

Act No. 116
Public Acts of 2018
Approved by the Governor
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**STATE OF MICHIGAN
99TH LEGISLATURE
REGULAR SESSION OF 2018**

Introduced by Reps. Rendon, Lucido, Inman, LaFave, Cole, VanderWall, Glenn, Leutheuser, Roberts and Dianda

ENROLLED HOUSE BILL No. 5001

AN ACT to amend 1994 PA 451, entitled “An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to protect the people’s right to hunt and fish; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, assessments, and donations; to provide certain appropriations; to prescribe penalties and provide remedies; and to repeal acts and parts of acts,” by amending sections 50507, 50703, 50706, and 51101 (MCL 324.50507, 324.50703, 324.50706, and 324.51101), section 50507 as amended by 2016 PA 248, sections 50703 and 50706 as added by 1995 PA 57, and section 51101 as amended by 2006 PA 383, and by adding part 535; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

Sec. 50507. (1) The authority shall finance only forest management operations and practices consistent with part 525 that follow the guidelines, rules, and objectives prescribed and approved by the department as these guidelines, rules, and objectives are amended by the department.

(2) Funds managed by the authority shall be applied in a manner consistent with part 525 and the land management planning policies of the department on lands that have been identified for forest management practices. In the absence of an approved state forest management plan covering a candidate area, an interim procedure, as adopted by the department, shall be used to ensure that all forest values have been considered in selecting sites for investment with funds of the authority. The department shall annually submit a list of activities and practices allocated from the funds generated under this part for the board’s review and determination of consistency with this part.

(3) The executive director of the authority shall notify the department if the authority projects a probable default on any bonds or notes issued by the authority. Within 1 year of receipt of the notification, or within less than 1 year, if the notification indicates a shorter time period is necessary to avoid a default, the department shall identify and convey to the authority sufficient timber on tax reverted lands to enable the authority to avoid the projected default and to provide for timely payment of principal of and interest on the authority’s bonds or notes. The authority may only issue contracts for the cutting and sale of timber that has been conveyed to the authority under this section to avoid a default on any bonds or notes issued by the authority. The determination of the board as to the need to cut and sell timber is conclusive. Contracts for the cutting and sale of timber shall be consistent with part 525 and with the guidelines, rules, and objectives prescribed by the department.

(4) The authority shall establish a fund designated as the “forest development fund”. Revenue as provided under section 53519 and any money on hand or received in the future from bond proceeds and from contracts for the cutting and sale of timber on tax reverted lands shall be deposited in the forest development fund. In addition, this fund may

receive revenues from any other source. The authority shall use money in the forest development fund for 1 or more of the following:

- (a) To provide for the payment of principal of and interest on any bonds or notes issued by the authority.
- (b) For reforestation, forest protection, and timber stand improvement.
- (c) To obtain and maintain certification of sustainable forestry standards in the state forest under section 52505.
- (d) For the administration and enforcement of part 535. Revenue deposited in the forest development fund as provided under section 53519 shall be used only as provided in this subdivision.
- (e) For any other purposes authorized by this part.
- (5) The auditor general shall audit the expenditures of the forest development fund at least once every 3 years.

Sec. 50703. A county forestry committee is created for purposes of this part and shall consist of 5 members who shall be appointed by the county board of commissioners. Two members of the county forestry committee shall be foresters registered under part 535, 1 member shall be a member of the county economic development corporation, 1 member shall be a member of the county board of commissioners, and 1 member shall be a resident of the county who is not a county official or employee. If the county has not established an economic development corporation under the economic development corporations act, 1974 PA 338, MCL 125.1601 to 125.1636, 2 members shall be residents of the county who are not county officials or employees. The members of the county forestry committee shall be appointed for a term of 4 years, except that of the first appointments, 2 shall be for a term of 4 years, 1 shall be for a term of 3 years, 1 shall be for a term of 2 years, and 1 shall be for a term of 1 year. All actions of the county forestry committee shall be approved by the county board of commissioners. A vacancy on the county forestry committee shall be filled by the county board of commissioners for the remainder of the unexpired term.

Sec. 50706. Within 30 days after the execution of a lease authorized by this part, the county forestry committee shall submit to the department for approval a forest management plan prepared by a forester registered under part 535.

Sec. 51101. As used in this part:

- (a) "Ad valorem general property tax" means taxes levied under the general property tax act, 1893 PA 206, MCL 211.1 to 211.155.
- (b) "Commercial forest" or "commercial forestland" means forestland that is determined to be a commercial forest under section 51104.
- (c) "Declassify" or "declassification" means the removal of the commercial forest designation pursuant to section 51116.
- (d) "Forestland" means a tract of land that may include nonproductive land that is intermixed with productive land that is an integral part of a managed forest and that meets all the following:
 - (i) Does not have material natural resources other than those resources suitable for forest growth or the potential for forest growth.
 - (ii) Is not used for agricultural, mineral extraction except as provided in section 51113, grazing, industrial, developed recreational, residential, resort, commercial, or developmental purposes.
 - (iii) The owner agrees to develop, maintain, and actively manage the land as a commercial forest through planting, natural reproduction, or other silvicultural practices.
- (e) "Forest management plan" means a written plan prepared and signed by a registered forester or a natural resources professional that prescribes measures to optimize production, utilization, and regeneration of forest resources. The forest management plan shall include schedules and timetables for the various silvicultural practices used on commercial forestlands, including, but not limited to, timber harvesting and regeneration.
- (f) "Fund" means the commercial forest fund created under section 51112.
- (g) "Natural resources professional" means a person who is acknowledged by the department as having the education, knowledge, experience, and skills to identify, schedule, and implement appropriate forest management practices needed to achieve the purposes of this part on land subject to or to be subject to this part.
- (h) "Owner" means a person who holds title to the surface estate of forestland subject to this part. However, if land is purchased on a land contract, the owner includes the person who holds the land contract vendee's interest and does not include the person who holds the land contract vendor's interest.
- (i) "Personal use" means use for any noncommercial purpose.
- (j) "Registered forester" means a person registered under part 535.
- (k) "Silvicultural practices" means the management and manipulation of forest vegetation for the protection, growth, and enhancement of forest products.

PART 535. REGISTERED FORESTERS

Sec. 53501. As used in this part:

(a) "Board" means the board of foresters created in section 53505(1).

(b) "Department" means the department of natural resources.

(c) "Forest development fund" means the forest development fund created in section 50507.

(d) "Forester" means an individual who, by reason of his or her knowledge of the natural sciences, mathematics, and the principles of forestry, acquired by forestry education and practical experience, is qualified to engage in the practice of professional forestry.

(e) "Practice of professional forestry" means the science, art, and practice of creating, managing, using, planning and researching, and conserving forests and associated resources for human benefit and in a sustainable manner to meet desired goals, needs, and values.

(f) "Registered forester" means a forester registered under section 53509.

(g) "SAF" means Society of American Foresters.

(h) "State forester" means that term as defined in section 50502.

(i) "Violations committee" means the violations committee appointed under section 53505.

Sec. 53503. (1) The department shall timely review each registered forester program evaluation provided under section 53507.

(2) The department may cease administering this part if either of the following applies:

(a) The revenue available from registered forester fees under section 53509 is not sufficient to administer this part.

(b) The department and the board agree to separate and cease operations under this part.

Sec. 53505. (1) The board of foresters is an independent self-directed body appointed by the state forester and created within the department.

(2) To be eligible to serve on the board, an individual must be a citizen of the United States and a full-time resident of this state and must have at least 10 years of professional forestry experience. The board shall consist of not fewer than 5 or more than 7 of the following individuals, who shall be appointed by the state forester from and nominated by the group represented:

(a) An individual representing the Association of Consulting Foresters.

(b) An individual representing the Society of American Foresters.

(c) An individual representing the forestry program faculty of a university whose forestry program is accredited by the SAF.

(d) An individual representing state agencies that have forestry staff.

(e) An individual representing forest products advocacy or the forest products industry, including logging.

(f) An individual representing private forest landowners.

(g) An individual representing a municipal, urban, or community forestry field.

(3) The members first appointed to the board shall be appointed within 60 days after the effective date of the amendatory act that added this part.

(4) Members of the board shall serve for terms of 4 years or until a successor is appointed, whichever is later, except that, of the members first appointed, 3 shall serve for 2 years.

(5) If a vacancy occurs on the board, the state forester shall make an appointment for the unexpired term in the same manner as the original appointment. The state forester may remove a member of the board for incompetence, dereliction of duty, malfeasance, misfeasance, or nonfeasance in office, or any other good cause.

(6) The state forester shall call the first meeting of the board. At the first meeting, the board shall elect from among its members a chairperson, vice-chairperson, secretary, and other officers as it considers appropriate. Officers of the board shall serve for terms of 2 years. After the first meeting, the board shall meet once annually in person and once annually by conference call or video conference, or more frequently at the call of the chairperson or if requested by 2 or more members.

(7) Five or more members of the board constitute a quorum for the transaction of business at a meeting of the board. A majority of the members present and serving are required for official action of the board.

(8) Business that the board may perform shall be conducted at a public meeting of the board held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. The secretary of the board shall record all proceedings of the board.

(9) A writing prepared, owned, used, in the possession of, or retained by the board in the performance of an official function is subject to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(10) Members of the board shall serve without compensation. However, members of the board may be reimbursed for their actual and necessary expenses incurred in the performance of their official duties as members of the board.

(11) For the purposes of section 53517, the chairperson of the board shall appoint a violations committee consisting of 3 members of the board. Members of the violations committee shall serve on the committee for terms of 2 years.

Sec. 53507. (1) The board shall do all of the following:

(a) Adopt bylaws.

(b) Comply with section 53515.

(c) Make available a list of registered foresters. The department shall post the list on its website.

(d) Make an annual report to the state forester on proceedings, applications, renewals, complaints, and hearings under this part.

(e) On a biennial basis, provide the department an evaluation of the registered forester program, including both of the following:

(i) The number of registered foresters, economic data, and other relevant program data.

(ii) The sufficiency of the fee under section 53509 to operate a fiscally sound program. The department may recommend to the legislature changes in the fee.

(2) The board may call witnesses and receive evidence in hearings under this part.

Sec. 53509. (1) To be registered as a forester, an individual shall submit an application to the board on a form provided by the department. The application shall include all of the following:

(a) The name, address, telephone number, and electronic mail address of the applicant.

(b) Information demonstrating that the individual meets 1 or more of the following educational requirements:

(i) An associate's degree in forestry from an SAF-accredited university program or board-approved program, plus 4 years of experience under the guidance of a registered forester, an SAF-certified forester, or a member of the Association of Consulting Foresters.

(ii) A bachelor's degree in forestry from an SAF-accredited university program or a board-approved program, plus 2 years of forestry experience as described in subparagraph (i).

(iii) A bachelor's degree in a natural resource field from an SAF-accredited university program or a board-approved program, plus 2 years of forestry experience described in subparagraph (i).

(iv) A graduate degree in forestry from an SAF-accredited university program or a board-approved program, plus 2 years of forestry experience described in subparagraph (i).

(c) References or endorsements from 3 registered foresters.

(d) Verification of successful completion of any continuing education required by the board.

(e) Other relevant information required by the board.

(2) The board shall grant or deny registration within 30 days after a complete application is filed and notify the applicant of its determination in writing. If an application is denied, the notification shall include the reasons for the denial. If the application is approved, the department shall issue a registration certificate and certification number to the applicant. The registration is valid for 2 years.

(3) To maintain registration as a forester, an individual shall do all of the following:

(a) Pay the department a fee of \$200.00 for the registration period. The first payment shall be made not more than 30 days after the application for registration is granted under subsection (2).

(b) Successfully complete not fewer than 24 hours of continuing education every 2 years as approved by the board.

(c) Demonstrate completion of continuing education requirements under subdivision (b) as a condition for registration renewal by submitting evidence of fulfillment to the board within 60 days of a request to do so.

(d) Maintain good standing with the board by complying with section 53515.

Sec. 53511. (1) The board shall determine whether members of affiliated professional organizations within and outside of this state are eligible for automatic registration under this part.

(2) The board shall register an applicant who is a registered or licensed forester in another state or country if the board considers the requirements of the state or country to be equivalent to the requirements for registration in this state.

Sec. 53513. An individual shall not use the title “registered forester” unless he or she is registered under this part.

Sec. 53515. A registered forester shall comply with all of the following:

(a) In his or her professional capacity, perform the following general forestry activities as necessary for the practice of sustainable forest management and silviculture:

(i) Forest management planning.

(ii) Forest stand improvement.

(iii) Forest mensuration, inventory, forest products appraisal, and timber sale administration.

(iv) Reconnaissance and mapping of forest and watershed lands; investigation of wildland soils; delineation and mapping of forestlands and forest management boundaries, not including the establishment of property corners or boundaries.

(v) Preparation and utilization of GIS/GPS maps, equipment, and software to assist in forest management planning, planting, harvesting, and protection. GIS/GPS maps created for forest management purposes are not official survey maps.

(vi) Forest economics.

(vii) Forest utilization, renewable energy production, and forest product development.

(viii) Forest protection and restoration.

(ix) Forest regeneration, reforestation, and afforestation.

(x) Forest nursery production.

(xi) Application of best management practices.

(xii) Addressing legal and social aspects of forestry and forestlands.

(xiii) Preparation of forest management related contracts, litigation reports, timber trespass investigation, and testimony.

(xiv) Development, maintenance, conservation, and protection of wildlife habitat and forest range resources.

(xv) Forest recreation and environmental studies.

(xvi) The development of access for protection and management of the resource.

(xvii) Adaptation of forests and forest practices related to climate change.

(xviii) Urban forestry and arboriculture.

(xix) Utility forestry and utility vegetation management.

(xx) Teaching collegiate-level forestry courses or forestry outreach based on sound scientific principles or conducting scientific research in forestry at an SAF-accredited university or a board-approved program.

(xxi) Forest research and monitoring.

(b) Fully disclose personal or financial interests in any forestry project undertaken by the registered forester if there is a potential conflict of interest.

(c) Not accept compensation or expenses from more than 1 client or employer for the same service, unless the parties involved are informed and consent.

(d) Not make exaggerated, false, misleading, or deceptive written or verbal statements, including, but not limited to, statements on the value of individual trees, timber, or timberlands, in the conduct of professional practice.

(e) Clearly and accurately represent his or her qualifications, the extent of the forestry services offered, and the basis for charges for those services.

(f) Not offer or make bribes or unlawful inducements to those responsible for letting forestry contracts.

(g) Not interfere with competitive bidding for forestry projects, including making false representations or misleading statements about bidders, prospective bidders, or competitors.

(h) Not issue a forestry plan, map, specification, or report prepared by that registered forester or under his or her actual supervision unless it is endorsed with the registered forester's name and certificate of registration number.

(i) Not endorse a forestry plan, specification, estimate, or map unless prepared by that registered forester or under his or her actual supervision.

(j) Provide forestry services in a manner that will ensure the public health, safety, and welfare and if, in his or her professional judgment, any of these are endangered, notify the client or employer and give appropriate recommendations or instructions.

(k) If a client or employer fails or refuses to follow recommendations or instructions under subdivision (j), notify the responsible governmental department or agency of the threat to public health, safety, or welfare.

(l) Not violate or conceal violations of this part and not knowingly permit others to do so.

(m) Report violations of this part to the board.

(n) Not conspire or collude to restrain trade through price arrangement with other registered foresters or forestry firms and not engage in price-fixing activities.

(o) Not take forestry project funds under false pretenses and not abandon a forestry project without notifying the client or employer.

Sec. 53517. (1) A person may submit to the chairperson of the board a complaint about a violation of section 53515 or of an order under this section. The department shall maintain on its website a complaint form that can be completed and submitted to the chairperson of the board online or printed and completed. The department shall also make complaint forms available at customer service centers. Unless the complaint form is submitted online, the complainant shall submit the form by mailing it to the chairperson of the board.

(2) If the chairperson of the board receives a completed complaint form, the chairperson shall, within 30 days, submit the complaint to the members of the violations committee. Within 30 days after receiving the complaint from the chairperson, the violations committee shall determine if there is sufficient reason to believe that a violation has occurred.

(3) If the violations committee determines that there is not sufficient reason to believe that a violation has occurred, the violations committee shall, within 30 days after its determination, notify the complainant in writing of its determination and the reasons for its determination. No further action shall be taken on that complaint.

(4) If the violations committee determines that there is sufficient information to believe that a violation has occurred, the violations committee shall, within 30 days after its determination, notify, by United States mail, the registered forester who is the subject of the complaint of all of the following:

(a) The allegations in the complaint.

(b) That the registered forester may respond to the allegations in writing.

(c) That the response must be received within 60 days after the date the notice was mailed.

(5) The board shall consider the allegations of the complaint and any written response to the allegations timely received from the registered forester and may further investigate the complaint. Within 30 days after the deadline under subsection (4) for a response from the registered forester, the board shall do 1 of the following:

(a) Dismiss the complaint and notify the complainant and registered forester in writing.

(b) Issue a letter of caution to the registered forester and provide a copy to the complainant.

(c) Issue to the registered forester a proposed order that, together with preliminary findings, includes proposed sanctions under subsection (8), a proposed negotiated resolution, or a proposed consent agreement and provide a copy to the complainant.

(6) If the board issues a proposed order under subsection (5), the registered forester shall within 30 days submit to the board 1 of the following, in writing:

(a) A statement accepting the proposed order, at which point the board shall issue the order as a final order. Failure of the registered forester to timely respond shall be considered to be acceptance of the proposed order.

(b) A statement objecting to the proposed order and providing reasons for the objection.

(7) If the registered forester objects to the proposed order, the board shall review the objections and issue to the registered forester a final order, amending the preliminary findings as necessary, within 90 days after issuance of the proposed order and shall provide a copy of the final order to the complainant.

(8) The board may permanently revoke or temporarily suspend registered forester status for a violation of section 53515 or an order issued under this section.

Sec. 53519. (1) Revenue from registered forester fees under section 53509 shall be deposited in the forest development fund.

(2) The state treasurer shall promptly transfer to the forest development fund the fund balance from registered forester fees in the licensing and regulation fund created in section 3 of the state license fee act, 1979 PA 152, MCL 338.2203.

Enacting section 1. The following acts and parts of acts are repealed:

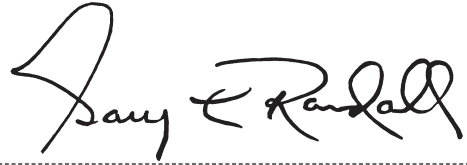
(a) Section 29 of the state license fee act, 1979 PA 152, MCL 338.2229.

(b) Article 21 of the occupational code, 1980 PA 299, MCL 339.2101 to 339.2108.

Enacting section 2. This amendatory act takes effect 90 days after the date it is enacted into law.

Enacting section 3. This amendatory act does not take effect unless House Bill No. 5002 of the 99th Legislature is enacted into law.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor