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Senate Bill 260 (as enrolled)

Senate Bill 261 (as enrolled)

Sponsor: Senator Vern Ehlers

Senate Committee: Natural Resources and Environmental Affairs

House Committee: Conservation, Recreation, and Environment

PUBLIC ACT 86 of 1989PUBLIC ACT 87 of 1989

Date Completed: 7-20-89

RATIONALE

The State of Michigan 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 giving it up. The current provisions for the DNR to exchange land, however, are considered very cumbersome. Under Public Act 193 of 1911, the DNR can exchange land under its control "for lands of equal area or approximately equal value", but the Act does not authorize the sale of land. 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.

CONTENT

Senate Bill 260 would create the "Land Exchange Facilitation Fund Act" to govern the sale of surplus State lands by the DNR, and to do the following:

- Provide for the designation by the Natural Resources Commission (NRC) of any State-owned land under the DNR's control as "surplus

land" and authorize the sale of such land.

- Require public notice of the sale of surplus land.
- Establish a "Land Exchange Facilitation Fund" in the State Treasury.

Senate Bill 261 would amend Public Act 21 of 1873, which regulates the sale of State land, to exempt from the Act the sale of surplus land pursuant to Senate Bill 260.

The bills are tie-barred. A more detailed description of Senate Bill 260 follows.

Surplus Land

The NRC could designate State land under the DNR's control as surplus land if the land were dedicated for public use. The NRC could authorize the DNR to sell such land if the Commission 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.
- The sale was in the State's best interests.
- 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.

S.B. 260 & 261 (7-20-89)

The NRC 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 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 surplus land's fair market value in a negotiated sale would be greater than \$150,000, the DNR could not enter into negotiations on that sale without prior approval of the NRC. The sale of surplus land through public auction would have to be to the highest bidder. Bids could not be accepted for less than the surplus land's fair market value. Proceeds from the sale of surplus land would have to be deposited into the proposed Fund. Sales of surplus land would have to be by quit claim deed approved by the Attorney General, and the rights to coal, oil, gas, and other minerals would be reserved by the State.

Public Notice

A notice of a sale of surplus lands would have to be published at least once in a newspaper as defined in the Revised Judicature Act (MCL 600.1461), at least 10 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 no paper were 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 NRC 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. A list would have to include the date, time, and place of the auction sale or authorizing meeting for negotiated sale; descriptions of surplus lands being offered; and, for land available at public auction, the conditions of sale.

Land Exchange Facilitation Fund

The Fund would have to be administered by the DNR and used only as provided in the bill. Any money, including interest earned, that

remained in the Fund at the end of a fiscal year would have to be carried over to the next and succeeding fiscal years. It could not be credited to the General Fund.

Money from the Fund could be used by the DNR only for the following purposes:

- Upon the recommendation of the NRC and the authorization of the Michigan Natural Resources Trust Fund Board, the purchase of land for natural resources management, administration, and public recreation, approved for purchase by the Legislature pursuant to the Michigan Natural Resources Trust Fund Act.
- The costs of advertising, appraisals, negotiations, and closings incurred by the DNR in the sale of surplus land and the purchase of land authorized by the bill.

If the Board did not authorize or reject an NRC recommendation to purchase land within 60 days, the DNR could proceed with the purchase. The DNR Director's annual report to the Legislature and the Governor, required by Public Act 17 of 1921, would have to include a summary of all the disbursements of money from the Fund.

DNR Authority

The bill provides that it 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.

Proposed MCL 322.266 (Senate Bill 261)

FISCAL IMPACT

Senate Bill 260 would increase both State revenues and State expenditures by an indeterminate amount, but could have a 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. This 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 could 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 potentially could be used to replace General Fund support of land acquisition programs (which for FY 1988-89 was approximately 3.0 FTEs and \$139,800).

Senate Bill 261 would have no fiscal impact on State or local government.

ARGUMENTS

Supporting Argument

The bill would simplify the process by which land can be acquired from, or purchased by, the DNR. While it would authorize the NRC 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 specific prior approval of the NRC.

Opposing Argument

Although allowing the DNR to sell certain State-owned lands may be a good idea, a new Fund should not be created for such a purpose. The bill's proposed surplus land sales program could be accomplished using the Michigan Natural Resources Trust Fund established in Section 35 of Article IX of the Michigan Constitution. By creating a new Fund, the bill merely would give the DNR an additional restricted revenue source.

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. On the other hand, allowing a new, and relatively small, Fund to provide for the sale and purchase of small parcels of land would streamline the current cumbersome process.

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SFA BILL ANALYSIS

Senate Bill ~~4407~~ 261

Analysis First

See SB 260

HOUSE LEGISLATIVE ANALYSIS SECTION

Senate Bill 261

Analysis First

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Analysis Enrolled

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