

Act No. 326
Public Acts of 2004
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**STATE OF MICHIGAN
92ND LEGISLATURE
REGULAR SESSION OF 2004**

Introduced by Senator Stamas

ENROLLED SENATE BILL No. 1124

AN ACT to authorize the state administrative board to convey certain parcels of state owned property in various counties; to prescribe conditions for the conveyances; to provide for certain powers and duties of certain state departments in regard to the property; to provide for disposition of revenue derived from the conveyances; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

Sec. 1. (1) The state administrative board, on behalf of the state and subject to the terms stated in this section, may convey for not less than fair market value all or portions of certain state owned property now under the jurisdiction of the department of state police and located in the city of Alpena, Alpena county, Michigan, and more particularly described as follows:

Commencing at the section common to Sections 27, 28, 33, and 34, thence along the section line common to Sections 33 and 34, 210 feet to the west line of State Street, thence along the west line of State Street, 1,005 feet thence at right angles to State Street, 27 feet, to the point of beginning, thence at right angles to State Street, 156.6 feet, thence along a curve having a radius of 2,704.58 feet, 218.2 feet, thence at right angles to State Street and towards State Street 69.5 feet, thence at right angles and paralleled to State Street 200 feet, to the point of beginning, said parcel containing 0.518 acres, more or less.

(2) Before offering the property described in subsection (1) for public sale, the director of the department of management and budget shall first offer the property for sale for less than fair market value to the local units of government in which the property is located. In order to exercise its right to purchase the property under this subsection, a local government must enter into a purchase agreement within 60 days after the date of the offer and must complete the purchase within 120 days after the date of the offer. If a local unit of government purchases the property and, within 1 year after the date of that purchase, conveys the property for use other than for public purposes, the local unit of government shall pay to the state 50% of the net profit, if any, realized from that conveyance.

(3) Any conveyance to a local unit of government authorized by subsection (2) shall provide for all of the following:

(a) The property shall be used exclusively for public purposes and if any fee, term, or condition for the use of the property is imposed on members of the public, or if any of those fees, terms, or conditions are waived for use of this property, resident and nonresident members of the public shall be subject to the same fees, terms, conditions, and waivers.

(b) Upon termination of the public purpose use described in subdivision (a) or in the event of use for any nonpublic purpose, the state may reenter and repossess the property, terminating the grantee's estate in the property.

(c) If the grantee disputes the state's exercise of its right of reentry and fails to promptly deliver possession of the property to the state, the attorney general, on behalf of the state, may bring an action to quiet title to, and regain possession of, the property.

(4) The fair market value of the property described in subsection (1) shall be determined by an appraisal prepared by an independent appraiser.

(5) If the property described in subsection (1) is offered for sale at not less than fair market value, the sale shall be conducted in a manner designed to realize the highest price from the sale or the highest value to the state. The sale of this property shall be done in an open manner that utilizes 1 or more of the following:

- (a) A competitive sealed bid.
- (b) Real estate brokerage services.
- (c) A public auction.

(6) A notice of a competitive sealed bid or public auction sale regarding the property described in subsection (1) shall be published at least once in a newspaper as defined in section 1461 of the revised judicature act of 1961, 1961 PA 236, MCL 600.1461, not less than 10 business days before the sale. A notice shall describe the general location and size of the property to be offered, highlights of the general terms of the offer, and directions on how to get further information about the property, as available, prior to the sale. The notice shall also list the date, time, and place of the sale or bid opening.

(7) The description of the parcel in subsection (1) is approximate and for purposes of the conveyance is subject to adjustments as the state administrative board or the attorney general considers necessary by survey or other legal description.

(8) The net revenue received under this section shall be deposited in the state treasury and credited to the general fund. As used in this subsection, "net revenue" means the proceeds from the sale of the property less reimbursement for any costs to the department of management and budget associated with the sale of the property, including the cost of securing discharge of liens or encumbrances. If the revenue received under this section is insufficient to reimburse the department of management and budget for its costs of using outside vendors in surveying, appraising, and closing the sale of the property offered in this section, those costs shall be reimbursed by the department of state police within 30 days after being presented an itemized bill for those costs.

(9) The conveyance authorized by this section shall be by quitclaim deed prepared and approved by the attorney general, subject to easements and other encumbrances of record. The quitclaim deed shall provide for both of the following:

(a) If the property is reentered and repossessed by the state, the state shall have no liability for any improvements made on the property.

(b) The state reserves all rights in aboriginal antiquities, including mounds, earthworks, forts, burial and village sites, mines, or other relics, including the right to explore and excavate for the aboriginal antiquity by the state or its authorized agents.

(10) The state shall not reserve the mineral rights to the property conveyed under this section. However, the conveyance authorized under this section shall provide that, if the purchaser or any grantee develops any minerals found on, within, or under the conveyed property, the purchaser or any grantee shall pay 1/2 of the gross revenue generated from the development of the minerals to the state, for deposit in the state general fund.

(11) If the property described in subsection (1) is not sold pursuant to subsection (2) and fails to sell at a public sale for fair market value, the director of the department of management and budget with the concurrence of the state administrative board may do any of the following:

- (a) Order a reappraisal of the property.
- (b) Withdraw the property from sale.
- (c) Offer the property for sale for less than fair market value.

(12) If the property is offered for sale pursuant to subsection (11), the sale shall be conducted in a manner designed to realize the highest price from the sale or the highest value to the state.

Sec. 2. (1) The state administrative board, on behalf of the state, and subject to the terms stated in this section, may convey for consideration the board considers a fair exchange of value for value, except for a parcel of approximately 10.667 acres conveyed or authorized to be conveyed under section 14 of 2002 PA 671, all or portions of certain state owned property now under the jurisdiction of the department of community health, known as the Ypsilanti regional psychiatric hospital, located in the township of York, Washtenaw county, Michigan, and more particularly described as follows:

(a) Parcel #1: All of section 2, t4s, r6e, Washtenaw county, Michigan, lying westerly of interstate highway US-23 except the north 1,200 feet thereof. The above-described parcel contains approximately 342 acres, subject to survey, and to all easements and restrictions of record, if any.

(b) Parcel #2: the east 1/2 of section 3, t4s, r6e, Washtenaw county, Michigan, except the north 1/2 of the northeast 1/4 of said section 3, containing approximately 302 acres, subject to survey, and to all easements and restrictions of record, if any.

(c) Parcel #3: the northwest 1/4 of section 3, t4n, r6e, Washtenaw county, Michigan, lying easterly of the Conrail railroad, containing approximately 53 acres, subject to survey, and to all easements and restrictions of record, if any.

(d) Parcel #4: beginning at the north 1/4 corner of section 11, t4s, r6e, Washtenaw county, Michigan, thence south 89 degrees 49' 45" west 1,485.77 feet, on the north line of said section 11; thence south 01 degrees 32' 29" east 948.23 feet; thence north 89 degrees 49' 45" east 490.01 feet; thence north 01 degrees 32' 29" west 239.65 feet; thence north 89 degrees 49' 45" east 998.63 feet, to the north-south 1/4 line of said section 11; thence north 01 degrees 46' 23" west 708.65 feet, on said north-south 1/4 line to the point of beginning; containing 26.88 acres, more or less, subject to survey, and to all easements and restrictions of record, if any.

(2) In determining whether consideration for the property described in this section represents a fair exchange of value for value, the board may consider the highest return and best value to the state based on either or both of the following:

(a) The fair market value of the property described in this section as determined by an appraisal prepared for the department of management and budget by an independent appraiser.

(b) The total value to the state of the sale of the property and the best interests of the state, including, but not limited to, any positive economic impact to the state likely to be generated by the proposed use of the property, especially economic impact resulting in the creation of high-technology or highly skilled jobs or increased capital investment for research and development.

(3) Any sale of property described in subsection (1) shall be conducted using 1 or more of the following:

(a) A competitive sealed bid process conducted by the department of management and budget in a manner to realize the highest return and best value to the state, as determined by the department.

(b) A public auction sale conducted by the department of management and budget in a manner to realize the highest return and best value to the state, as determined by the department.

(c) Use of real estate brokerage services by the department of management and budget in a manner to realize the highest return and best value to the state, as determined by the department.

(d) A negotiated sale process conducted by the department of management and budget in a manner to provide the state with consideration for the property representing at least a fair exchange of value for value. In determining whether consideration for the property described in subsection (1) represents a fair exchange of value for value, the department may consider the highest return and best value to the state based on either or both of the following:

(i) The fair market value of the property described in subsection (1) as determined by an appraisal prepared for the department of management and budget by an independent appraiser.

(ii) The total value to the state of the sale of the property described in subsection (1) and the best interests of the state, including, but not limited to, any positive economic impact to the state likely to be generated by the proposed use of the property, especially economic impact resulting in the creation or retention of high-technology or highly skilled jobs or increased capital investment for research and development, as determined by the department.

(4) If real estate brokerage services are utilized by the department of management and budget under subsection (3), the minimum selling price for the property shall be equal to or greater than the fair market value of the property as determined by an appraisal prepared by an independent appraiser for the department of management and budget or for the provider of real estate brokerage services.

(5) A notice of a competitive sealed bid or public auction sale regarding the sale of property under this section shall be published at least once in a newspaper as defined in section 1461 of the revised judicature act of 1961, 1961 PA 236, MCL 600.1461, not less than 10 business days before the sale. The newspaper shall be one that is published in the county where the property is located. If a newspaper is not published in the county where the property is located, the notice shall be published in a newspaper in a county nearest to the county in which the property is located. The notice shall describe the general location and size of the property to be offered, highlights of the general terms of the offer, and directions on how to get further information about the property, as available, prior to the sale. The notice shall also list the date, time, and place of any sale or bid opening.

(6) The descriptions of the parcels in subsection (1) are approximate and for purposes of any conveyance authorized under this section are subject to adjustments as the state administrative board or the department of attorney general considers necessary by survey or other legal description.

(7) The conveyance authorized by this section shall be by quitclaim deed and approved as to legal form and content by the department of attorney general subject to any easements and other encumbrances of record. The quitclaim deed may provide that the state reserves all rights in aboriginal antiquities, including mounds, earthworks, forts, burial and village sites, mines, or other relics, including the right to explore and excavate for the aboriginal antiquity by the state or its authorized agents.

(8) The state shall not reserve oil, gas, or mineral rights to property conveyed under this section. However, the quitclaim deed for the property may provide that if the purchaser of the property or any subsequent owner extracts any oil, gas, or minerals found on, within, or under the conveyed property, the purchaser or subsequent owner shall pay 1/2 of the gross revenue generated from the extraction of the oil, gas, or minerals to the state treasurer, for deposit in the natural resources trust fund established in section 35 of article IX of the state constitution of 1963. For the purpose of this subsection, mineral rights do not include rights to sand, gravel, clay, or other nonmetallic minerals.

(9) All state departments and agencies shall provide full cooperation to the state administrative board to facilitate the performance of its duties, powers, and responsibilities, and the conveyance of property under this section.

(10) The state administrative board may require a state department or agency to prepare or record any documents necessary to evidence the conveyance of property under this section.

(11) The net revenue received from the sale of property under this section shall be deposited in the state treasury and credited to the general fund. As used in this subsection, "net revenue" means the proceeds from the sale of the property less reimbursement for any costs to the state associated with the sale of the property, including, but not limited to, costs of preparation for sale, environmental remediation costs, and any litigation related to conveyance of property under this section.

Sec. 3. Section 13 of 2002 PA 671 is repealed.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate

Jay E. Randall

Clerk of the House of Representatives

Approved

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Governor