



## Legislative Fiscal Bureau

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September 21, 2005

TO: Members  
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Assembly Bill 534: Sale of Surplus Land by the Department of Transportation

Assembly Bill 534 was introduced on July 5, 2005, and referred to the Committee on Property Rights and Land Management. On August 10, 2005, that Committee adopted Assembly Substitute Amendment 1 to AB 534 on a vote of 5 to 0 and recommended the bill for passage, as amended, on a vote of 5 to 0. On September 9, 2005, the bill was referred to the Joint Committee on Finance.

### **BACKGROUND**

Under current law, the Department of Transportation is allowed to sell property owned by the state and under jurisdiction of the Department when the Department determines that the property is no longer necessary for the state's use for transportation purposes ("surplus property"). The sale may be conducted by public or private sale, but is subject to various conditions, including approval of the Governor if the fair market value of the parcel is more than \$15,000. The Department generally classifies surplus property, based on an assessment of its marketability, in three categories: (a) "general marketability" for parcels with good transportation access and for which more than one potential buyer could be interested in purchasing the parcel; (b) "limited marketability" for parcels for which usually only one adjacent landowner is a potential buyer because of limited access; and (c) "non-marketable" for parcels that have no access and are of no or limited use to a buyer because of size, shape, or location.

In addition to selling property, the Department is also allowed to convey land to any municipality within which the land is located. In some cases, the Department currently conveys land at no cost or below-market cost to a municipality if the land is to be used for a public purpose,

such as for a locally-maintained wayside or park, and if there is limited interest in the parcel among other potential buyers.

DOT is required to submit an inventory of its surplus land to the Building Commission and the Joint Committee on Finance on a biennial basis. The inventory must contain a general description of the location and an estimated value of each parcel.

## **ASSEMBLY SUBSTITUTE AMENDMENT 1**

Assembly Substitute Amendment 1 to AB 534 would establish new requirements for the sale of surplus property, effective with property acquired for a project that was completed after the effective date of the bill. Under the amendment, the Department would be required to offer the property for sale or transfer ownership of the property. The Department would be required to offer property with limited or general marketability at appraised value, as determined by a state-certified or licensed appraiser, for not less than 12 months, unless the property is sold for public use, under other provisions of the amendment (described below). If the property is not sold within this time, the Department would be required to sell the property by means of sealed bids or public auction. Under the amendment, this disposition process would be required to take place within 24 months of the completion of the transportation project for which the property was acquired. Other current law provisions related to the sale of surplus property would continue to apply, including the requirement that the sale be approved by the Governor for parcels with a market value above \$15,000, and a prohibition against selling property that is subject to a petition for acquisition by the Department of Commerce under housing assistance programs.

Prior to conducting a public sale on a parcel of surplus land with general marketability, the Department would be required by the amendment to contact the municipality and the local school district where the land parcel is located, and the Department of Natural Resources, to solicit interest in acquiring the parcel for public use. Upon notification from DOT, the municipality, school district, and DNR (“public entity”) would be required to respond within 60 days stating their interest in the land. Failure to respond within 60 days would constitute noninterest in the land parcel. If the public entity expresses interest in acquiring the land for public use, DOT would be required to offer the first right of purchase to the public entity if all the following are true: (a) the public entity provides a plan to DOT identifying the proposed public use for the land parcel and the acreage involved in the public use; (b) the public use would benefit a cross-section of the population; and (c) the land parcel would not be purchased for the generation of profit either through the sale price or its long-term intended public use. If these conditions are met, the Department would be required to transfer ownership of the land parcel to the public entity upon receipt of the fair market valuation of the land parcel. The amendment would require ownership to be transferred contingent upon the public use identified and shall remain in the ownership of the public entity preserving the public use. The amendment would specify that current law provisions applying to the conveyance of surplus property to a municipality shall only apply to the sale of property acquired for a project that is completed before the effective date of the bill.

The amendment would also modify the current law provision requiring DOT to submit a biennial surplus property inventory to the Building Commission and the Joint Committee on Finance to also require the Department to submit a report including the estimated marketable value totals, by marketable type, of the land parcels and the net gain and net sale of surplus properties in the previous year. In addition, the amendment would require the first such report submitted after the effective date of the bill to contain a summary of the surplus land sales in each of the ten years preceding the first report.

### **FISCAL EFFECT OF ASSEMBLY SUBSTITUTE AMENDMENT 1**

In its fiscal note prepared for Assembly Bill 534, the Department estimated that the bill would result in a reduction of transportation fund revenues from the sale of surplus land of about \$100,000. This loss was primarily attributable to provisions in the original bill that would have required the Department to convey certain properties at no cost if they were not sold.

This estimate, however, is not applicable to Assembly Substitute Amendment 1, since the provision requiring conveyance at no cost is not included in the substitute amendment. Although no formal fiscal note has been prepared on the substitute amendment, the Department indicates that it would not likely have a negative effect on revenues. The Department indicates that the provision requiring that sales of property to public entities for a public purpose be sold at fair market value may generate a small amount of additional revenue, since some of this property is currently conveyed at no cost.

Prepared by: Jon Dyck