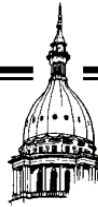




**Senate Fiscal Agency**  
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BILL ANALYSIS



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Senate Bill 51 (Substitute S-2 as reported by the Committee of the Whole)  
Senate Bill 52 (Substitute S-3 as reported by the Committee of the Whole)  
Senate Bill 53 (Substitute S-1 as reported)  
Senate Bill 54 (Substitute S-1 as reported)  
Senate Bill 55 (Substitute S-1 as reported)  
Senate Bill 56 (Substitute S-2 as reported by the Committee of the Whole)  
Senate Bill 57 (Substitute S-1 as reported)  
Senate Bill 58 (Substitute S-1 as reported)  
Senate Bill 59 (Substitute S-1 as reported)  
Sponsor: Senator Darwin L. Booher (S.B. 51, 52, 53, 56, & 59)  
Senator Tom Casperson (S.B. 54)  
Senator Mike Green (S.B. 55)  
Senator Arlan Meekhof (S.B. 57)  
Senator John Moolenaar (S.B. 58)

Committee: Natural Resources, Environment and Great Lakes

**CONTENT**

Senate Bill 51 (S-2) would amend the General Property Tax Act to do the following regarding qualified forest property:

- Revise procedures for the exemption of qualified forest property from school operating taxes, and provide for the execution and recording of a qualified forest school tax affidavit.
- Transfer responsibilities from the Department of Natural Resources to the Michigan Department of Agriculture and Rural Development (MDARD).
- Require a local tax collecting unit to collect an annual fee on each parcel of qualified forest property located in that unit for deposit in the "Private Forestland Enhancement Fund" (which Senate Bill 56 (S-2) would create).
- Require the fee to be determined by multiplying two mills by the taxable value of the qualified forest property.
- Exclude buildings, structures, and land improvements located on qualified forest property from the property's exemption from school operating taxes.
- Require a property owner to submit a forest management plan to MDARD, along with an application fee of \$50, before claiming an exemption for qualified forest property.
- Require a forest management plan to be developed by a qualified forester and approved by MDARD, and be for a maximum of 20 years.
- Increase the number of acres eligible for the exemption statewide from 1.2 million to 2.4 million.
- 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 is qualified agricultural property.
- Review provisions for the rescission of an exemption when property is no longer qualified forest property, and require the collection of taxes under the Act or under the Qualified Forest Property Recapture Tax Act.

- From January 1, 2013, through November 30, 2013, allow an owner of property that was exempt before January 1, 2013, to execute a new qualified forest school tax affidavit. Eliminate the rescission penalty for an owner who chose not to execute a new affidavit, and provide that the property would not be subject to the recapture tax.
- Require the penalty imposed for failing to file a required rescission of exemption to be deposited in the Private Forestland Enhancement Fund, rather than the General Fund.
- Require the owner of qualified forest property to report when a forest practice or timber harvest occurred; and allow MDARD to collect a fine of \$500 from a property owner if a required report were not filed.
- Require MDARD to maintain a database of qualified forest properties and notify the owner and the conservation district in the year the harvest was to occur according to the management plan.
- Provide that the property would not be eligible for exemption and would have to be placed on the tax roll and subject to repayment if an owner did not accomplish forest practices and harvests within three years after the time specified in the forest management plan.
- Require MDARD to submit to the Legislature a report on qualified forest property annually, rather than every three years as required currently, and expand the information that must be included in the report.

Senate Bill 52 (S-3) would amend the General Property Tax Act to 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.

The bill specifies information that would have to be included in the affidavit that must be filed by the owner of qualified forest property, and would require the owner to file a copy of the affidavit with MDARD. The bill also specifies that the exception to the recognition of a transfer of ownership would extend to the land only of the qualified forest property, and would not extend to buildings, structures, or land improvements.

The bill also would create an exemption to the requirement that property be subject to the recapture tax if it is no longer qualified forest property. Beginning June 1, 2013, and ending November 30, 2013, the owner of property enrolled as qualified forest property before January 1, 2013, could execute a new qualified forest taxable value affidavit with MDARD. If the owner did not do so, the taxable value of the property would have to be adjusted, but the property would not be subject to the recapture tax.

Senate Bill 53 (S-1) 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.

Currently, 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, reduced by the number of mills collected as a fee for qualified forest property (as proposed by Senate Bill 51 (S-2)).
- 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.

If the property were eligible for exemption as qualified forest property as a result of the withdrawal of the property from the operation of Part 511 (Commercial Forests) of the Natural Resources and Environmental Protection Act (NREPA), and the property were converted by a change in use within seven years after the withdrawal, the recapture tax would be an amount equal to the application fee and penalty that would have been assessed under Part 511 to withdraw the property from the operation of Part 511 in the year in which the property was converted by a change in use, calculated as if the property had not been withdrawn. If the property were converted by a change in use more than seven years after the withdrawal, the recapture tax would have be calculated according to the bill's formula based on the property's taxable value.

Senate Bill 54 (S-1) would amend the Qualified Forest Property Recapture Tax Act to redirect recapture tax proceeds from the General Fund to the proposed Private Forestland Enhancement Fund.

As noted above, qualified forest property is exempt from the tax levied by a local school district for school operating purposes. When property is converted by a change in use and is no longer qualified forest property, it is subject to the recapture of taxes under the Act. The proceeds of the recapture tax must be credited to the State's General Fund.

Beginning January 1, 2014, the bill would require the proceeds to be credited, instead, to the Private Forestland Enhancement Fund.

Senate Bill 55 (S-1) 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 were exempt under the Act as qualified forest property.

Senate Bill 56 (S-2) would amend Parts 93 (Soil Conservation Districts) and 513 (Private Forestry) of the Natural Resources and Environmental Protection Act (NREPA) to do the following:

- Create the "Private Forestland Enhancement Fund" to support private forestland management assistance.
- Authorize MDARD to review soil conservation district budgets and financial information.
- Prescribe criteria that a soil conservation district would have to meet to be eligible for a grant of at least \$50,000 from MDARD.
- Permit MDARD to promulgate rules to implement the grant provisions, and provide that the rules would not remain in effect for more than three years after the bill's effective date.
- Prohibit a professional forester employed under an MDARD grant from competing with a private sector business or developing a client base for forestry consultation outside of his or her employment with the conservation district.

- Include references to forestland in provisions prescribing a conservation district's powers regarding farmland and natural resources.
- Include in the powers of a conservation district collaborating with MDARD in reviewing applications for qualified forest property exemptions, evaluating nonindustrial private forestland, and providing forestry assistance to landowners.
- Prohibit a conservation district from developing a management plan for nonindustrial private forestland, unless the landowner were unable to identify a private forester willing to develop a plan.
- Allow a conservation district to cooperate with a local unit of government or other subdivision of State government to implement forestland management projects.
- Authorize MDARD to enter into cooperative agreements with Federal agencies to assist landowners in management of their nonindustrial private forestland.
- Require MDARD to prepare and maintain a list of qualified foresters in Michigan and publish it on the Department's website.

The bill also would repeal sections of Part 501 (Forest Improvements) that define terms used in provisions regarding forest restoration pilot projects, prescribe specific requirements for the Western Upper Peninsula Forest Improvement District, and require State agencies to cooperate with a forest improvement district board.

Senate Bill 57 (S-1) would amend Part 87 (Groundwater and Freshwater Protection) of NREPA to provide for the assessment of managing areas of land not used for traditional or production agriculture purposes, for environmental, ecological, and economic benefits. The bill would do the following:

- Include this assessment in requirements for the voluntary evaluation of farms under the Michigan Agriculture Environmental Assurance Program (MAEAP).
- Require the Environmental Assurance Advisory Council to include representatives of a private consulting forester, the forest products industry, and the logging profession.
- Require the Council to recommend a tool for the assessment described above, within one year after the bill's effective date.
- Expand the responsibilities of environmental assurance teams.

Part 87 requires the MDARD Director, in conjunction with Michigan State University, the Department of Environmental Quality, and other appropriate people, to develop protocols for voluntary on-site evaluations designed to do certain things.

Under the bill, the evaluations also would have to enable landowners to assess voluntarily the value of managing areas of the land that were not used for traditional or production agriculture practices, for environmental, ecological, and economic benefits.

Part 87 also requires the MDARD Director to establish regional environmental assurance teams composed of departmental, educational, and technical assistance personnel, and other necessary people for implementation of Part 87 programs.

Under the bill, in addition to their current responsibilities, the teams would be responsible for providing access to technical assistance related to on-site evaluation of potential environmental, ecological, and economic benefits that could be realized by managing areas of the land that were not used for traditional or production agriculture practices.

Senate Bill 58 (S-1) would amend Part 503 (State Forest Products Industry Development Council) of NREPA to require the Department of Natural Resources (DNR) to carry out a number of tasks related to the development and promotion of the State's forest products industry jointly with MDARD.

With regard to the specific tasks, the bill would refer to expansion, rather than development, of the forest products industry; include the retention of existing forest products companies; and eliminate the promotion and encouragement of Michigan forest product use by other states and for export. Instead, the bill would include the promotion and encouragement of the use of the State's value-added products in Michigan, other states, and internationally.

Senate Bill 59 (S-1) would amend Part 511 (Commercial Forests) of NREPA to do the following with regard to commercial forest property:

- Allow an owner of commercial forestland to withdraw from the program without penalty, under certain circumstances.
- Eliminate a requirement that the DNR prepare a forest management plan upon request of an applicant who cannot secure the services of a registered forester or natural resources professional to prepare a plan, and charge the owner a fee.
- Specify that forest management plans submitted to the DNR or a local tax collecting unit would be exempt from disclosure under the Freedom of Information Act.
- Allow the DNR to require withdrawal of commercial forestland from the program if an owner took action that denied or inhibited access to the commercial forest for public hunting and fishing, unless the owner corrected the action and allowed access.
- Revise the conditions under which sand and gravel may be removed from a commercial forest.
- Include wind energy development among the prohibited uses of a commercial forest, but permit exploration for wind energy development under certain circumstances.

Part 511 allows the owner of forestland to apply to the DNR to have that land classified as a commercial forest. Commercial forests are not subject to the ad valorem general property tax, but instead are subject to an annual specific tax per acre.

The owner of a commercial forest may withdraw all or part of his or her land from the commercial forest program upon application to the DNR and payment of a withdrawal application fee and penalty. Under the bill, for one year after its effective date, an owner would not be subject to a withdrawal penalty if the withdrawn commercial forestland were placed on the assessment roll in the local tax collecting unit; and the owner claimed and received an exemption for the land from school operating taxes under the General Property Tax Act, and submitted a copy of the recorded qualified forest school tax affidavit to the DNR by December 31 of the year in which the land was withdrawn.

The bill also would allow the Department to withdraw forestland from the classification as commercial forest if it had been acquired by a federally recognized Indian tribe and the associated property taxes subsequently were preempted under Federal law. In this case, a withdrawal would not be subject to the withdrawal application fee or penalty.

Under certain circumstances, sand and gravel may be removed from a commercial forest with the DNR's approval. The sand and gravel must be used by the owner as specified or by the State, a local unit, or a county road commission for governmental use. Under the bill, the sand and gravel would have to be used by the owner or be for sale to the State, a local unit, a Federal governmental agency, or a county road commission for governmental use, or a contractor or other agent undertaking construction, maintenance, or a project for one of those governmental entities.

All of the bills would take effect on June 1, 2013.

MCL 211.7jj (S.B. 51)  
211.27a (S.B. 52)  
211.1034 (S.B. 53)

Legislative Analyst: Julie Cassidy

211.1035 (S.B. 54)  
211.7dd (S.B. 55)  
324.9301 et al. (S.B. 56)  
324.8703 et al. (S.B. 57)  
324.50301 & 324.50302 (S.B. 58)  
324.51102 et al. (S.B. 59)

## **FISCAL IMPACT**

Senate Bills 51 (S-2), 52 (S-3), and 55 (S-1) would reduce revenue to local units of government, reduce General Fund revenue, direct revenue to the Private Forestland Enhancement Fund, and likely increase School Aid Fund expenditures.

Currently, approximately 70,000 to 80,000 acres are enrolled in programs that treat the property as qualified forest property. It is unknown how many owners of property would choose to seek qualified forest property status under the bills. Given current acreage, property enrolled in the program presently receives an exemption that increases School Aid Fund expenditures by between \$1.3 million and \$1.4 million per year, assuming an average property tax rate of 33 mills and average taxable value of \$1,000 per acre. If the property remained in the program under the bills, the bills would generate fee revenue of between \$140,000 and \$160,000 per year for the Private Forestland Enhancement Fund. However, School Aid Fund expenditures would remain between \$1.3 million and \$1.4 million above the level they would be if the property were not enrolled in the program.

To the extent additional property was enrolled in the program under the bills, the bills could generate a maximum of \$4.8 million in revenue for the Private Forestland Enhancement Fund. Additional property in the program also could reduce local school operating revenue by a maximum of \$38.4 million per year. As a result, if per-pupil funding guarantees were to be maintained, the bills would require a maximum of \$38.4 million in increased School Aid Fund expenditures.

For both property that would remain in the program and additional property that was enrolled in the program as a result of the bills, the changes in the provisions regarding transfers of ownership would reduce revenue by an unknown amount, which would depend on the specific characteristics of the property. The reduction in revenue would affect intermediate school districts, revenue from school debt mills, and sinking fund mills, as well as units such as cities, counties, townships, and villages. The revenue loss under these provisions in the bills could be significant depending on the changes in market conditions affecting the underlying land.

To the extent that acreage ceased to be qualified forest property as a result of the bills, the bills would decrease School Aid Fund expenditures because the property would become subject to the 18-mill school operating levy and less expenditures would be needed in order to meet per-pupil funding guarantees.

The bills also would decrease General Fund revenue by an unknown amount, and increase revenue to the Private Forestland Enhancement Fund by an identical amount, by redirecting penalty revenue from the General Fund to the Private Forestland Enhancement Fund. It is not known how many parcels would be subject to any penalties, or the specific characteristics that would affect their liability.

In addition, the bills 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.

Senate Bills 53 (S-1) 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 parcels were classified as qualified forest property, this decline in revenue per parcel could be offset by revenue from the additional property.

Senate Bill 54 (S-1) would reduce General Fund revenue by an unknown amount beginning January 1, 2014, by redirecting the revenue from the General Fund to the Private Forestland Enhancement Fund. The actual amount of revenue redirected would depend on the specific number and characteristics of parcels subject to the recapture tax under the Act.

Senate Bill 56 (S-2) would require MDARD to assume a greater role in providing for the availability of evaluation, potential management, and use of nonindustrial forestland in the State. The Department would incur additional administrative costs, in an amount that cannot be determined at this time. The bill also would create the Private Forestland Evaluation Fund and would require MDARD to administer and spend money from the Fund for various purposes. The contents of the Fund cannot be determined at this time.

Senate Bill 57 (S-1) would have no fiscal impact on State or local government. The additional responsibilities required under the bill could be accomplished with existing resources.

Senate Bill 58 (S-1) would have no fiscal impact on State or local government.

Senate Bill 59 (S-1), in total, would have a minor, but positive fiscal impact on State and local governments.

Under the bill, landowners with forestland in the Commercial Forest program would be allowed to transfer the land into the Qualified Forest program with no penalties, under certain circumstances. Currently, counties with Commercial Forest parcels receive a \$1.25 per acre specific tax from the landowner and a \$1.25 per acre payment from the Department of Treasury. Transfers from the Commercial Forest program to the Qualified Forest program would benefit local units of government in that, while they would no longer receive the flat \$2.50 per acre total annual payments from the Department of Treasury and the landowner, they would receive ad valorem property taxes on any land transferred to the Qualified Forest program, which almost certainly would be more than the \$2.50 received under the Commercial Forest program. The State also would stand to save the \$1.25 per acre payment made by the Department of Treasury for each parcel that changed from Commercial Forest to Qualified Forest. It is unknown how many, if any, participants in the Commercial Forest program would be qualified for and choose to transfer to the Qualified Forest program.

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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.