

Legislative Analysis



REQUIRE DNR TO SELL IOSCO COUNTY LAND TO GOLF COURSE DEVELOPER

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House Bill 5058 as introduced

Sponsor: Rep. Joel Sheltroun

Committee: Tourism, Outdoor Recreation and Natural Resources

First Analysis (6-25-09)

BRIEF SUMMARY: The bill would require the Department of Natural Resources (DNR) to convey approximately 475 acres of public land in Iosco County to a golf course developer. The DNR opposes the sale.

FISCAL IMPACT: The conveyance of property would result in an indeterminate amount of one-time revenue to the state. Also, there would be an indeterminate amount of revenue to the state if the purchaser or any grantee developed oil, gas, or minerals found on, within, or under the property. As introduced, these revenues would go to the General Fund. An anticipated floor amendment would send some or all of these revenues to the Game and Fish Protection Fund of the Michigan Conservation and Recreation Legacy Fund. (The anticipated amendment would apply to Section 6, but not Section 5. of the bill. Revenue under Section 5 would still go to the General Fund.)

There would be a loss of future state revenue relating to timber sales on the property.

A sale of public land to a private developer would allow state and local millages to be assessed against it.

THE APPARENT PROBLEM:

For many years, an owner of a golf course and resort development has wanted to purchase a parcel of approximately 475 acres of public, state-owned land in Iosco County near his existing resort. The DNR has not agreed to sell this land because, among other things, the sale would result in a loss of land that is currently used for public recreation, wildlife habitat (including species of special concern), and timber production. The parcel sought by the developer is part of a contiguous 800-acre block of recreational forestland that the Department wishes to keep intact. The bill would force the DNR to sell the land to a specific married couple (Boyd and Loretta Aldridge) against its wishes at fair market value as determined by an independent appraisal.

Supporters have expressed frustration that the DNR hasn't acquiesced in the proposed sale. They say that they have been trying to work something out for years without any success, and that they have been willing to purchase a different parcel of land to give or trade to the DNR. Supporters view the proposed golf course as a potential economic boon to an area that has been hard hit by the current economic downturn and the earlier closure of the Wurtsmith Air Force base.

THE CONTENT OF THE BILL:

The bill would require the Department of Natural Resources (DNR) to convey state-owned property in Oscoda Township, Iosco County, to a married couple (Boyd and Loretta Aldridge) for fair market value as determined by an independent appraisal. An approximate legal description of the property is set forth in the bill subject to easements and other recorded restrictions, if any, and adjustment by the Attorney General or the DNR to conform to a survey or legal description. (Although the total acreage is not specified in the bill, committee testimony indicated that parcel has about 475 acres.)

The property would be conveyed by a quitclaim deed approved by the Attorney General that reserves all rights in aboriginal antiquities, including the right to explore and excavate for them. Aboriginal antiquities include mounds, earthworks, forts, burial and village sites, mines, and other relics.

The state would *not* reserve oil, gas, or mineral rights to the conveyed property, but the purchaser or any grantee would have to pay one-half of any gross revenue generated from any oil, gas, or minerals found on the property to the state for deposit in the General Fund. The proceeds of the sale of the property would also be credited to the General Fund.

A proposed floor amendment to Section 6 of the bill would have revenue "received under the act" go instead to the game and fish protection account of the Michigan Conservation and Recreation Legacy Fund. Section 5, however, would still have revenue from oil, gas, or minerals developed on the parcel go to the General Fund.

ARGUMENTS:

For:

The sale would allow a special new golf course to be built, possibly attracting additional golfers and tourists to an economically ailing part of Michigan. The developer states that he intends to build an exact replica of the St. Andrews golf course in Scotland on the land, and that he has obtained topographical maps of St. Andrews that would enable him to do so. If built, the golf course could provide additional tourism dollars to the area, including seasonal jobs.

The bill's proponents say that the state owns over four million acres of land, including thousands of acres in Iosco and Alcona counties, and so recreational and hunting opportunities will not be harmed by the sale. They say that the DNR should sell this land, despite its concerns, so that the economic benefits of this proposed golf course can be realized, especially in light of current economic difficulties facing this part of the state. Some say that the state owns too much public land in some areas, depriving local units of government of normal millage revenues, and that payments in lieu of taxes are not an adequate alternative.

Against:

The DNR would like to keep the land in question for public use as part of its Grayling Forest Management Unit. The land is currently used for public recreation, wildlife habitat (including species of special concern), and timber production. The land has special value as it is a part of a contiguous 800-acre block of recreational forestland. (In fact, committee testimony indicated that it was difficult for the developers to find a comparable piece of land to purchase and trade because most land available for purchase has been fragmented into smaller parcels.) The sale will also result in an adjacent 40-acre parcel of state land becoming landlocked as a result of the conveyance.

In addition, the DNR is opposed to being required to sell this land to a particular party rather than according to established procedures for selling surplus public land at auction. The idea is that a public auction allows other interested parties an opportunity to purchase publicly-owned land, possibly bringing a higher sale price than a structured sale at a fixed price to a specific party. (It should be noted, however, that the DNR does not consider this land to be "surplus.")

It could also be argued that a public auction is a fairer process than the Legislature forcing public land to be sold to certain favored individuals. Perhaps a conservation organization or another developer would purchase the property for a higher price than the Aldriches are willing to pay, if the DNR ever determined that it was appropriate to sell the parcel. In addition, there has been no determination that a golf course, no matter how special the design, is the highest and best use of the land.

Some property owners in the area are opposed to the sale and are reportedly leading a petition drive against it. They say that the land is well used by families who live or have cabins nearby. They say that the land is used for walking, snowmobiling, hunting, cross-country skiing, and other purposes. They question whether any potential boost in golf-related tourism (in an area saturated with golf courses) would be enough to offset the corresponding loss in hunting and snowmobiling tourism. They also note that golf courses are not doing well economically right now.

Some critics point out that there is nothing in the bill that requires the land to be used for a golf course or that would require the land to revert to public ownership if the golf course isn't built or if the new owner stopped using it for a golf course. Although there was testimony that Mr. Aldridge would be willing to sign a reverter clause, none was added to the bill. The land could go from being public land providing valuable wildlife habitat and recreational use to being used for almost any purpose whatsoever.

The Michigan Conservation Clubs point out that this bill is directly contrary to its goals of seeking to preserve quality habitat and hunting opportunities. They and others also point out that this legislation is inconsistent with House Bill 4286 of 2009, recently enacted into law as Public Act 47 of 2009, effective June 18, 2009, the so-called "no net loss of hunting land" act, requiring the DNR to manage land under its control so as not to lose hunting acreage. The process of building a golf course will necessarily require that trees and other elements of wildlife habitat are destroyed.

POSITIONS:

Representatives of the Charter Township of Oscoda testified and provided written testimony in support of the bill. (6-24-09)\

Lakewood Shores Resort testified in support of the bill. (6-24-09)

Golf Association of Michigan sent a letter in support of the bill. (6-23-09).

The Department of Natural Resources testified in opposition to the bill. (6-24-09)

Lloyd and Vicki Good (owners of nearby property) indicated opposition to the bill, submitted written testimony in opposition, and are reportedly leading a petition drive in opposition to the bill. (6-24-09)

The Michigan United Conservation Clubs testified in opposition to the bill. (6-24-09)

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