



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

BILL



ANALYSIS

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

Senate Bills 1059, 1060, and 1062 (as introduced 3-29-12)
Sponsor: Senator Darwin L. Booher (S.B. 1059 & 1060)
Senator Mike Green (S.B. 1062)
Committee: Natural Resources, Environment and Great Lakes

Date Completed: 5-30-12

CONTENT

Senate Bill 1059 would amend the General Property Tax Act to do the following regarding qualified forest property:

- Require a property owner to submit a forest management plan to a conservation district before claiming an exemption from school operating taxes for qualified forest property.
- Require a forest management plan to be developed by a qualified forester and approved by the conservation district.
- Require a property owner to pay a \$200 fee upon claiming an exemption.
- Transfer responsibilities from the Department of Natural Resources to the Michigan Department of Agriculture and Rural Development.
- Increase the maximum acreage for which an owner may claim an exemption in each local tax collecting unit from 320 to 640 acres.
- Reduce the minimum size of qualified forest property from 20 to 10 contiguous acres.
- Require at least 50%, rather than 80%, of the property to be productive forest if a parcel were qualified agricultural property.
- Allow exempt property to contain nonresidential buildings, but provide that those buildings would not be included in the exemption.
- Require a property owner to file a receipt of the exemption with the register of deeds.
- Delete provisions requiring an assessor to determine if property is exempt.
- Require the collection of taxes under the Act or under the Qualified Forest Property Recapture Tax Act when property was no longer exempt.
- Require the owner of qualified forest property to report every 10 years, rather than every year, the amount of timber produced.
- Require the owner to retain certain documents while the property was exempt.

The bill also would revise the requirements for a transferee to file an affidavit upon the transfer of qualified forest property, in order to avoid an adjustment in the property's taxable value.

Senate Bill 1060 would amend the Qualified Forest Property Recapture Tax Act to revise the calculation of the recapture tax that is imposed on qualified forest property that is converted by a change in use.

Senate Bill 1062 would amend the definition of "qualified agricultural property" in the General Property Tax Act to provide that a parcel would be devoted primarily to agricultural use if more than 50% of its acreage were devoted to a combination of agricultural use and use as qualified forest property.

The bills are described in detail below.

Senate Bill 1059

Tax Exemption Claim; Forest Management Plan

Under the General Property Tax Act, qualified forest property is exempt from the tax levied by a local school district for school operating purposes, to the extent provided in the Revised School Code, subject to a limit of 1.2 million acres of exempt forest property per fiscal year.

To claim an exemption, the property owner must file an affidavit and an approved forest management plan or a certificate provided by a third-party certifying organization with the local tax collecting unit by December 31.

The Act defines "approved forest management plan" as a forest management plan approved either by the Department of Natural Resources (DNR) or a third-party certifying organization. The Act permits a property owner to submit a proposed forest management plan to the DNR for approval. The DNR may charge a fee of up to \$200 for considering the plan, and must review and either approve or disapprove it. The bill would delete these provisions.

The bill would require a property owner to obtain a forest management plan from a qualified forester and submit the plan and an application for exemption as qualified forest property to a conservation district (i.e., a conservation district organized under Part 93 of the Natural Resources and Environmental Protection Act). The conservation district would have to verify implementation of the forest management with the property owner and review the application with the owner. Verification could include an on-site review or off-site communication and review of aerial imagery. If the conservation district verified implementation of the plan and the property's eligibility for exemption, a designee of the district would have to provide a signed verification form to the owner.

The owner would have to file an affidavit claiming the exemption and the verification form with the local tax collecting unit and Michigan Department of Agriculture and Rural Development (MDARD) by December 31. The owner also would have to submit a \$200 fee to the Department.

The bill would define "approved forest management plan" as a forest management plan developed by a qualified forester. A property owner would have to submit a forest management plan to a conservation district for approval. If a plan and application were submitted to a conservation district, it would have to review and approve or disapprove the plan within 30 days of submission.

Currently, an owner may claim an exemption for up to 320 acres of qualified forest property in each local tax collecting unit. If an exemption is granted for less than 320 acres in a local tax collecting unit, the owner may subsequently claim an exemption for additional eligible property in that local unit. The bill would increase the acreage allowed in a local tax collecting unit to 640 acres.

If a property owner were interested in claiming the exemption, the bill would allow the owner to contact MDARD and would require the Department to advise the owner on the exemption process. If requested by the owner, MDARD would have to provide a list of qualified foresters to prepare a forest management plan.

Grant of Exemption

The Act requires an assessor to determine if property is qualified forest property based on a recommendation from the DNR and confirmation that the acreage limitation has not been reached. If the property is qualified forest property, the assessor must exempt it from the collection of school operating taxes until December 31 of the year in which the property is no longer qualified forest property.

The bill would require an assessor to exempt the property if the owner provided an affidavit and form provided by the conservation district.

The bill also would require the owner to file a receipt of the exemption with the register of deeds of the county where the property was located. The owner would have to send a copy of the recorded receipt to the assessor and to MDARD.

Qualified Forest Property

The Act defines "qualified forest property" as a parcel of real property that meets all of the following conditions as determined by the DNR:

- Is not less than 20 contiguous acres in size, of which not less than 80% is productive forest capable of producing wood products.
- Is stocked with forest products.
- Has no buildings or structures located on the property.
- Is subject to an approved forest management plan.

Under the bill, "qualified forest property" would mean a parcel of real property that meets all of the following conditions as determined by MDARD:

- Is not less than 10 contiguous acres in size, of which not less than 80% is productive forest capable of producing wood products.
- Has no buildings developed for human residence (as defined in the bill) located on the property.
- Is subject to an approved forest management plan.

For a parcel exempt as qualified agricultural property under the Act, the qualified forest portion would have to be at least 10 contiguous acres of which not less than 50% was productive forest capable of producing forest products.

Property on which a building for human residence was located, including the septic system for such a building, would not be eligible for an exemption as qualified forest property. If a building other than a building for human residence were located on the property, the property would be eligible for the exemption but the building or other structure could not be included in the exemption.

Termination of Exemption; Recapture

The Act requires a property owner, within 90 days after all or part of exempted property is no longer qualified forest property, to rescind the exemption for the applicable portion of the property, by filing a rescission form with the local tax collecting unit. The bill would require the owner to file the form

with the register of deeds. The form would have to include a legal description of the exempted property.

Currently, if the assessor of the local tax collecting unit believes that exempted property is not qualified forest property based on a recommendation from the DNR, the assessor may deny or modify an existing exemption by giving written notice to the owner. The owner may appeal the assessor's determination to the board of review, and a decision of the board of review may be appealed to the Residential and Small Claims Division of the Michigan Tax Tribunal. The bill would delete these provisions.

If property for which an exemption has been granted is converted by a change in use and is no longer qualified forest property, the property is subject to the qualified forest property recapture tax. Under the bill, if all or a portion of property for which an exemption had been granted were converted by a change in use and were no longer qualified forest property, the owner immediately would have to notify the local tax collecting unit, MDARD, and the Department of Treasury on a form created by MDARD. The form would have to include a legal description of the property. A copy of the form would have to be filed with the register of deeds.

Upon notice that property was no longer qualified forest property, the local tax collecting unit immediately would have to rescind the exemption and place the property on the tax roll for the next tax year, and the Department of Treasury immediately would have to begin collection of any applicable tax and penalty under the General Property Tax Act or under the Qualified Forest Property Recapture Tax Act.

Reporting & Record-Keeping

Currently, the owner of qualified forest property is required to report annually to the DNR the amount of timber produced on the property and whether any buildings or structures have been constructed on it. The bill, instead, would require an owner to make this report every 10 years to the conservation district, and would require an owner to report even if no timber had been harvested. The bill would require MDARD to keep a copy of the report for seven years.

While qualified forest property was exempt, the bill would require the owner to retain the current management plan, most recent harvest records, recorded copy of a receipt of the tax exemption, and a map showing the location and size of any buildings and structures on the property, with a description of their characteristics. The owner would have to make the documents available to MDARD upon request.

Transfer of Ownership

Under Michigan law, the taxable value of a parcel of property (adjusted for additions and losses) may not increase from one year to the next by more than 5% or the increase in the consumer price index, whichever is lower, until there is a transfer of ownership. At that time, the assessment is "uncapped" and the parcel is taxed upon its State equalized valuation (50% of its true cash value). The General Property Tax Act defines "transfer of ownership" for this purpose and identifies transactions that do not constitute a transfer of ownership.

The term "transfer of ownership" does not include a transfer of qualified forest property if the person to whom the property is transferred files an affidavit with the assessor of the local tax collecting unit and the register of deeds, attesting that the property will remain qualified forest property.

The bill would require the affidavit to include a legal description of the property. The local tax collecting unit would have to retain one copy of the affidavit. One copy would have to be forwarded to the conservation district, and one copy would have to be forwarded to MDARD.

Senate Bill 1060

The Qualified Forest Property Recapture Tax Act provides for the recapture of taxes owed on property that is converted by a change in use and is no longer qualified forest property (as defined in the General Property Tax Act). The calculation of the recapture tax depends on whether there have been any harvests of forest products on the property consistent with the approved forest management plan.

If there have been any harvests of forest products, the tax is calculated as follows:

- The property's State equalized valuation (SEV) at the time of the change in use is multiplied by the total millage rate levied by all taxing units in the local tax collecting unit where the property is located.
- The product of the first calculation is multiplied by seven.

If there have been no harvests of forest products, the tax is determined in the same manner, with the product of the second calculation multiplied by two.

Under the bill, if there had been any harvests of forest products, the tax would be calculated as follows:

- The property's taxable value at the time of the change in use would be multiplied by the number of operating mills levied by the local school district in which the property was located.
- The product of the first calculation would be multiplied by the number of years the property had been exempt as qualified forest property before the change in use, not to exceed the seven years immediately before the year in which the property was converted by a change in use.

As currently provided, if there had been no harvests of forest products, the tax would be doubled.

Senate Bill 1062

Under the General Property Tax Act, qualified agricultural property is exempt from school operating taxes to the extent provided in the Revised School Code. The Act defines "qualified agricultural property" as unoccupied property and related buildings located on that property devoted primarily to agricultural use.

A parcel of property is devoted primarily to agricultural use only if more than 50% of its acreage is devoted to agricultural use. Under the bill, a parcel also would be devoted primarily to agricultural use if more than 50% of its acreage were devoted to a combination of agricultural use and use as qualified forest property.

MCL 211.7jj & 211.27a (S.B. 1059)
211.1034 (S.B. 1060)
211.7dd (S.B. 1062)

FISCAL IMPACT

The bills would affect local school district revenue and School Aid Fund expenditures by an unknown amount, although the amount is likely to be less than \$15.0 million per year. The bills would potentially increase the number of properties that receive an exemption from locally levied mills for school operating purposes as a result of being qualified forest property. When the legislation was first adopted in 2006, the exemption was limited to 1.2 million acres of qualified forest property (beginning in FY 2010-11) and the exemption was estimated to total \$16.2 million per year. Approximately 70,000 acres of property are currently affected by the legislation.

The bills would expand the number of properties potentially eligible for the exemption, and the local school district of any property that became qualified forest property would experience of a loss equal to 18 mills times the taxable value of the property. To the extent that per-pupil funding guarantees were not reduced as a result of the bills, the bills would require increased expenditures of an equal magnitude to affected school districts from the School Aid Fund.

The bills also would shift application fee revenue from the Department of Natural Resources to the Department of Agriculture and Rural Development. To the extent that the bills increased the number of acres categorized as qualified forest property, application fee revenue would increase by an unknown, and likely minimal, amount. The bills also would result in additional administration for the Department of Treasury. The magnitude of these additional costs is unknown but likely minimal.

In addition, the bills would reduce General Fund revenue by an unknown and likely minimal amount by reducing the recapture tax levied when property ceases to be treated as qualified forest property. However, to the extent that additional properties were classified as qualified forest property, this decline in revenue per property could be offset by revenue from the additional properties.

S1112\s1059sa.

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.