

**SUBSTITUTE FOR
HOUSE BILL NO. 5895**

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
(MCL 324.101 to 324.90106) by adding sections 36204, 36205,
36206, [] 36207 [, and 36208].

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 36204. (1) THE FARMLAND TRUST FUND BOARD IS CREATED
2 WITHIN THE DEPARTMENT.

3 (2) THE BOARD SHALL CONSIST OF THE FOLLOWING MEMBERS:

4 (A) THE DIRECTOR OF THE DEPARTMENT OF NATURAL RESOURCES OR
5 HIS OR HER DESIGNEE AS A NONVOTING MEMBER.

6 (B) THE DIRECTOR OF THE DEPARTMENT OF AGRICULTURE OR HIS OR
7 HER DESIGNEE AS A NONVOTING MEMBER.

8 (C) FIVE INDIVIDUALS APPOINTED BY THE GOVERNOR AS FOLLOWS:

9 (i) TWO INDIVIDUALS REPRESENTING CONSERVATION INTERESTS.

HB5895, As Passed House, JUNE 18, 1998

House Bill No. 5895

2

1 (ii) TWO INDIVIDUALS REPRESENTING AGRICULTURAL INTERESTS.

2 (iii) ONE INDIVIDUAL REPRESENTING THE GENERAL PUBLIC.

3 (3) THE MEMBERS FIRST APPOINTED TO THE BOARD SHALL BE
4 APPOINTED WITHIN 60 DAYS AFTER THE EFFECTIVE DATE OF THIS
5 SECTION.

6 (4) MEMBERS OF THE BOARD SHALL SERVE FOR TERMS OF 4 YEARS OR
7 UNTIL A SUCCESSOR IS APPOINTED, WHICHEVER IS LATER, EXCEPT THAT
8 OF THE MEMBERS FIRST APPOINTED SHALL SERVE AS FOLLOWS:

9 (A) ONE OF THE INDIVIDUALS APPOINTED UNDER
10 SUBSECTION (2)(C)(i) AND 1 OF THE INDIVIDUALS APPOINTED UNDER
11 SUBSECTION (2)(C)(ii) SHALL SERVE FOR 3 YEARS.

12 (B) ONE OF THE INDIVIDUALS APPOINTED UNDER
13 SUBSECTION (2)(C)(i) AND 1 OF THE INDIVIDUALS APPOINTED UNDER
14 SUBSECTION (2)(C)(ii) SHALL SERVE FOR 2 YEARS.

15 (C) THE INDIVIDUAL APPOINTED UNDER SUBSECTION (2)(C)(iii)
16 SHALL SERVE FOR 1 YEAR.

17 (5) IF A VACANCY OCCURS ON THE BOARD, THE VACANCY SHALL BE
18 FILLED FOR THE UNEXPIRED TERM IN THE SAME MANNER AS THE ORIGINAL
19 APPOINTMENT.

20 (6) THE BOARD MAY REMOVE A MEMBER OF THE BOARD FOR INCOMPE-
21 TENCY, DERELICTION OF DUTY, MALFEASANCE, MISFEASANCE, OR NONFEA-
22 SANCE IN OFFICE, OR ANY OTHER GOOD CAUSE.

23 (7) THE FIRST MEETING OF THE BOARD SHALL BE CALLED BY THE
24 DIRECTOR OF THE DEPARTMENT. AT THE FIRST MEETING, THE BOARD
25 SHALL ELECT FROM AMONG ITS MEMBERS A CHAIRPERSON AND OTHER OFFI-
26 CERS AS IT CONSIDERS NECESSARY OR APPROPRIATE. AFTER THE FIRST
27 MEETING, THE BOARD SHALL MEET AT LEAST QUARTERLY, OR MORE

HB5895, As Passed House, JUNE 18, 1998

House Bill No. 5895

3

1 FREQUENTLY AT THE CALL OF THE CHAIRPERSON OR IF REQUESTED BY 3 OR
2 MORE MEMBERS.

3 (8) A MAJORITY OF THE MEMBERS OF THE BOARD CONSTITUTE A
4 QUORUM FOR THE TRANSACTION OF BUSINESS AT A MEETING OF THE
5 BOARD. A MAJORITY OF THE MEMBERS PRESENT AND SERVING ARE
6 REQUIRED FOR OFFICIAL ACTION OF THE BOARD.

7 (9) THE BUSINESS THAT THE BOARD MAY PERFORM SHALL BE CON-
8 DUCTED AT A PUBLIC MEETING OF THE BOARD HELD IN COMPLIANCE WITH
9 THE OPEN MEETINGS ACT, 1976 PA 267, MCL 15.261 TO 15.275.

10 (10) A WRITING PREPARED, OWNED, USED, IN THE POSSESSION OF,
11 OR RETAINED BY THE BOARD IN THE PERFORMANCE OF AN OFFICIAL FUNC-
12 TION IS SUBJECT TO THE FREEDOM OF INFORMATION ACT, 1976 PA 442,
13 MCL 15.231 TO 15.246.

14 (11) MEMBERS OF THE BOARD SHALL SERVE WITHOUT COMPENSATION.
15 HOWEVER, MEMBERS OF THE BOARD MAY BE REIMBURSED FOR THEIR ACTUAL
16 AND NECESSARY EXPENSES INCURRED IN THE PERFORMANCE OF THEIR OFFI-
17 CIAL DUTIES AS MEMBERS OF THE BOARD.

18 SEC. 36205. (1) THE BOARD SHALL DETERMINE WHICH LOCAL UNITS
19 OF GOVERNMENT ARE ELIGIBLE FOR DISTRIBUTION OF FUNDS AS PROVIDED
20 IN SECTION 36203.

21 (2) THE BOARD SHALL ANNUALLY DETERMINE WHICH GRANTS SHOULD
22 BE APPROVED AND SHALL SUBMIT TO THE LEGISLATURE A LIST OF THOSE
23 GRANTS, COMPILED IN ORDER OF PRIORITY. THE BOARD SHALL REQUIRE
24 THE LOCAL UNIT OF GOVERNMENT OR OTHER PERSON TO PROVIDE AT LEAST
25 25% OF THE COST OF ACQUIRING THE AGRICULTURE CONSERVATION EASE-
26 MENTS OR RESOURCE CONSERVATION EASEMENTS THAT WILL BE FUNDED WITH
27 THE GRANT.

HB5895, As Passed House, JUNE 18, 1998

House Bill No. 5895

4

1 (3) THE BOARD SHALL CONSIDER ALL OF THE FOLLOWING IN
2 REVIEWING GRANT APPLICATIONS FOR THE ACQUISITION OF AGRICULTURE
3 CONSERVATION EASEMENTS IN THE FOLLOWING PRIORITY ORDER:

4 (A) THE PRODUCTIVE CAPACITY OF THE FARMLAND SUITED FOR THE
5 PRODUCTION OF FEED, FOOD, AND FIBER, INCLUDING, BUT NOT LIMITED
6 TO, PRIME OR UNIQUE FARMLAND OR FARMLAND OF LOCAL IMPORTANCE, AS
7 DEFINED BY THE UNITED STATES DEPARTMENT OF AGRICULTURE-NATURAL
8 RESOURCES CONSERVATION SERVICE.

9 (B) WHETHER THE FARMLAND MEETS ANY OF THE FOLLOWING:

10 (i) THE FARMLAND WOULD COMPLEMENT AND IS PART OF A DOCU-
11 MENTED, LONG-RANGE EFFORT OR PLAN FOR LAND PRESERVATION BY THE
12 GOVERNING BODY OF THE LOCAL UNIT OF GOVERNMENT.

13 (ii) THE FARMLAND IS LOCATED WITHIN AN AGRICULTURAL SECURITY
14 AREA OR AN AREA THAT COMPLEMENTS OTHER LAND PROTECTION EFFORTS BY
15 CREATING A BLOCK OF FARMLAND.

16 (iii) THE FARMLAND IS ADJACENT TO FARMLAND THAT IS SUBJECT
17 TO AN AGRICULTURE CONSERVATION EASEMENT OR OTHER EASEMENT THAT
18 RESTRICTS DEVELOPMENT ON THE LAND IN PERPETUITY.

19 (C) THE AMOUNT OF MATCHING FUNDS OR PERCENTAGE OF THE AGRI-
20 CULTURE CONSERVATION EASEMENT THAT IS DONATED FROM THE LOCAL UNIT
21 OF GOVERNMENT OR OTHER PERSON, IN EXCESS OF THE MINIMUM MATCH
22 AMOUNT REQUIRED.

23 (D) WHETHER THE FARMLAND IS FACED WITH DEVELOPMENT PRESSURE
24 THAT WILL PERMANENTLY ALTER THE ABILITY FOR THAT LAND TO BE USED
25 FOR PRODUCTIVE AGRICULTURAL ACTIVITY.

26 (E) WHETHER THE FARMLAND IS ENROLLED UNDER PART 361.

HB5895, As Passed House, JUNE 18, 1998

House Bill No. 5895

5

1 (F) WHETHER THE FARMLAND HAS A CONSERVATION PLAN APPROVED BY
2 A SOIL CONSERVATION DISTRICT UNDER PART 93.

3 (4) THE BOARD SHALL CONSIDER ALL OF THE FOLLOWING IN REVIEW-
4 ING GRANT APPLICATIONS FOR THE ACQUISITION OF RESOURCE CONSERVA-
5 TION EASEMENTS:

6 (A) WHETHER THE ACQUISITION IS AT A MINIMUM CONSISTENT WITH
7 TECHNICAL SPECIFICATIONS ESTABLISHED BY THE UNITED STATES DEPART-
8 MENT OF AGRICULTURE NATURAL RESOURCES CONSERVATION SERVICE.

9 (B) WHETHER THE ACQUISITION IS CONSISTENT WITH LOCAL CONSER-
10 VATION PLANS.

11 (C) WHETHER THE ACQUISITION WOULD COMPLEMENT FEDERAL, STATE,
12 LOCAL, OR PRIVATE PROGRAMS THAT REDUCE NONPOINT SOURCE POLLUTION,
13 IMPROVE WATER QUALITY, OR ENHANCE WILDLIFE HABITAT.

14 (D) THE DEGREE TO WHICH THE RESOURCE CONSERVATION EASEMENT
15 WOULD RESULT IN OFF-SITE BENEFITS.

16 (E) THE PERCENTAGE OF THE RESOURCE CONSERVATION EASEMENT
17 DONATED.

18 (F) WHETHER PUBLIC ACCESS IS GRANTED TO THE LAND SUBJECT TO
19 THE RESOURCE CONSERVATION EASEMENT.

20 (G) THE TYPE OF VEGETATIVE COVER TO BE MAINTAINED.

21 (5) THE BOARD SHALL DEVELOP A STANDARDIZED NONAPPRAISAL
22 BASED SCORING FORMULA FOR EVALUATING THE CRITERIA LISTED IN
23 SUBSECTIONS (3) AND (4). THE BOARD SHALL PROVIDE THE FORMULA
24 DEVELOPED FOR SUBSECTION (4) TO THE DEPARTMENT OF NATURAL
25 RESOURCES FOR ITS CONSIDERATION IN EVALUATING ITS ACQUISITION OF
26 RESOURCE CONSERVATION EASEMENTS.

HB5895, As Passed House, JUNE 18, 1998

Sub. H.B. 5895 (H-3) as amended June 18, 1998

6

1 (6) THE DEPARTMENT SHALL PROVIDE THE BOARD WITH STAFF AND
2 ASSISTANCE NECESSARY TO CARRY OUT ITS RESPONSIBILITIES UNDER THIS
3 PART.

4 (7) THE LEGISLATURE SHALL APPROVE BY LAW THE GRANTS TO BE
5 FUNDED WITH MONEY IN THE TRUST FUND.

6 SEC. 36206. (1) UPON APPROPRIATION, THE DEPARTMENT SHALL
7 DISTRIBUTE GRANTS TO RECIPIENTS. THE DEPARTMENT SHALL CONDITION
8 THE RECEIPT OF A GRANT UPON THE DEPARTMENT'S APPROVAL OF THE
9 AGRICULTURE CONSERVATION EASEMENT OR THE RESOURCE CONSERVATION
10 EASEMENT, AS APPROPRIATE.

11 (2) IN REVIEWING PERMITTED USES CONTAINED WITHIN AN AGRICUL-
12 TURE CONSERVATION EASEMENT UNDER SUBSECTION (1), THE DEPARTMENT
13 SHALL CONSIDER ALL OF THE FOLLOWING:

14 (A) WHETHER THE USE ADVERSELY AFFECTS THE PRODUCTIVITY OF
15 FARMLAND.

16 (B) WHETHER THE USE MATERIALLY ALTERS OR NEGATIVELY AFFECTS
17 THE EXISTING CONDITIONS OR USE OF THE LAND.

18 (C) WHETHER THE USE RESULTS IN A MATERIAL ALTERATION OF AN
19 EXISTING STRUCTURE TO A NONAGRICULTURAL USE.

20 (D) WHETHER THE USE CONFORMS WITH ALL APPLICABLE FEDERAL,
21 STATE, AND LOCAL LAWS AND ORDINANCES.

[SEC. 36207. THE CONVEYANCE OF AN AGRICULTURAL CONSERVATION
EASEMENT OR A RESOURCE CONSERVATION EASEMENT UNDER THIS PART OR PART
361 SHALL NOT AFFECT THE ASSESSED VALUATION OF THE PROPERTY UNDER
THE GENERAL PROPERTY TAX ACT, 1893 PA 206, MCL 211.1 TO 211.157.]

22 SEC. [36208]. THE DEPARTMENT MAY PROMULGATE RULES TO IMPLI-
23 MENT THIS PART.

24 Enacting section 1. This amendatory act does not take
25 effect unless House Bill No. 5894 of the 89th Legislature is
26 enacted into law.