



Senate Fiscal Agency
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BILL ANALYSIS



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Senate Bills 685 through 690 (as introduced 10-30-25)

Sponsor: Senator Sue Shink (S.B. 685)
Senator Kevin Daley (S.B. 686)
Senator Sam Singh (S.B. 687)
Senator John Cherry (S.B. 688)
Senator Dan Lauwers (S.B. 689)
Senator Roger Victory (S.B. 690)

Committee: Natural Resources and Agriculture

Date Completed: 11-5-25

INTRODUCTION

The bills would expand the tax credit for agricultural land preservation under Part 361 (Farmland and Open Space Preservation) of the Natural Resources and Environmental Protection Act (NREPA) to other land preservation programs, including conservation easements under Subpart 11 (Conservation and Historic Preservation Easement) of NREPA and development rights programs under the Michigan Zoning Enabling Act. They also would prescribe new requirements for the Michigan Department of Agriculture and Rural Development's (MDARD) administration of these land preservation programs, including a requirement to maintain a record of each development rights agreement, agricultural conservation easement, or purchase of development rights for which a tax credit under Part 361 was claimed. Additionally, the bills would modify requirements of these development rights agreements and agricultural conservation easements, which are respectively agreements entered between the State and a private landowner to limit the development of land in certain ways and conveyances in which a private landowner relinquishes to the public in perpetuity development rights. They would allow up to one acre of land to be relinquished from an easement and allow a local government to be the sole holder of an easement.

FISCAL IMPACT

The bills would reduce General Fund revenue by an indeterminate, and likely minimal, amount. The actual revenue loss would depend on the number of affected properties, the applicable tax rates, and the taxable value of those properties, as well as the household income of affected taxpayers. The current credit reduces revenue by approximately \$50.0 to \$56.0 million per year. To illustrate the potential revenue loss, if the bills' changes increased credits by 5%, the bill would reduce State General Fund revenue by \$2.5 million to \$2.8 million per year. According to MDARD, the package of bills would have a significant fiscal impact, requiring additional staffing (approximately 3.0 full-time equivalents) to implement the proposed changes for an estimated additional cost of \$600,000. The program is currently funded by the Agricultural Preservation Fund, with \$1.6 million of these restricted funds appropriated in the fiscal year (FY) 2025-26 budget. The restricted fund, which currently has a balance of \$10.8 million, could support MDARD's costs for these bills, should the cap on Fund usage be amended as proposed in Senate Bill 699, and should a subsequent adjustment to the FY 2025-26 program budget, either by supplemental appropriation or contingency fund transfer, be made in accordance with additional funds required. The bills would have an indeterminate, and likely minimal fiscal impact on local government revenue. The revenue would depend on the taxable value of properties, easements, and the value of what replaces the farmland.

CONTENT

Senate Bill 685 would amend Part 361 of NREPA to allow the owner of farmland and related buildings subject to a conservation easement under Subpart 11 and an agricultural conservation easement or development rights agreement under Part 361 or Part 362 (Agricultural Preservation Fund) to claim a tax credit against the income tax or the Michigan Business Tax Act if the agreements were executed before January 1, 2025.

Senate Bill 690 would amend Part 361 of NREPA to do the following:

- Expand the tax credit for agricultural conservation easements and development rights agreements to conservation easements under Subpart 11 and open space preservation programs allowed under the Michigan Zoning Enabling Act.
- Require MDARD to maintain a record of each development rights agreement, agricultural conservation easement, or purchase of development rights for which a tax credit under Part 361 was claimed.
- Require a landowner to submit a recorded copy of a permanent conservation easement to MDARD by November 1 for the purpose of obtaining the tax credit.

Senate Bill 686 would amend Part 361 of NREPA to allow up to one acre of land to be relinquished from an agricultural conservation easement as determined by a professional surveyor licensed in Michigan.

Senate Bill 687 would amend Part 362 of NREPA to do the following:

- Allow MDARD to accept contributions of the development rights to a conservation easement without being added as a coholder of an existing conservation easement.
- Allow a local government to solely hold an agricultural conservation easement if the easement instrument included specific language affording the State access to the property.

Senate Bill 688 would amend Part 361 of NREPA to modify references in accordance with changes proposed by **Senate Bill 686**.

Senate Bill 689 would amend Part 361 of NREPA to specify that any remaining land not subject to a transfer from a development rights agreement to an agricultural conservation easement or purchase of development rights would continue to be subject to the development rights agreement until the natural termination date of the agreement.

The bills are tie-barred. Each bill except **Senate Bill 688** is explained in further detail below.

Proposed MCL 324.36109b (S.B. 685)
MCL 324.36110 (S.B. 686); 324.36206 (S.B. 687)
324.36103 (S.B. 688); 324.36111 (S.B. 689)
324.36109 (S.B. 690)

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Senate Bill 685

Part 361 of NREPA allows MDARD and a landowner to enter into a farmland development rights agreement that entitles the landowner to a tax credit in exchange for keeping the land in agricultural production for the term of the agreement. Part 361 also authorizes MDARD to

purchase the development rights of farmland, and Part 362 (Agricultural Preservation Fund) extends this authority to eligible local units of government. Similarly, Subpart 11 (Conservation and Historic Preservation Easement) of NREPA governs the execution of a conservation easement granted to a governmental entity or other legal entity.¹

Part 361 allows an owner of farmland and related buildings subject to a development rights agreements, agricultural conservation easements, or purchases of development rights under Parts 361 and 362 to claim a credit against income tax liability or against the Michigan Business Tax Act for the amount by which the property taxes on the land and structures used in farming operations restricted by the development rights agreements, agricultural conservation easements, or purchases of development rights exceed 3.5% of the owner's business income tax base, plus compensation to shareholders not included in adjusted business income tax bases. This tax credit does not apply to a conservation easement under Subpart 11.

Under the bill, the owner of farmland and related buildings subject to a conservation easement under Subpart 11 and to an agreement or easement under Part 361 or Part 362 could claim the credit described above if the conservation easement under Subpart 11 and the agreement or easement under Part 361 or Part 362 were executed before January 1, 2025.

(Generally, "development rights" means an interest in land that includes the right to construct a building or structure, to improve land for development, to divide a parcel for development, or to extract minerals incidental to a permitted use or as set forth in an instrument recorded under Part 361.)

Senate Bill 690

As described above, Part 361 allows an owner of farmland and related buildings subject to one or more development rights agreements, agricultural conservation easements, or purchases of development rights to claim a credit against State income tax liability or against the Michigan Business Tax Act for the amount by which the property taxes on the land and structures used in farming operations restricted by the development rights agreements, agricultural conservation easements, or purchases of development rights exceed 3.5% of the owner's business income tax base, plus compensation to shareholders not included in adjusted business income tax bases, excluding certain deductions. The bill would expand this tax credit to the owner of farmland and related buildings subject to a conservation easement under Subpart 11 and open space preservation provisions of the Michigan Zoning Enabling Act.²

Additionally, the bill would require MDARD to maintain a record of each development rights agreement, agricultural conservation easement, or purchase of development rights for which a credit was claimed.

A landowner would have to submit a recorded copy of a permanent conservation easement to MDARD by November 1 for the purposes of obtaining a tax credit for the current tax year. The submitted document would have to include the legal description of the land preserved in the conservation easement and be accompanied by any application form required by MDARD. If MDARD found that the applicant met all applicable requirements, MDARD would have to

¹ Generally, "conservation easement" means an interest on land that limits the use of land or water to protect its conservation value.

² Sections 506 to 509 of the Michigan Zoning Enabling Act allow local governments to adopt development rights ordinances (known as purchase of development rights programs) that may be used to protect agricultural land and other eligible land. These Sections generally govern the purpose, requirements, and allowable funding sources for these programs.

issue to the landowner an acknowledgment of the permanent conservation easement. The acknowledgment would have to list a unique identification number for the easement, consistent with Michigan's development rights agreement tracking system. For the purpose of claiming a tax credit, the identification number would have to serve as confirmation that the land described in the easement was permanently preserved.

Senate Bill 686

Under Part 361, the execution and acceptance of a development rights agreement or easement dedicates to the public the development rights in the land for the term specified in the instrument, typically a minimum of 10 years and, for agreements or easements after June 5, 1996, not more than 90 years. Part 361 allows for the relinquishment of land from an agreement or easement under certain circumstances, such as in the case of the owner of the land dying or becoming permanently disabled.

Under the bill, if approved by the local governing body and MDARD, not more than one acre of land, as determined by a professional surveyor licensed in Michigan, could be relinquished from an agricultural conservation easement. If the size of the parcel proposed to be relinquished were less than that required by local zoning, the parcel could not be relinquished unless a variance was obtained from the local zoning board of appeals to allow for the smaller parcel size.

Senate Bill 687

Part 362 creates the Agricultural Preservation Fund and allows MDARD to use money from the Fund, with the approval of the Agricultural Preservation Fund Board, to provide grants to local units of government for the acquisition of agricultural conservation easements. Upon awarding a grant, MDARD may accept contributions of the development rights to one or more parcels of land as part of a transaction for the purchase of an agricultural conservation easement. The bill specifies that this provision would not require MDARD to be added as a coholder of an existing conservation easement.

Additionally, the State may choose to hold an agricultural conservation easement jointly with the local unit of government in which the land subject to the agreement is located. The State also may delegate enforcement authority of one or more agricultural conservation easements to the local unit of government in which the land subject to the agreement is located.

Under the bill, alternatively, upon request by the local unit of government and approval by the Board, the agricultural conservation easement could be held solely by the local unit of government if the easement instrument included the following language:

"Pursuant to part 362 of the natural resources and environmental protection act, 1994 PA 451, the state of Michigan is granted a third party right of enforcement. This right may be exercised if the primary easement holder fails to enforce any of the terms of this easement, as determined in the sole discretion of the state. The state may enter the protected property, with reasonable notice, for the purpose of inspection and enforcement, and may pursue all available legal and equitable remedies to uphold the purposes of the easement. Such entry shall not unreasonably interfere with the landowner's quiet use and enjoyment of the property."

Senate Bill 689

Under Part 361, a farmland development rights agreement is automatically relinquished when the farmland becomes subject to an agricultural conservation easement or purchase of

development rights. Under the bill, any remaining land that was not subject to the agricultural conservation easement or purchase of development rights would continue to be subject to the farmland development rights agreement regardless of the requirements of the definition of farmland, until the natural termination date of the farmland development rights agreement. That date could not be extended.

(Generally, the definition of "farmland" is based on a farm's size in acres, ownership, and gross annual income.)

PREVIOUS LEGISLATION

(This section does not provide a comprehensive account of previous legislative efforts on this subject matter.)

Senate Bills 686 and 688 are similar to Senate Bill 1167 from the 2021-2022 Legislative Session. Senate Bill 1167 was reported to the Senate by the Committee on Agriculture but saw no further action.

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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.