

VEGETATION REMOVAL PREEMPTION ACT

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

Senate Bill 1188 (S-1) as passed by the Senate
Sponsor: Sen. Tom Casperson

Analysis available at
<http://www.legislature.mi.gov>

Senate Bill 1189 as passed by the Senate
Sponsor: Sen. Wayne Schmidt

Senate Bill 1192 as passed by the Senate
Sponsor: Sen. Darwin L. Booher

Senate Bill 1190 as passed by the Senate
Sponsor: Sen. Jack Brandenburg

Senate Bill 1193 as passed by the Senate
Sponsor: Sen. Geoff Hansen

Senate Bill 1191 as passed by the Senate
Sponsor: Sen. Dave Hildenbrand

Senate Bill 1194 as passed by the Senate
Sponsor: Sen. Tom Casperson

House Committee: Local Government
Senate Committee: Local Government

Complete to 12-20-18

SUMMARY:

Senate Bill 1188 would create a new act, the “Vegetation Removal Preemption Act,” to prohibit a local unit of government from adopting or enforcing an ordinance that restricts the trimming or removal of certain vegetation under certain conditions.

Senate Bills 1189 through 1194 would amend several other acts to specify that they are subject to the Vegetation Removal Preemption Act. These bills are all tie-barred to SB 1188, which means that they could not take effect unless SB 1188 were also enacted.

Each bill would take effect 90 days after being enacted.

Senate Bill 1188 would enact the Vegetation Removal Preemption Act. The Act would prohibit a local unit of government from adopting, maintaining, or enforcing an ordinance, charter provision, or regulation on or after the Act’s effective date that restricted or provided mitigation for the trimming or removal of any vegetation (other than a heritage tree, as defined in the bill) on nonresidential private property, specifically property with an agricultural, business, commercial, or industrial zoning classification. Any existing local ordinance that did so would be rendered void.

The bill clarifies that it would not require local government units to refund any fee, fine, or costs received by the local unit of government as a result of enforcing a local ordinance rendered void by the Act, so long as those costs were incurred before the Act went into effect.

The bill also clarifies that it should not be misconstrued as prohibiting a local unit of government from doing any of the following:

- Requiring private property owners to maintain their property in a healthy, neat, and orderly appearance (e.g., requiring people to water and mow their lawns or remove noxious weeds or invasive vegetation).
- Allowing property owners to voluntarily preserve or maintain trees or vegetation as part of a plan related to the development or redevelopment of a site in exchange for

reduction of other restrictions in the zoning ordinance. (The bill would also not exempt property owners subject to such an agreement or site plan from continued compliance with any tree or vegetation requirements it may contain.)

- Restricting or allowing the trimming or removal of trees or vegetation on public property or within a public right-of-way.
- Allowing the trimming or removal of trees or vegetation in places that would clear vision or other traffic safety provisions.
- Entering into a voluntary planned unit development agreement with a private landowner consistent with the Michigan Zoning Enabling Act.
- Requiring tree or vegetation greenbelts within property boundary setbacks or in parking lots pursuant to zoning ordinances adopted under the Michigan Zoning Enabling Act.

The bill also would not be interpreted as conflicting with the following:

- State or federal storm water management, floodplain, or soil erosion and sedimentation control requirements, including those found in Part 31 or Part 91 of the Natural Resources and Environmental Protection Act
- The Drain Code of 1956
- The Insect Pest and Plant Disease Act

Senate Bills 1189 to 1194 would amend several existing laws to specify that they are subject to the Vegetation Removal Preemption Act, as follows:

- SB 1189 would amend the General Law Village Act (MCL 61.1d et al.)
- SB 1190 would amend the Home Rule Village Act (MCL 78.26)
- SB 1191 would amend the Charter Township Act (MCL 42.1b)
- SB 1192 would amend the Michigan Zoning Enabling Act (proposed MCL 125.3205b)
- SB 1193 would amend Chapter 16 of the Revised Statutes of 1846, which governs townships (MCL 41.3a)
- SB 1194 would amend the Home Rule City Act (MCL 117.5)

FISCAL IMPACT:

The bills would have an unknown, but likely minimal, fiscal impact on local units of government due to the potential of lost fine or fee revenues. Any reduction in fine or fee revenue for a local unit would be related to the ordinance previously in place and the level of enforcement. The bills would have no fiscal impact on the state.

POSITIONS:

The following entities indicated support for the bills (12-11-18):

- Eagle Express
- Michigan Conservative Union
- Michigan Chamber of Commerce
- National Federation of Independent Business
- Small Business Association of Michigan
- Michigan Farm Bureau
- Michigan Manufacturers Association

The following entities indicated support in concept, with concerns (12-11-18):

- Michigan Realtors Association
- Home Builders Association

The Department of Environmental Quality indicated concerns. (12-11-18)

The Michigan Nursery and Landscape Association indicated a neutral position. (12-11-18)

Representatives of the following entities testified in opposition to the bills (12-11-18):

- Canton Township
- City of Ann Arbor
- Arboriculture Society of Michigan

The following entities indicated opposition to the bills (12-11-18):

- Michigan Municipal League
- Landscape Supply, Inc.
- City of Sterling Heights
- Michigan Environmental Council
- Michigan Townships Association
- Michigan Association of Planning
- Southeast Michigan Council of Governments (SEMCOG)
- Quicken Loans
- City of Jackson
- Conference of Western Wayne
- American Society of Landscape Architects – Michigan Chapter
- City of Wyoming
- Sierra Club
- Oakland County
- The Nature Conservancy
- Superior Watershed Partnership
- City of Grand Rapids
- City of Kalamazoo
- City of Novi
- City of Rochester Hills

Legislative Analyst: Nick Kelly
Fiscal Analyst: Ben Gielczyk

■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.