

BIODIVERSITY

Senate Bill 78 (reported from committee as Substitute S-1)

Sponsor: Sen. Tom Casperson

House Committee: Natural Resources

Senate Committee: Natural Resources, Environment, and Great Lakes

First Analysis (12-11-14)

BRIEF SUMMARY: Senate Bill 78 would amend the Natural Resources and Environmental Protection Act (NREPA), generally, by repealing and modifying sections of the act which relate to the Department of Natural Resources (DNR) and biodiversity.

FISCAL IMPACT: The bill does not appear to have any direct significant fiscal impact on state and local government (as noted in information from the Senate Fiscal Agency).

THE APPARENT PROBLEM:

According to testimony presented by the bill sponsor at the 12-9-14 meeting of the House Natural Resources Committee, the legislation is intended to prevent Biodiversity Stewardship Areas (BSA) from being re-implemented by the DNR. The bill sponsor cited concerns about the program stemming from the inclusion of private lands in the management program, which was created, in part, to restrict development and usage of the land in order to protect biodiversity. The program has since been suspended.

THE CONTENT OF THE BILL:

Among other changes, the bill would add a new subsection in Section 504 reading as follows:

"The department, director, or commission shall not promulgate or enforce a rule or issue or enforce an order under this act that designates or classifies an area of land specifically for the purpose of achieving or maintaining biological diversity, as defined in section 35501, and such a rule or order is void."

As used above, biological diversity means "the full range of variety and variability within and among living organisms and the natural associations in which they occur. Biological diversity includes ecosystem diversity, species diversity, and genetic diversity."

The terms "conserve", "conserving", and "conservation" would be eliminated and replaced with a similar term, "conservation of biological diversity," that omits current wording regarding the restoration and protection of biological diversity and the use of "native species and communities" within the definition. The term "conservation of biological diversity" would be defined as "measures for the maintaining, managing, or

enhancing biological diversity while ensuring accessibility, productivity, and use of the natural resources for present and future generations."

Also eliminated would be a legislative finding in Section 35502 that "most losses of biological diversity are unintended consequences of human activity."

Section 35503, which in part states that it is the goal of the state to encourage the lasting conservation of biological diversity, would have a subdivision added so that the state would not be required to "designate or classify an area of land specifically for the purpose of achieving or maintaining biological diversity."

Section 52502, which outlines the DNR's responsibilities regarding the management of state forests, would be amended so that the department would be required to *consider* measures which promote conservation of forest plants and animals *while balancing economic values* (italics indicate new wording).

Currently, the department is required to manage the quality and distribution of wildlife habitats and contribute to the conservation of biological diversity by developing and implementing stand and landscape level measures that promote the conservation of forest plants and animals, which includes aquatic flora and fauna and unique ecosystems, in its forestry management. The bill would remove the underlined provisions from the subdivision.

The bill repeals three obsolete sections that dealt with a joint legislative working committee on biological diversity. The act required the committee to be dissolved in 1995.

The bill also would make several minor revisions to definitions and subdivisions in the form of wording changes which do not impact the meaning of that definition or subdivision.

HOUSE COMMITTEE ACTION:

Senate Bill 78 was reported with recommendation from the House Natural Resources Committee on 12-9-14 without amendment.

ARGUMENTS:

For:

As noted above, proponents of the bill say that the bill will prevent future administrations from reviving the BSA program, which they say infringes upon the rights of private landowners. Supporters also note that the DNR has several other similar programs which pertain to biological diversity.

Against:

Opponents of the bill say that the bill's wording goes beyond preventing the DNR from reviving the BSA program and prohibits the DNR from enforcing any rules promulgated

or issued order under NREPA regarding biodiversity, thereby potentially negatively impacting Michigan' natural resources.

POSITIONS:

The following indicated support for the bill on 12-9-14:

Michigan Assoc. of Timbermen (12-9-14)
Great Lakes Timber Professionals (12-9-14)
Great Lakes Lumber Assoc. (12-9-14)
Michigan United Conservation Clubs (12-9-14)

Department of Natural Resources is neutral (12-9-14)

The following indicated opposition to the bill:

Dr. Bradley Cardinale, on behalf of 133 academic scientists in Michigan (12-9-14)
Michigan Environmental Council (12-9-14)
Michigan Sierra Club (12-9-14)
Michigan League of Conservation Voters (12-9-14)
The Nature Conservancy (12-9-14)

Legislative Analyst: Josh Roesner
Fiscal Analyst: Austin Scott

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