

**OPEN SPACE EASEMENT
FOR FARMLAND**

House Bill 5808
Sponsor: Rep. Judson Gilbert II
Committee: Land Use and Environment

Complete to 4-12-02

A SUMMARY OF HOUSE BILL 5808 AS INTRODUCED 3-19-02

The bill would amend Part 361 of the Natural Resources and Environmental Protection Act (NREPA) to change the definition of "open space land" to include farmland. Specifically, the definition would be amended to include an area approved the local governing body the preservation of which in its present condition would conserve farmland.

The section being amended in Part 361 allows an owner of open space land to apply to the local governing body for an open space development easement. An approved application contains a statement specifying the current fair market value of the land and the current fair market value of the development rights. The development rights are exempt from ad valorem taxation. The local governing body approves or rejects an application based on rules promulgated by the Department of Natural Resources after considering the comments and recommendations of various reviewing entities (which would include the county planning commission, regional planning commission, and soil conservation district). An application that is rejected can be appealed to the DNR. However, House Bill 5808 would not permit an applicant to appeal if the land in question was farmland.

Land for which an open space development easement has been approved cannot have structures built on it and cannot have an improvement made to it without approval of the local governing body. House Bill 5808, however, would make an exception for farmland by permitting a structure to be built without approval if its use was consistent with farm operations, including a residence for an individual essential to the operation of the farm and for lines for utility transmission or distribution purposes. The bill would also permit improvements to be made without local approval for a use consistent with farm operations.

Farmland would not be eligible for an open space development rights easement if it was subject to a farmland development rights agreement or an agricultural conservation agreement or the purchase of development rights, and farmland subject to an open space development rights easement would not be eligible for a farmland development rights agreement or an agricultural conservation agreement or for purchase of development rights.

MCL 324.36101 and 324.36106

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.