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BILL ANALYSIS

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Senate Bill 654 (as passed by the Senate) *(as enrolled)*
House Bill 4729 (Substitute H-1 as passed by the Senate)
Sponsor: Senator Laura M. Toy (S.B. 654)
Representative Steve Tobocman (H.B. 4729)
House Committee: Local Government and Urban Policy
Senate Committee: Local, Urban and State Affairs

Date Completed: 10-27-05

RATIONALE

Under Public Act 317 of 1968, which governs the conduct of public servants with respect to governmental decisions and contracts with public entities, city and village employees are not allowed to enter into contracts with their employers. The prohibition prevents city and village employees from purchasing property that has been seized due to delinquent taxes and that their employer is selling at a tax lien sale. Currently, the Cities of Detroit and Kalamazoo offer their seized property at tax lien sales. In Detroit, which has a large number of vacant and abandoned parcels, the property often remains unsold and contributes to the city's blight problem. Some people believe that cities and their employees would benefit if the employees could purchase some of the seized property.

CONTENT

House Bill 4729 (H-1) would amend Public Act 317 of 1968 and Senate Bill 654 would amend the Code of Criminal Procedure, to allow some employees of villages and cities to buy up to four parcels of residential property owned by their employer, and make the unlawful purchase of public property by a public servant a felony.

The Senate bill is tie-barred to House Bill 4729.

House Bill 4729 (H-1)

Under Public Act 317 of 1968, with certain exceptions, a public servant may not be party, directly or indirectly, to any contract between himself or herself and the public entity for which he or she is an officer or employee. "Public servant" includes all individuals serving any public entity, except members of the Legislature and State officers who are within the provisions of Article 4, Section 10 of the State Constitution (which prohibits these individuals from having an interest in a contract with the State or a political subdivision that causes a substantial conflict of interest).

Under the bill, the prohibition against contracts between a public servant and the public entity employing him or her would not apply to contracts to purchase residential property. A public servant of a city or village could purchase one to four parcels, with at least 18 months between each purchase. The prohibition, however, would continue to apply to public servants of a city or village who had been appointed or elected to their position or whose employment responsibilities included the purchase or selling of property for the city or village.

The provision allowing public servants to purchase residential property would apply only to a city or village that had adopted an ethics ordinance that was in effect at the time the property was purchased.

A person who violated the bill would be guilty of a felony punishable by imprisonment for up to one year or a fine of not less than $1,000 or more than three times the value of the property purchased.

Senate Bill 654

The bill would add the felony of "purchase of public residential property by public servant" to the sentencing guidelines in the Code of Criminal Procedure. The offense would be a Class G felony against public trust with a statutory maximum sentence of one year's imprisonment.

MCL 777.11a (S.B. 654)
MCL 15.324 (H.B. 4729)

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

The City of Detroit reportedly owns approximately 40,000 tax-foreclosed parcels and employs about 16,000 people. When the city did away with its residency requirement for city employees a few years ago, many of those employees began moving to homes outside of the city. By allowing city employees to participate in tax lien sales, House Bill 4729 (H-1) would encourage employees to invest in the community that employs them and would lead to the improvement of some property that is currently vacant and in disrepair. The bill would allow employees to participate in that market on equal footing with nonemployees.

By limiting the number of parcels that a city employee could purchase from the city and by making the unlawful purchase of public property by a public servant a felony, the bills would put safeguards in place to prevent employees from abusing their opportunity to purchase city property.

Legislative Analyst: J.P. Finet

FISCAL IMPACT

Senate Bill 654 and House Bill 4729 (H-1) would have an indeterminate fiscal impact on State and local government. To the extent that the House bill would result in increased sales of public residential property, it could increase revenue for local governments. There are no data to indicate how many offenders would be convicted of unlawfully purchasing public property. An offender convicted of the Class G offense would receive a sentencing guidelines minimum sentence range of 0-3 months to 7-23 months. Local governments would incur the cost of incarceration in local facilities, which varies by county. The State would incur the cost of felony probation at an annual average cost of $2,000, as well as the cost of incarceration in a State facility at an average annual cost of $30,000. Public libraries would benefit from any additional penal fine revenue raised.

Fiscal Analyst: Lindsay Hollander

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