

House Bill 5140 as introduced
First Analysis (10-23-01)

Sponsor: Rep. Douglas Bovin
Committee: Regulatory Reform

THE APPARENT PROBLEM:

The second busiest day-use park in Dickinson County is located on 6.55 acres of state land bordering Lake Mary. For over 40 years, the county has leased the parkland and maintained and improved it. The park now features a boat landing, a developed beach, volleyball courts, a picnic pavilion, and playground equipment. The Department of Natural Resources (DNR) would like to transfer ownership of the property to the county, but since the state acquired the land via a funding source that limits the transfer of the property, legislation is needed to transfer ownership of the property to the county.

THE CONTENT OF THE BILL:

The bill would allow the Department of Natural Resources (DNR) to convey property under its jurisdiction in Waucedah Township to Dickinson County for \$1. The property would have to be used exclusively for public recreational purposes or it would revert to state ownership. If the township disputed the state's right to reclaim the property, the attorney general could bring an action to quiet title to, and regain possession of, the property. Any fees, terms, conditions, and waivers imposed for the public use of the property would have to apply to both residents and nonresidents. The conveyance would be by quitclaim deed. Revenue received under this bill would be credited to the Game and Fish Protection Fund created in Section 43553 of the Natural Resources and Environmental Protection Act (NREPA).

The bill would retain the following rights to the state:

- The right to ingress and egress over and across the property along any watercourse or stream as provided for in Part 5 of the NREPA.
- The rights to all Native American antiquities (including mounds, earthworks, forts, burial and village sites, mines, or other relics).
- The right to explore and excavate for Native American relics by or through state employees or

state-authorized agents as provided for in Part 761 of the NREPA.

Further, the conveyance would be subject to mining rights and mineral exceptions and reservations contained or referenced in former conveyances of the property described in the bill.

BACKGROUND INFORMATION:

Dickinson County operates a park on state-owned land under a lease agreement that has been in existence for some 40 years. During this time, the county has made many improvements and the park has become the county's second busiest day-use park. The park is adjacent to Lake Mary Dam and spillway. Lake Mary is part of the Hamilton Lakes chain, and the dam and spillway govern the water level in Lake Mary and two other lakes.

The Lake Mary Dam is in need of replacement, and a separate agreement between Dickinson County, the Department of Natural Resources, Waucedah Township, Norway Township, and the Hamilton Lakes Association has been negotiated to remove and replace the old dam and spillway with new ones. The DNR expects the replacement of the dam and spillway to restore the structural stability of the dam and to afford spillway capacity sufficient to handle flood discharge. Under the agreement, ownership of the dam property will be transferred from the state to Waucedah Township upon final acceptance of the project and certification of the Department of Environmental Quality that the dam meets departmental standards. Minor repairs in the future are expected to be the responsibility of Waucedah Township in conjunction with the Hamilton Lakes Association. Major work would be the responsibility of Waucedah Township and Norway Township, which, if necessary, could form a special assessment district to fund needed repairs.

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, the transfer of the 6.55 acre-parcel would not result in any fiscal implications to the state. Should the property be sold at fair market value, then additional one-time revenues would accrue to the state. In addition, an appraisal would be required to determine the fair market value. (10-18-01)

ARGUMENTS:**For:**

Dickinson County has leased the property in question for 40 years, during which time many improvements have been made. The park now contains a beach area, volleyball courts, picnic facilities, and playground equipment and is the county's second busiest day-use park. In light of the commendable oversight on the part of the county, the state should transfer the land to the county rather than continuing the lease.

Response:

The bill does not appear to address the situation with the adjacent dam and spillway. These properties also should be conveyed to local units.

Rebuttal:

House Bill 5140 only addresses the transfer of ownership of the 6.55-acre park currently leased by Dickinson County. Because of the way that the state originally acquired the land, legislation is necessary to transfer ownership, even to another governmental unit. However, the state-owned land adjacent to the park that contains the dam and spillway does not require legislation to transfer ownership. According to information supplied by the Dickinson County Board of Commissioners, the Department of Natural Resources has the authority to transfer this property to Waucedah Township. (See Background Information regarding the dam and spillway.)

POSITIONS:

The Department of Natural Resources supports the bill. (10-18-01)

The Dickinson County Board of Commissioners supports the bill. (10-22-01)

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.