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BILL ANALYSIS

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Senate Fiscal Agency

Lansing, Michigan 48909

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Senate Bill 379 (as passed by the Senate)
Sponsor: Senator Frederick Dillingham
Committee: Commerce and Technology

Date Completed: 8-15-89

RATIONALE

The Commercial Forest Act (CFA) was enacted in 1925 in response to the extensive timbering activity in the State at the turn of the century, particularly in the Upper and northern Lower Peninsulas. Reportedly, the Act was passed to help ensure development of merchantable timber by allowing forest property owners to have their woodlands exempted from property tax levies if the Department of Natural Resources (DNR) certified the land as having enough growth to produce marketable lumber within a certain period of time. If an owner of merchantable forest chooses to operate under the Act, he or she must obtain permits from the DNR and pay a "yield tax". Once land is certified as a commercial forest, its owners cannot use it for industrial, recreational, or other commercial uses, and if a land owner withdraws land from certification under the Act, he or she must pay certain penalty fees.

Although the Act allows the exploration of mineral deposits on certified commercial forest land, it specifies that if minerals are discovered and extraction is planned, the land affected must be removed from the Act's provisions and penalties paid by the owner. According to some, this provision, while reportedly protecting commercial forest land from improper use, was included before the State was aware of the commercial value of certain minerals located throughout the State, primarily in the north. Some people believe certain minerals, such as natural gas, could provide even greater commercial benefits than timber, and in many cases could be extracted without affecting the

commercial value of surrounding forest land. It has been suggested, therefore, that provision be made to allow mineral extraction operations as long as they do not affect on the commercial value of a forest or jeopardize the status of the land as certified commercial forest property.

CONTENT

The bill would amend the Commercial Forest Act to specify that, after January 1, 1989, a commercial forest could be used for mineral extraction if the operations would not "substantially affect" the commercial value of the forest, and to require the Department of Natural Resources to promulgate rules in order to determine the types of mineral extraction operations that would substantially affect the commercial value of a forest.

MCL 320.302

FISCAL IMPACT

The bill would result in an indeterminate increase in revenues and costs to the State and a potential decrease in revenue to local governments.

Allowing mineral extraction on land currently enrolled in the Commercial Forest Act could provide for increased State revenue through oil and gas privilege fees. For FY 1988-89, the Department of Natural Resources was appropriated \$6.45 million from this revenue source.

If inclusion of mineral extraction activities brought about increased enrollment of land in the Commercial Forest Act, there could be an indeterminate increase in costs to State government and potential revenue loss to local government. For FY 1988-89, \$1.55 million in General Fund money was appropriated for grants to local units of government to offset the loss of taxes due to enrollment of land in the Commercial Forest Act.

Also, there would be a minimal increase in State expenditures to promulgate rules as required by the bill. For FY 1988-89, \$203,300 was appropriated to administer the Commercial Forest Act.

ARGUMENTS

Supporting Argument

By permitting persons who own land designated as commercial forest to use the land for the purpose of extracting minerals if the extraction would not affect the commercial value of the forest, the bill could provide an economic boost to certain areas of the State, particularly in the Upper and northern Lower Peninsulas where large sections of forested land may be covering valuable mineral resources.

Opposing Argument

In many cases the owner of the surface rights to a parcel of land does not also own the underground, or mineral, rights to the land. It would be the owner of the surface rights, however, who would be liable for any penalties imposed if a parcel of land had to be withdrawn from certification under the Act because extraction procedures "substantially affected" the commercial value of the forest, regardless of the fact that the mineral rights owner could actually have been responsible for the extraction operations.

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