



**Senate Fiscal Agency**  
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BILL



ANALYSIS

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House Bill 5489 (as reported without amendment)  
 Sponsor: Representative David Galloway  
 House Committee: House Oversight and Ethics  
 Senate Committee: Finance

Date Completed: 4-26-96

### **RATIONALE**

Public Act 258 of 1861 forbids any officer or clerk employed by the "state land office" or the office of "auditor general" during the term of his or her service to purchase from the State any lands for sale at those offices. Through the years the "state land office" became a part of the Department of Natural Resources (DNR), and the auditor general's office became part of the Department of Treasury (except for the Auditor General appointed by the Legislature to conduct post audits of transactions and accounts for the State, pursuant to Article 4, Section 53 of the State Constitution). Further, both the Department of Treasury and the DNR sometimes sell land at a tax sale, that is, the sale of real property that has reverted to the State for nonpayment of property taxes. This means, then, that employees of the Treasury Department and the DNR are forbidden from placing a bid on land for sale at a tax sale, while nearly all other State employees and any other persons, including local tax assessors, are eligible to bid. Some people feel that this prohibition is unnecessary and should be removed.

### **CONTENT**

The bill would repeal Public Act 258 of 1861, and amend Public Act 317 of 1968 to permit State employees to purchase tax-reverted property.

Public Act 317 of 1968 provides for the conduct of public servants regarding government decisions and contracts with public entities. The bill specifies that the Act's restrictions on contracts between a public servant and the public entity (of which he or she was an officer or employee) would not prohibit a State public servant from purchasing at a tax sale property returned as tax delinquent, unless otherwise prohibited by the public servant's department or agency rules or rules of the Civil

Service Commission. Under Public Act 317, "public servant" includes all persons who serve any "public entity", except legislators and State officers who are within Article 4, Section 10 of the State Constitution (which prohibits legislators and State officers from having an interest in any contract with the State or a political subdivision that would cause a substantial conflict of interest). "Public entity" means the State and all State agencies, and any public body corporate or nonincorporated within the State.

MCL 15.323a et al.

### **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**

Because of an antiquated law, employees of the DNR and the Department of Treasury are prohibited from making bids to purchase property offered for sale at a tax sale. It is unreasonable to exclude people with no influence over the tax-reversion process from buying tax-reverted lands from the State. The repeal of a nineteenth-century law that prohibits DNR and Treasury employees from buying tax-reverted lands is long overdue. The land sold at tax sales is not State land, and today it is local officials--particularly, the local tax assessors--who have detailed knowledge of tax-reverted lands. With the recent split of the DNR into the Department of Natural Resources and the Department of Environmental Quality (DEQ), some former DNR employees who now work for the DEQ already can buy tax-reverted lands. Clearly, a prohibition against bidding in tax sales should not be based on such an arbitrary distinction.

Further, DNR and Treasury employees already can get around the existing law if they really want to by having their spouses or adult children bid in the tax sales. The law's repeal simply would allow more direct and open bidding in such cases. Finally, the amendment to Public Act 317 of 1968 specifically would recognize the right of State employees to enter into tax lien purchases, but would allow State departments to restrict this right if there did appear to be a conflict of interest.

Legislative Analyst: G. Towne

### **FISCAL IMPACT**

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: G. Cutler  
B. 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.