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NEW BUFFALO CONVEYANCE

House Bill 5079 as enrolled
Public Act 141 of 1997
Second Analysis (1-5-98)

Sponsor: Rep. Ron Jelinek
House Committee: Regulatory Affairs
Senate Committee: Local, Urban and State Affairs

THE APPARENT PROBLEM:

In the early 1970s, the city of New Buffalo in Berrien County deeded marina property located at the mouth of the Galien River to the U.S. Army Corps of Engineers for the purpose of dredging the channel, harbor improvements such as the construction of breakwaters, docks, and piers, and condemning shoreline property due to deterioration of the shore. The corps still conducts periodic replenishment activities whereby fill material is brought in to stabilize the shoreline against erosion-causing currents that dig into the beach. The city of New Buffalo, however, has continued to manage the harbor facilities and operate the marina, which provides a recreational safe harbor for the public. Earlier this year, the corps deeded the title of the marina to the Department of Natural Resources (DNR) with the recommendation that it be reconveyed to New Buffalo for harbor of refuge purposes. Legislation has been offered that would allow the DNR to reconvey the property to the city.

THE CONTENT OF THE BILL:

The bill would allow the Department of Natural Resources to convey a parcel of land of approximately four acres to the city of New Buffalo in Berrien County for \$1.00 for public harbor purposes. The land would be conveyed subject to existing easements for a federal channel improvement easement, public roads, public highways, public utilities, railroads, pipelines, and other utilities that are located on the property. All residents of the state would have to be subject to the same terms, fees, and conditions for use of the harbor, and the land would revert to the state if used for any other purpose. The attorney general could bring an action to repossess the land if the city failed to surrender it. The conveyance would be by quitclaim deed approved by the attorney general and would convey the mineral rights to coal, oil, gas and other minerals, but not the rights to sand, gravel, clay, and other nonmetallic minerals. Any

revenue received under the bill would have to be deposited in a restricted account held by the department.

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, since the bill specifies that the state would retain the rights to all nonmetallic minerals, the state would get any lease and royalty revenue if the land conveyed were developed. This means that if the harbor were dredged again in the future, or if the bedrock were developed for gypsum, the state would be entitled to the revenue from the sale of the dredged material or the gypsum. (12-17-97)

ARGUMENTS:

For:

The property in question originally belonged to the city of New Buffalo. According to city officials, it was deeded to the federal government in the early 1970s so that the Corps of Engineers could conduct many improvement projects such as dredging the channel, constructing new docks and piers, constructing breakwaters, building restrooms and a marina building, and so on. The corps also secured easements to sections of deteriorating shoreline for the purpose of replenishment, whereby the corps brings in fill material to stabilize the beach against erosion caused by destructive currents. Meanwhile, the city has continued to operate and manage the marina. The marina has 31 slips for public use and one slip for Berrien County law enforcement to use to conduct patrols of the lake. The marina is situated next to a commercial marina, and is used primarily to provide harbor for transient boaters or to provide safe harbor for boats on Lake Michigan in case of rough weather.

The city would like to have clear title to the property. However, since the DNR is the local sponsor for construction work completed by the corps, the corps could not return the property directly to the city, and so in February of this year, the corps deeded the marina property to the DNR. The bill would allow the DNR to

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give clear title to the marina back to New Buffalo. The bill would also allow the corps to retain possession of

certain easements so that the beach replenishment activities may continue.

Analyst: S. Stutzky

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