

Legislative Analysis



STATE CONVEYED LAND FOR PUBLIC AGENCIES: NO REVERSIONARY INTEREST UNLESS PRIME LAND

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House Bill 5313 as enrolled
Public Act 377 of 2004
Sponsor: Rep. Mike Pumford

House Committee: Conservation and Outdoor Recreation
Senate Committee: Appropriations
Second Analysis (11-30-04)

BRIEF SUMMARY: The bill would amend Part 527 of the Natural Resources and Environmental Protection Act to require the DNR to relinquish its reversionary interest in lands it conveyed to municipalities under Part 527, except for land considered to be "prime land".

FISCAL IMPACT: Approximately 15,500 acres, or 20% of the total, would be eligible for sale. Actual revenue to the conveying unit and impact on the budget of the State of Michigan would depend on the value of the properties and the fiscal year when the sale occurs. The fair market value in some instances may exceed \$20,000/acre, but other parcels could have a value that is considerably less than this amount, depending on the real estate market in the affected area.

The proceeds from the sale of these lands would be distributed as follows:

- First 50% of sale revenue would be retained by the conveying unit
- The remaining revenue would go to the State General Fund

Any amount in excess of \$18.0 million would be deposited into the Fire Protection Fund and would be available for Fire Protection Grants to local governmental units.

THE APPARENT PROBLEM:

In 1931, the legislature and governor enacted Public Act 217, which established a municipal forest system in order to promote forestry and foster the development of forests in local communities across the state. These municipal forest systems are also a rich educational tool for school districts, enabling students to gain hands-on experience in the environmental sciences.

Now incorporated as Part 527 (Municipal Forests) of the Natural Resources and Environmental Protection Act (NREPA), the act permits the Department of Natural Resources and the Department of Treasury to sell certain land to be used solely for forestry purposes to municipalities (counties, villages, townships, cities, and school

districts), with the requirement that when such land is no longer used for forestry purposes, it reverts to the state.

Approximately 3,000 parcels of land encompassing 75,000 acres have been conveyed to municipalities under Part 527. The vast majority of that land is held in northern counties of the state, with over one-third in Gogebic County in the far western Upper Peninsula. Many of these parcels are believed to no longer serve the purpose for which they were conveyed to the public agency and would probably be more useful if put to other purposes. However, the existence of the state's reversionary interest prevents these parcels from being used for other purposes.

It is believed that if the state's reversionary interest was lifted, these lands could be sold and put to better use. Legislation to do this was introduced in the current legislative session. However, doing so for all such lands, as the proposed legislation originally intended, would not be appropriate in all instances. While there are many parcels of land throughout the state that should be used for new purposes, lifting the reversionary interest on all parcels could have put many parcels of land up for sale without any consideration of why they had been originally conveyed or of their current uses. The Department of Natural Resources and many of its stakeholders objected to a blanket provision lifting the reversionary interest because in many instances the land subject to the reversionary interest, though perhaps inadequate for forestry purposes, still has some sort of natural resources or environmental significance, such as providing access to public body of water. As a result, legislation has been crafted that would lift the state's reversionary interest in parcels of municipal forestland not deemed to be "prime land".

THE CONTENT OF THE BILL:

Part 527 (Municipal Forests) of the Natural Resources and Environmental Protection Act permits the Department of Natural Resources and the Department of Treasury to sell certain land used solely for forestry purposes to "municipalities" (counties, villages, townships, cities, and school districts), with the requirement that when such land is no longer used for forestry purposes, it reverts to the state.

House Bill 5313 would, instead, permit the DNR and Department of Treasury to sell certain land used solely for forestry purposes (unless the land was later conveyed) to "public agencies" (school districts, public educational institutions, governmental units and agencies of the state, and municipalities).

The bill would require that "prime land" sold to a public agency be used solely for forestry purposes, and require that when that land is no longer used for forestry purposes, it revert to the state. The bill would define "prime land" to mean land that is within the boundary of a program administered by the DNR, provides access to a public body of water, or is at least 80 acres and had basal area of at least 90 square feet per acre during the preceding 10 years.

The bill would require the Department of Natural Resources to relinquish any reversionary interest in any municipal forestland, except prime land, conveyed to a public agency prior to the bill's effective date. The reversionary interest would have to be relinquished within three years after the bill's effective date or within 90 days of receiving a request for the relinquishment from the public agency. Relinquishing the reversionary interest would be conditioned on a requirement that, beginning four years after the bill's effective date, the public agency would not convey that land without departmental approval. If the land is conveyed within four years after the bill's effective date, the public agency would have to notify the DNR within 60 days of the conveyance (but no DNR approval would be required).

Any conveyance of the municipal forestland by the public agency would have to be for at least fair market value. If the public agency conveys the municipal forest land, 50 percent of the proceeds would be retained by the public agency. Initially, the remaining 50 percent would be deposited in the state general fund until total general fund proceeds reach \$18 million. After that point, the remaining 50 percent would be deposited in the Fire Protection Fund established in the Michigan Vehicle Code.

A public agency could not convey the land without first holding a public hearing, with notice of the hearing provided in a newspaper of general circulation in the county where the municipal forestland is located. The notice would describe the location, approximate size, and current use of the land, and identify prospective purchasers, if known.

The bill also specifies that if the municipal forest land was conveyed by the public agency to the DNR, the land would not be considered to be reacquired by the department on or after January 1, 1933 for the purposes of swamp tax and PILT payments pursuant to subparts 13 and 14 of Part 21 of NREPA, unless such land was originally acquired by the department on or after January 1, 1933 and later conveyed to the public agency pursuant to Part 527 (or Public Act 217 of 1931).

MCL 324.52706

ARGUMENTS:

For:

Many parcels throughout the state that have been conveyed to school districts and local governments under Part 527 (and Public Act 217 of 1931) no longer serve the original purposes for which they were conveyed. This includes property surrounded by undeveloped land away from core cities when conveyed, but now surrounded by developed land. Removing a reversionary interest in this land provides local communities and school districts with greater flexibility by increasing the allowable uses of the land. Land subsequently sold to another entity would return to the tax rolls and generate revenue for the local communities, school districts and the state.

However, the bill seeks to find some middle ground and reconcile its original language and the concerns of the DNR and its stakeholders. The bill requires the state to relinquish

its reversionary interests in municipal forest land within three years. However, the state would retain a reversionary interest in municipal forestland deemed to be "prime land" – that is, land that is within the boundary of a program administered by the DNR, provides access to a public body of water, or is at least 80 acres and had basal area of at least 90 square feet per acre during the preceding 10 years. This ensures that municipal forest land with some sort of natural resources and programmatic significance remains held by the public, even though such land may not be actively managed or utilized by the municipality.

Against:

While the current version of the bill is a vast improvement over the original version, it still is troublesome to many, because it still allows local communities and school districts to sell long-term, public assets to meet short term financial obligations, which some have likened to cashing in your retirement savings to pay for a phone bill. Moreover, the bill directly contravenes the original purpose of the law, which dates back to 1931, by diminishing opportunities for schoolchildren to actively learn environmental sciences.

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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.