

MEMORANDUM



DATE: May 12, 2010
TO: House Committee on Appropriations
FROM: William E. Hamilton
RE: House Concurrent Resolution No. 52

Background

Part 361, Section 36105, of the Michigan Natural Resources and Environmental Protection Act (1994 PA 451) provides for voluntary open space development rights easements between landowners and the "state land use agency," meaning the Michigan Department of Agriculture. Such easements are used to restrict development of land meeting the definition of "open space" under the act, and to preserve the character of such land as open space. Section 36103 of the act requires that such easements have an initial term of not less than ten years, with a maximum term of 90 years.

Landowners are not paid for the land or development rights under these easements, but do receive a reduction in property taxes related to the development rights of the land under easement. Under provisions of the act, the property owners are liable for ad valorem property taxes attributable to the *land* under easement, but are not be liable for ad valorem property taxes related to the easement property's *development rights* as separately valued and assessed. The act provides for the State of Michigan to reimburse the affected local units of government, e.g. county or township government, or school district, for the revenue loss resulting from the sheltering of the development rights from property taxes.

The payment to local units in lieu of property taxes under these easements is made from the Agriculture Preservation Fund, a state restricted fund, appropriated in the Capital Outlay section of the Department of Agriculture budget.

The department indicates that the criteria for open space development rights easements under Section 36101 is relatively restrictive, and there are currently only 16 such agreements. The department last submitted agreements for legislative approval in 2003.

Description and Analysis of Resolution

House Concurrent Resolution No. 52 would signify the approval of the Michigan House of Representatives, and the Michigan Senate (after concurrence) of two open space easements previously approved by the Michigan Department of Agriculture. The legislative approval of such easements is required by Section 36105 of the act.

Both parcels are in Vergennes Township, Kent County, near Lowell Michigan. The department indicates that the two parcels are located next to each other, adjacent to the Flat River, a Designated Natural River under Part 305 of 1994 PA 451, and thus eligible for eligible for the open space easement program. Both applications are for a term of ten years.

As noted in the resolution, the annual cost to the state to reimburse local units for reduced property tax revenue related to the development rights under the open space easement is \$691 for one of the parcels, and \$1,242 for the other – a total annual cost of \$1,933. As noted above, these payments to local units are made from the state-restricted Agriculture Preservation Fund.