



**House
Legislative
Analysis
Section**

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RECEIVED
SUPER COLLIDER: REIMBURSE LOCAL GOVTS?

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Senate Bill 788 (Substitute H-1)

First Analysis (6-20-88)

Sponsor: Senator Nick Smith Senate Committee: Mich. State Law Library

Appropriations

House Committee: Economic Development and Energy

THE APPARENT PROBLEM:

The Michigan Superconducting Super Collider (SSC) Act was created in 1987 to help the state prepare to establish a proposed \$4.4 billion U.S. Department of Energy (DOE) superconducting super collider in the state if Michigan should win the project. The act established the Michigan SSC Commission which is composed of state officials, university representatives, individuals nominated by legislative leaders, and governor appointed individuals representing various utility, labor, environmental, local government, and private citizen interests. The commission is charged with developing plans for the procurement and development of the proposed SSC project and has had to deliberate on a variety of issues. Perhaps the most crucial issue facing the commission involves trying to determine equitable ways to acquire property for the SSC from property owners in the Stockbridge area — Michigan's site for the proposed project. Many feel if the state is to make a serious attempt to win the SSC project, it must be able to show DOE officials that residents of the area will agree to sell their land to be used for the project. Land acquisition procedures, therefore, must satisfy a number of different constraints, but primarily two: the need to treat landowners fairly in a quick and efficient way, balanced against the state's desire to keep its costs in the acquisition process to a minimum if it should fail to win the project. (Residents of the area are granted minimum protections under various existing state and federal laws.) Other concerns, such as tax revenue decreases which local taxing districts would experience if land were to be taken off property tax rolls, must also be addressed. Since the state has committed itself to winning the SSC without sacrificing the need to protect individual property owners and local governments from initial financial losses that could result, a number of proposals have been offered for purchasing land, relocating those whose land may be acquired, reimbursing local governments for lost property taxes, and educating residents about job-openings that would occur in the proposed area if the U.S. decides to build the SSC in Michigan.

THE CONTENT OF THE BILL:

The bill would amend the Michigan Superconducting Super Collider Act and its title to provide for the purchase of land necessary for the proposed SSC project and to reimburse local units of government for taxes lost due to the removal of property from tax rolls. The bill would add to the definition of local government, "a local or intermediate school district, a community college district, or any special taxing district." The bill would define "parcel" as "that portion of a property that has unity of ownership, contiguity, and unity of use," and would define "contiguity" to mean "in close proximity, touching, or near."

The bill would require the commission to provide that adequate and appropriate compensation was made by the state to businesses or individuals whose property was acquired or who were relocated as a result of the SSC for

"measurable business losses or agricultural production losses" as a result of land acquisition as proposed under the bill.

The bill would delete a repealer date for the act of July 1, 1989, and in its place would specify that all powers and duties of the Michigan Superconducting Super Collider Commission — the governing authority under the act — would be transferred to an "entity" formed by the Michigan Department of Commerce, effective July 1, 1991. Upon the transfer, the SSC Commission would be dissolved.

Land Purchasing Provisions. The commission would be required to purchase all real property necessary for the construction and operation of the super collider at the fair market value price of the property. The bill specifies that if the acquisition of a portion of a particular parcel of real property in "fee simple" (that is, absolute rights without condition or limitation) would destroy the practical value or utility of the remainder of that parcel, or reduce the fair market value of the entire parcel by more than 50 percent, the commission would have to offer to acquire the entire parcel.

The commission would have to offer to enter into option agreements and pay property owners option payments on all parcels of real property to be acquired in fee simple that would be necessary for the construction and operation of the SSC at a price of five percent of the fair market value of the property, but not less than \$500, if the option agreement was signed by the property owner within 60 days of the offer. If Michigan was chosen as the final site of the SSC, the commission would have to offer option payments by no later than April 1, 1990 to property owners for property to be acquired. The option payment could not be applied against the purchase price of the property if the option is exercised. The terms of the options would have to include a provision that the option would extend for a period of one year after the date the option agreement is signed by the property owner. Further, the option agreement would have to provide that the option would terminate immediately upon the official announcement by the president of the United States, or the president's designee, that Michigan had not been chosen by the federal government as the site for the SSC. Within 90 days after an option on a parcel was terminated, the state would have to clear the title of the property as it related to that option.

The bill would require the commission to pay all reasonable relocation costs incurred as a result of the SSC pursuant to the federal Uniform Relocation Assistance and Real Property Acquisition Policies Act.

Upon the official announcement by the U.S. president, or president's designee, that Michigan had not been chosen as the site of the SSC, the commission could not offer to enter into any additional option agreements with property owners pursuant to the provisions in the bill, and would

S.B. 788 (6-20-88)

OVER

have to discontinue any activities related to the surveying, appraisal or acquisition of land for the SSC.

Farmland Equity Adjustments. The bill would create a "farmland equity adjustment program" to compensate property owners. The purpose of the program would be "encouraging the continuation of agriculture and reestablishing agricultural lands displaced" by the SSC. Except as provided elsewhere in the bill, the commerce department would have to provide a farmland equity adjustment payment to a property owner of real property greater than five acres that was acquired in fee simple by the commission for the SSC. The payment would have to equal 50 percent of the fair market value of the property minus the fair market value of any homestead, improvements related to the homestead, appurtenances and acreage related to the homestead, or appurtenances. The payment would have to be made to the landowner at the time of closing unless the property was sold pursuant to a "deferred payment agreement."

Deferred Payment Agreement. At the option of a seller, the commission would have to purchase property at the fair market value and provide farmland equity adjustment payments on a deferred installment payment schedule not to exceed ten years after the purchase date. The commission, however, would receive title of the property at the time the deferred payment agreement is entered into. If property were purchased under the deferred payment agreement as specified, the commission would be required to pay interest on the balance owed to the seller at the same rate as the state's rate of return on its investments in the common cash fund. If property were purchased on a deferred payment schedule, the seller could request, at any time, full payment of the outstanding principal, plus any accrued interest, owed to him or her. The state could grant a seller's request for full payment in the event of "financial hardship or other reasonable cause;" however, if a seller had died, the state would have to grant the request. A deferred payment agreement would be assignable.

Subterranean Rights. The commission would be required to purchase underground stratified fee rights necessary for the construction or operation of the SSC at a minimum price of \$5 per linear foot or \$5 per 1,000 square feet, or at a higher appraised value that had been determined by the commission. The commission would have to offer to enter into option agreements and pay property owners option payments on underground stratified fee rights at a price of \$1 per linear foot or \$1 per 1,000 square feet, if the option agreement had been signed by the property owner within 60 days of the offer. The option payment could not be applied against the purchase price of the rights acquired as if the option was exercised. The terms of an option purchased on subterranean rights would have to include the same provisions for the termination of the option as those specified for land options. If Michigan were chosen as the site of the SSC, the commission would have to offer to property owners option payments for subterranean rights no later than April 1, 1990.

State Responsibility to Reimburse, Inform Local Governments. The bill would require the Department of Treasury to make payments in lieu of taxes to those local units of government which lost ad valorem property taxes due to the removal of property from the tax rolls for the establishment of the SSC. The treasurer of each local tax collecting unit affected would have to forward to the state treasurer a statement of payments lost due to the removal of property from the property tax rolls for the establishment of the SSC. The statement would have to include a legal

description of each parcel of property purchased by the commission that was located within that local tax collecting unit.

The state treasurer would have to cause a warrant to be drawn on the state treasury in an amount equal to the amount of payments that were required for each local government and would have to transmit the warrant to the treasurer of each local government for deposit into each government's treasury. These payments to local governments would be calculated by multiplying the current ad valorem millage rate of a specific local government by the one of the following amounts, whichever was smaller:

- For property removed from the tax rolls for the establishment of the SSC in the local government, the state equalized value (SEV) of the property in the year prior to its removal;
- The amount obtained by subtracting the then current SEV of the local government from its adjusted SEV. The adjusted SEV for the year in which the property was removed from the tax rolls would have to be calculated by multiplying the local government's previous year's SEV by the inflation rate for the then current year as certified under a section of the General Property Tax Act pertaining to local government millage reductions. The adjusted SEV for subsequent years would have to be calculated by multiplying that year's inflation rate by the previous year's adjusted SEV of the local government.

Local governments would not be responsible for the cost of water systems, sewers, waste disposal systems or preparing new property tax descriptions associated with the construction and operation of the SSC.

A property owner whose property was acquired for the SSC could retain improvements for removal from the site at "salvage value." At the property owner's request, this salvage value for retained improvements would have to be prepared by the commission.

The state would have to pay, through an appropriation, and after consulting with the boards of county road commissioners in affected counties, the cost of initial county or secondary road construction or improvement needed for the construction or operation of the SSC. In addition, the commission would have to provide information and assist individuals in areas affected by the construction and operation of the SSC in obtaining job training for work associated with the SSC.

SSC Ombudsman. The commerce director would have to appoint and would be responsible for one or more individuals, within 30 days of the effective date of the bill, to serve as the SSC Ombudsman. The ombudsman could act on behalf of the state in attempting to reconcile grievances between the state and any person aggrieved by the planning, construction, or operation of the SSC. Any person aggrieved by the "planning, construction, or operation" of the SSC could submit a request to the ombudsman to review the grievance. The ombudsman would then be required to respond within seven days of the request.

MCL 3.813 et al.

HOUSE COMMITTEE ACTION:

The House Committee on Economic Development and Energy adopted a substitute (H-1) for the bill which altered the bill significantly. The House substitute removed a section which would have defined the "equity value" of property as "the highest 1-year average of similar real

MORE

property in the vicinity of the real property in any calendar year since January 1, 1978." This would have applied to all real property acquired under the bill. The substitute replaced this provision with the "farm equity adjustment program" which would essentially require the state to provide a payment to property owners of more than five acres, equal to 50 percent of the property's fair market value. This provision was included to compensate for the decline in farmland values in the last ten years. The House substitute added a provision that would require the state to compensate relocated property and business owners for "measurable business . . . or agricultural production losses" stemming from land acquisition as specified under the bill. The House substitute also would require the state to offer to purchase an entire parcel if the acquisition of a portion of that parcel had destroyed the practical value or utility of the remainder of that parcel, or reduced the fair market value of the entire parcel by more than 50 percent. Finally, the House substitute replaced the SSC mediation panel with the SSC Ombudsman (and designees), who would be responsible for settling disputes between the state and those aggrieved by the "planning, construction, or operation" of the SSC.

FISCAL IMPLICATIONS:

According to the House Fiscal Agency the bill would increase state expenditures substantially, although the total cost cannot be exactly determined. Estimates of the cost of several provisions would be as follows (6-8-88):

- Reimbursement to local government units for lost taxes — \$3.7 million;
- Purchase options for all real property — \$1.17 million;
- Relocation cost (160 households) — \$2.4 million;
- Road construction — \$14.7 million (see note 1);
- Purchase of all real property — \$26.6 million (see note 2);
- Cost of mediation program (ombudsman) — \$24,000;
- Purchase and options for underground rights — \$1 million; and
- Cost of state-provided appraisals — \$810,000.

The total estimated cost of the bill would be \$50.404 million.

Note 1: The estimated cost to the state for the building/improvement of roads specified in this bill would have to include an inflation factor of 25 percent because these costs would not be incurred until 1992. Total cost for roads would be \$18.375 million.

Note 2: The bill would require the state to purchase an entire parcel of property even if only a certain percentage was needed.

The bill would require the state to reimburse property owners for reasonable loss of business income, agricultural production losses, crop losses, and any other damages.

The Fiscal impact of the bill to local governments could not be determined.

ARGUMENTS:

For:

The bill represents an equitable tradeoff between the state and local property owners and governments in the proposed SSC area near Stockbridge. The SSC is a high-stakes federal project — at \$4.4 billion (in February, 1988 dollars), reportedly it will be the most expensive individual project the U.S. government has ever undertaken. All eight states in the final sprint to win the collider have committed to spend millions of dollars (in

Texas' case, reportedly up to \$1 billion) just to try to win the project. The amount of money any finalist has reportedly committed itself to spend on winning the project, however, is deceptive: each state has different existing advantages or disadvantages. For instance, Michigan already has a highly reputable transportation system near its proposed site which some other states do not have (although, as proposed under the bill, it would have to build more roads if the state wins the SSC); Michigan, consequently, would not need to spend as much to build new roads if the SSC were located here.

Apparently, the state's biggest expense would involve acquiring the land needed to hold the 53-mile long SSC, which will be housed primarily in an underground tunnel. None of the land on Michigan's proposed SSC site is federally-owned, and only a small portion is state-owned. The state must be able to convince DOE officials it can acquire the necessary land in a short time. To do this, the state will have to provide incentives to property owners to sell their land, incentives which, considering the scope of the project involved, probably should be higher than those offered in other state projects involving land acquisition (i.e. acquiring land to build an expressway). Also, the state is limited to only one site for the SSC project, whereas an expressway, for example, offers the state flexibility to pick and choose its exact location at minimum cost to taxpayers. Reportedly, the state typically pays around one percent of the fair market value just for the option to buy a piece of land, which is included in the final purchase price. Under the bill, this option amount would be five percent of the fair market value (but no less than \$500), and could not be applied to the final purchase price: if Michigan loses the project, it would lose the amount of any options it had purchased before the SSC site location had been decided. (According to commission estimates, 25 percent of the options — for both under- and above-ground purchasing rights — will be purchased before the final decision has been made in January, 1989.)

The bill also addresses the fact that agricultural land values have, on the average, declined from what they were within the last ten years. If property owners were forced to sell their land at current market rates, most could lose up to 50 percent of the amount they had invested in the land. The state should remain fair to local landowners, but cannot afford to wait for land values to reach levels seen in the last ten years (in fact, values may decrease even more). The SSC represents a once-in-a-lifetime opportunity for the state and preparations for the project must be made quickly. The bill would provide the fastest and fairest opportunity for the state to acquire necessary land for the project from Stockbridge-area property owners.

The provisions in the bill could cost the state a large amount of money before it even knows whether or not it has won the project. In the end, however, a gamble must be made to win the SSC: this bill represents the state's gamble to win a gargantuan economic development project.

Response: The bill's inducements to urge local property owners to sell their land to the state could set a precedent for future land acquisition projects throughout the state. People asked to sell their property and relocate their homes for other state projects could point to the provisions in this bill and demand similar compensation. These provisions could come back to haunt the state.

Reply: This project is substantially larger than any state or federal project the state has yet seen, or may see in the near future. The economic implications for the state if it should win the project would be felt well into the next century by all residents within the state. The provisions in the bill should reflect the scope of the project. In addition,

OVER

a question over the precedent this bill could set for future land acquisitions could be settled in court, and some feel a court's decision would account for the special situation under which this bill's provisions had applied.

Against:

The bill would simply cost the state too much money. Michigan stands a one in eight chance (if not worse) of winning the project. These odds are not worth the amount this bill would require. In fact, the SSC may never even be built; reportedly, when the eight finalists in the race for the project were chosen, congressional support for funding the project waned considerably. When the SSC winner is chosen, support from all non-selected states would probably be reduced even further. Most people agree the SSC would give the U.S. an added edge in technological research and development possibilities; even politicians (especially those in competing states) laud the philosophical benefits of the project. But money is the bottom line and budgets are already tight. If the majority of members of Congress feel the project won't financially benefit their representative states, the project could very well find itself fighting a losing battle for funds.

Against:

The bill's provision requiring the state to compensate certain individuals for "measurable business. . . or agricultural production losses" that had resulted during the land acquisition process are too vague and open-ended. The language of the bill could establish state responsibility to compensate for losses that may have nothing to do with acquiring land for the SSC. The bill should specify more clearly what types of agricultural or business losses resulting from land acquisition the state would be responsible to pay for. In addition, the bill would require the state, at the seller's option, to pay for an entire parcel of land if land acquisition had destroyed "the practical value or utility of the remainder of that parcel," or had reduced the fair market value of the entire parcel by more than 50 percent. Again, who would decide whether the "practical value or utility" of a remaining portion of land had been destroyed? This provision depends a great deal on the good will of affected property owners. The tendency of property owners probably would be to squeeze as much compensation out of their land as the provisions in the bill would permit.

POSITIONS:

There are no positions on the bill.