retains the property for 30 years.

The DTMB may require the local unit to reimburse the State at closing for costs demonstrably incurred by the State that were necessary to prepare the property for conveyance.

The bill defines "public use" as actual use of the property by members of the public or actual use by the local unit for any of the following:

- Publicly owned and operated correctional facilities.
- Law enforcement purposes.
- Emergency management response purposes.
- Public educational use.
- Public transportation.
- Public parks and recreational areas.
- Public health uses.
- Wildlife conservation or restoration.

The term does not include use by a for-profit enterprise or any use that is closed to the public.

Conditions of Conveyance or Transfer

The DTMB may not convey property unless the State Administrative Board has approved the conveyance and its terms. A deed or affidavit of jurisdictional transfer must be approved as to legal form by the Department of Attorney General.

If real property is to be sold for fair market value, fair market value must be determined by an independent fee appraisal prepared for the DTMB or by an appraiser who is an employee or contractor of the State. The DTMB must deposit the net revenue received from the sale of property in the State Treasury and the Treasurer must credit the money to the General Fund.

The State agency with jurisdiction over real property conveyed or transferred is responsible for all expenses of maintaining the property until the time of conveyance or transfer. Real property conveyed or transferred includes all surplus, salvage, and personal property or equipment remaining on the property on the date of the conveyance or transfer.

The State may not reserve oil, gas, or mineral rights to conveyed property. The conveyance must provide, however, that if the grantee or any successor develops any oil, gas, or minerals found on, within, or under the conveyed property, the grantee or successor must pay the State one-half of the gross revenue generated from the development of oil, gas, or minerals. The payment must be deposited in the General Fund.

A conveyance must reserve to the State all aboriginal antiquities, including mounds, earthworks, forts, burial and village sites, mines, or other relics lying on, within, or under the property, with power to the State and all others acting under its authority to enter the property for any purpose related to exploring, excavating, and taking away the aboriginal antiquities.

If the State used conveyed property as a historical monument, memorial, burial ground, park, or protected wildlife habitat area, the grantee or any successor must maintain and protect the property for that purpose in perpetuity in accordance with applicable law.

If conveyed property is used in a manner that violates any of the following, the State may re-enter and take the property, terminating the grantee's or any successor's estate in it:

- The conditions for offering the property to a local unit for less than fair market value.
- The oil, gas, or mineral rights requirements.
- The aboriginal antiquities requirements.
- The requirement to maintain monuments, memorials, burial grounds, parks, or protected wildlife habitats in perpetuity.

An action to regain possession of the property may be brought and maintained by the Attorney General on behalf of the State. If the State re-enters and repossesses the property, the State will not be liable to reimburse any person for any improvements made on the property or to compensate any person for any part of an unfulfilled contract or license issued to provide goods or services on or for the property.

The DTMB may require a grantee of conveyed property to record the instrument of conveyance or jurisdictional transfer with the appropriate register of deeds and give the Department a recorded copy of the recorded instrument.

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bill authorizes the DTMB to convey several parcels of property, as listed above. The property includes parcels under the jurisdiction of the Michigan State Police, Department of Corrections, DTMB, and DHHS. Net revenue to the State from the conveyance of these parcels will depend on the terms of conveyance (i.e., whether the property is transferred for less than fair market value to a local unit of government, conveyed for fair market value, or transferred to another State department or agency with or without consideration). Property transferred to the Michigan Land Bank Fast Track Authority is subject to statutory provisions allowing the Authority to transfer property for less than fair market value without a requirement to retain it for public purpose use. Departments that will no longer have jurisdiction over transferred property will realize cost savings due to avoided maintenance costs.

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.