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BILL



ANALYSIS

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Senate Bill 1057 (as introduced 3-29-12)  
Sponsor: Senator Darwin L. Booher  
Committee: Natural Resources, Environment and Great Lakes

Date Completed: 5-30-12

### **CONTENT**

The bill would amend Parts 93 (Soil Conservation Districts) and 513 (Private Forestry) of the Natural Resources and Environmental Protection Act (NREPA) to do the following:

- Require the Michigan Department of Agriculture and Rural Development (MDARD) to review soil conservation district budgets and financial information.
- Prescribe criteria that a soil conservation district would have to meet to be eligible for a grant of at least \$50,000 from MDARD.
- Include references to forestland in provisions prescribing a conservation district's powers regarding farmland and natural resources.
- Include the evaluation of nonindustrial private forestland and providing forestry assistance to landowners among the powers of a conservation district.
- Prohibit a conservation district from developing a management plan for nonindustrial private forestland, unless the landowner were unable to identify a private forester willing to develop a plan.
- Allow a conservation district to cooperate with a local unit of government or other subdivision of State government to implement forestland management projects.
- Authorize MDARD to enter into cooperative agreements with Federal agencies to assist

landowners in management of their nonindustrial private forestland.  
-- Create the "Private Forestland Evaluation Fund" to support private forestland management assistance.

The bill also would repeal sections of Part 501 (Forest Improvements) containing definitions used in provisions regarding forest restoration pilot projects, prescribing specific requirements for the Western Upper Peninsula Forest Improvement District (WUPFID), and requiring State agencies to cooperate with a forest improvement district board.

#### Part 93: Soil Conservation Districts

MDARD Powers & Duties. The bill would include among MDARD's duties and powers under Part 93 the review of conservation district budgets and financial information.

MDARD Grant to Conservation District. Currently, a conservation district board must provide for an annual audit of the accounts of receipts and disbursements, and maintain accurate financial records of receipts and disbursements of State funds and make the records available to MDARD. The bill would delete these requirements.

Under the bill, to be eligible for a grant of at least \$50,000 from MDARD, a conservation district would have to do all of the following:

- Submit to MDARD an annual budget setting forth the purpose and amount of the expenses expected to be incurred

- and the source and amount of revenue expected to be received during the ensuing fiscal year.
- Maintain accurate financial records of receipts and disbursements and uniform accounting in accordance with generally accepted accounting principles under procedures prescribed by a certified public accountant (CPA).
- Provide for a biennial independent certified audit by a CPA of the financial records, accounts, and procedures of the district.

The audit report would have to show profits and losses and the district's financial condition.

The Department could promulgate rules to implement these provisions.

The bill provides that a conservation district board would be responsible for the exercise of the powers and the performance of the duties of a conservation district under Part 93.

Conservation District/Board Powers. Part 93 provides that a conservation district and its board have certain powers, including the following:

- To conduct surveys, investigations, and research relating to the conservation of farmland and natural resources, and to publish the results and disseminate the information.
- To conduct projects within the district on State land, and on any other land within the district with the owner's consent, to demonstrate by example the means, methods, and measures by which farmland and natural resources may be conserved and soil erosion may be prevented and controlled.
- To make available to landowners within the district and to other districts agricultural and engineering machinery and equipment, fertilizer, seeds, seedlings, and other material or equipment to assist landowners in the conservation of farmland and natural resources and for the prevention and control of soil erosion.
- To develop comprehensive plans for the conservation of farmland and natural resources and for the control and prevention of soil erosion within the district or other districts.

- To take over and administer any farmland or natural resource conservation project located within the district's boundaries undertaken by the United States or the State, or a U.S. or State agency, and to manage such a project or act as an agent of the State or U.S. on such a project.

The bill would refer to "farmland, forestland, and natural resources" in these provisions.

In addition, the bill would add to a district's and board's duties the evaluation of nonindustrial private forestland, in cooperation with MDARD; collaboration with MDARD in evaluating forest management plans under Section 7jj[1] of the General Property Tax Act; and giving landowners any of the following:

- Technical assistance regarding potential environmental, ecological, and economic benefits of forestry, wildlife habitat, and wetland development and restoration.
- Contact information for qualified foresters.

(Under Section 7jj[1] of the General Property Tax Act, qualified forest property is exempt from the tax levied by a local school district for school operating purposes to the extent provided under the Revised School Code. To claim an exemption, the owner of qualified forest property must file with the local tax collecting unit an affidavit and a forest management plan approved by the Department of Natural Resources.)

The exercise of powers related to providing technical assistance and contact information would not affect the regulatory authority of any State department.

Except as otherwise provided, a conservation district could not develop management plans for nonindustrial private forestland. Upon request, a district would have to give a landowner a list of qualified foresters to develop management plans. The Department would have to develop and maintain the list. If requested by a landowner, MDARD would have to post on the forestry page of the conservation district website notice that the landowner was seeking forest management plan preparation; timber harvesting, marketing, or thinning; or similar services. If a landowner were unable to identify a private

forester willing to develop a plan because of the scope or scale of the project, the conservation district could prepare a plan for the landowner upon approval by MDARD.

("Qualified forester" would mean that term as it is defined in Section 51301, which the bill would add. Under that section, the term would mean a registered forester, a forester certified by the Society of American Foresters, a forest stewardship plan writer, or a technical service provider as registered by the U.S. Department of Agriculture for forest management plan development.)

Local Unit Cooperation. Under Part 93, a conservation district may cooperate with and enter into agreements with a county, township, municipality, or other subdivision of State government in implementing soil, water, and related land-use projects. The bill would include forest management projects in this provision.

Legislative Policy. Part 93 states, "It is the policy of the legislature to provide for the conservation of the natural resources of the state, including soil, water, farmland, and other natural resources...". The bill would include the conservation of forestland in the policy.

### Part 513: Private Forestry

Intent & Purpose of Part 513. The bill states, "This part is intended to stimulate improved management and utilization of private forestland and private resources within this state. Economic and community development opportunities based on the private forest resource will be enhanced by ensuring adequate future high-quality timber supplies, increased employment opportunities, a diversified economy, and other economic benefits and the conservation, maintenance, and enhancement of a productive and stable forest resource system for the public benefit of present and future generations."

The bill also states, "The primary purpose of this part is to assist private landowners to understand the value of their forest resources and to provide management planning assistance and practice implementation on nonindustrial private forestlands."

"Forestland" would mean a tract of land that may include nonproductive land that is intermixed with productive land that is an integral part of a managed forest, whose owner agrees to develop, maintain, and actively manage the land as a private forest through planting, natural reproduction, or other silvicultural practices.

"Forest resources" would mean those products, uses, and values associated with forestland, including recreation and aesthetics, fish, forage, soil, timber, watershed, wilderness, and wildlife.

"Landowner" would mean a person who holds an ownership interest in nonindustrial private forestland. "Nonindustrial private forestland" would mean a privately owned tract of land, or the timber rights in the land if they have been severed, that is at least 50% occupied by forest tree species, consists of at least 10 acres, and has the productive capacity to grow at least on average 20 cubic feet per year. The term would include land from which forest tree species have been removed and not restocked, but would not include land converted to uses other than the growing of forest tree species or land zoned currently for uses incompatible with forest practices.

"Forest practice" would include any of the following:

- The preparation of forest management plans for forestland.
- The improvement of species of forest trees.
- Reforestation.
- The harvesting of species of forest trees.
- Road construction associated with the improvement or harvesting of forest tree species or reforestation.
- Use of chemicals or fertilizers for the purpose of growing or managing species of forest trees.
- Applicable silvicultural practices as described in the "Voluntary Forestry Management Guidelines for Michigan" prepared by the Society of American Foresters in 1987.
- Any other actions intended to improve forestland or forest resources.

Cooperative Agreements. The Department could enter into cooperative agreements with the Federal agencies that had been

given authority by act of Congress for the management of forestland to assist landowners in management of their nonindustrial private forestland.

Private Forestland Evaluation Fund. The bill would create the Fund within the State Treasury. The State Treasurer could receive money or other assets from any source for deposit into the Fund, including General Fund General Purpose appropriations, gifts, grants, and bequests. The Treasurer would have to direct the investment of the Fund, and credit to it any interest and earnings. Money in the Fund at the close of the fiscal year would remain in the Fund and would not lapse to the General Fund.

The Department would be the Fund administrator for auditing purposes. The Department could spend Fund money, upon appropriation, only for one or more of the following purposes:

- Direct assistance.
- Indirect assistance.
- Administrative costs, not to exceed 8% of annual appropriations from the Fund.

"Direct assistance" would include any of the following:

- Programs devoted to nonindustrial private forestland to encourage the judicious management of forestland to maximize economic and ecological value.
- Incentive and cost-sharing programs to assist landowners.
- Programs that enhanced investment of private and Federal funds in sustainable forest management.
- Other programs established pursuant to Part 513.

"Indirect assistance" would include the following:

- Public education and demonstration programs on sustainable management of private forestland for increasing value for wildlife habitat and/or timber management.
- Educational programs.
- Technical assistance programs.
- Programs that would provide for the promotion and implementation of on-site evaluation systems and management practices.

"Administrative costs" would include costs incurred during any of the following:

- Development and enforcement of the Act.
- Coordination of programs under Part 513 with the U.S. Department of Agriculture and other State programs with forest responsibilities.

The Department would have to establish criteria and procedures for approving proposed expenditures from the Fund.

Before November 1 of each year, the Department of Treasury would have to notify MDARD of the balance in the Fund at the close of the preceding fiscal year.

#### Part 501: Forest Improvement

Part 501 provides for the establishment of forest improvement districts. Generally, the process for creation of a district involves the filing of a petition, a public hearing, a determination by the Department of Natural Resources (DNR) of the need for the district's creation and whether its operation is administratively and economically feasible, and certification by the Secretary of State. Part 501 also authorizes the DNR to fund a forest restoration pilot project or any other forest improvement district created to implement the part, and calls for the establishment of a pilot project organized as a forest improvement district consisting of the western six counties of the Upper Peninsula. This pilot project is known as the "Western Upper Peninsula Forest Improvement District". (The WUPFID and forest improvement districts are described below, under **BACKGROUND.**)

The bill would repeal Section 50110, which contains definitions of terms used in the provisions regarding pilot projects. The bill would reenact some of these definitions in Part 513.

The bill also would repeal Section 50112, which requires the WUPFID to be managed by a board of directors and prescribes the board's membership and duties, as well as the powers, responsibilities, duties, and authority of a profit corporation having a contract as agent for the District. This section also allows the WUPFID to make an incentive payment to or for the members who submit approved forest management

plans and adopt and comply with prescribed forest practices, to the extent that funds are available.

to administer and spend money from the Fund for various purposes. The contents of the Fund cannot be determined at this time.

Fiscal Analyst: Bruce Baker

In addition, the bill would repeal Section 50136, which requires each State agency with jurisdiction over or charged with the administration of State-owned land within the boundaries of a forest improvement district to cooperate to the fullest extent with the district board in implementing Part 501. Under this section, MDARD and industrial and trade development agencies of the State also must cooperate to the fullest extent with the board.

MCL 324.9301 et al.

### **BACKGROUND**

A study of Michigan's timber resources commissioned in the late 1970s recommended that the State provide for the creation of self-governing landowner organizations known as forest improvement districts. It was suggested that such districts could facilitate cooperation between forestland owners for the improvement of forest resource management. The three primary functions of a forest improvement district are to provide forest management services (including development of a forest management plan) to members, marketing forest products harvested on members' land, and developing industrial sites to use those products.

The WUPFID was established in 1985 as the forest improvement district pilot program authorized under Part 501 of NREPA. The District received State funding through 1991 and then functioned independently for several years, achieving a membership of approximately 900, but ceased operations in 2004.

Legislative Analyst: Julie Cassidy

### **FISCAL IMPACT**

The bill would require MDARD to assume a greater role in providing for the availability of evaluation, potential management, and use of nonindustrial forestland in the State. The Department would incur additional administrative costs, in an amount that cannot be determined at this time. The bill also would create the Private Forestland Evaluation Fund and would require MDARD

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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.