

Legislative Analysis



INVESTMENT PROPERTY TAX EXEMPTION

Mitchell Bean, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 4487

Sponsor: Rep. Rick Jones

Committee: Tax Policy

Complete to 6-25-07

A REVISED SUMMARY OF HOUSE BILL 4487 AS INTRODUCED 3-20-07

The General Property Tax Act (MCL 211.7m) exempts from taxation (1) property that is owned or acquired under an installment purchase agreement by a local unit of government or a school district and that is used for a public purpose; and (2) property used for public purposes that is owned or acquired by an entity wholly owned or whose members consist solely of a political subdivision. The exemption does not apply to property acquired after July 19, 1966 unless a deed or other memorandum of conveyance is recorded in the county in which the property is located prior to December 31 of the year in which the property is acquired.

The bill provides that the exemption would not apply to property that is owned or acquired under an installment purchase agreement by a public retirement system and that is held for investment purposes. (This would negate a recent decision by the Michigan Supreme Court.)

FISCAL IMPACT:

The bill would increase revenue by an indeterminate amount for the state and local units of government.

BACKGROUND INFORMATION:

Court Decisions

The issue of whether property held by a public retirement system is exempt from ad valorem property taxes under the General Property Tax Act (MCL 211.7m) was recently addressed by the Michigan Supreme Court in *Municipal Employees Retirement System of Michigan v. Charter Township of Delta* (Docket No. 129041). At issue in the case was whether three parcels of vacant commercial property located in Delta Township (Eaton County) acquired by the MERS as part of a diversified portfolio was exempt from property taxes. The local board of review rejected MERS' claim that the property was exempt, as did the Michigan Tax Tribunal. In May 2005, in a per curiam opinion, the Court of Appeals reversed the MTT's decision, stating: *Under the [Municipal Employees Retirement Act] 'all money and other assets of the retirement system shall be held and invested for the sole purpose of meeting disbursements authorized in accordance with the provisions of this act and shall be used for no other purpose...' By the plain language of*

*this statute, petitioner is required to hold and invest other assets, such as the land in question, for the purpose of meeting its disbursement requirements. Furthermore, the statute specifically states that the assets held or invested 'shall be used for no other purpose' The phrase 'used for no other purpose' necessarily contemplates that the only proper 'uses' for assets under the act, is to hold or invest them. Consequently, the act of holding real property assets in petitioner's portfolio, ready for liquidation to meet its statutorily mandated disbursement requirements, is a present use rather than 'an indefinite prospective use.' Therefore the land held by petitioner was properly exempt from taxation under MCL 211.7m because it was land used for a public purpose. [Internal citations omitted]*¹

Earlier this month, the Supreme Court issued an order affirming the decision of the Court of Appeals stating: *We emphasize that the Municipal Employees Retirement System of Michigan was statutorily required to hold and invest assets. We further note that if the Municipal Employees Retirement Systems of Michigan is unable to meet pension disbursements, municipalities themselves must produce these funds. The Municipal Employees Retirement System of Michigan's acquisition of land in Delta Township carries out the public purpose of the retirement system by diversifying the portfolio and investing in a way that is not subject to the vicissitudes of the stock or bond market, but instead disseminates the risk. For the reasons stated by the Court of Appeals, and the additional reasons stated here, the property at issue is exempt from ad valorem taxation under MCL 211.7m of the General Property Tax Act*²

Municipal Employees Retirement System

The Municipal Employees' Retirement System (MERS) is a statewide retirement plan and tax-qualified trust that municipalities may adopt for their employees. MERS offers employee benefit programs: defined benefit, defined contribution and hybrid plans, and group insurance products. MERS serves cities, counties, hospitals, libraries, medical care facilities, road commissions, townships, villages, and similar units of local government. MERS operated under state government from 1945 until 1996, when MERS became an independent nonprofit public corporation. (See 1996 PA 220) Today, MERS provides benefit programs to over 75,000 members in over 680 units of local government.

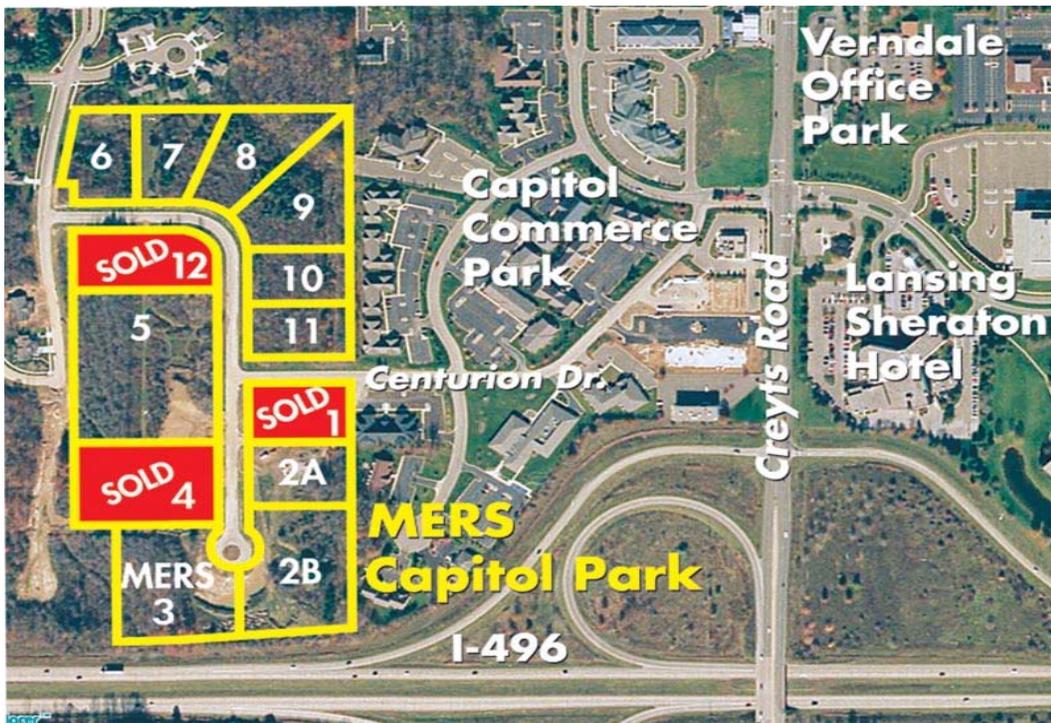
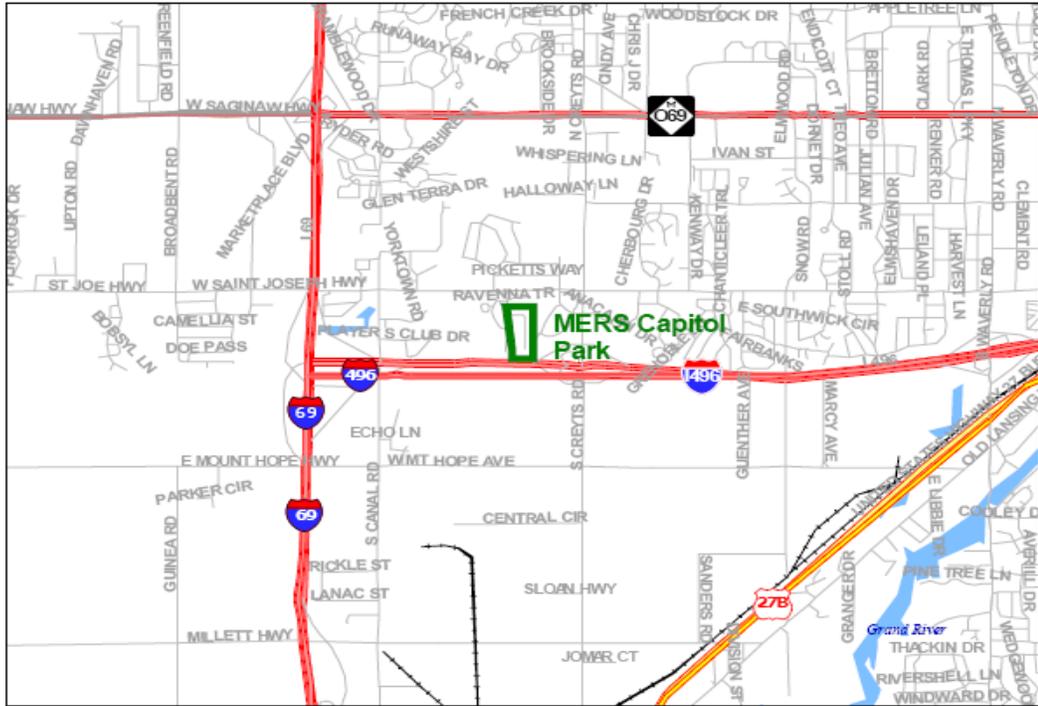
MERS Capitol Park

The pictures below, taken from the website of the Michigan Economic Development Corporation, show the location of the land in question. The site, just west of Lansing is home to the headquarters of the Municipal Employees Retirement System.³

¹ A copy of the Court of Appeals decision is available at http://courtofappeals.mijud.net/documents/OPINIONS/FINAL/COA/20050524_C260534_28_850.260534.OPN.COA.PDF

² A copy of the June 1, 2007 order of the Supreme Court is available at <http://courts.michigan.gov/supremecourt/Clerk/10-06/129041/129041-Order.pdf>

³ Further information on the site is available at <http://www.michigan.org/cm/attach/21608D70-1177-46A2-891A-4A21B618DE32/MERSCapitolPkDetailInfo.pdf>



Legislative Analyst: Mark Wolf
 Fiscal Analyst: Rebecca Ross

■ 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.