

Legislative Analysis



QUALIFIED FOREST PROPERTY TAX EXEMPTION

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House Bill 5457

Sponsor: Rep. Judy Emmons

House Bill 5458

Sponsor: Rep. David Robertson

House Bill 5462

Sponsor: Rep. David Farhat

Committee: Conservation, Forestry, and Outdoor Recreation
Complete to 11-30-05

A PRELIMINARY SUMMARY OF HOUSE BILLS 5457-5458 & 5462 AS INTRODUCED 11-29-05

House Bill 5462 would amend the General Property Tax Act to exempt qualified forest property from local school operating taxes and provide the process and criteria for claiming the exemption. House Bill 5458 would make necessary complementary amendments to the Revised School Code. House Bill 5457 would create the Qualified Forest Property Recapture Tax Act to impose a recapture tax on property that had been granted an exemption but no longer qualified due to a change in the use of the property. The state treasurer would annually pay from the General Fund to the State School Aid Fund an amount equal to the total amount of the tax exempted under this section each year.

Each of the bills is tie-barred to the others so that none could go into effect unless the others also were enacted. The bills are described in more detail below.

House Bill 5462 would amend the General Property Tax Act (MCL 211.53b et al) to provide a tax incentive for managing private forestland through a development rights agreement. The bill specifies that qualified forest property would be exempt from the tax levied by local school district for school operating purposes.

The term "qualified forest property" means a parcel of real property that meets all of the following conditions:

- Is not less than 20 contiguous acres in size, of which not less than 80 percent is productive forest capable of producing wood products. Contiguity is not broken by a road, a right-of-way, or property purchased or taken under condemnation proceedings by a public utility for power transmission lines, if the two parcels separated by the purchased or condemned property were a single parcel prior to the sale or condemnation. As used in this subparagraph, "productive forest"

means real property capable of growing not less than 50 cubic feet of wood per acre per year.

- Is stocked with forest products.
- Has no buildings or structures located on the real property.
- Is subject to an approved forest management plan.
- Is subject to a development rights agreement or development rights easement under Part 361 of the Natural Resources and Environmental Protection Act.

To claim an exemption, the owner of the property would file an affidavit claiming the exemption with the local tax collecting unit by May 1. Under the bill, the assessor would determine if the property was qualified forest property, and if so, exempt the property until December 31st of the year in which the property was no longer qualified. Not more than 90 days after all or a portion of the exempted property was no longer qualified, the owner would rescind the exemption by filing with the local tax collecting unit a rescission form. An owner who failed to do so would be subject to a penalty of \$5 a day for each separate failure beginning after the 90 days had elapsed, up to a maximum of \$1,000. (The penalty would be deposited in the General Fund of the state, and could be waived by the Department of Treasury.)

Under the bill, an owner of property that was qualified forest property on May 1 for which an exemption was not on the tax roll could file an appeal with the July or December Board of Review in the year the exemption was claimed, or the immediately succeeding year. If an exemption were denied by the assessor in the year the affidavit was filed, the owner could file an appeal with the July Board of Review for summer taxes or, if there was not a summer levy of school operating taxes, then with the December Board of Review.

If the assessor believed that the property was not qualified forest property, he or she could deny or modify an existing exemption by notifying the owner in writing. A taxpayer could appeal the assessor's determination to the Board of Review, and a decision of the Board of Review could be appealed to the Residential and Small Claims Division of the Michigan Tax Tribunal. If the property for which an exemption had been granted was not qualified forest property, then the property would be immediately placed on the tax roll as though the exemption had not been granted, and a corrected tax bill would be issued for each tax year being adjusted by the local tax collecting unit.

If the property for which an exemption had been granted was converted by a change in use, and was no longer qualified forest property, then the property would be subject to the qualified forest property recapture tax that would be levied under the act created by House Bill 5457.

Under the bill, the state treasurer would annually pay from the General Fund to the State School Aid Fund, an amount equal to the total amount of the tax exempted under this section each year.

Beginning in 2008 and every three years thereafter, the Department of Treasury would be required to provide to the standing committees of the Senate and House with primary jurisdiction over forestry issues, a report that included both of the following: a) the number of acres of qualified forest property in each county; and b) the amount of timber produced on the property each year.

The bill would define "approved forest management plan" to mean a forest management plan for harvesting, planting, and regeneration of forest products that has been prepared by a certified or registered forester and that contains mandatory and recommended management practices. A "certified forester" means a person certified as a forester by the Society of American Foresters. A "registered forester" means a person registered as a forester under Article 21 of the Occupational Code. "Forest products" includes, but is not limited to, timber and pulpwood-related products.

House Bill 5458 would make a necessary amendment the Revised School Code (MCL 380.1211) in order to exempt qualified forest property from a school district's operating mills. Specifically, it would treat "qualified forest property" in the same manner as a principal residence and qualified agricultural property in Section 1211 of the code and would cite the definition of "qualified forest property" found in House Bill 5462.

House Bill 5457 would create a new act, the Qualified Forest Property Recapture Tax Act, which would be administered by the Department of Treasury. Under the act, beginning January 1, 2006, a qualified forest property recapture tax would be imposed on property that is converted by a change in use after December 31, 2006. Under the bill, "converted by a change in use" means that due to a change in use the property is no longer qualified forest property as determined by the assessor of the local tax collecting unit.

Under the bill, the recapture tax is the obligation of the person who owned the property at the time the property was converted. If a recapture tax were imposed on the owner, the tax would be a lien on the property until paid. If the recapture tax was not paid within 90 days of the date the property was converted, the treasure could bring a civil action against the owner of the property (as of the date the property was converted). If the recapture tax remained unpaid on March 1 of the year immediately succeeding the conversion, the property would be returned as delinquent to the county treasurer. Property returned as delinquent and upon which recapture tax, interest, penalties, and fees remained unpaid after the return would be subject to forfeiture, foreclosure, and sale as provided in sections 78 and 79a of the General Property Tax Act.

The recapture tax would be imposed as follows.

** If the property were converted by a change in use within 20 years after exemption were first claimed, then 100 percent of the total amount that had been exempted from school operating taxes would be recaptured.).

** If the property were converted by a change in use 20 or more years but less than 30 years after an exemption was first claimed, then 75 percent of the amount exempted would be recaptured.

** If the property were converted by a change in use 30 or more years but less than 40 years after an exemption were first claimed, then 50 percent of the total exempted would be recaptured.

** If the property were converted by change in use 40 or more years after exemption was first claimed, than no recapture tax would be due under the act.

The bill requires that the recapture tax be collected by the county treasurer and deposited with the state treasurer. By the 15th day of each month, the county treasurer would be required, on a form provided by the state treasurer, to itemize the recapture taxes collected the preceding month, and transmit the form and the recapture taxes collected to the state treasurer. The county treasurer could retain the interest earned on the money collected as reimbursement for the costs incurred by the county in collecting and transmitting the recapture tax. The state treasurer would credit the proceeds of the recapture tax collected by county treasurers to the General Fund of the state

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