



Senate Fiscal Agency
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BILL ANALYSIS



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Senate Bill 881 (Substitute S-2 as passed by the Senate)
Sponsor: Senator Mike Nofs
Committee: Local Government

Date Completed: 10-10-16

RATIONALE

In recent years, the Michigan Department of State Police (MSP) has reorganized its operations by changing its service delivery model. This effort has focused on shifting resources away from buildings and eliminating post-based jurisdictional boundaries. New patrol regions have been established and a number of brick-and-mortar posts have been closed; as a result, the State owns additional surplus property. Therefore, it has been suggested that the Department of Technology, Management, and Budget be statutorily authorized to convey or transfer certain parcels of property that are no longer needed for MSP operations.

CONTENT

The bill would create 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 Department of State Police.**
- **Allow the property to be transferred with or without consideration to another State agency.**
- **Allow the DTMB to take other necessary steps to convey the property using various means, including offering it for less than fair market value to the local unit in which a parcel is located.**
- **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 was used in a manner that violated certain restrictions.**

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

Property to be Conveyed; Methods of Conveyance

The DTMB would be permitted to 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 Gratiot County's Emerson Township.
- A parcel in Lenawee County along N. Adrian Highway (M-52), with the exception of certain property described 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.

The DTMB could transfer the property described above with or without consideration through jurisdictional transfer to another State agency. Such a transfer would have to be made by an affidavit of jurisdictional transfer in recordable form rather than by quitclaim deed.

The DTMB also could 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 determined 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.

"Fair market value" would mean 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.

Conveyance for Less than Fair Market Value

The following provisions would apply if property were conveyed to a local unit for less than fair market value.

If a local unit offered to purchase property for less than fair market value and the DTMB accepted the offer, the local unit would have to enter into a purchase agreement within 60 days after making the offer and complete the conveyance within 180 days. The DTMB could extend the time to complete the conveyance as needed.

The property would have to 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 would have to be maintained and protected for that purpose in perpetuity. If a fee, term, or condition were imposed on members of the public for use of the property, or a fee, term, or condition were waived, all members of the public would have to be subject to the same fees, terms, conditions, and waivers. The public use restriction would have to be included in the deed.

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

Except for the historical monument, memorial, burial ground, park, and wildlife habitat restrictions, the public use restrictions would automatically terminate if the local unit retained the property for 30 years.

The DTMB could 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.

"Public use" would mean 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 "public use" would not include use by a for-profit enterprise or any use that is closed to the public.

Conditions of Conveyances

The conditions described below would apply to the conveyance of property under the proposed act.

The DTMB could not convey property unless the State Administrative Board approved the conveyance and its terms.

If real property were to be sold for fair market value, fair market value would have to be determined by an independent fee appraisal prepared for the DTMB or by an appraiser who was an employee or contractor of the State.

The State agency with jurisdiction over real property conveyed or transferred would be responsible for all expenses of maintaining the property until the time of conveyance or transfer.

A deed or affidavit of jurisdictional transfer would have to be approved as to legal form by the Department of Attorney General.

Real property conveyed or transferred would include all surplus, salvage, and personal property or equipment remaining on the property on the date of the conveyance or transfer.

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

A conveyance would have to 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 would have to maintain and protect the property for that purpose in perpetuity in accordance with applicable law.

The DTMB would have to deposit the net revenue received from the sale of property in the State Treasury and the Treasurer would have to credit the deposited money to the General Fund. "Net revenue" would mean the proceeds from the sale of the property less reimbursement for any costs to the DTMB associated with the sale, including administrative costs, the costs of reports and studies and other materials necessary to the preparation of sale, environmental remediation, legal fees, and any litigation costs related to the conveyance. Administrative costs would include employee wages, salaries, and benefits.

If conveyed property were used in a manner that violated any of the following, the State could re-enter and take the property, terminating the grantee's or any successor's estate in the property:

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

An action to regain possession of the property could be brought and maintained by the Attorney General on behalf of the State. If the State re-entered and repossessed the property, the State would 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 could 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.

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 MSP began a reorganization plan in 2011 and has reduced the number of posts it operates from 62 to 30. (Originally, the reduction was to 29 posts, but the Metro South post in Taylor was recently reopened.) Compared with the previous approach, this regional policing model focuses on providing services through a more flexible, mobile work force that is less reliant on the use of physical structures. As a result, the MSP does not need as many posts as it once had, and can operate out of regional centers and essentially use patrol vehicles as mobile offices.

The Department of State Police continues to use some of the closed facilities as "detachment" centers, which serve as locations for troopers to start and end shifts, complete administrative tasks, and conduct meetings. Detachment sites, however, are no longer full-time, fully staffed MSP posts open to the public. Other closed posts are no longer needed by the MSP at all and constitute surplus State property. The bill therefore would authorize the DTMB to convey or transfer certain parcels that have become unnecessary for MSP operations.

The bill would give the DTMB some degree of flexibility as to how the transfer of ownership of most of the affected sites would be handled. For instance, property could be sold to a private purchaser, transferred with or without consideration to another State agency, or conveyed to a local unit for less than fair market value if the property were to be used exclusively for public use. Rather than continue to hold and incur the costs of maintaining surplus MSP property, the State should sell the property or transfer parcels to other public entities for public uses.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would authorize the Department of Technology, Management, and Budget to convey 10 parcels of State-owned property currently under the jurisdiction of the Department of State Police. Five of the parcels include State Police posts and the others involve adjacent property that either was used for parking or held for future expansion. The posts involved became vacant due to the Department of State Police 2011 Reorganization Plan.

Net revenue to the State General Fund would depend on the terms of sale, whether the property would be conveyed to a local unit for less than fair market value, future appraisals of the fair market value of the parcels, and whether the property would be transferred to the Land Bank Fast Track Authority (which has broad powers to transfer property for less than fair market value).

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.