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BILL



ANALYSIS

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Senate Bill 1036 (as introduced 5-29-18)  
Sponsor: Senator Wayne Schmidt  
Committee: Banking and Financial Institutions

Date Completed: 6-4-18

### **CONTENT**

**The bill would authorize the Department of Technology, Management, and Budget (DTMB), on behalf of the State, to convey by quitclaim deed or transfer by affidavit of jurisdictional transfer all or portions of State-owned properties now under the jurisdiction of the Department of Corrections in Ionia, Grand Traverse, and Tuscola Counties, consisting of eight parcels described in the bill (the Deerfield Correctional Facility Parcel, Camp Pugsley Parcels 1 and 2, and Camp Tuscola Parcels A through E).**

**The DTMB would be required to convey the Camp Pugsley parcels to the Michigan Land Bank Fast Track Authority, and would be permitted to transfer the other parcels to the Authority or otherwise transfer, sell, or exchange them.**

#### Deerfield Correctional Facility; Camp Tuscola Parcels

The DTMB could transfer the Deerfield Correctional Facility and Camp Tuscola parcels, with or without compensation, through jurisdictional transfer to another State agency. If property were transferred to another State agency, the transfer would have to be made by an affidavit of jurisdictional transfer in recordable form, rather than a quitclaim deed.

The DTMB also could take necessary steps to convey the Deerfield Correctional Facility and Camp Tuscola parcels using any of the following methods:

- Any publicly disclosed competitive method of sale, selected to realize the fair market value to the State, as determined by the DTMB.
- Offering the property for sale for fair market value to one or more local units of government.
- Exchanging some or all of the property for other real property if the DTMB determined that the other real property was of reasonably equal value to the State.

Additionally, the DTMB could offer the property for sale for less than fair market value to the local units of government, subject to the following conditions:

- If a local unit of government made an offer to purchase the property, which the DTMB accepted, the local unit would have to enter into a purchase agreement within 60 days after making an offer and complete the conveyance within 180 days after the date of the offer, although, the DTMB could extend the period to complete the conveyance as needed.

- If the local unit retained the property for 30 years after the conveyance date from the State, public use restrictions (described below) would automatically terminate, except for certain uses maintained and protected in perpetuity.
- If the local unit or successor disputed the State's exercise of its right of reentry and failed to promptly deliver possession of the property to the State, the Attorney General, on behalf of the State, could bring an action to quiet title to, and regain possession of, the property.
- If the State reentered and possessed the property, the State would not be liable to reimburse any party for any improvements made on the property, or to compensate any party for any part of an unfulfilled contract or license issued for the provision of goods or services on or for the property.
- The DTMB could require the local unit to reimburse the State at closing for the State's demonstrably incurred costs necessary to prepare the property for conveyance.

The property would have to be used exclusively for public use for 30 years following the conveyance, except for certain uses maintained and protected in perpetuity. If any fee, term, or condition for the use of the property were imposed on members of the public, or if any of the fees, terms, or conditions were waived for use of the property, all members of the public would be subject to the same fees, terms, conditions, and waivers. The public use restriction would have to be included in the deed.

Within 30 years after the conveyance, the local unit could offer the property for sale, in writing, to the State, which could purchase the property at the original price. The State would have to be given 120 days to consider reacquiring the property. If the State agreed to reacquire the property, the State would not be liable to any person for improvements to or liens placed on the property. If the State declined to reacquire the property, the public use restrictions would remain in effect.

("Public use" would mean actual use of the property by members of the public or for the local unit of government to use the property 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.

The term would not include use by for-profit enterprises or other uses closed to the public.)

The DTMB could transfer all or portions of the Deerfield Correctional Facility and Camp Tuscola parcels to the Michigan Land Bank Fast Track Authority (MLBFTA). For property or portions of property conveyed to the MLBFTA, the Authority would have to do both of the following:

- Convey the property in accordance with the Land Bank Fast Track Act.
- Deposit the net revenue received by the State or the MLBFTA from the sale of the property into the Land Bank Fast Track Fund to be used for the demolition and remediation of State-owned property.

("Net revenue" would mean the proceeds from the sale of the property less reimbursement for any costs to the DTMB or to the MLBFTA associated with the sale of property, including administrative costs, including employee wages, salaries, and benefits; costs of reports and

studies and other materials necessary for the preparation of sale; environmental remediation; legal fees; and any litigation costs related to the conveyance of the property.)

#### Camp Pugsley Parcels

The DTMB would be required to convey the Camp Pugsley parcels to the MLBFTA for \$1. The MLBFTA would have to sell the property in a manner and on terms that the Authority, in its discretion, determined were calculated to realize the greatest benefit to the State.

#### Sale; Revenue From Sale

If the property were to be sold for fair market value, it would first have to be appraised by an independent fee appraisal prepared for the DTMB, or by an appraiser who was an employee or contractor of the State. ("Fair market value" would mean the highest estimated price that the real property will bring if offered for sale on the open market, allowing a reasonable time to find a purchaser who would buy with knowledge of the property's possible uses.)

The net revenue received from the sale of property would have to be deposited with the State Treasurer and credited to the General Fund, except as provided for the transfer of the Deerfield Correctional Facility and Camp Tuscola parcels to the MLBFTA.

#### Other Provisions

The DTMB could not convey the property unless the conveyance and its terms had been approved by the State Administrative Board.

Real property conveyed or transferred under the bill would include all surplus, salvage, and personal property or equipment remaining on the property on the date of conveyance or transfer.

The State agency with jurisdiction over the real property conveyed or transferred under the bill would be responsible for all expenses of maintaining the property until the time of conveyance or transfer or, for the Camp Pugsley parcels, until the property was sold by the MLBFTA.

The Attorney General would have to approve as to legal form all deeds or affidavits of jurisdictions transfer authorized by the bill.

The State could not reserve oil, gas, or mineral rights to property conveyed. However, the conveyance would have to provide that, if the grantee or any successor grantee developed any oil, gas, or minerals found on, within, or under the property, the grantee or successor would have to pay the State half of the gross revenue generated from the development. The payment would have to be deposited in the General Fund.

A conveyance under the bill would have to reserve to the State all aboriginal antiquities lying on, within, or under the property, with power to the State and all others acting under its authority to enter the property for any purpose related to exploring, excavating, and taking away the antiquities.

If the property conveyed under the bill were used by the State as a historical monument, memorial, burial ground, park, or protected wildlife habitat area, it would have to be maintained and protected for that purpose in perpetuity in accordance with applicable law.

If the property were used for any purpose that was inconsistent with any restrictions under the bill, the State could reenter and repossess the property, terminating the grantee's or successor's estate in the property.

The DTMB could require a grantee of a property conveyed under the bill to record the instrument of conveyance or jurisdictional transfer with the applicable register of deeds and give the Department a recorded copy of the recorded instrument as a condition of closing.

Legislative Analyst: Stephen Jackson

### **FISCAL IMPACT**

The bill would have an indeterminate impact on State and local government depending on terms of the conveyance, including whether the property was sold for fair market value, transferred through jurisdictional transfer to another State agency, exchanged for other property, sold to a local unit of government for less than fair market value, or transferred to the Michigan Land Bank Fast Track Authority (as the bill would require for the Camp Pugsley parcels in the Fife Lake Township). The Authority has the wide discretion to transfer property in a manner calculated to realize the greatest benefit to the State.

The Department of Corrections has no estimate regarding the prospective value of the parcels. Net revenue received by the State from property transferred to the Michigan Land Bank Fast Track Authority and subsequently sold would be deposited in the Land Bank Fast Track Fund to be used for the demolition and remediation of State-owned property. Net revenue from the sale of property not transferred to the Authority would be deposited in the General Fund.

Fiscal Analyst: Bill Bowerman

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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.