

HOUSE BILL No. 5281

February 2, 2016, Introduced by Reps. Inman and Pscholka 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.~~**AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT**
12 **ADDED SECTION 257, IF A STATUTE OF THIS STATE REQUIRES THE**
13 **DISPOSITION OF REAL PROPERTY TO BE IN ACCORDANCE WITH DIRECTIVES**
14 **DEVELOPED FOR THE DISPOSITION OF SURPLUS FACILITIES AND LANDS UNDER**
15 **THIS SECTION, THE DISPOSITION IS CONTROLLED BY SECTION 257.**

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

21 **(A) THE PROPERTY IS DESIGNATED AS SURPLUS REAL PROPERTY BY THE**
22 **DIRECTOR OF THE STATE AGENCY WITH JURISDICTION OVER THE PROPERTY IN**
23 **WRITING TO THE DIRECTOR.**

24 **(B) THE PROPERTY IS NOT NEEDED TO MEET A STATE OBJECTIVE AS**
25 **DETERMINED BY THE DIRECTOR.**

26 **(2) THE DEPARTMENT SHALL NOT CONVEY PROPERTY UNDER THIS**
27 **SECTION UNLESS THE CONVEYANCE AND THE TERMS OF THE CONVEYANCE HAVE**

1 BEEN APPROVED BY THE BOARD.

2 (3) THE STATE AGENCY WITH JURISDICTION OVER SURPLUS REAL
3 PROPERTY CONVEYED OR TRANSFERRED UNDER THIS SECTION IS RESPONSIBLE
4 FOR ALL EXPENSES OF MAINTAINING THE PROPERTY UNTIL THE TIME OF
5 CONVEYANCE OR TRANSFER.

6 (4) SURPLUS REAL PROPERTY CONVEYED UNDER THIS SECTION MUST BE
7 IDENTIFIED BY A LEGAL DESCRIPTION APPROVED OR PREPARED BY THE STATE
8 SURVEYOR FOR USE IN A STATE QUITCLAIM DEED.

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

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

15 (7) IF SURPLUS REAL PROPERTY IS TO BE SOLD FOR FAIR MARKET
16 VALUE UNDER THIS SECTION, THE FAIR MARKET VALUE MUST BE DETERMINED
17 BY AN INDEPENDENT FEE APPRAISAL PREPARED FOR THE DEPARTMENT, OR BY
18 AN APPRAISER WHO IS AN EMPLOYEE OR CONTRACTOR OF THIS STATE.

19 (8) THE DEPARTMENT MAY TAKE THE NECESSARY STEPS TO CONVEY
20 SURPLUS REAL PROPERTY UNDER THIS SECTION USING ANY OF THE FOLLOWING
21 MEANS:

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

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

27 (C) TRANSFERRING THE PROPERTY, WITH OR WITHOUT CONSIDERATION,

1 THROUGH JURISDICTIONAL TRANSFER TO ANOTHER STATE AGENCY. IF
2 PROPERTY IS TRANSFERRED UNDER THIS SUBDIVISION, THE TRANSFER MUST
3 BE MADE BY AN AFFIDAVIT OF JURISDICTIONAL TRANSFER IN RECORDABLE
4 FORM RATHER THAN A QUITCLAIM DEED.

5 (D) EXCHANGING SOME OR ALL OF THE PROPERTY FOR OTHER REAL
6 PROPERTY IF THE OTHER REAL PROPERTY IS DETERMINED BY THE DEPARTMENT
7 TO BE OF REASONABLY EQUAL VALUE TO THIS STATE.

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

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

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

1 THE PUBLIC USE RESTRICTION MUST BE INCLUDED IN THE DEED.

2 (iii) IF THE UNIT OF LOCAL GOVERNMENT INTENDS TO CONVEY THE
3 PROPERTY WITHIN 30 YEARS AFTER THE CONVEYANCE, THE UNIT OF LOCAL
4 GOVERNMENT MUST FIRST OFFER THE PROPERTY FOR SALE, IN WRITING, TO
5 THIS STATE, WHICH MAY PURCHASE THE PROPERTY AT THE ORIGINAL SALE
6 PRICE. THE UNIT OF LOCAL GOVERNMENT SHALL PROVIDE THIS STATE 120
7 DAYS TO CONSIDER REACQUIRING THE PROPERTY. IF THIS STATE AGREES TO
8 REACQUIRE THE PROPERTY, THIS STATE IS NOT LIABLE TO ANY PERSON FOR
9 IMPROVEMENTS TO OR LIENS PLACED ON THE PROPERTY. IF THIS STATE
10 DECLINES TO REACQUIRE THE PROPERTY, THE PUBLIC USE RESTRICTIONS
11 DESCRIBED IN SUBPARAGRAPH (ii) REMAIN IN EFFECT.

12 (iv) IF THE UNIT OF LOCAL GOVERNMENT RETAINS THE PROPERTY FOR
13 30 YEARS AFTER THE CONVEYANCE, THE PUBLIC USE RESTRICTIONS UNDER
14 SUBPARAGRAPHS (ii) AND (iii) AUTOMATICALLY TERMINATE.

15 (v) THE DEPARTMENT MAY REQUIRE THE UNIT OF LOCAL GOVERNMENT TO
16 REIMBURSE THIS STATE AT CLOSING FOR COSTS DEMONSTRABLY INCURRED BY
17 THIS STATE THAT WERE NECESSARY TO PREPARE THE PROPERTY FOR
18 CONVEYANCE.

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

24 (10) THE DEPARTMENT SHALL DEPOSIT THE NET REVENUE RECEIVED
25 FROM THE SALE OF PROPERTY UNDER THIS SECTION IN THE STATE TREASURY.
26 THE STATE TREASURER SHALL CREDIT THE MONEY DEPOSITED TO THE GENERAL
27 FUND.

1 (11) THIS SECTION APPLIES TO THE CONVEYANCE OF ALL REAL
2 PROPERTY OF THIS STATE EXCEPT PROPERTY UNDER THE JURISDICTION OF
3 ANY OF THE FOLLOWING:

4 (A) THE STATE TRANSPORTATION DEPARTMENT.

5 (B) AN INSTITUTION OF HIGHER EDUCATION.

6 (C) THE DEPARTMENT OF NATURAL RESOURCES.

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

8 (E) THE LAND BANK FAST TRACK AUTHORITY CREATED UNDER SECTION
9 15 OF THE LAND BANK FAST TRACK ACT, 2003 PA 258, MCL 124.765.

10 (12) THIS SECTION APPLIES TO ALL JURISDICTIONAL TRANSFERS
11 BETWEEN STATE DEPARTMENTS AND INSTITUTIONS, INCLUDING THOSE
12 EXEMPTED UNDER SUBSECTION (11). HOWEVER, THIS SECTION DOES NOT
13 APPLY TO A JURISDICTIONAL TRANSFER OF PROPERTY EXEMPTED UNDER
14 SUBSECTION (11) (E).

15 (13) THIS STATE SHALL NOT RESERVE OIL, GAS, OR MINERAL RIGHTS
16 TO PROPERTY CONVEYED UNDER THIS SECTION. HOWEVER, THE CONVEYANCE
17 AUTHORIZED UNDER THIS SECTION MUST PROVIDE THAT, IF THE GRANTEE OR
18 ANY SUCCESSOR DEVELOPS ANY OIL, GAS, OR MINERALS FOUND ON, WITHIN,
19 OR UNDER THE CONVEYED PROPERTY, THE GRANTEE OR ANY SUCCESSOR SHALL
20 PAY THIS STATE 1/2 OF THE GROSS REVENUE GENERATED FROM THE
21 DEVELOPMENT OF THE OIL, GAS, OR MINERALS. A PAYMENT UNDER THIS
22 SECTION MUST BE DEPOSITED IN THE GENERAL FUND.

23 (14) A CONVEYANCE UNDER THIS SECTION MUST RESERVE TO THIS
24 STATE ALL ABORIGINAL ANTIQUITIES, INCLUDING MOUNDS, EARTHWORKS,
25 FORTS, BURIAL AND VILLAGE SITES, MINES, OR OTHER RELICS LYING ON,
26 WITHIN, OR UNDER THE PROPERTY, WITH POWER TO THIS STATE AND ALL
27 OTHERS ACTING UNDER ITS AUTHORITY TO ENTER THE PROPERTY FOR ANY

1 PURPOSE RELATED TO EXPLORING, EXCAVATING, AND TAKING AWAY THE
2 ABORIGINAL ANTIQUITIES.

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

8 (16) IF PROPERTY CONVEYED UNDER THIS SECTION IS USED IN A
9 MANNER THAT VIOLATES ANY OF THE RESTRICTIONS IMPOSED UNDER
10 SUBSECTION (8) (E), (13), (14), OR (15), THIS STATE MAY REENTER AND
11 TAKE THE PROPERTY, TERMINATING THE GRANTEE'S OR ANY SUCCESSOR'S
12 ESTATE IN THE PROPERTY. AN ACTION TO REGAIN POSSESSION OF THE
13 PROPERTY UNDER THIS SECTION MAY BE BROUGHT AND MAINTAINED BY THE
14 ATTORNEY GENERAL ON BEHALF OF THIS STATE.

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

20 (18) BY JULY 1 OF EACH YEAR, THE DEPARTMENT SHALL PROVIDE A
21 REPORT TO THE HOUSE OF REPRESENTATIVES AND SENATE APPROPRIATIONS
22 COMMITTEES THAT CONTAINS ALL OF THE FOLLOWING INFORMATION:

23 (A) THE NUMBER AND FULL DESCRIPTION OF AND THE STATE
24 DEPARTMENT OR AGENCY WITH JURISDICTION OVER EACH PARCEL OF REAL
25 PROPERTY DECLARED AS SURPLUS PROPERTY IN THE PREVIOUS 12 MONTHS.

26 (B) THE NUMBER AND DESCRIPTIONS OF PROPERTIES SOLD UNDER THIS
27 SECTION COMPETITIVELY AND AT FAIR MARKET VALUE.

1 (C) THE NUMBER AND DESCRIPTIONS OF PROPERTIES SOLD UNDER THIS
2 SECTION AT FAIR MARKET VALUE TO UNITS OF LOCAL GOVERNMENT.

3 (D) THE NUMBER AND DESCRIPTIONS OF PROPERTIES TRANSFERRED
4 THROUGH JURISDICTIONAL TRANSFER TO ANOTHER STATE AGENCY UNDER THIS
5 SECTION.

6 (E) THE NUMBER AND DESCRIPTIONS OF PROPERTIES TRADED FOR OTHER
7 REAL PROPERTY UNDER THIS SECTION.

8 (F) THE NUMBER AND DESCRIPTIONS OF PROPERTIES OFFERED TO UNITS
9 OF LOCAL GOVERNMENT FOR LESS THAN FAIR MARKET VALUE UNDER THIS
10 SECTION.

11 (G) THE NUMBER AND DESCRIPTIONS OF PROPERTIES SOLD TO UNITS OF
12 LOCAL GOVERNMENT FOR LESS THAN FAIR MARKET VALUE UNDER THIS
13 SECTION.

14 (H) THE APPRAISAL PRICE OF EACH PARCEL OF PROPERTY CONVEYED,
15 TRANSFERRED, OR OFFERED FOR SALE UNDER THIS SECTION.

16 (I) THE PURCHASE PRICE OF EACH PARCEL OF PROPERTY CONVEYED
17 UNDER THIS SECTION.

18 (J) THE INTENDED USE OF EACH PARCEL OF PROPERTY CONVEYED OR
19 TRANSFERRED UNDER THIS SECTION, IF KNOWN.

20 (19) AS USED IN THIS SECTION:

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

25 (B) "NET REVENUE" MEANS THE PROCEEDS FROM THE SALE OF THE
26 PROPERTY LESS REIMBURSEMENT FOR ANY COSTS TO THE DEPARTMENT
27 ASSOCIATED WITH THE SALE, INCLUDING, BUT NOT LIMITED TO,

1 ADMINISTRATIVE COSTS, INCLUDING EMPLOYEE WAGES, SALARIES, AND
2 BENEFITS; COSTS OF REPORTS AND STUDIES AND OTHER MATERIALS
3 NECESSARY TO THE PREPARATION OF SALE; ENVIRONMENTAL REMEDIATION;
4 LEGAL FEES; AND ANY LITIGATION COSTS RELATED TO THE CONVEYANCE.

5 (C) "PUBLIC USE" MEANS, SUBJECT TO SUBDIVISION (D), ACTUAL USE
6 OF THE PROPERTY BY MEMBERS OF THE PUBLIC OR ACTUAL USE BY THE UNIT
7 OF LOCAL GOVERNMENT FOR ANY OF THE FOLLOWING:

8 (i) PUBLICLY OWNED AND OPERATED CORRECTIONAL FACILITIES.

9 (ii) LAW ENFORCEMENT PURPOSES.

10 (iii) EMERGENCY MANAGEMENT RESPONSE PURPOSES.

11 (iv) PUBLIC EDUCATIONAL USE.

12 (v) PUBLIC TRANSPORTATION.

13 (vi) PUBLIC PARKS AND RECREATIONAL AREAS.

14 (vii) PUBLIC HEALTH USES.

15 (viii) WILDLIFE CONSERVATION OR RESTORATION.

16 (D) "PUBLIC USE" DOES NOT INCLUDE USE BY A FOR-PROFIT
17 ENTERPRISE OR ANY USE THAT IS CLOSED TO THE PUBLIC.

18 Enacting section 1. This amendatory act takes effect 90 days
19 after the date it is enacted into law.