



Senate Fiscal Agency  
P. O. Box 30036  
Lansing, Michigan 48909-7536

**BILL ANALYSIS**

Telephone: (517) 373-5383  
Fax: (517) 373-1986  
TDD: (517) 373-0543

Senate Bill 670 (as introduced 6-30-05)  
Sponsor: Senator Michelle A. McManus  
Committee: Appropriations

Date Completed: 11-29-05

**CONTENT**

**The bill would amend Part 339 (Control of Certain State Lands) of the Natural Resources and Environmental Protection Act to do the following:**

- **Allow all of the unpatented overflowed land, made lands, and Lake St. Clair bottomlands belonging to or held in trust by the State to be disposed of by deed.**
- **Eliminate a provision authorizing the Department of Natural Resources (DNR) to lease lands described above as provided in Part 339.**
- **Require the DNR to give a deed to the land to the leaseholder of any of the lands described above (rather than specific parcels), upon application by the leaseholder.**
- **Require an application for a deed to be filed at least one year before the deed expired.**
- **Provide that a leaseholder who did not obtain a deed before the lease expired would be considered a trespasser against whom an action could be brought to recover possession of the land.**
- **Provide that the State would retain ownership in trust over the portion of the leased lot below the ordinary high-water mark of Lake St. Clair.**
- **Prescribe a \$500 application fee for a deed request, and a \$250 fee for the transfer of a lease from one party to another before the expiration date.**
- **Prohibit land leased or deeded under Part 339 that was returned to the State from being re-leased or sold by the State if it were not well maintained.**

The bill is described below in further detail.

**Deeds to Leased Lots**

Under Part 339, all of the unpatented overflowed lands, made lands, and lake bottomlands belonging to or held in trust by the State must be held, leased, and controlled by the DNR in the manner provided in Part 339. The bill would refer specifically to Lake St. Clair bottomlands, and provide that all of the lands described above also could be disposed of by deed. Various sections of Part 339 authorize the DNR, upon application of the holder of a lease of specified parcels of land described above, to execute and deliver to the applicant a deed conveying to him or her all of the right, title, and interest of the State in and to those lands, subject to the paramount rights of navigation, hunting, and fishing that remain in the general public and in the government as now existing and recognized by law. The bill would delete the references to specific parcels of land, refer to a person holding a lease on the bill's effective date, and allow a person's heirs or assigns also to apply for and be granted a

deed. The bill specifies that a deed application would have to be filed at least one year before the lease expired.

#### Deed & Lease Transfer Fees

Currently, the consideration received for the execution and delivery of a deed under Part 339 must be credited to the General Fund. Under the bill, the consideration, along with all fees (described below) collected under Part 339, instead would have to be forwarded to the State Treasurer and credited to the Land and Water Management Permit Fee Fund to cover the administrative costs associated with lease renewals, lease extensions, appraisals, and other costs directly related to processing St. Clair Flats leases and deed requests. The DNR could charge against that account for that purpose.

The bill would require a request for a deed to be on a form provided by the Department of Environmental Quality (DEQ) and accompanied by an application fee of \$500.

Part 339 requires the DEQ to approve the sale or transfer of a lease. The bill would eliminate a provision requiring the DEQ to keep a book of record for the purpose of recording all sales or transfers of leases, and specifying that no sale or transfer is valid unless and until it is filed for record.

Under the bill, before selling or transferring a property subject to a lease under Part 339, the parties involved would have to apply to the DEQ for approval of the transfer of the lease to the purchaser. The application would have to be made on a form provided by the DEQ and be accompanied by a fee of \$250. Upon approval by the DEQ, an assignment of lease form would have to be recorded with the county register of deeds.

#### Water Highway Leases

Part 339 authorizes the DNR, in its discretion, upon application of a person holding a lease or deed to any lands lying contiguous to a water highway that is determined to be no longer needed for navigation, ingress, and egress to surveyed lots, or for any public use, to execute and deliver to the applicant a lease or a deed to all of the right, title, and interest of the State in and to one-half of the surveyed width of the portion of the water highway contiguous to the applicant's land. The bill would eliminate the reference to a lease, and delete a provision allowing the term of the water highway lease to be made to run concurrently with the land lease.

#### High-Water Mark

Under Part 339, a deed granted to a leaseholder does not include a portion of the original lease that is submerged or lies below the ordinary high-water mark of Lake St. Clair. Part 339 states that the high-water mark is 574.5 International Great Lakes Datum (IGLD 1955). Under the bill, the high-water mark would be 575.3 International Great Lakes Datum (IGLD 1985).

Currently, the Department must perform a site inspection and set stakes, if necessary, to identify the boundaries of the area of the leased lot to be deeded. The applicant may be required to provide a boundary survey that delineates the area of the real property to be deeded. The bill would require the applicant to provide a boundary survey that was completed by a professional surveyor.

These provisions currently apply to specific portions of the St. Clair Flats. Under the bill, they would apply to property described in Part 339.

Additionally, the bill provides that the State would retain ownership in trust over the portion of the leased lot below the ordinary high-water mark at the time of the conveyance.

### Property Value

Part 339 prohibits a deed from being granted at less than fair market value of the real property in accordance with the DNR's appraisal procedures for eligible parcels. The appraisal may not include improvements such as buildings, seawalls, and docks. The bill specifies that appraisal procedures and practices could include the use of independent fee appraisal contractors. The bill also would prohibit credit from being granted to the lessee for the years remaining on an unexpired lease when determining the sale value to the State.

### Trespassing

Under the bill, if a lease under Part 339 expired and a deed were not issued to the former leaseholder, he or she would be considered a trespasser. An action could be brought in the circuit court for the county in which the land was located, in the name of the people of the State, by the Attorney General, to recover possession of that land.

### Well-Maintained Land

The bill would prohibit the State from re-leasing or selling land leased or deeded under Part 339 that had been returned to State ownership through purchase, gift, devise, lease expiration, or tax reversion if the land were not well-maintained.

Under the bill, "well-maintained" would mean that any structure on the land complies with township building codes and current county and State health codes, and that the land is adequately protected from erosion.

### Repealed Sections

The bill would repeal various sections referring to leases of the lands and specific parcels described under Part 339. The sections pertain to the following:

- The sale and deeding of specified parcels not currently under lease.
- The procedures for obtaining a lease.
- The term of the lease and re-leasing procedures upon expiration.
- The allocation of money received from the leasing of the described lands.
- Land subject to a lease for the removal of metallic minerals, marl, stone, rock, sand, gravel, earth, oil, and gas, and the penalties for engaging in such activities without a lease for commercial purposes.

MCL 324.33901 et al.

Legislative Analyst: Julie Koval

### **FISCAL IMPACT**

The bill would result in increased revenue to the State, and possible additional administrative and other local compliance costs for local units of government.

The Department of Environmental Quality estimates the revenue from the sale of the parcels described in the bill to be approximately \$2.5 million over 40 years as the estimated 300 current leases expire and new deeds are issued. According to the Department, the two new fees in the bill essentially would cover the administrative costs of processing and approving the deeds.

Local units of government could be required to perform additional inspection and permitting functions as current leaseholders comply with local building and health codes to upgrade their parcels before applying for deeds.

Fiscal Analyst: Mike Hansen

S0506\sb670sa

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.