

Act No. 124
Public Acts of 2004
Approved by the Governor
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**STATE OF MICHIGAN
92ND LEGISLATURE
REGULAR SESSION OF 2004**

Introduced by Senators McManus, Van Woerkom and Prusi

ENROLLED SENATE BILL No. 1024

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 prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," by amending sections 50501, 50502, 50504, 50506, 50507, and 50508 (MCL 324.50501, 324.50502, 324.50504, 324.50506, 324.50507, and 324.50508), as added by 1995 PA 57.

The People of the State of Michigan enact:

Sec. 50501. The purpose of this part and of the authority created by this part is to preserve existing jobs, create new jobs, and alleviate and prevent unemployment through the retention, promotion, and development of forestry and forest industries and to protect the health and vigor of forest resources by doing all of the following:

(a) Funding practices prescribed and approved by the department that intensify management of certain highly productive portions of this state's forest system.

(b) Implementing a system of forest management that is investment-oriented, economically efficient, and environmentally sound.

(c) Implementing a system of forest management that is consistent with principles of sustainable forestry and with part 525.

(d) Promoting a stable and continuing supply of timber for future economic expansion.

(e) Providing dependable funding of scheduled forest management operations.

(f) Promoting effective investment of revenues from timber sales for high future returns.

(g) Facilitating timely performance of forest management operations.

(h) Earning additional revenues for forest management from timber sales.

(i) Improving existing timber stands and establishing new stands of trees.

(j) Providing for reforestation, forest protection, and timber stand improvement.

(k) Providing an additional funding source for the purposes described in this section from indebtedness secured with revenues generated from future sale of timber harvested from state tax reverted lands, from lands in the state forest system from which revenues derived from the sale of timber were previously deposited in the forest management fund created in former 1945 PA 268, and from other lands as provided by law.

Sec. 50502. As used in this part:

- (a) "Authority" means the Michigan forest finance authority created in section 50503.
- (b) "Board" means the board of directors of the Michigan forest finance authority, except where the context clearly requires a different definition.
- (c) "Bonds" means bonds of the authority issued as provided in this part.
- (d) "Notes" means notes of the authority issued as provided in this part, including commercial paper.
- (e) "State forester" means an employee of the department who has a 4-year degree in forest management from an accredited college or university and experience in forest management and who is designated as the state forester by the director.
- (f) "Sustainable forestry" means that term as it is defined in section 52501.

Sec. 50504. (1) The authority shall be governed by a board of directors consisting of the director, the state treasurer, the director of the department of labor and economic growth, and 6 residents of the state, appointed by the governor with the advice and consent of the senate as follows:

- (a) One individual shall represent the forest products industry within the state.
- (b) One individual shall be a commercial logging contractor.
- (c) One individual shall be an owner of nonindustrial, private forestland.
- (d) One individual shall be from the wood products manufacturing industry.
- (e) One individual shall represent hunters, anglers, and other outdoor recreation interests.
- (f) One individual from a college or university in the state with knowledge and expertise in forest management.

(2) The 6 resident directors appointed under subsection (1)(a) to (f) shall serve terms of 3 years. In appointing the initial 6 resident members of the board, the governor shall designate 2 to serve for 3 years, 2 to serve for 2 years, and 2 to serve for 1 year.

(3) Upon appointment to the board under subsection (1), and upon the taking and filing of the constitutional oath of office, a member of the board shall enter the office and exercise the duties of the office.

(4) Regardless of the cause of a vacancy on the board, the governor shall fill a vacancy in the office of a member of the board by appointment with the advice and consent of the senate. A vacancy shall be filled for the balance of the unexpired term of the office. A member of the board shall hold office until a successor has been appointed and has qualified.

(5) Members of the board and officers and employees of the authority are subject to 1968 PA 317, MCL 15.321 to 15.330. A member of the board or an officer, employee, or agent of the authority shall discharge the duties of his or her position in a nonpartisan manner, with good faith, and with that degree of diligence, care, and skill that an ordinarily prudent person would exercise under similar circumstances in a like position. In discharging his or her duties, a member of the board or an officer, employee, or agent of the authority, when acting in good faith, may rely upon the opinion of counsel for the authority, upon the report of an independent appraiser selected with reasonable care by the board, or upon financial statements of the authority represented to the member of the board, officer, employee, or agent to be correct by the officer of the authority having charge of its books or account, or stated in a written report by the auditor general or a certified public accountant or the firm of the accountants fairly to reflect the financial condition of the authority.

(6) The board shall organize and make its own policies and procedures. The board shall conduct all business at public meetings held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date, and place of each meeting shall be given in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Five members of the board constitute a quorum for the transaction of business. An action of the board requires a concurring vote by 5 members of the board. A state officer who is a member of the board may designate a representative from his or her department to serve instead of that state officer as a voting member of the board for 1 or more meetings. The state treasurer shall serve as chairperson of the board.

Sec. 50506. Except as otherwise provided in this part, the board may do all things necessary or convenient to implement the purposes, objectives, and provisions of this part, and the purposes, objectives, and powers delegated to the board by other laws or executive orders, including, but not limited to, all of the following:

- (a) Adopt an official seal and bylaws for the regulation of its affairs and alter the seal or bylaws at its pleasure.
- (b) Sue and be sued in its own name and plead and be impleaded.
- (c) Borrow money and issue negotiable revenue bonds and notes pursuant to this part.
- (d) Enter into contracts and other instruments necessary, incidental, or convenient to the performance of its duties and the exercise of its powers.

(e) With the prior consent of the department, solicit and accept gifts, grants, loans, and other aid from any person, or the federal, state, or local government or any agency of the federal, state, or local government, or participate in any other way in a federal, state, or local government program.

(f) Acquire standing timber, timber cutting rights, and the state's interest in contracts granting cutting rights, on state tax reverted lands, on lands in the state forest system from which revenues derived from the sale of timber were previously deposited in the forest management fund created in former 1945 PA 268, and on other lands as provided by law, to be used for any of the purposes provided in this part subject to the restrictions of section 50509. However, the state shall not convey to the authority fee title to any state forest lands.

(g) Procure insurance against loss in connection with the property, assets, or activities of the authority.

(h) Invest money of the authority, at the board's discretion, in instruments, obligations, securities, or property determined proper by the board, and name and use depositories for its money.

(i) Contract for goods and services and engage personnel as necessary and engage the services of private consultants, managers, legal counsel, and auditors for rendering professional financial assistance and advice payable out of any money of the authority, subject to the restrictions of section 50507.

(j) Indemnify and procure insurance indemnifying members of the board from personal loss or accountability from liability asserted by a person on bonds or notes of the authority, or from any personal liability or accountability by reason of the issuance of the bonds or notes, or by reason of any other action taken or the failure to act by the authority.

(k) Do all other things necessary or convenient to achieve the objectives and purposes of the authority, this part, rules promulgated under this part, or other laws that relate to the purposes and responsibilities of the authority.

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 assure 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 the purposes of 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, and 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". 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 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. 50508. (1) Except as provided in section 50507(3), the department shall act as the agent for the authority in contracting for the cutting and sale of timber or other forest management operations and practices undertaken by the authority.

(2) The state's interest in all existing and future contracts granting timber cutting rights on state tax reverted lands are conveyed to the authority to be used for any of the purposes of this part subject to the restrictions of this part. The money received by the state from existing or future contracts for the cutting and sale of timber on state tax reverted lands, on lands in the state forest system from which revenues derived from the sale of timber were previously deposited in the forest management fund created in former 1945 PA 268, and on other lands as provided by law shall be deposited in the forest development fund and utilized as provided in section 50507(4).

(3) In order to provide for additional security for indebtedness of the authority, the department may convey to the authority title to timber on all or any portion of tax reverted lands, on lands in the state forest system from which revenues derived from the sale of timber were previously deposited in the forest management fund created in former 1945 PA 268, and on other lands as provided by law. The form of conveyance shall be approved by the attorney general and by resolution of the state administrative board. If the authority receives title to any timber, it may release and reconvey timber on state tax reverted lands, on lands in the state forest system from which revenues derived from the sale of timber were previously deposited in the forest management fund created in former 1945 PA 268, and on other lands as provided by law if requested by the department, and the reconveyance from the authority to the department will not cause the authority to default on any obligation or covenant contained in any resolution of the authority authorizing issuance of bonds or notes.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 92nd Legislature are enacted into law:

- (a) Senate Bill No. 1023.
- (b) House Bill No. 5554.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate

Jay E. Randall

Clerk of the House of Representatives

Approved

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Governor