

SFA

BILL ANALYSIS

Senate Fiscal Agency

Lansing, Michigan 48909

(517) 373-5383

Senate Bill 166 (as enrolled)
Sponsor: Senator Connie Binsfeld
Senate Committee: State Affairs, Tourism, and Transportation
House Committee: State Affairs

Date Completed: 3-20-90

PUBLIC ACT 223 of 1989**RECEIVED****MAY 16 1990****RATIONALE**

Mich. State Law Library

The State currently owns 2.8 acres of land in Leland Township that were acquired by the Department of Natural Resources (DNR) during the 1940s for use as boating access sites to Lake Leelanau. Boat sizes have increased dramatically since the 1940s, however, and recent evaluations by the Department's Recreation Division have found that the shallow water conditions at the sites are better suited for recreation activities such as swimming and picnicking rather than for boating activities. It apparently is not practical for the State to purchase additional land to enhance the sites because both are bordered by cottages and a township park. In addition, the Department recently purchased a 12-acre access site near the Village of Lake Leelanau to accommodate boats of all sizes. It has been suggested, therefore, that the 2.8 acres be incorporated into existing township parks for public recreation purposes.

Further, there has been a request concerning the original conveyance of land that currently is the site of Munson Medical Center. The center, formerly known as James Decker Munson Hospital, is a nonprofit, tax-exempt hospital located in Traverse City. In 1949, certain State-owned properties that were under the jurisdiction of the Department of Mental Health and used in the operation of a regional psychiatric hospital were authorized to be conveyed to James Decker Munson Hospital as a nonprofit corporation for the operation of a community hospital. The enabling Act, Public

Act 48 of 1949, provided that, should the premises conveyed cease at any time to be operated as a community hospital, title to the real property, buildings, and equipment would revert to the State of Michigan.

The existence of the reverter clause in Public Act 48 and its stipulations concerning the use of the land as a community hospital has proven problematic. Modern delivery of health services reportedly are, but may not be, consistent with what a third party might consider to be "the operation of a community hospital". (See **BACKGROUND** for more information about the Medical Center.) Such vagaries apparently cause bond counsel, underwriters, and other financial institutions some concern with respect to the collateral that secures bonded and other indebtedness. More recently, the construction of a medical office building and the concerns of the financial institution involved precipitated an informal decision from the Attorney General's office concerning the reverter clause issue. Although the Chief Assistant Attorney General opined that in this particular instance, the reverter clause would not take effect, some feel that future initiatives by Munson Healthcare (the corporate parent of the Medical Center) and its tax-exempt and taxable companies may be frustrated by the limitations that might be imposed by the reversionary language. It has been proposed, therefore, that the reverter clause and conditional use provisions imposed by Public Act 48 of 1949 be released.

S.B. 166 (3-20-90)

CONTENT

The bill would allow the DNR to transfer two parcels of land totaling 2.8 acres to LeLand Township for \$1. The land would be used for public park purposes and the park would be open to all residents of the State on the same terms. If the land were no longer used for public parks, or if it were used for other purposes, the land would revert immediately to the State. Rights to coal, oil, gas, and other minerals from the parcels would be reserved to the State. Revenue from the conveyance would be credited to the General Fund.

The bill also would authorize the State Administrative Board to release for consideration of \$65,820 the restriction and possibility of reverter created in the conveyance of 21.94 acres of land in Grand Traverse County as authorized by Public Act 48 of 1949 and contained in a quitclaim deed from the Department of Mental Health to James Decker Munson Hospital. The instrument authorizing the release of the restriction and possibility of reverter would have to be approved by the Attorney General.

BACKGROUND

Since 1949, Munson Medical Center has grown under its nonprofit, tax-exempt status into a regional tertiary care hospital consisting of 315 acute care beds with specialty units in psychiatry, rehabilitation, oncology, and intensive care, and operates as well several centers of excellence, including a 38-bed residential substance abuse facility.

Munson Medical Center corporately reorganized in 1985. Munson Healthcare is now the corporate tax-exempt parent of Munson Medical Center, and through the parent and a number of related subsidiary corporations, a wide variety of medical care services are offered to the community and to the region. Many of these health care activities and support services are implemented on the properties conveyed from the State of Michigan.

While Munson Medical Center and its affiliated and related companies reportedly have exclusively dedicated their tax-exempt assets to health care, not all of its current activities may fall within the term "community hospital". For

example, the hospital and its related facilities regularly carry out health care services in such fields as alcohol and drug abuse, psychiatric care, home health care, hospice, emergency and trauma care, durable medical equipment supply and servicing, health management activities, mobile imaging, and a wide variety of other related health care services. More recently, a joint venture between one or more of the Munson-related health care entities and staff physicians was instrumental in the development of a medical office building on the campus of the hospital. Currently, the hospital is discussing with representatives of the State and local units of government the future use of other State-owned lands no longer being operated by the Department of Mental Health as a regional psychiatric hospital. It is possible that some portion of the adjacent lands would be used for the delivery of other health care services that would meet the needs of the community and the region.

FISCAL IMPACT

The bill's provision authorizing the DNR transfer would have a minimal fiscal impact. The Department of Natural Resources has made an annual payment of \$2,213.94 to LeLand Township, which would no longer be made under this bill. The provision pertaining to the Grand Traverse County property would have a fiscal impact on the State by adding approximately \$65,820 to the State Treasury paid by the James Dicker Munson Corporation for clear title to the property.

ARGUMENTS

Supporting Argument

Since the DNR already has purchased a larger access site on Lake Leelanau to accommodate modern boats, the smaller sites in LeLand Township are no longer needed. The bill will enable LeLand Township to make better use of the two parcels by incorporating them into the existing public recreation areas in the township's parks.

Supporting Argument

Michigan previously has placed limits on reverters and rights of entries contained in conveyances of real property in certain cases. Public Act 13 of 1968, while not applicable to a terminable interest created by the State or

any agency or political subdivision of the State, does provide that, if a contingency does not occur within 30 years after the terminable interest is created, the right of termination by reason of the specified contingency is unenforceable. In addition, Public Act 48 of 1949 was repealed by Public Act 258 of 1974, which made general revisions to the Mental Health Code. While it could be argued that such a repeal was meant to terminate the reversionary interest in the State of Michigan, it nonetheless has become compelling that the hospital's property be relieved of the burdens created by the reverter clause.

Legislative Analyst: L. Burghardt
Fiscal Analyst: C. Cole

A8990\S166EA

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.