



**Senate Fiscal Agency**  
**P. O. Box 30036**  
**Lansing, Michigan 48909-7536**

**BILL ANALYSIS**



**Telephone: (517) 373-5383**  
**Fax: (517) 373-1986**

Senate Bills 573, 574, and 575 (as enrolled)  
 Sponsor: Senator Bill Schuette  
 Senate Committee: Local, Urban and State Affairs  
 House Committee: Local Government

**PUBLIC ACTS 569-571 of 1996**

Date Completed: 1-10-97

**RATIONALE**

In February 1994, Governor Engler established the Michigan Farmland and Agriculture Development Task Force to address the impact of land use trends on agriculture (Executive Order 1994-4). The Task Force issued its report, "Policy Recommendations and Options for the Future Growth of Michigan Agriculture", in December 1994. According to the report, agriculture is Michigan's second largest industry and contributes more than \$37 billion annually to the State's economy. Michigan's farmland appears to be shrinking at a rapid rate, however. From 1954 to 1992, according to the report, the State experienced a 39% decrease in farmland, including 854,000 acres of cropland and noncropland that were converted to other uses between 1982 and 1992. The loss of 300,000 acres of cropland from 1982 to 1992, the Task Force reported, represents a potential loss of \$60 million to \$120 million every year in local farm revenue; and the reduction of agricultural production has an economic impact on local ancillary agricultural businesses, as well.

According to the Task Force report, the following factors contribute to nonagricultural demands for land use in Michigan: increasing population and number of households; migration from urban to newer suburban housing; new lower density developments with larger lot sizes; the largest number of second homes in the nation; the second largest number of golf courses in the nation; increasing commercial construction in suburban areas; and increasing vehicle miles and road construction. The report also indicates that the cost to local communities of providing services to a sprawling residential population rises as greater demands are placed on infrastructure. In addition, the report notes the impact on existing farm operations: Additional nonfarm residences make it more difficult for remaining farms to continue or expand; farmers may have to compete with other motorists for access to farmland and supplies, and

the movement of farm equipment; farmers are faced with high assessments based on development value, rather than agricultural use; and farmers experience increasing pressure to sell.

Among its recommendations, the Task Force suggested granting authority to townships, cities, villages, and counties to purchase and retire development rights. According to the report, the landowner would be paid a one-time amount for the value of his or her development rights, defined as the difference between the fair market value of the land for nonfarm development and its value solely for agricultural purposes; the closer a parcel was to urban areas and development pressures, the more valuable the development rights would be. Reportedly, these programs help stabilize farmland values and strengthen the future of farming in communities where they are implemented.

**CONTENT**

**The bills amended various laws governing local zoning authority to do the following:**

- Provide that a local unit (a county, township, city, or village) may adopt a development rights ordinance governing the purchase of development rights (PDR) from a willing landowner.
- Permit a PDR program to be used only to protect agricultural land and adjoining land.
- Require a development rights ordinance to specify the intensity of development permitted on the land after development rights are purchased, as well as the circumstances under which the landowner may repurchase development rights.

- **Permit a local unit to enter into agreements with other local units for the purchase of development rights.**
- **Specify the sources through which a PDR program may be financed, including bonds or notes and special assessments.**

Senate Bill 573 amended the County Rural Zoning Enabling Act, which the bill renamed the "County Zoning Act". Senate Bill 574 amended the Township Rural Zoning Act, which the bill renamed the "Township Zoning Act". Senate Bill 575 amended Public Act 207 of 1921, which the bill named the "City and Village Zoning Act".

A detailed description of the bills follows. (References below to a "local unit" include a county, township, city, or village. References to a "local governing body" include a county board of commissioners, a township board, or the legislative body of a city or village.)

#### Development Rights Ordinance

A local governing body may adopt a development rights ordinance limited to the establishment, financing, and administration of a "PDR program" (a program for the purchase of development rights). The PDR program may be used only to protect agricultural land and other eligible land. ("Agricultural land" means substantially undeveloped land devoted to the production of plants and animals useful to humans, including forage and sod crops; grains, feed crops, and field crops; dairy and dairy products; poultry and poultry products; livestock, including breeding and grazing of cattle, swine, and similar animals; berries; herbs; flowers; seeds; grasses; nursery stock; fruits; vegetables; Christmas trees; and other similar uses and activities. "Other eligible land" means land that has a common property line with agricultural land from which development rights have been purchased and that is not divided from that agricultural land by a State or Federal limited access highway. "Development rights" means the rights to develop land to the maximum intensity of development authorized by law.)

A local unit may not establish, finance, or administer a PDR program unless the local governing body adopts a development rights ordinance. If the local unit has a zoning ordinance, the development rights ordinance may be adopted as part of the zoning ordinance pursuant to the statutory procedures governing adoption of a zoning ordinance. Whether or not a local unit has

a zoning ordinance, the development rights ordinance may be adopted as a separate ordinance pursuant to the procedures governing ordinance adoption in general.

A local governing body may promote and enter into agreements between counties, cities, villages, and townships for the purchase of development rights, including cross-jurisdictional purchase, subject to applicable development rights ordinances, and similar ordinances, of counties, townships, cities, and villages.

The bills specify that they do not expand the condemnation authority of a local unit as otherwise provided for in the amended Act, and a PDR program may not acquire development rights by condemnation. The bills also state that they do not limit any authority that may otherwise be provided by law for a local unit to protect natural resources, preserve open space, provide for historic preservation, or accomplish similar purposes.

#### PDR Program

A development rights ordinance must provide for a PDR program. Under a PDR program, a local unit purchases development rights, but only from a willing landowner. A development rights ordinance must specify all of the following:

- The public benefits that the local unit may seek through the purchase of development rights.
- The procedure by which the local unit or a landowner may by application initiate a purchase of development rights. (In the case of a county, this must include city, village, or township approval, if required under Senate Bill 573).
- The development rights authorized to be purchased subject to a determination under standards and procedures described below.
- The circumstances under which an owner of land from which development rights have been purchased under a PDR program may repurchase those development rights and how the local unit is to use the proceeds of the purchase. Development rights acquired under a PDR program may be conveyed only pursuant to these provisions.

A development rights ordinance must specify the standards and procedures to be followed by the local unit for approving, modifying, or rejecting an application to purchase development rights, including the determination of all of the following:

whether to purchase development rights; which development rights to purchase; the intensity of development permitted after the purchase of the land from which the development rights are purchased; the price at which development rights will be purchased and the method of payment; and the procedure for ensuring that the purchase or sale of development rights is legally fixed so as to run with the land.

If a local unit has a zoning ordinance, the purchase of development rights must be consistent with the local unit's zoning plan required by the Act.

Under Senate Bill 573 (S-4), a county must notify each city, village, or township containing land from which development rights are proposed to be purchased, of the receipt of an application for the purchase of development rights, and must notify the city, village, or township of the disposition of that application. Senate Bill 574 requires a township to give the same notice to a village.

Senate Bill 573 also provides that a county may not purchase development rights under a development rights ordinance from land subject to a city, village, or township zoning ordinance unless all of the following requirements are met:

- The development rights ordinance provisions for the PDR program are consistent with the plan upon which the city, village, or township zoning is based.
- The legislative body of the city, village, or township adopts a resolution authorizing the PDR program to apply in that local unit.
- As part of the application procedure for the specific proposed purchase of development rights, the city, village, or township gives the county written approval of the purchase.

### Financing

Each bill provides that a PDR program may be financed through one or more of the following sources: general appropriations by the local unit; proceeds from the sale of development rights by the local unit; grants; donations; bonds or notes issued under the bill; general fund revenue; special assessments; and other sources approved by the local governing body and permitted by law.

The local governing body may borrow money and issue bonds or notes under the Municipal Finance Act, subject to the local unit's general debt limit. The bonds or notes may be revenue bonds or notes; general obligation limited tax bonds or

notes; subject to the tax limitations of Article 9, Section 6 of the State Constitution, general obligation unlimited tax bonds or notes; or bonds or notes to refund in advance bonds or notes issued under these provisions. The local governing body may secure bonds or notes by mortgage, assignment, or pledge of property, including anticipated tax collections, revenue sharing payments, or special assessment revenues.

Bonds or notes issued under these provisions are exempt from all taxation in this State except inheritance and transfer taxes, and the interest on the bonds or notes is exempt from all taxation in the State, even if the interest might be subject to Federal income tax.

The local governing body may borrow money and issue bonds or notes for refunding all or part of existing bond or note indebtedness only if the net present value of the principal and interest to be paid on the refunding bonds or notes, excluding the cost of issuance, will be less than the net present value of the principal and interest to be paid on the bonds or notes being refunded.

A development rights ordinance may authorize the local governing body to finance a PDR program by special assessments. In the procedure to approve and establish a special assessment district, the development rights ordinance must include the requirement that there be filed with the local governing body a petition containing a description of the development rights to be purchased, including a legal description of the land from which the purchase is to be made; a description of the proposed special assessment district; the signatures of the owners of at least 66% of the land area in the proposed district; and the amount and duration of the proposed special assessments. The ordinance also must include the requirement that the local governing body specify how the proposed purchase of development rights will specifically benefit the land in the proposed district.

### Township Zoning Ordinances

Senate Bill 573 repealed and replaced a section under which townships that enacted a township zoning ordinance generally were not subject to an ordinance, rule, or regulation adopted under the county zoning law (MCL 125.297).

MCL 125.231 et al. (S.B. 573)  
125.301 et al. (S.B. 574)

## **ARGUMENTS**

*(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)*

### **Supporting Argument**

The bills establish a method under which local units may protect valuable farmland. If a local unit chooses to adopt a development rights ordinance, it may purchase the rights to develop specific parcels from landowners who are willing to sell the rights. Rather than being extinguished in all cases, however, the development rights will belong to the local unit, which may dictate the level of development that will be permitted. For example, a local unit could allow a few houses to be built on a parcel, which would preserve the agricultural use and character of the property while preventing rampant development. If allowed by a local unit's ordinance, landowners may buyback development rights if agriculture is no longer viable on their property. The bills also specify various ways that local units may finance development rights purchases, including the issuance of bonds and notes and the collection of special assessments. The new programs will help stabilize farmland values and strengthen the future of farming. Because farmers may spend the proceeds from the sale of development rights close to home to make capital improvements or to acquire additional farmland, local economies may benefit. Unlike zoning restrictions, which are subject to amendments and variances, PDR programs can permanently protect land from nonfarm development, while the property remains available for agricultural use and may be sold without the development rights. Because the sale of development rights must "run with the land", the sale will be binding on all future purchases of the property. According to the Michigan Environmental Council, one community already has implemented the options created by the bills, and several more are seriously considering them. The bills put statutory authority behind a movement that currently is under way.

**Response:** The bills originally provided for the transfer, as well as the purchase, of development rights. These provisions would have allowed a local unit to transfer development rights from one parcel, where it wanted to limit development, to another parcel, where it wanted to encourage growth. Without the capacity to transfer, local units generally will have to finance or appropriate

money for the purchase of development rights, which may sharply curtail the number of purchases made. The Governor's Task Force recommended not only PDR programs, but also programs for the transfer of development rights.

Legislative Analyst: S. Margules

### **FISCAL IMPACT**

Local units that adopt an ordinance authorizing the purchase of development rights will experience an indeterminate fiscal impact. Special assessments, if approved by the land owners in the special assessment district, will increase.

The bills will have no State fiscal impact.

Fiscal Analyst: R. Ross

A9596\S573EA

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.