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## AMEND FOREST FINANCE ACT

House Bill 5025 as introduced  
First Analysis (10-19-93)

Sponsor: Rep. Bill Bobier  
Committee: Agriculture & Forestry

### THE APPARENT PROBLEM:

The Michigan Forest Finance Act was enacted in 1990, creating a Michigan Forest Finance Authority which could finance certain forest management operations and practices by issuing bonds or notes. The act created the Michigan Forest Finance Authority on December 11, 1990, and provided for a board of directors for the authority consisting of the director of the Department of Natural Resources (DNR), the state treasurer, and three citizens to be appointed by the governor. The members of the authority were appointed on July 24, 1992, but reportedly have been unable to issue bonds or notes because of technical problems with the way the act is written. Legislation has been introduced that would correct these problems.

### THE CONTENT OF THE BILL:

The bill would amend the Michigan Forest Finance Act (Public Act 280 of 1990) to do the following :

- \* Add a section that would specify the legislature's intent in enacting the law;
- \* establish a "forest development fund";
- \* require the DNR to convey additional timber on tax reverted lands in order to avoid possible default by the authority on its bonds and notes;
- \* require that any available revenues or funds not otherwise committed be spent on certain forest management programs;
- \* redescribe the authority's bonds or notes;
- \* cap the amount that the authority could have outstanding in bonds or notes; and
- \* make some changes regarding board members.

Legislative intent. The bill would say that the purpose of the act and of the authority created by the act was "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 the forest resources by doing all of the following:

(a) *Funding practices prescribed and approved by the Department of Natural Resources that intensify*

*management of certain highly productive portions of the state's forest system.*

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

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

(d) *Providing dependable funding of scheduled forest management operations.*

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

(f) *Facilitating timely performance of forest management operations.*

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

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

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

(j) *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."*

Forest development fund. The bill would require the forest finance authority to establish a "forest development fund" to receive any money from bond proceeds and from contracts for the cutting and sale of timber on tax-reverted lands. (In addition, the bill would specify that all money in the special forest management fund established under the former Public Act 268 of 1945, which was repealed by Public Act 280 of 1990, be deposited in this new fund.) Money from the fund would be used by the authority to pay the principal and interest on any bonds or notes issued by the authority, as well as for reforestation, forest protection, timber stand improvement, and any other purposes authorized by the act.

Conveyance of title to timber on tax reverted lands.

The bill would authorize the director of the DNR to convey to the forest finance authority title to timber on all tax reverted lands in order to provide

additional security for any of the authority's indebtedness. The authority could release and reconvey timber on state tax reverted lands to the DNR if the department so requested and if the reconveyance wouldn't cause the authority to default on any of its obligations or any covenant in any of its resolutions authorizing the issuing of bonds or notes.

If the authority projected a probable default on any of its bonds or notes, the executive director of the authority would be required to notify the director of the DNR. Within one year (or less, if necessary) of receiving notification of a probable default, the director of the DNR would be required to identify and convey to the authority enough timber on tax reverted lands to enable the authority to avoid the projected default and to make timely payment on the principal and interest on the authority's bonds or notes.

**Expenditure of funds.** The act makes it clear that the state is not liable for any bonds or notes issued by the Forest Finance Authority, and explicitly says that the authority is not authorized to incur any indebtedness or liability on behalf of or payable by the state. The act also requires that all expenses incurred in carrying out the act, as well as the principal and interest on all bonds and notes issued by the authority, are to be paid from the revenues or funds provided under the act.

The bill would specify that any money from bonds or notes issued by the authority would have to be expended as prescribed by the act and by resolutions authorizing such indebtedness. The bill would further specify that the principal and interest for bonds and notes issued by the authority would be paid from the revenues or funds pledged for that purpose, and would require that any revenues or funds available to the authority that weren't required either to pay on (or to be deposited in a fund to secure) bonds and notes be spent to fund DNR prescribed forest management programs.

**Bonds or notes.** The bill would restate the terms and conditions for the issuance of bonds and notes by the authority, as follows. Bonds and notes would have to:

- (1) be authorized by resolution of the authority;
- (2) bear the date or dates of issuance;
- (3) be serial bonds, terms bonds, or term and serial bonds;

- (4) mature 50 years or less from the date of issuance;
- (5) bear interest at a fixed or variable rate, annual rates, or at no interest;
- (6) be registered bonds, coupon bonds, or both; and
- (7) be in the form, denomination or denominations, and with such other provisions and terms as the authority decided was necessary or beneficial.

In addition, bonds or notes could:

- (1) be issued as either federally tax-exempt or taxable;
- (2) provide for sinking fund payments;
- (3) provide for redemption at the option of the authority or of the bondholder for any reason(s);
- (4) contain a conversion feature; and
- (5) be transferable.

**Cap on indebtedness.** The bill would specify that -- excluding bonds or notes issued to refund outstanding bonds or notes -- the authority could not have outstanding at any time bonds or notes that, "in an aggregate principal amount," exceeded \$20 million.

**Board members.** Currently, the act allows the authority, within limitations set by resolution, to authorize board members and officers to do a number of things (such as selling and delivering, and receiving payment for notes or bonds). The bill would, in addition, allow the authority to authorize board members and officers to approve terms of a number of transactions (such as insurance contracts and letters of credit) in order to provide security to assure timely payment of a bond or note.

The act currently requires four members of the board to constitute a quorum and require a concurring vote by a majority of board members at a meeting to take action. The bill would require three board members for a quorum and a concurring vote by three members to take board action.

### **FISCAL IMPLICATIONS:**

According to the Department of Natural Resources, the fiscal implications of the bill basically would be the same as when the act originally was enacted. That is, the bill itself would not cost the state money, but would enable the DNR (through the Michigan Forest Finance Authority) to generate an additional \$600,000 to \$700,000 in timber sale

revenues within the first ten years after implementing the Forest Finance Authority Act and \$12 million within the following ten years. (10-15-93)

***ARGUMENTS:***

***For:***

The bill would make a number of technical amendments to the Forest Finance Authority Act that would make it possible to implement the act. For example, although there are places in the act that refer to the act's public purpose, the act nowhere explicitly says exactly what its public purpose is. Also, there are places in the act where the flow of funds, or what land or timber being referred to, is unclear. Finally, there are some outright grammatical errors (such as in section 10, which omits a number of verbs and prepositions in the description of the authority's bonds and notes). The bill would correct these oversights and unclear provisions of the act.

***POSITIONS:***

The Department of Natural Resources supports the bill. (10-13-93)

The Sierra Club, Michigan Chapter, supports the bill. (10-14-93)