



**House
Legislative
Analysis
Section**

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CONDITIONAL LOCAL LAND TRANSFERS

House Bill 5083 (Substitute H-3)
First Analysis (11-30-89)

RECEIVED

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Sponsor: Rep. Michael E. Nye
Committee: Economic Development and Energy

THE APPARENT PROBLEM:

Public Act 425 of 1984 allows two or more local units of government (cities, villages, and townships) to enter into contracts to conditionally transfer property for the purposes of an economic development project. "Economic development project" is defined to mean "land and existing or planned improvements suitable for use by an industrial or commercial enterprise or housing development incidental to an industrial or commercial enterprise" (including necessary buildings, improvements, structures, machinery, furnishings, and equipment).

Under the provisions of the act, the city of Hillsdale entered into an agreement with a township to supply water and sewer service to a business and commercial area which was north of the city's limits and part of an addition to the city's industrial park. By using Public Act 425 of 1984, the city also was able to protect its well field (recharged primarily from rainfall and surface recharge) by enforcing city ordinances designed to protect surface and groundwater resources. However, when the developers of a condominium complex south of Hillsdale requested city water and sewer services, the city attorneys advised that Hillsdale could provide these services only if it annexed the area, since the language in Public Act 425 does not allow residential development apart from an industrial or commercial enterprise to qualify as an "economic development project." The township refused annexation, and though it could develop its own water and sewage system, that would be a duplication of the city's facilities, which are not yet at capacity. The city, concerned about protecting the ground and surface water sources of its water supply and willing to extend its water and sewage services, has requested legislation which would enable it to do so under Public Act 425.

THE CONTENT OF THE BILL:

The bill would amend Public Act 425 of 1984 to change the act's definition of "economic development project" to include housing developments and environmental protection and would add a section establishing filing requirements for transfer contracts.

Definition. The definition of "economic development project" would be expanded to include the protection of the environment (which would include, but not be limited to, the protection of groundwater or surface water). In addition, the bill would strike existing language that makes the inclusion of housing developments in the definition conditional upon their being "incidental to an industrial or commercial enterprise."

Filing requirements. The bill would establish a formal process for establishing when a conditional transfer of property took place under the act, namely, when the clerk of the city or village receiving the transferred property filed "duplicate originals" of the contract both with the county

clerk and with the secretary of state. The county clerk and the secretary of state would be required to enter contracts in a book kept for that purpose, and the contract (or a copy certified by the county clerk or the secretary of state) would be prima facie evidence of the conditional transfer.

FISCAL IMPLICATIONS:

Fiscal information is not available. (11-29-89)

ARGUMENTS:

For:

The existing language of the 1984 act governing land transfers between local units of government for economic development projects does not recognize environmental protection as being among the activities falling under the definition of "economic development project." Yet commercial, industrial, and housing developments all bring with them the possibility of environmental degradation, including threats to the preservation of limited water resources. The bill would recognize the importance of protecting the environment, even while encouraging economic development, by allowing local units of government yet another way to work together to protect and preserve the environment. In fact, the bill would recognize that it is not inconsistent to speak of protecting the environment, one of Michigan's greatest marketable assets, while promoting industrial and commercial growth at the same time.

For:

The existing language in the act makes reference to housing development only as such development is "incidental to an industrial or commercial enterprise." That is, it appears as though housing developments do not qualify as economic development projects under the act unless they can be shown to be incidental to a specific industrial or commercial project. This requirement not only is impractical but also is unnecessarily restrictive. Housing developments often are necessary because of a general growth in the industrial or commercial community, and not because of any one specific enterprise. The bill would help promote economic growth by recognizing that housing development can be a legitimate economic development project without having first to be tied to a specific industrial or commercial enterprise.

For:

As the law now stands, mutually agreeable conditional transfers of property between local units of government under Public Act 425 — unlike, for example, boundary changes made under the cities' home rule act — do not have to be filed with any state or local agency, making it difficult to track such contracts. This lack of any readily available public access to records of such contracts can cause a number of problems for federal, state, and local governments. For example, the return of road money (so-

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called "Act 51 monies") to local units of government from transportation revenues depends on there being information on file with the secretary of state, as does revenue sharing based on population. Even liquor licenses, which vary by location, depend on proper filing, since what is filed determines what jurisdiction the license holder is in. Finally, these contracts are public contracts between local units of government and should be publicly available. A uniform way of recording them is needed, particularly in view of the fact that they can last for up to 50 years. Otherwise, who will eventually even know that they exist, much less what their terms are? The bill would remedy these problems by establishing certain filing requirements modeled on those presently in place in the home rule cities act (Public Act 279 of 1909).

POSITIONS:

Representatives of the Michigan Municipal League and the Michigan Townships Association testified in support of an earlier version of the bill. (11-15-89)