

REGULATE DNR BURNS

House Bill 4002 (Substitute H-2) First Analysis (2-8-95)

Sponsor: Rep. David Anthony
Committee: Conservation, Environment
and Great Lakes

THE APPARENT PROBLEM:

A unique land management plan is being conducted on state-owned land in Menominee County by the Department of Natural Resources (DNR). The plan, named the Shakey Lakes Savanna Management Plan, involves the establishment of an oak savanna landscape. In order to establish the savanna, the DNR conducts "prescribed burns" -- fires that are intentionally set -- so that part of the area's oak forest can be replaced with scattered trees and prairie grasses. The impact of one of these prescribed burns, however, has alarmed area residents. Due to shifting winds, the fire apparently ran out of control, leaped across a county road, and burned a small portion of private property. As a result of this incident, local property owners now fear that their homes and property could be destroyed should another burn occur during high winds. Legislation has been proposed to require that, prior to conducting these burns, the DNR notify local residents and allow them to express their opinions at a public hearing.

THE CONTENT OF THE BILL:

House Bill 4002 would create an act to prohibit the Department of Natural Resources (DNR) from conducting a "prescribed burn" without alerting local residents on the purpose and anticipated consequences of the burn and allowing them to express their opinions at a public hearing in the county in which the prescribed burn would occur. (A "prescribed burn" would be defined under the bill to mean a fire that is intentionally set by the DNR on state-owned property [or on privately-owned property with the owner's permission] to aid in implementing land use management goals). Under the bill, the DNR would be required to provide public notice in a daily newspaper with circulation covering the prescribed burn area 30 days prior to any prescribed burn that was scheduled to occur within a designated one-week period. In addition, a buffer zone of at least 1,040

feet would be required between a projected burn area and adjoining privately-owned property unless the property owner agreed to have his or her property included in the prescribed burn.

FISCAL IMPLICATIONS:

Fiscal information is not available. (2-7-95)

ARGUMENTS:

For:

Sportspeople and nature lovers alike are drawn to the natural beauty of the Menominee River area in Menominee County. The land abounds with wildlife, wildflowers, and trees, including huge oaks. At present, the Department of Natural Resources (DNR) is investigating the possibility of turning part of the area, on land that is owned by the state, into a natural wilderness area. As part of this study, the DNR is conducting the Shakey Lakes Savanna Management Plan, under which the land would be restored to an oak savanna ecosystem by the means of periodic "prescribed burns" -- fires that are intentionally set. However, problems have arisen concerning a fire that ran out of control and damaged bordering private property. Reportedly, the fire caught local citizens by surprise, raised considerable alarm, and illustrated the importance of notifying area residents of DNR-planned burns. The bill would alleviate these concerns by assuring that local residents receive full information on the expected consequences of the burns.

Against:

DNR "prescribed burning" programs are conducted in all parts of the state, and are a vital component of the DNR's land management programs. Burns are conducted as a tool in projects to assist in the return of certain wildlife, insects, and wildflowers; to return land to its natural habitat; and in reforestation projects. The provisions of the bill,

however, would serve to restrict DNR activities in such a manner that the department's prescribed burning programs would be virtually shut down. In the first place, according to the department, the bill's provision that a 1,040 foot buffer zone be established would serve to restrict DNR activities so that very little state-owned land could be managed.

Since most DNR prescribed burns involve areas totalling 10 acres or less, a buffer zone of 100 feet between a projected burn area and adjoining private property, while restrictive, would still allow the department to conduct its land management programs. The department also suggests that prescribed burnings up to the property line between state- and privately-owned property could be allowed with the property owner's permission. In addition, the department points out inconsistencies between the bill's provision that it hold public hearings before conducting a prescribed burn, and additional requirements that these hearing inform local residents on the purpose and anticipated consequences of a proposed burn. The bill should be amended to require that a public "meeting," rather than a public "hearing" be conducted, since according to DNR prescribed rules, a public "hearing" is designed to obtain public input, and there is no opportunity at a hearing for the department to explain projects.

Against:

As written, the bill does not go far enough. Local residents and business entities are concerned about the potential impact of proposed changes in their area. In order to estimate the economic impact that would be incurred by possible changes in the area's recreational and hunting resources and the economic impact of the loss of timber on local loggers, the DNR should be required to conduct a thorough environmental impact assessment. In addition, a policy should be established by the DNR to compensate adjacent property owners who incur financial losses as a result of DNR-prescribed burns. In addition to notifying local residents, it would also be advisable to notify local fire departments prior to these burns.

POSITIONS:

Menominee County supports the bill. (2-7-95)

A representative of the Michigan Association of Timbermen testified before the House Conservation, Environment and Great Lakes Committee in support of the bill. (2-7-95)

The Michigan Farm Bureau testified in support of the concept of the bill, but suggested amendments that would provide for a DNR environmental impact assessment prior to a controlled burn project, and that would establish a compensation policy for adjacent property owners affected by a burn. (2-7-95)

The Department of Natural Resources opposes the bill. (2-7-95)