

Legislative Analysis



PROPERTY CONVEYANCES

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Senate Bill 881 (H-1)
Sponsor: Sen. Mike Nofs
Committee: Appropriations

Analysis available at
<http://www.legislature.mi.gov>

Complete to 11-28-16

SUMMARY:

Senate Bill 881 would authorize in part, and require in part, the Department of Technology, Management, and Budget (DTMB) to convey certain properties by quitclaim deed or transfer by affidavit of jurisdictional transfer.

DTMB would be authorized to convey by quitclaim deed or transfer by affidavit of jurisdictional transfer all or portions of the following real property under the jurisdiction of the Michigan State Police (MSP):

- Two parcels located in the Village of L'Anse in Baraga County associated with the MSP L'Anse Post.
- Eight lots located in Bangor Township in Bay County associated with the MSP Bay City Post.
- Two parcels located in Battle Creek Township in Calhoun County associated with the MSP Battle Creek Post.
- A portion of land located Emerson Township in Gratiot County associated with the MSP Ithaca Post.
- A portion of a parcel of land (exceptions listed in bill) in the City of Adrian in Lenawee County associated with the MSP Adrian Post.
- A parcel of land in the City of Manistee in Manistee County associated with the MSP Manistee Post.
- Two lots and a portion of a third lot in the City of South Haven in Van Buren County associated with the MSP South Haven Post.

DTMB would be required to convey to the Village of Blissfield by quitclaim deed certain real property under the jurisdiction of DTMB for \$1.00. Due to the consideration being for less than fair market value, the property would retain a public purpose requirement for 30 years.

DTMB would be authorized to convey by quitclaim deed or transfer by affidavit of jurisdictional transfer all or portions of the following real property under the jurisdiction of the Michigan Department of Corrections (MDOC):

- A parcel of land declared surplus property in Adams Township in Houghton County associated with Camp Kitwen.

- Property declared surplus in the City of Iron River in Iron County associated with Camp Ottawa.
- Property in Chocolay Township in Marquette County.
- Property located at 230 West Front Street in the City of Monroe in Monroe County.
- Property located at 2420 Chambers Road in the Township of Indian Fields in Tuscola County associated with Camp Tuscola.

DTMB would be authorized to transfer by affidavit of jurisdictional transfer to the department or agencies identified, all or portions of the following real property that is under the jurisdiction of DTMB or Department of Health and Human Services (DHHS) (Livingston County parcels):

- Two parcels (currently under the jurisdiction of DTMB) located in the City of Lansing in Ingham County to the Department of Military and Veteran Affairs (DMVA).
- Eight parcels of land (currently under the jurisdiction of DHHS) located in the Township of Green Oak in Livingston County to the MDOC.
- A parcel of land (currently under the jurisdiction of DTMB) in Burr Oak Township in Saint Joseph County to the Michigan Land Bank Fast Track Authority (MLBFTA).

Properties transferred through jurisdictional transfer to another state department or agency could be transferred with or without consideration. If transferred in this manner, the transfer must be made by an affidavit of jurisdictional transfer in recordable form rather than by quitclaim deed.

The properties listed above under the jurisdiction of MSP and MDOC may also be conveyed using any of the following means:

- Holding a publicly disclosed competitive method of sale that would realize the fair market value to this state.
- Offering the property for sale for fair market value to one or more local units of government in which the property is located.
- Exchanging some or all of the property for other real property if determined by DTMB to be of reasonably equal value to this state.
- Transferring the property to the Michigan Land Bank Fast Track Authority
- Offering the property for sale for less than fair market value to local units of government in which the property is located.

“Fair Market Value” is defined in the bill to mean the highest estimated price that the property would bring if offered for sale on the open market, allowing reasonable time to find a purchaser who would buy with the knowledge of the property’s possible uses.

If the property was sold for less than fair market value, the following conditions would apply:

- The local unit of government with an accepted offer of purchase would be required to enter into a purchase agreement within 60 days of making the offer and complete the conveyance within 180 days of making the offer. DTMB would be authorized to extend the time to complete the conveyance as needed.
- The property would be required to be used exclusively for public use for 30 years after the conveyance unless the property was used by the state as a historical monument, memorial, burial ground, park, or protected wildlife habitat whereby it would have to be maintained and protected for that purpose in perpetuity. All members of the public must be subject to the same fees, terms, conditions, and waivers if imposed. The public use restriction must be included in the deed.
- If the local unit of government intends to convey the property within 30 years after the conveyance, it must first offer the property for sale, in writing, to the State, which may purchase the property at the original sale price. The local unit would be required to the State 120 days to reacquire the property. If the state declines to reacquire the property, the public use restrictions would remain.
- If the local unit of government retained the property for 30 years the public use restrictions would automatically terminate unless the property were a historical monument, memorial, burial ground, park, or wildlife habitat.
- DTMB may require the local unit of government to reimburse it for costs demonstrably incurred by the State that were necessary for the conveyance.

“Public Use” is defined in the bill to mean actual use of the property by members of the public or actual use by the unit of local government for any of the following:

- Publicly owned and operated correctional facilities.
- Law enforcement purposes.
- Emergency management response purposes.
- Public educational use.
- Public transportation.
- Public parks and recreational areas.
- Public health uses.
- Wildlife conservation or restoration.

Public use would not include the use of the property by a for-profit enterprise or any use that is closed to the public.

General conditions of conveyances in bill include the following:

- DTMB would be prohibited from conveying property unless the conveyance and the terms of the conveyance have been approved by the State Administrative Board.
- If real property is to be sold for fair market value, the fair market value must be determined by an independent fee appraisal prepared for DTMB by an appraiser who is an employee or contractor of this State.
- The state agency with jurisdiction over the property is responsible for all expenses of maintaining the property until the time of conveyance or transfer.

- A deed or affidavit of jurisdictional transfer must be approved as to legal form by the Department of Attorney General.
- Real property conveyed includes all surplus, salvage, and personal property or equipment remaining on the property on the date of the conveyance or transfer.
- The State shall not reserve oil, gas, or mineral rights to property conveyed. However, the conveyance must provide that the grantee or any successor must pay the state $\frac{1}{2}$ of the gross revenue generated from the development of oil, gas, or minerals. Any payment would be deposited in the State General Fund.
- The State shall reserve all aboriginal antiquities, including mounds, earthworks, forts, burial and village sites, mines, or other relics lying on, within, or under the property. The State would reserve the power to enter the property for any purpose related to exploring, excavating, and taking away the aboriginal antiquities.
- If property conveyed under the bill was used by the State as a historical monument, memorial, burial ground, park, or protected wildlife habitat area, the grantee or any successor shall maintain and protect the property for that purpose in perpetuity.
- DTMB shall deposit net revenue received from the sale of property in the State Treasury for deposit in the State General Fund.
- DTMB may require the grantee to record the instrument of conveyance or jurisdictional transfer with the appropriate register of deeds and provide DTMB with a recorded copy of the recorded instrument.

If the property conveyed under the bill is used in a manner than violates any of the following, the State may reenter and take the property, terminating the grantee's or any successor's estate in the property:

- The conditions for offering the property to a local unit for less than fair market value.
- The oil, gas, or mineral rights restrictions.
- The aboriginal antiquities restrictions.
- The requirement to maintain historical monuments, memorials, burial grounds, parks, or protected habitats in perpetuity.

If the state reentered and repossessed property due to any of the above conditions, the state is not liable to reimburse any person for any improvements made on the property to compensate any person for any part of an unfulfilled contract or license issued to provide goods or services on or for the property.

FISCAL IMPACT:

The bill would authorize DTMB to convey multiple parcels of property listed in more detail in the above analysis. Properties include those under the jurisdiction of the Michigan State Police, Department of Corrections, and DTMB.

Net revenue to the state through the conveyance of the properties listed above would depend on the terms of conveyance. Under the provisions of the bill, the included properties could be transferred for less than fair market value to local units of government,

for fair market value, or transferred to another state department or agency with or without consideration. Properties transferred to the Michigan Land Bank Fast Track Authority (MLBFTA) have unique statutory provisions allowing the MLBFTA to transfer property for less than fair market value without the retention of the public purpose use requirement.

There may be savings to the departments and agencies due to foregone maintenance and upkeep costs associated with having jurisdiction over the property. Any savings would depend on annual expenditures for maintenance and upkeep.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.