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S.B. 259
133rd General Assembly

Bill Analysis

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Version: As Passed by the Senate

Primary Sponsor: Sen. Sykes

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SUMMARY

- Authorizes the conveyance of approximately 3.2 acres of land, owned by the University of Akron, to the city of Akron or an alternate purchaser.
- Specifies that all tax increment (TIF) service payment obligation agreements are enforceable against subsequent property owners.

DETAILED ANALYSIS

Authorization to convey land and building

The bill authorizes the Governor to convey two parcels of land, owned by the University of Akron, to the city of Akron for \$1 (see **COMMENT**). The parcels cover approximately 3.2 acres of land at 1000 George Washington Boulevard in Akron. They contain one building and are located adjacent to Derby Downs, home of the All-American Soap Box Derby, and the site of the recently demolished Rubber Bowl.¹

Purchaser and real estate agreement

The bill requires the Director of Administrative Services to offer the parcels to the city of Akron through a real estate purchase agreement. If the city does not complete the purchase within the time set in the agreement, the bill authorizes the Director to use any reasonable method of sale that is acceptable to the University of Akron's trustees to determine an alternative grantee. If an alternative grantee is selected, the sale is to be for a price, and subject to terms and conditions, acceptable to the Director and the University's trustees. Advertising

¹ Section 3(A) and (C); Summit County Auditor, *Property Tax & Appraisal Search*, available at <http://fiscaloffice.summitoh.net/index.php/property-tax-search> (accessed June 30, 2020) (parcel IDs: 6757940 and 6755127); a map of the site is available [here](#).

costs, and other costs incident to any sale to a purchaser other than the city of Akron, will be paid by the University.²

Conditions

The conveyance will include all improvements and personal property situated on the parcels. It is also subject to all recorded easements, covenants, conditions, and restrictions, all legal highways and public rights-of-way, zoning, building, and other laws, ordinances, restrictions, and regulations. Additionally, the Director of Administrative Services and the University's trustees may include any other restrictions, exceptions, reservations, reversionary interests, or other terms and conditions they consider to be in the best interest of the state. After the conveyance, however, the state (presumably the Director of Administrative Services) or the University board of trustees may, without further legislation, waive any additional conditions they set.³

Manner of conveyance

After the real estate purchase agreement is executed, the bill requires the Auditor of State, with the assistance of the Attorney General, to prepare a Governor's Deed. The deed must state the consideration to be paid, be executed by the Governor in the name of the state, countersigned by the Secretary of State, and sealed with the Great Seal of the State. After execution, the deed must be presented in the Office of the Auditor of State for recording, and delivered to the grantee, who must present the deed for recording in the Office of the Summit County Recorder.⁴

Conveyance costs

The bill requires both the city of Akron, or the alternate grantee, if any, and the University of Akron to pay certain costs associated with the conveyance.

The University of Akron is to pay transfer costs and fees and recording costs and fees.

The grantee is to pay all other costs associated with the purchase, closing, and conveyance, including surveys, title evidence, title insurance, and any other fees, assessments, or costs that might be imposed. The grantee is also required to pay all real estate taxes and assessments not due and payable at the time of the conveyance.⁵

Authority expiration

The authorization to convey the real estate described in the bill expires three years after the bill's effective date.⁶

² Section 3(C).

³ Section 3(B)(1) through (3).

⁴ Section 3(B)(1) and (F).

⁵ Section 3(E).

⁶ Section 3(G).

TIF service payments

TIF background

Continuing law allows municipalities, townships, and counties to create a tax increment financing (TIF) arrangement to finance public infrastructure improvements. Through a TIF, the subdivision grants a real property tax exemption with respect to the incremental increase in the assessed value of designated parcels that are part of a development project. The owners of the parcels make payments in lieu of taxes to the subdivision equal to the amount of taxes that would otherwise have been paid with respect to the exempted improvements (“service payments”). TIFs thereby create a flow of revenue back to the subdivision that created the TIF, which generally uses those service payments to pay the public infrastructure costs necessitated by the development project.

Service payment enforceability

The bill specifies that all TIF service payment obligation agreements are enforceable against subsequent property owners. Continuing law provides that such payments are to be considered taxes for all purposes, including for lien priority and collection, but does not specifically provide that the payments are a covenant running with the land. In practice, however, many service payment agreements already include such a clause.

Under the bill, once a subdivision records a TIF service payment agreement with the county recorder, the covenant is fully binding against the property owner and any person subsequently acquiring an interest in the land. If a service payment is not paid, the subdivision can place a lien on the property and collect the payment in the same manner as other delinquent taxes (e.g., through foreclosure).⁷ This change applies to any proceedings commenced after, or pending on, the provision’s effective date and any instruments recorded on, before, or after that date.⁸

COMMENT

The land conveyance proposed by the bill was also included in H.B. 481 of the 133rd General Assembly, which was passed by the General Assembly on June 11, 2020, and signed by the Governor on June 19, 2020.

⁷ R.C. 5709.91.

⁸ Section 4 of the bill.

HISTORY

Action	Date
Introduced	01-08-20
Reported, S. Local Gov't, Public Safety & Veterans Affairs	05-06-20
Passed Senate (32-0)	05-20-20
