

HOUSE BILL No. 5725

August 27, 2014, Introduced by Rep. Haveman and referred to the Committee on Appropriations.

A bill to amend 1984 PA 431, entitled "The management and budget act," by amending section 251 (MCL 18.1251), as amended by 1999 PA 8, and by adding section 257.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 251. (1) This section applies to all real property of ~~the~~
2 **THIS** state except all of the following:

3 (a) Property under the jurisdiction of the state
4 transportation department.

5 (b) Property under the jurisdiction of ~~a state~~**AN** institution
6 of higher education.

7 (c) Property under the jurisdiction of the department of
8 natural resources.

9 (d) Property under the jurisdiction of the department of

1 military **AND VETERANS** affairs.

2 (2) The department shall provide for the development and
3 maintenance of real property records and facility inventories. The
4 department may award appropriate service contracts or employ land
5 surveyors to survey, monument, map, describe, and record real
6 property and facilities.

7 ~~—— (3) The department shall issue directives to provide for the~~
8 ~~disposition process for facilities and lands that are considered~~
9 ~~surplus. The department shall require a public notice component in~~
10 ~~its directives regarding the disposition process under this~~
11 ~~subsection.~~

12 **SEC. 257. (1) THE DEPARTMENT, ON BEHALF OF THIS STATE, MAY**
13 **CONVEY BY QUITCLAIM DEED OR AFFIDAVIT OF JURISDICTIONAL TRANSFER**
14 **ALL OR PORTIONS OF STATE-OWNED PROPERTY DESIGNATED AS SURPLUS REAL**
15 **PROPERTY BY THE STATE AGENCY WITH JURISDICTION OVER THE PROPERTY IF**
16 **BOTH OF THE FOLLOWING APPLY:**

17 (A) THE PROPERTY IS DESIGNATED AS SURPLUS REAL PROPERTY BY THE
18 DIRECTOR OF THE STATE AGENCY IN WRITING TO THE DIRECTOR.

19 (B) THE PROPERTY IS NOT NEEDED TO MEET A STATE OBJECTIVE AS
20 DETERMINED BY THE DIRECTOR.

21 (2) THE DEPARTMENT SHALL NOT CONVEY PROPERTY UNDER THIS
22 SECTION UNLESS THE CONVEYANCE AND THE TERMS OF THE CONVEYANCE HAVE
23 BEEN APPROVED BY THE BOARD.

24 (3) THE STATE AGENCY WITH JURISDICTION OVER SURPLUS REAL
25 PROPERTY CONVEYED UNDER THIS SECTION IS RESPONSIBLE FOR ALL
26 EXPENSES OF MAINTAINING THE PROPERTY UNTIL THE TIME OF CONVEYANCE.

27 (4) SURPLUS REAL PROPERTY CONVEYED UNDER THIS SECTION MUST BE

1 IDENTIFIED BY A LEGAL DESCRIPTION APPROVED OR PREPARED BY THE STATE
2 SURVEYOR FOR USE IN A STATE QUITCLAIM DEED.

3 (5) A DEED OR AFFIDAVIT OF JURISDICTIONAL TRANSFER AUTHORIZED
4 BY THIS SECTION MUST BE APPROVED AS TO LEGAL FORM BY THE DEPARTMENT
5 OF ATTORNEY GENERAL.

6 (6) SURPLUS REAL PROPERTY CONVEYED UNDER THIS SECTION INCLUDES
7 ALL SURPLUS, SALVAGE, AND PERSONAL PROPERTY OR EQUIPMENT REMAINING
8 ON THE PROPERTY ON THE DATE OF THE CONVEYANCE.

9 (7) THE FAIR MARKET VALUE OF SURPLUS REAL PROPERTY CONVEYED
10 UNDER THIS SECTION MUST BE DETERMINED AS NEEDED TO FACILITATE A
11 FAIR MARKET VALUE CONVEYANCE BY AN INDEPENDENT FEE APPRAISAL
12 PREPARED FOR THE DEPARTMENT, OR BY AN APPRAISER WHO IS AN EMPLOYEE
13 OR CONTRACTOR OF THIS STATE.

14 (8) THE DEPARTMENT MAY TAKE THE NECESSARY STEPS TO CONVEY
15 SURPLUS REAL PROPERTY UNDER THIS SECTION USING ANY OF THE FOLLOWING
16 MEANS:

17 (A) ANY PUBLICLY DISCLOSED COMPETITIVE METHOD OF SALE,
18 SELECTED TO REALIZE THE FAIR MARKET VALUE TO THIS STATE, AS
19 DETERMINED BY THE DEPARTMENT.

20 (B) OFFERING THE PROPERTY FOR SALE FOR FAIR MARKET VALUE TO 1
21 OR MORE UNITS OF LOCAL GOVERNMENT.

22 (C) CONVEYING THE PROPERTY TO THE LAND BANK FAST TRACK
23 AUTHORITY CREATED UNDER SECTION 15 OF THE LAND BANK FAST TRACK ACT,
24 2003 PA 258, MCL 124.765.

25 (D) TRANSFERRING THE PROPERTY, WITH OR WITHOUT CONSIDERATION,
26 THROUGH JURISDICTIONAL TRANSFER TO ANOTHER STATE AGENCY. IF
27 PROPERTY IS TRANSFERRED UNDER THIS SUBDIVISION, THE TRANSFER SHALL

1 BE MADE BY AN AFFIDAVIT OF JURISDICTIONAL TRANSFER IN RECORDABLE
2 FORM RATHER THAN A QUITCLAIM DEED.

3 (E) TRADING SOME OR ALL OF THE PROPERTY FOR OTHER REAL
4 PROPERTY IF THE OTHER REAL PROPERTY IS DETERMINED BY THE DEPARTMENT
5 TO BE OF REASONABLY EQUAL VALUE TO THIS STATE.

6 (F) OFFERING THE PROPERTY FOR SALE FOR LESS THAN FAIR MARKET
7 VALUE TO THE UNITS OF LOCAL GOVERNMENT IN WHICH THE PROPERTY IS
8 LOCATED, SUBJECT TO THE FOLLOWING CONDITIONS:

9 (i) THE DEPARTMENT MAY PROVIDE NOTICE TO EACH OF THE UNITS OF
10 LOCAL GOVERNMENT OF THE PROPERTY'S AVAILABILITY. THE DEPARTMENT
11 SHALL GIVE THE FIRST OPPORTUNITY TO PURCHASE THE PROPERTY TO THE
12 FIRST UNIT OF LOCAL GOVERNMENT TO MAKE AN OFFER BY REGISTERED MAIL
13 TO PURCHASE THE PROPERTY. IF AN OFFER IS ACCEPTED BY THE
14 DEPARTMENT, THE UNIT OF LOCAL GOVERNMENT SHALL ENTER INTO A
15 PURCHASE AGREEMENT WITHIN 60 DAYS AFTER MAKING THE OFFER AND
16 COMPLETE THE CONVEYANCE WITHIN 180 DAYS AFTER MAKING THE OFFER. THE
17 DEPARTMENT MAY EXTEND THE TIME TO COMPLETE THE CONVEYANCE AS
18 NEEDED. IF THERE ARE COMPETING OFFERS FROM UNITS OF LOCAL
19 GOVERNMENT, THE DEPARTMENT SHALL DETERMINE WHICH UNIT SHOULD
20 RECEIVE THE PROPERTY BASED ON THE BEST INTERESTS OF THIS STATE.

21 (ii) THE PROPERTY MUST BE USED EXCLUSIVELY FOR PUBLIC USE FOR
22 30 YEARS AFTER THE CONVEYANCE. IF A FEE, TERM, OR CONDITION IS
23 IMPOSED ON MEMBERS OF THE PUBLIC FOR USE OF THE PROPERTY, OR IF
24 SUCH A FEE, TERM, OR CONDITION IS WAIVED, ALL MEMBERS OF THE PUBLIC
25 MUST BE SUBJECT TO THE SAME FEES, TERMS, CONDITIONS, AND WAIVERS.
26 THE PUBLIC USE RESTRICTION MUST BE INCLUDED IN THE DEED.

27 (iii) IF, WITHIN 30 YEARS AFTER THE CONVEYANCE, THE UNIT OF

1 LOCAL GOVERNMENT INTENDS TO CONVEY THE PROPERTY, THE UNIT OF LOCAL
2 GOVERNMENT MUST PROVIDE NOTICE TO THE DEPARTMENT OF ITS DESIRE TO
3 CONVEY THE PROPERTY BACK TO THIS STATE AT THE ORIGINAL SALE PRICE.
4 IF THIS STATE REACQUIRES THE PROPERTY, THIS STATE IS NOT LIABLE TO
5 ANY PERSON FOR IMPROVEMENTS TO OR LIENS PLACED ON THE PROPERTY. IF
6 THIS STATE DECLINES TO REACQUIRE THE PROPERTY, THE UNIT OF LOCAL
7 GOVERNMENT MUST RETAIN THE PROPERTY.

8 (iv) IF THE UNIT OF LOCAL GOVERNMENT RETAINS THE PROPERTY FOR
9 30 YEARS AFTER THE CONVEYANCE, THE PUBLIC USE RESTRICTIONS UNDER
10 SUBPARAGRAPHS (ii) AND (iii) AUTOMATICALLY TERMINATE.

11 (v) THE DEPARTMENT MAY REQUIRE THE UNIT OF LOCAL GOVERNMENT TO
12 REIMBURSE THIS STATE AT CLOSING FOR COSTS DEMONSTRABLY INCURRED BY
13 THIS STATE THAT WERE NECESSARY TO PREPARE THE PROPERTY FOR
14 CONVEYANCE.

15 (9) THE DEPARTMENT MAY REQUIRE A GRANTEE OF PROPERTY CONVEYED
16 UNDER THIS SECTION TO RECORD THE INSTRUMENT OF CONVEYANCE OR
17 JURISDICTIONAL TRANSFER WITH THE APPROPRIATE REGISTER OF DEEDS AND
18 PROVIDE THE DEPARTMENT WITH A RECORDED COPY OF THE RECORDED
19 INSTRUMENT.

20 (10) THE DEPARTMENT SHALL DEPOSIT THE NET REVENUE RECEIVED
21 FROM THE SALE OF PROPERTY UNDER THIS SECTION IN THE STATE TREASURY.
22 THE STATE TREASURER SHALL CREDIT THE MONEY DEPOSITED TO THE GENERAL
23 FUND.

24 (11) THIS SECTION APPLIES TO THE CONVEYANCE OF ALL REAL
25 PROPERTY OF THIS STATE EXCEPT PROPERTY UNDER THE JURISDICTION OF
26 ANY OF THE FOLLOWING:

27 (A) THE STATE TRANSPORTATION DEPARTMENT.

1 (B) AN INSTITUTION OF HIGHER EDUCATION.

2 (C) THE DEPARTMENT OF NATURAL RESOURCES.

3 (D) THE DEPARTMENT OF MILITARY AND VETERANS AFFAIRS.

4 (12) THIS SECTION APPLIES TO ALL JURISDICTIONAL TRANSFERS
5 BETWEEN STATE DEPARTMENTS AND INSTITUTIONS, INCLUDING THOSE
6 EXEMPTED UNDER SUBSECTION (11).

7 (13) THIS STATE SHALL NOT RESERVE OIL, GAS, OR MINERAL RIGHTS
8 TO PROPERTY CONVEYED UNDER THIS SECTION. HOWEVER, THE CONVEYANCE
9 AUTHORIZED UNDER THIS SECTION MUST PROVIDE THAT, IF THE GRANTEE OR
10 ANY SUCCESSOR DEVELOPS ANY OIL, GAS, OR MINERALS FOUND ON, WITHIN,
11 OR UNDER THE CONVEYED PROPERTY, THE GRANTEE OR ANY SUCCESSOR SHALL
12 PAY THIS STATE 1/2 OF THE GROSS REVENUE GENERATED FROM THE
13 DEVELOPMENT OF THE OIL, GAS, OR MINERALS. A PAYMENT UNDER THIS
14 SECTION MUST BE DEPOSITED IN THE GENERAL FUND.

15 (14) A CONVEYANCE UNDER THIS SECTION MUST RESERVE TO THIS
16 STATE ALL ABORIGINAL ANTIQUITIES, INCLUDING MOUNDS, EARTHWORKS,
17 FORTS, BURIAL AND VILLAGE SITES, MINES, OR OTHER RELICS LYING ON,
18 WITHIN, OR UNDER THE PROPERTY, WITH POWER TO THIS STATE AND ALL
19 OTHERS ACTING UNDER ITS AUTHORITY TO ENTER THE PROPERTY FOR ANY
20 PURPOSE RELATED TO EXPLORING, EXCAVATING, AND TAKING AWAY THE
21 ABORIGINAL ANTIQUITIES.

22 (15) IF PROPERTY CONVEYED UNDER THIS SECTION WAS USED BY THIS
23 STATE AS A HISTORICAL MONUMENT, MEMORIAL, PARK, OR PROTECTED
24 WILDLIFE HABITAT AREA, THE GRANTEE OR ANY SUCCESSOR SHALL MAINTAIN
25 AND PROTECT THE PROPERTY FOR THAT PURPOSE IN PERPETUITY IN
26 ACCORDANCE WITH APPLICABLE LAW.

27 (16) IF PROPERTY CONVEYED UNDER THIS SECTION IS USED IN A

1 MANNER THAT VIOLATES ANY OF THE RESTRICTIONS IMPOSED UNDER
2 SUBSECTION (8) (F), (13), (14), OR (15), THIS STATE MAY REENTER AND
3 TAKE THE PROPERTY, TERMINATING THE GRANTEE'S OR ANY SUCCESSOR'S
4 ESTATE IN THE PROPERTY. AN ACTION TO REGAIN POSSESSION OF THE
5 PROPERTY UNDER THIS SECTION MAY BE BROUGHT AND MAINTAINED BY THE
6 ATTORNEY GENERAL ON BEHALF OF THIS STATE.

7 (17) IF THIS STATE REENTERS AND REPOSSESSES PROPERTY UNDER
8 SUBSECTION (16), THIS STATE IS NOT LIABLE TO REIMBURSE ANY PERSON
9 FOR ANY IMPROVEMENTS MADE ON THE PROPERTY OR TO COMPENSATE ANY
10 PERSON FOR ANY PART OF AN UNFULFILLED CONTRACT OR LICENSE ISSUED TO
11 PROVIDE GOODS OR SERVICES ON OR FOR THE PROPERTY.

12 (18) AS USED IN THIS SECTION:

13 (A) "FAIR MARKET VALUE" MEANS THE HIGHEST ESTIMATED PRICE THAT
14 THE PROPERTY WILL BRING IF OFFERED FOR SALE ON THE OPEN MARKET,
15 ALLOWING A REASONABLE TIME TO FIND A PURCHASER WHO WOULD BUY WITH
16 KNOWLEDGE OF THE PROPERTY'S POSSIBLE USES.

17 (B) "NET REVENUE" MEANS THE PROCEEDS FROM THE SALE OF THE
18 PROPERTY LESS REIMBURSEMENT FOR ANY COSTS TO THE DEPARTMENT
19 ASSOCIATED WITH THE SALE, INCLUDING, BUT NOT LIMITED TO,
20 ADMINISTRATIVE COSTS, INCLUDING EMPLOYEE WAGES, SALARIES, AND
21 BENEFITS; COSTS OF REPORTS AND STUDIES AND OTHER MATERIALS
22 NECESSARY TO THE PREPARATION OF SALE; ENVIRONMENTAL REMEDIATION;
23 LEGAL FEES; AND ANY LITIGATION COSTS RELATED TO THE CONVEYANCE.

24 (C) "PUBLIC USE" MEANS ACTUAL USE OF THE PROPERTY BY MEMBERS
25 OF THE PUBLIC OR ACTUAL USE BY THE UNIT OF LOCAL GOVERNMENT FOR ANY
26 OF THE FOLLOWING:

27 (i) PUBLICLY OWNED AND OPERATED CORRECTIONAL FACILITIES.

- 1 (ii) LAW ENFORCEMENT PURPOSES.
- 2 (iii) EMERGENCY MANAGEMENT RESPONSE PURPOSES.
- 3 (iv) PUBLIC EDUCATIONAL USE.
- 4 (v) PUBLIC TRANSPORTATION.
- 5 (vi) PUBLIC PARKS AND RECREATIONAL AREAS.
- 6 (vii) PUBLIC HEALTH USES.
- 7 (viii) WILDLIFE CONSERVATION OR RESTORATION.
- 8 (D) "PUBLIC USE" DOES NOT INCLUDE USE BY A FOR-PROFIT
- 9 ENTERPRISE OR ANY USE THAT IS CLOSED TO THE PUBLIC.