



**House
Legislative
Analysis
Section**

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**TUSCOLA AND WAYNE COUNTIES
CONVEYANCES**

**House Bill 5436 as enrolled
Public Act 6 of 2002
Sponsor: Rep. Tom Meyer**

**House Committee: Regulatory Reform
Senate Committee: none**

Second Analysis (9-3-02)

THE APPARENT PROBLEM:

The Michigan Economic Development Corporation, along with the Tuscola County EDC board, has been marketing the Tuscola Area Airport as an economic development tool. Efforts to bring new industry to the area have met with success, such as construction of the state's first ethanol processing plant, which is currently underway, and plans for an automotive testing firm to build a testing facility on property it bought near the airport. A longer runway is now needed to accommodate the larger public and private jets expected to utilize the airport in connection with the two new industries. The airport authority needs to purchase additional land before the runway can be built. Legislation has been offered to authorize the transfer of 40 acres of surplus state land to the Tuscola Area Airport Authority for the purpose of the runway expansion. This land, which is adjacent to the airport, was formerly property of the Caro Center, a mental health facility housing almost 200 patients.

Another 30 acres of land (also previously part of the Caro Center property) lies between a park owned and operated by Indianfields Township and the grounds of the mental health facility. Since this property has also been declared as surplus, the township would like to use the land to expand the park and develop additional scenic trails. The Caro Center patients routinely use the current park facilities for recreation, and are expected to use the expanded trails and any future developments as well. The legislation would allow for the transfer of the property to the township.

In Wayne County, the Northville Psychiatric Hospital has seen declining patient populations in recent years and state budgetary woes have resulted in staff reductions. By early 2002, the patient population was approximately 350 (with 1,300 available beds) and a staff of approximately 500, down from 700 the previous fall. Since the property, comprised of about 500 acres and several buildings, is located in the area

of Seven Mile Road and I-275, it is considered to be prized real estate with a per-acre value of at least \$100,000. Some feel that the aging facility should be closed and the land sold to generate much needed revenue. Reportedly, Northville Township officials have already been studying proposals that would incorporate light industry, development of a park or nature area with walking trails, and additional housing. Legislation has been proposed to require the facility to be closed and the property to be sold in a manner such as to realize the highest price for the sale and the highest return to the state.

THE CONTENT OF THE BILL:

The bill would allow the state to sell or convey for public use purposes property currently under the jurisdiction of the Department of Community Health (DCH) located in Tuscola and Wayne Counties. Descriptions of the parcels in the bill are approximate and would be subject to adjustments as considered necessary by survey or other legal description. Net revenue (which would be the proceeds from the sale of any these properties less the reimbursement for any costs to the state associated with the sale of that property) would be deposited in the state treasury and credited to the general fund. A description of the properties under consideration follows:

Tuscola County. The bill would authorize the conveyances of two separate parcels of land by quitclaim deed. The property, which totals 70 acres, is located in the township of Indianfields, Tuscola County. Mineral rights would not be reserved to the state; but, should the grantee of either parcel derive revenue from the development of minerals found on, within, or under the conveyed property, one-half of the revenue would have to be paid to the state for deposit in the Michigan Natural Resources Trust Fund.

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Parcel 1. For 12 months after the bill's effective date, the Tuscola Area Airport Authority would have the exclusive right to purchase about 40 acres of the property either for less than fair market value – with the condition it be used for public purposes – or for fair market value if the airport authority did not agree to use the property for public purposes. The bill would specify conditions for using the property for a public use purpose; departure from this criteria could result in the state regaining ownership of the property. Should the Tuscola Area Airport Authority cease operation as a local unit of government or decide to use the property for other than a public use purpose, the authority would have to notify the state within 180 days before any change in organization or use. The authority would then have the right, for 180 days, to purchase the reversionary rights – which would be the fair market value of the property exclusive of any improvements on the date of the notice to the state. The fair market value would be determined by an appraisal as prepared by the state tax commission or an independent fee appraiser.

Parcel 2. The township of Indianfields would have the exclusive right, for 12 months after the bill's effective date, to purchase about 30 acres of the property for less than fair market value for public use purposes, including two buildings identified as buildings number 7 and 9. The bill would specify conditions for the public use of the property; departure from the criteria could result in the state regaining possession of the property.

Wayne County. The bill would authorize the state administrative board to sell for not less than fair market value property located in Northville Township, Wayne County. The fair market value of the property would be determined by an appraisal as prepared by the state tax commission and an independent fee appraiser. The property includes the Northville Psychiatric Hospital. The bill would require the sale of the property to be conducted in a manner so as to realize the highest price for the sale and the highest return to the state. One or more of the following methods would have to be used for the sale: a competitive sealed bid; an oral bid; a public auction; or use of broker services.

Broker services could only be used if there were three or more bidders for the property. The minimum price for the property would be set by the bill at whichever was highest - its fair market value or the value that was the result of a professional concept plan (as determined by a real estate professional qualified to make such valuations). This real estate professional

would be selected through a request for proposal and competitive bid process.

Not less than ten days before the sale of the property, a notice of a sealed or oral bid, public auction sale, or use of broker negotiation services regarding the property would have to be published at least once in a Wayne County newspaper according to provisions in the Revised Judicature Act (MCL 600.1461). If no newspapers were published in Wayne County, the notice would have to be published in a paper in a county nearest to Wayne County. The general location of the property and the date, time, and place of the sale would have to be printed in the notice.

In addition to any other reporting requirements under the bill or other state laws, the Department of Management and Budget (DMB) would have to provide a written report - not later than May 1, 2002 - to the chairpersons of the House of Representatives and the Senate appropriations committees on the progress of the sale of this property. The report would have to include a description of the sale process or processes that will be used, the name of any brokers being used, and other information to apprise lawmakers of the status of the sale. (The one-page report, dated May 1, 2002, stated that the DMB was proceeding with plans to sell the property so as to realize the highest price and highest return to the state as required by the bill. The report also stated that in preparation for offering the property for sale, a phase 1 environmental study had been ordered and that a detailed appraisal to assist in establishing the fair market value was in process. Further, the report went on to state that given timing concerns, the initial assessment was that broker services may not be the best method for selling Northville; that ultimately the local real estate market should determine the best method of sale and price; and that the actual sale process was anticipated to commence within three to four weeks.)

The bill would specify that the description in the bill would be subject to survey, easements and deeds of record. The conveyance would be by quitclaim deed, approved by the attorney general, and would have to provide for the following:

-- The northwesterly boundary of the Hawthorn Center in the southeastern corner of the property would have to be determined in conjunction with the director of community health to provide a parcel of land adequate to support the Hawthorn Center's program and operations.

-- The conveyance would be subject to the Department of Natural Resources' Oil and Gas Leases No. N-24954 and No. N-24957, as may be amended. The state would retain oil, gas, and mineral rights.

-- The DCH would retain the use of necessary buildings and facilities for patient care and related activities for a minimum of three years based on need so as to allow the DCH sufficient time to make alternative plans for the patients at the Northville Psychiatric Hospital. Payment for deferred use of property for the use of these structures would have to be paid to the developer based on a specified amount agreed to by the DCH and the developer.

Further, the Northville Township conveyance would be subject to all of the following:

-- The DCH could not implement the closure or consolidation of the Northville Psychiatric Hospital until the community mental health service providers (CMHSP) have programs and services in place for persons residing in the hospital.

-- The closure or consolidation of the hospital would be contingent upon adequate department-approved CMHSP program plans that include a discharge and aftercare plan for each person in the facility. A discharge and aftercare plan would have to address the person's housing needs. A homeless shelter or similar temporary shelter arrangement would be inadequate to meet the person's housing needs.

-- By April 15, 2003, the DCH would have to submit to the House of Representatives and Senate appropriations committees a status report detailing, by the admitting CMHSP, the number of patients remaining in the hospital.

-- Four months after the certification of closure required in Section 19(6) of the State Employees' Retirement Act (MCL 38.19), the DCH would have to provide a closure plan to the House of Representatives and Senate appropriations committees.

-- The DCH would also have to provide both appropriations subcommittees on community health with its transition plan for approval nine months before the final closure of the Northville Psychiatric Hospital. Five percent of the net revenue from the sale of the Wayne County property would have to be placed in a reserve fund to cover transitional costs.

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, the two parcels in Tuscola County would be conveyed for nominal amounts if the properties were used for public use purposes. The conveyance of the 30-acre parcel to Indianfields Township would include two buildings of 18,178 and 15,210 square feet, respectively, that were built in the 1920s. Conveyance of these buildings would relieve the state of minor maintenance costs. No estimate of the savings is available. If the properties were not used for public use purposes, then additional one-time revenues would accrue to the state if the properties were sold at fair market value. An appraisal would be needed to determine the fair market value.

Regarding the sale of property at the Northville Psychiatric Hospital site, up to 422 of the 500 plus acres could be sold. An appraisal will be required to determine fair market value. However, this site is prime southeast Michigan real estate; some estimates have the property worth as much as \$300,000 per acre. If so, the sale could be worth about \$130 million in one-time revenue to the state, less site preparation and other selling costs. Local units of government would see increased property tax revenues if all, or a portion, of the property was sold to private developers. (4-12-02)

ARGUMENTS:

For:

The Tuscola Area Airport Authority is in need of land to expand a runway to accommodate increased air traffic that has been created by successful efforts to entice new industry to locate in the county. The state happens to own land that has already been declared surplus and that lies adjacent to the airport. The bill would transfer this surplus land to the airport authority. The runway improvement will not only serve current residents and businesses, but could also encourage other businesses to locate their operations within the county, thereby creating new jobs for residents and revenue sources for local governments.

Further, a 30-acre portion of the surplus land is adjacent to an Indianfields Township park and the Caro Center, a mental health facility with 170 residents. Currently, the land is undeveloped, with many species of native trees and plants. The township park has a nature center and hiking trails that are used by schools, residents, and Caro Center patients and their families. The township has expressed an interest in expanding the scenic trails

and, possibly at a future time, in expanding the park's recreational uses by adding an athletic field, such as a soccer field. Conveyance of this parcel to the township would benefit local residents, tourists, and Caro Center patients and their families.

Response:

Reportedly, Indianfields Township was only interested in undeveloped land that was adjacent to the township park, and not in the small part of the property closer to the Caro Center that contains the two buildings. According to the Department of Management and Budget, the two buildings are still in use, with one of the buildings currently leased to the intermediate school district.

For:

The state is experiencing an ongoing economic downturn that, unfortunately, impacts revenue levels necessary to implement and maintain critical state services. One way to generate additional revenue is for the sale of surplus properties. Often, surplus state properties are conveyed to local governmental units for a nominal sum (usually \$1.00) with the stipulation that the property be used for a public purpose, such as for a school, community center, municipal offices, or park. In the case of the 500 acres surrounding the Northville Psychiatric Hospital, the land is considered to be too valuable to convey for such a nominal sum. As the land is located near the Seven Mile Road and I-275 interchange, the property is expected to be worth at least \$100,000 per acre. Sale of the property for commercial development could help the state in a time of need and could provide future economic benefits for Northville Township.

Against:

Since 1991, almost all of the state psychiatric hospitals have been closed. When the Northville facility is closed in the next year or so, only three inpatient adult facilities will remain. Yes, mental health inpatient services are expensive to provide, but if beds are not available, people who should be in a residential setting are instead left to understaffed, underfunded community programs to look after them. Since the nature of many mental illnesses lead an individual to believe that he or she does not have a problem, or because of the severe and unpleasant side effects of many psychotropic drugs, many of these people are incapable or unlikely to follow a community-based plan of treatment. The result has been that many of these people end up in local jails and state prisons. Some estimates have placed the number of incarcerated who are actually persons with a mental illness at 40 percent. As incarceration costs increase, costs to taxpayers to maintain a prison

system filled with a significant number of the mentally ill will continue to increase. Further, since some of the people with serious mental illnesses will commit violent crimes, it is unfair to them and little comfort to potential victims that to solve a temporary budget crisis, one of the few remaining (and the only one providing long-term care) state mental health facilities will be auctioned off.

Response:

Since the early 1980s, the trend in mental health care has been to move away from institutionalization and toward treatment provided in the least restrictive setting, such as community-based programs. The eventual closure of the Northville facility fits within that viewpoint. Besides, the bill specifies that the Department of Community Health is to "retain the use of necessary buildings and facilities for patient care and related activities for a minimum of three years based on need." Further, the bill requires that the closure or consolidation of the hospital be contingent upon approval by the DCH of local community mental health service provider program plans for discharge and aftercare for each patient housed in the facility. The bill also requires that five percent of the net revenue of the sale be set aside to cover the transition costs of placing the residents in a community-based program or of relocating them to another facility. There are many compelling reasons to close this facility, including increased maintenance costs for the "50 something"-year-old buildings, underutilization of the facility, and a growing discontent of Northville residents regarding problems and commission of crimes by patients who walk away from the facility.

Rebuttal:

Though the bill does specify that the facility would remain open for a minimum of three years, it also says "based on need." An article in the *Detroit News* entitled "State reneges on hospital, critics say" (5/29/02) illuminates the concern on the part of mental health advocates based on the observation that "nearly two dozen patients with varying degrees of mental illness have been moved to community group homes or transferred to the state's mental health system" within just a few months after the bill was signed into law. Such movement of patients would appear to support the contention that the state may be preparing to close the facility a year or two earlier. Since the bill calls for the facility to remain open for a minimum of three years, which would be early 2005, it is hoped that community mental health service programs would still have the freedom to place patients needing residential care in the Northville Psychiatric Hospital. It is reasonable to expect that many patients placed today at the

Northville facility may meet discharge criteria prior to the 2005 date; others should be able to be transferred to another suitable inpatient facility that may not be available now. It would be unfortunate if community mental health service providers were discouraged from placing patients at the facility, and then have the facility close early because few if any patients were receiving treatment there.

Analyst: S. Stutzky

■ 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.