

LEGAL SERVICES

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MEMORANDUM

October 31, 2013

SUBJECT: Effect of a municipal land entitlement when a preference to purchase the land is exercised (Work Order No. 28-LS0864\U)

TO: Senator Kevin Meyer
Attn: Edra Morledge

FROM: 
Donald M. Bullock
Legislative Counsel

Enclosed is a bill that authorizes the grant of a preference to purchase state land that is included in an active municipal entitlement selection. If the preference is granted and the land is sold under the preference, the land would be sold before the state transfers the selected land to the municipality. Subject to appropriation, the proceeds received by the state from the sale would be paid to the municipality.

Basically, the land subject to and sold under the preference would not be available for transfer to the municipality because the sold land is no longer state land. However, the municipality may receive money from the sale (if appropriated). What is the effect of the sale on the municipal entitlement?

Consider the following situations and questions:

1. If the state sells the land and appropriates the full amount of the proceeds to the municipality, is the acreage sold under the preference credited against the entitlement? In other words, if five acres are sold and the municipality receives the proceeds from the sale, are five acres credited against the municipal entitlement?
2. If the state sells the land and does not appropriate the full amount of the sale proceeds or appropriates no money to the municipality, how does the sale of the land affect, if at all, the amount of land to which the municipality is entitled?
3. Can a municipality reject the appropriation from the sale and select an additional amount of land equal to the amount of land sold by the state under the preference?

4. Should a municipality have the option to remove land subject to the preference from its land selection? If so, should the director notify the municipality after an application for the preference has been received?

5. Rather than continuing to include land subject to the preference within the municipal entitlement selection, should that land be removed from state land that is available for selection by the municipality?

The bill only addresses a preference on land already selected by a municipality for transfer. The overriding question is what is the effect of the sale of state land under the preference on the municipal entitlement?

Please advise on how the bill should address the effect of the amount of land sold under the preference on the amount of land a municipality is entitled to receive from the state.

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Enclosure