

Legislative Analysis



AGRICULTURAL REAL PROPERTY

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House Bill 4072
Sponsor: Rep. Dave Hildenbrand

House Bill 4468
Sponsor: Rep. John Stahl

House Bill 4271
Sponsor: Rep. Joe Hune

House Bill 4764
Sponsor: Rep. Jacob Hoogendyk, Jr.

Committee: Tax Policy
Complete to 10-4-05

A SUMMARY OF HOUSE BILLS 4072, 4271, 4468, AND 4764 AS INTRODUCED

Each of the bills would amend the General Property Tax Act (MCL 211.34c) to classify certain types of agriculture-related property as being “agricultural real property.” Under the act, “agricultural real property” includes parcels used partially or entirely for certain “agricultural operations,” which the act further defines to mean the following:

- Farming in all its branches, including cultivating soil.
- Growing and harvesting any agricultural, horticultural, or floricultural commodity.
- Dairying.
- Raising livestock, bees, fish, fur-bearing animals, or poultry.
- Turf and tree farming.
- Performing any practices on a farm incident to, or in conjunction with, farming operations.

House Bill 4072

The bill would add that “agricultural operations” includes raising, breeding, training, or boarding horses.

House Bill 4271

The bill specifies that raising livestock would include raising equine and cervidae (deer, elk, and moose), but would not include pay-to-hunt animal farms or game preserves.

House Bill 4468

The bill would add that raising poultry includes operating a game bird hunting preserve licensed under Part 417 of the Natural Resources and Environmental Protection Act.

House Bill 4764

The bill specifies that “tree farming” would include the management and harvesting of a parcel of property stocked with forest products if the parcel of property is enrolled in a recognized tree farm system and has a certified management plan for harvesting and planting of forest products.

FISCAL IMPACT:

Given that the amount of property that would qualify for the 18-mill exemption is not known, the fiscal impact of these bills cannot be accurately determined. To the extent that property becomes eligible for the 18-mill exemption, local property tax revenue that would be earmarked for local education would decline. Although there is no direct impact on state revenues, there is an indirect burden on the School Aid Fund in that it must compensate for reduced educational funding at the local level.

BACKGROUND INFORMATION:

School Millage Exemption

Under the General Property Tax Act “qualified agricultural property” is exempt from the 18 school operating mills, and is defined to mean unoccupied property and related buildings classified as agricultural, or other unoccupied property and related buildings located on that property devoted primarily to “agricultural use” as defined in Part 361 (Farmland and Open Space Preservation) of the Natural Resources and Environmental Protection Act. (The bills contained in this summary each expand what is considered to be property that is classified as agricultural real property.)

“Agricultural Use” is defined under the NREPA to mean the production of plants and animals useful to humans, including forages 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, captive cervidae, and similar animals; berries; herbs; flowers; seeds; grasses; nursery stock; fruits; vegetables; Christmas trees; and other similar uses and activities. Part 361 further notes that “agricultural use” does not include the management and harvesting of a woodlot. In addition, property used for commercial storage, commercial processing, commercial distribution, commercial marketing, or commercial shipping operations or other commercial or industrial purposes is not eligible for the exemption. A parcel is devoted primarily to agricultural use only if more than 50 percent of the parcel’s acreage is devoted to agricultural use. Owners of property that is not classified as agricultural real property must file an affidavit with the local assessing unit by May 1.

Pay-To-Hunt Farms

The issue of whether pay-to-hunt farms qualify for the school millage exemption has been addressed in the Michigan Tax Tribunal’s decision in *Huron Bay Lodge v. Arvon*

Township (Docket No. 282654) and State Tax Commission Bulletin No. 4 of 1997 (as supplemented by STC Bulletin No. 8 of 2001). The 1997 STC Bulletin notes that for the purposes of “agricultural use” in Part 361 of NREPA, “[t]he breeding and grazing of captive cervidae includes farms where cervidae are raised for the same or similar purposes as are customary in the breeding and grazing of other animals such as cattle. The breeding and grazing of captive cervidae does NOT include properties used primarily as hunting ranches where customers pay a fee to hunt animals.”

Game Bird Hunting Preserves

While not specifically related to taxation, the Court of Appeals issued an unpublished opinion, *Milan Township v. Jaworski*, in December 2003 that held that a pheasant and quail hunting preserve was a "farm" as that term is used in the Right to Farm Act, because it is used for the breeding, raising, and selling of game birds for commercial purposes.

Tree Farming

State Tax Commission Bulletin 9 of 2002 states, “[i]t is the opinion of the State Tax Commission that ‘tree farming’, as that term is used in section 34c of the General Property Tax Act, generally includes the growing of nursery stock and Christmas Trees. ‘Tree farming’ does NOT include the growing of timber for the harvesting of lumber or pulp. This opinion by the State Tax Commission is supported by Attorney General Opinion No. 5702. This is also the interpretation of agricultural use contained in Public Act 116 of 1974 (MCL 324.36101) [now NREPA – Part 361] where the definition specifically says that agricultural use does not include the management and harvesting of a woodlot.” The cited attorney general opinion states, in part, “[t]raditionally, the legislature has observed a distinction between agriculture and forestry. The term ‘tree farm’ has been limited to orchards and ornamental tree farms.”

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