

Legislative Analysis



STATE CONVEYED LAND: NO REVERSIONARY INTEREST; DISTRIBUTION OF REVENUE FROM SUBSEQUENT SALES; AND NEW PILT FUND

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House Bill 5313 with House committee amendments
Sponsor: Rep. Mike Pumford
Committee: Conservation and Outdoor Recreation
First Analysis (4-27-04)

BRIEF SUMMARY: The bill would amend the Natural Resources and Environmental Protection Act to prohibit the DNR from retaining a reversionary interest in land conveyed to an entity other than a church or the federal government, and would distribute funds from any subsequent sale among the entity holding title, the School Aid Fund, the Agricultural Preservation Fund, and a newly created PILT Fund. [PILT refers to “payments in lieu of taxes” made by the state to local units of government.]

FISCAL IMPACT: This bill would have an indeterminate fiscal impact on state and local governments. The proceeds of the sale of conveyed tax reverted property would be shared 50:50 by the State and the local government entity. The State’s 50 percent share would be distributed to the School Aid Fund, the Agricultural Preservation Fund, and the new PILT (Payments In Lieu of Taxes) Fund, created by this legislation. Actual revenue to the State or to the local governmental unit would depend on the sale price of disposed tax reverted properties.

THE APPARENT PROBLEM:

The Department of Natural Resources (DNR) has at its disposal two different means of transferring ownership of land under its jurisdiction. It can either get a conveyance from the legislature or it can sell land under the provisions of Subpart 1 (Sale of State Land for Public Purposes) of Part 21 (General Real Estate Powers) of the Natural Resources and Environmental Protection Act, formerly Public Act 223 of 1909. The act permits the Department of Natural Resources to sell land to school districts and churches and to sell tax-reverted land under the jurisdiction of the department for public purposes to public educational institutions, the federal government, and local governmental units. The act also permits the DNR to convey tax-reverted property to a public agency without monetary consideration, although the conveyance must have a reverter provision whereby title of the property reverts back to the state when the property is no longer used in the manner specified in the conveyance.

According to committee testimony, approximately 82,000 acres have been conveyed with a reverter clause. Many of these parcels no longer functionally serve the purpose for which they were conveyed to the public agency some time ago, and would probably be more useful if used for other purposes. However, the existence of a reverter clause

prevents these parcels from being used for other purposes. It is believed that if the reverter clause was lifted, these lands could be sold and put to better use.

THE CONTENT OF THE BILL:

The bill would amend Subpart 1 of Part 21 of the Natural Resources and Environmental Protection Act to delete a requirement that a conveyance of tax-reverted property include a reverter provision, and would specifically prohibit the DNR from retaining a reversionary interest in land conveyed to an entity other than a church or the federal government. The DNR would have to relinquish any existing reversionary interest in land conveyed to an entity other than a church or the federal government within 90 days after the bill's effective date. If the land was subsequently conveyed by that entity, 50 percent of the proceeds would be retained by the entity that conveyed the property, 20 percent of the proceeds would be credited to the state School Aid Fund, 15 percent of the proceeds would be credited to the Agricultural Preservation Fund, and 15 percent of the proceeds would be credited to the PILT fund, which would be created by the bill. Money in the PILT fund would only be expended, upon appropriation, for payments made in lieu of taxes by the state to local governments.

In addition, Part 527 (Municipal Forests) of the Natural Resources and Environmental Protection Act permits the DNR and the Department of Treasury to sell certain land to municipalities for forestry purposes. The bill would delete requirements that such land be used solely for forestry purposes and that when the land is no longer used for a forestry purpose, it shall revert back to the state.

MCL 324.2102 et al.

BACKGROUND INFORMATION:

According to the Department of Natural Resources, during FY 2003, 234 public use deeds were executed pursuant to Part 21, Subpart 1 of NREPA, resulting in \$122,145 in application fee revenue.

ARGUMENTS:

For:

Many parcels throughout the state conveyed to school districts and local governments no longer serve the original purposes for which they were conveyed by the state. Often this includes property that was surrounded by undeveloped land away from core cities at the time it was conveyed, but has since become surrounded by developed land as suburban areas sprawl outward. Removing a reversionary interest on this land allows for increased uses of this land and puts it back on the tax rolls. Moreover the subsequent sale of this land will generate revenue for the state and provides much needed revenue for the state to make its PILT payments.

Against:

Prior to the enactment of Public Act 390 of 1982, the only way in which the DNR could convey land with a reverter clause was through a legislative conveyance. At the time it was apparently argued that an amendment to Public Act 223 was necessary to provide the DNR with a much more efficient method of transferring lands that still provided assurances that the land would be continue to be used for public purposes. This bill directly goes against the 1982 amendment and requires conveyances for which a reverter clause is desired to go through the time-consuming process of having legislation passed through the legislature.

Against:

The bill takes a very broad approach to addressing a specific problem. While there are many parcels of land throughout the state that probably should be used for other purposes than those provided for in the original conveyance, there a great many others that should still be used for public purposes. The bill would place many parcels of land up for sale without any consideration of why such land was conveyed some time ago. In many instances, the land subject to a reverter clause can be the sole parcel of land that provides public access to a lake. To that end, the bill would be improved if it conditioned the removal of a reverter clause on a determination by the Department of Natural Resources that the land was not within the boundaries of federal or departmental land, did not border a public waterway, and did not contain any unusual natural features or characteristics, as these criteria are apparently the current standards employed by the DNR when considering the removal of a reverter clause.

POSITIONS:

The Michigan Townships Association supports the bill. (4-21-04)

The Michigan Association of Counties supports the bill. (4-21-04)

The Department of Natural Resources opposes the bill as written. (4-21-04)

The Michigan United Conservation Clubs opposes the bill. (4-21-04)

Trout Unlimited opposes the bill. (4-21-04)

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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.