



**House
Legislative
Analysis
Section**

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DNR: SALE OF STATE LANDS

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**Senate Bill 260 (Substitute H-1)
Senate Bill 261 as passed by the Senate
First Analysis (5-18-89)**

**Sponsor: Senator Vern Ehlers
House Committee: Conservation, Recreation, &
Environment
Senate Committee: Natural Resources & Environmental
Affairs**

THE APPARENT PROBLEM:

The state owns many small parcels of land under the control of the Department of Natural Resources (DNR) that are adjacent to privately or municipally owned parcels of land. Often, the owners of such parcels desire to purchase the adjoining state land and the DNR has no objections to selling the land. The current provisions for the DNR to exchange land, which are specified in Public Act 193 of 1911, however, are considered very cumbersome. Under the act, the DNR can exchange land under its control "for lands of equal area or approximately equal value." The act does not authorize the sale of land, however. Reportedly, such exchanges are facilitated by the DNR's locating such an "equal" parcel owned by a third party. The interested buyer then must purchase that land and "exchange" it for the state-owned land of which he or she originally sought ownership. Many claim that this process can be unnecessarily burdensome to both the DNR and the prospective new owner and that the DNR should be permitted to sell such small parcels of land directly to interested buyers.

THE CONTENT OF THE BILL:

Senate Bill 260 would create the Land Exchange Facilitation Fund Act to govern the sale of surplus state lands by the DNR. Under the bill, the Natural Resources Commission could designate state land under the DNR's control as surplus land if the land were dedicated for public use. The commission could authorize the department to sell the land if it determined all of the following:

- the sale would not diminish the quality or utility of other state-owned lands;
- the sale was not otherwise restricted by law and was in the best interests of the state; and
- the land either had been dedicated for public use for at least five years and was not needed to meet a DNR objective or was occupied for a private use through inadvertent trespass.

The commission could not authorize the sale of surplus land, however, if the sale's proceeds would cause the proposed fund to exceed \$500,000. The sale price of surplus land could not be less than the land's fair market value as determined by an appraisal. Surplus land sales would have to be conducted either by a sealed or oral bid public auction sale or by a negotiated sale. If the fair market value of surplus land would be greater than \$150,000 in a sale, the DNR could not enter into negotiations on the sale without prior approval of the Natural Resources Commission. The sale of surplus land through public auction would be to the highest bidder. Bids could not be accepted for less than the fair market value of the surplus land. Proceeds from the sale of surplus land would have

to be deposited into the Land Exchange Facilitation Fund (see below). The state would reserve all rights to coal, oil, gas and other minerals found on, within, or under surplus land sold under the bill, excluding sand and gravel.

Public Notice. A notice of a sale of surplus lands would have to be published at least once in a newspaper at least ten days before the sale. The newspaper would have to be one that was published in the county where the surplus land offered for sale was located, or, if there were no paper published in that county, in the county nearest to it. The notice would have to describe the general location of the surplus land to be offered for sale, and the date, time, and place of the auction or commission meeting to authorize a negotiated sale. Upon request, the DNR would have to furnish lists of surplus lands being offered at public auction and in a negotiated sale.

Land Exchange Facilitation Fund. The bill would create the Land Exchange Facilitation Fund in the state treasury, to be administered by the DNR. Money remaining in the fund at the end of a fiscal year, including interest, would not revert to the general fund. Upon recommendation of the commission and authorization of the Michigan Natural Resources Trust Fund Board, money in the fund would be used for the purchase of land for natural resources management, administration and public recreation that have been approved by the legislature for purchase under the Michigan Natural Resources Trust Fund Act. Money in the fund could also be used for the cost of appraisals, negotiations, and closings incurred by the department in the sale of surplus land or the purchase of land under the bill. In addition, money in the fund could be used for the costs of advertising in the sale of surplus land. If the board did not authorize or reject a recommendation of the commission to purchase land within 60 days, the department could purchase the land identified in the recommendation. Under the bill, the annual report of the director of the DNR to the legislature and the governor would include a summary of the all disbursements of money from the fund.

Other provisions. The bill could not be construed to limit the DNR's authority to exchange land as provided in Public Act 193 of 1911, or to sell land as provided in the General Property Tax Act.

The bill is tie-barred to Senate Bill 261.

Senate Bill 261 would amend Public Act 21 of 1873 (MCL 322.261 et al.), which regulates the sale of state land, to exempt from the act the sale of surplus land pursuant to Senate Bill 260. The bill is tie-barred to Senate Bill 260.

HOUSE COMMITTEE ACTION:

The House Conservation, Recreation and Environment Committee adopted a substitute for Senate Bill 260 to require the state to reserve the rights to coal, oil, gas and other minerals found on, within, and under surplus land sold under the bill. The committee also included a provision requiring money in the fund to be used only for the purchase of land that has been approved by the legislature for purchase under the Michigan Natural Resources Trust Fund Act.

FISCAL IMPLICATIONS:

According to the Senate Fiscal Agency, Senate Bill 260 would increase both state revenues and state expenditures by an indeterminate amount, but could have minimal net fiscal impact depending on the amount of property sold and purchased.

Currently, Public Act 193 of 1911 allows the DNR to utilize an exchange process to release or acquire state property, and no funds are received or expended. The bill could result in an increase in state revenues by an indeterminate amount as land was sold by the DNR and the proceeds deposited in the proposed Land Exchange Facilitation Fund. Expenditures also would increase by an indeterminate amount as land was purchased with the fund.

Administrative costs would not be expected to change since the department already is involved in land exchange activities, and this bill would simplify the current process. Any added costs due to the sale process would be covered by the fund. The fund does represent a new restricted funding source for the department, however, which could potentially be used to replace general fund support of land acquisition programs (which for fiscal year 1988-89 was approximately 3.0 FTEs and \$139,800). (4-24-89)

According to the Senate Fiscal Agency, Senate Bill 261 would have no fiscal implications for the state. (4-24-89)

ARGUMENTS:

For:

The bill would simplify the process by which land can be acquired from, or purchased by, the DNR. While it would authorize the commission and the DNR to release state land, adequate protections against any wide-ranging disbursements of such lands are included in the bill. For instance, land could not be authorized for sale if the transaction would diminish the quality or utility of other state-owned land or were otherwise restricted by law. In addition, such sales would be allowed only for small parcels of land, as the proposed fund could not exceed \$500,000, and negotiations for sales of land whose fair market value was greater than \$150,000 would be prohibited unless the DNR had the specific prior approval of the commission.

Response: Using an existing fund such as the Michigan Natural Resources Trust Fund, which consists of money received from provisions of leases for the extraction of nonrenewable resources from state-owned lands, would not provide for a simplified land sale process. However, the establishment of a new, and relatively small, fund to provide for the sale and purchase of small parcels of land would streamline the current cumbersome process.

POSITIONS:

The Department of Natural Resources supports the bills. (5-16-89)