



Senate Fiscal Agency
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BILL ANALYSIS



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House Bill 4069 (Substitute H-1 as reported without amendment)
House Bill 4243 (Substitute H-2 as reported without amendment)
House Bill 4244 (Substitute H-2 as reported without amendment)
Sponsor: Representative Frank Foster (H.B. 4069)
Representative Ed McBroom (H.B. 4243)
Representative Bruce Rendon (H.B. 4244)
House Committee: Natural Resources
Senate Committee: Natural Resources, Environment and Great Lakes

CONTENT

House Bill 4069 (H-1) would amend Part 511 (Commercial Forests) of the Natural Resources and Environmental Protection Act (NREPA) to do the following with regard to tax-exempt commercial forest property:

- Allow an owner of commercial forestland to withdraw from the program without penalty, under certain circumstances (described below).
- Eliminate a requirement that the Department of Natural Resources (DNR) prepare a forest management plan upon request of an applicant who cannot secure the services of a registered forester or natural resources professional to prepare a plan, and charge the owner a fee.
- Exempt forest management plans from disclosure under the Freedom of Information Act.
- Allow the DNR to require withdrawal of commercial forestland from the program if an owner took action that denied or inhibited access to the commercial forest for public hunting and fishing, unless the owner corrected the action and allowed access.
- Revise the conditions under which sand and gravel may be removed from a commercial forest.
- Prohibit the use of commercial forestland for wind energy development except under certain circumstances.

The owner of a commercial forest may withdraw all or part of his or her land from the commercial forest program upon application to the DNR and payment of a withdrawal application fee and penalty. Under the bill, for one year after its effective date, an owner would not be subject to a withdrawal penalty if the withdrawn commercial forestland were placed on the assessment roll in the local tax collecting unit; and the owner claimed and received an exemption for the land from school operating taxes under the General Property Tax Act, and submitted a copy of the recorded qualified forest school tax affidavit to the DNR by December 31 of the year in which the land was withdrawn.

The bill also would allow the Department to withdraw forestland from the classification as commercial forest if it had been acquired by a federally recognized Indian tribe and the associated property taxes subsequently were preempted under Federal law. In this case, a withdrawal would not be subject to the withdrawal application fee or penalty.

House Bill 4243 (H-2) would amend the Qualified Forest Property Recapture Tax Act to revise the calculation of the recapture tax that is imposed on qualified forest property that is converted by a change in use.

Currently, if there have been any harvests of forest products, the tax is calculated as follows:

- The property's State equalized valuation (SEV) at the time of the change in use is multiplied by the total millage rate levied by all taxing units in the local tax collecting unit where the property is located.
- The product of the first calculation is multiplied by seven.

If there have been no harvests of forest products, the tax is determined in the same manner, with the product of the second calculation multiplied by two.

Under the bill, if there had been any harvests of forest products, the tax would be calculated as follows:

- The property's taxable value at the time of the change in use would be multiplied by the number of operating mills levied by the local school district in which the property was located, reduced by the number of mills collected as a fee for qualified forest property (as proposed by Senate Bill 51 (S-2)).
- The product of the first calculation would be multiplied by the number of years the property had been exempt as qualified forest property before the change in use, not to exceed the seven years immediately before the year in which the property was converted by a change in use.

As currently provided, if there had been no harvests of forest products, the tax would be doubled.

If the property were eligible for exemption as qualified forest property as a result of its withdrawal from the Commercial Forest program under Part 511 of NREPA, and the property were converted by a change in use within seven years after the withdrawal, the recapture tax would be an amount equal to the application fee and penalty that would have been assessed under Part 511 to withdraw the property from the program in the year in which the property was converted by a change in use, calculated as if the property had not been withdrawn. If the property were converted by a change in use more than seven years after the withdrawal, the recapture tax would have be calculated according to the bill's formula based on the property's taxable value.

House Bill 4244 (H-2) would amend the General Property Tax Act to revise the requirements for a transferee to file an affidavit upon the transfer of qualified forest property, in order to avoid an adjustment in the property's taxable value. The bill specifies information that would have to be included in the affidavit that must be filed by the owner of qualified forest property, and would require the owner to file a copy of the affidavit with the Michigan Department of Agriculture and Rural Development (MDARD). The bill also specifies that the exception to the recognition of a transfer of ownership would extend only to the land of the qualified forest property, and would not extend to buildings, structures, or land improvements.

In addition, between June 1, 2013, and November 30, 2013, the bill would allow the owner of property enrolled as qualified forest property before January 1, 2013, to execute a new qualified forest taxable value affidavit with MDARD. If the owner did not do so, the taxable value of the property would have to be adjusted, but the property would not be subject to the recapture tax.

The bills would take effect on June 1, 2013.

MCL 324.51102 et al. (H.B. 4069)

Legislative Analyst: Julie Cassidy

211.1032 & 211.1034 (H.B. 4243)
211.27a (H.B. 4244)

FISCAL IMPACT

These bills are part of a package of legislation, although the bills are not tied-barred to each other or several other related bills. Some of the changes in the bills would be relevant and/or have a fiscal impact only if other bills in the package were adopted. This fiscal analysis assumes that all bills in the package would be adopted.

House Bill 4069 (H-1) would have a minor, but positive fiscal impact on State and local governments.

Under the bill, landowners with forestland in the Commercial Forest program would be allowed to transfer the land into the Qualified Forest program with no penalties, under certain circumstances. Currently, counties with Commercial Forest parcels receive a \$1.25 per acre specific tax from the landowner and a \$1.25 per acre payment from the Department of Treasury. Transfers from the Commercial Forest program to the Qualified Forest program would benefit local units of government in that, while they would no longer receive the flat \$2.50 per acre total annual payments from the Department of Treasury and the landowner, they would receive ad valorem property taxes on any land transferred to the Qualified Forest program, which almost certainly would be more than the \$2.50 received under the Commercial Forest program. The State also would stand to save the \$1.25 per acre payment made by the Department of Treasury for each parcel that changed from Commercial Forest to Qualified Forest. It is unknown how many, if any, participants in the Commercial Forest program would be qualified for and choose to transfer to the Qualified Forest program.

House Bill 4243 (H-2) would reduce General Fund revenue by an unknown and likely minimal amount by reducing the recapture tax levied when property ceases to be treated as qualified forest property. However, to the extent that additional parcels were classified as qualified forest property, this decline in revenue per parcel could be offset by revenue from the additional property.

House Bill 4244 (H-2) would reduce revenue to local units of government, and likely increase School Aid Fund expenditures if per-pupil funding guarantees were maintained, by an unknown amount that would depend on the specific characteristics of property affected by the bills. The reduction in revenue would affect intermediate school districts, revenue from school debt mills, and sinking fund mills, as well as units such as cities, counties, townships, and villages. The revenue loss under these provisions could be significant depending on the changes in market conditions affecting the underlying land.

Date Completed: 4-18-13

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.