

Senate Fiscal Agency
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SFA**BILL ANALYSIS**

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Senate Bill 1383 (as reported with amendment)
Sponsor: Senator Alan Sanborn
Committee: Hunting, Fishing and Forestry

Date Completed: 10-2-02

RATIONALE

The National Forest System, which is managed by the U.S. Forest Service, was established in 1907 and has grown to include an estimated 192 million acres of Federal land. Over the years, Congress has provided for compensation to counties for the services they provide to both county residents and visitors to this Federal land, by requiring the Federal government to share with these counties a portion of the revenues (mainly from timber and mineral sales) it receives from the Federal land.

"The Act of May 23, 1908", which applies to National Forest Reserve land, requires the payment to counties of 25% of the revenue received from this land, "to be expended as the State...legislature may prescribe for the benefit of the public schools and public roads of the county or counties in which such national forest is situated". For several decades, due to the growth of the Federal timber sales program, counties supportive of this Federal land received and relied on increasing shares of these revenues to provide funding for schools and road maintenance. In recent years, however, the Federal timber sales have declined, which has decreased the revenues shared with the affected counties.

In 2000, Congress enacted the Secure Rural Schools and Community Self-Determination Act to stabilize education and road maintenance funding through predictable payments to the affected counties; provide additional investments in projects to improve the forest ecosystem; and improve cooperative relationships with communities and local agencies. Under this Act, eligible counties have the option of continuing to receive their share of the state's payments of 25%; or receiving their share of the average of the three highest 25% payments to the state during the period of fiscal year 1985-86

through fiscal year 1998-99 (referred to as the full payment amount).

Counties that elect to receive their full payment, and would receive \$100,000 or more, are required to reserve at least 15% but not more than 20% of their distribution for forest restoration, maintenance, or stewardship projects under Title II of the Act, county projects under Title III, or both.

Michigan is home to several national forests (Hiawatha, Huron-Manistee, and Ottawa), which contain approximately 2.8 million acres. Last year, an estimated 30 counties with Federal forest land received funding passed from the Federal government through the Michigan Department of Natural Resources under the county payment program. It has been suggested that the redistribution process for eligible counties be changed to reflect the payment options established under the Secure Rural Schools and Community Self-Determination Act of 2000.

CONTENT

The bill would amend Public Act 182 of 1990, which requires counties to redistribute money received from the Federal government for National Forest Reserve land, to do all of the following:

- Allow eligible counties to elect to receive payments from the Federal government for National Forest Reserve land in either the full payment amount or (as currently provided) the 25% payment amount.**
- Require that all payments received be spent for purposes described in the Federal Secure Rural Schools and Self-Determination Act.**

- **Require the Director of the Department of Natural Resources (DNR) to establish annual reporting requirements for the county payment program.**
- **Allow the treasurer of a county to opt not to receive payment if it were equal to or less than \$100.**

Payment Election

Election Requirements. Upon request of the DNR and as required under the Secure Rural Schools and Community Self-Determination Act, the treasurer of a county that was eligible to receive a payment under the county payment program would have to give the DNR Director written notification of the county's election to receive either the full payment amount or the 25% payment amount.

The county's election would be subject to all of the following:

- An election to receive the full payment amount would have to remain in effect through fiscal year 2005-06.
- An election to receive the 25% payment amount would have to remain in effect for two fiscal years.
- If the county failed to notify the Director by the date established by the DNR, the county would be considered to have elected to receive the 25% payment amount.

Also, if the county elected to receive the full payment amount, the written notification would have to include the total amount of the payment that would be set aside for each of the uses described below and the county treasurer would have to provide a copy of the notification to the U.S. Secretary of Agriculture. If the county treasurer failed to provide notification to the Director and the U.S. Secretary of Agriculture pursuant to these provisions and payment to the county were at least \$100,000, the county treasurer would have to return 15% of the payment to the U.S. General Treasury and use the remaining funds for the purposes set forth in Public Act 182.

As required under the Secure Rural Schools and Community Self-Determination Act, the Governor would have to provide written notification to the U.S. Secretary of Agriculture of the election made for each eligible county.

25% Payment. Currently, a county treasurer must distribute the 25% payment amount in a ratio of 75% to local school districts for school purposes and 25% to townships for the improvement of county roads within those townships. The money must be apportioned among the local school districts and townships in the same proportion as the national forest acreage in each district or township is to the total such acreage in the county. Under the bill, these requirements would apply to a county treasurer that elected to receive the 25% payment amount.

Full Payment. If a county treasurer elected to receive the full payment amount, for any fiscal year in which the payment to the county equaled or exceeded \$100,000, the treasurer would have to redistribute at least 80% but not more than 85% of the funds as provided for a county electing the 25% payment, and set aside the remaining funds for one or more of the following:

- Reserve the balance for special projects on Federal lands (forest restoration, maintenance, or stewardship projects) as provided under Title II of the Secure Rural Schools and Community Self-Determination Act.
- Reserve the balance for county projects as provided for in Title III of the Secure Rural Schools and Community Self-Determination Act.
- Return the balance to the U.S. General Treasury.

For any fiscal year in which the payment to the county was less than \$100,000, the treasurer could elect to set aside between 15% and 20% of the payment for special projects on Federal lands, county projects, and/or payment to the U.S. General Treasury, and redistribute the remaining funds to local school districts for school purposes and townships for county road improvements.

Upon expiration of the election provisions of the Secure Rural Schools and Community Self-Determination Act, a county treasurer who received payment under the county payment program would have to redistribute all of the money in a ratio of 75% to local school districts for school purposes and 25% to townships for the improvement of county roads.

Annual Report

The DNR Director would have to establish annual reporting requirements and deadlines for the counties receiving payments under the county payment program. Reporting requirements could include the preparation of financial records, narrative reports, and other written documentation submitted by the county treasurer that demonstrated all of the following:

- The county treasurer had properly distributed funds to local school districts and townships as provided for counties receiving the 25% payment amount.
- Funds distributed to the local school districts and townships were used for schools and roads as provided for in the Secure Rural Schools and Community Self-Determination Act.
- Funds set aside for county projects on Federal lands were spent in compliance with the Secure Rural Schools and Community Self-Determination Act. The reporting requirements could include detailed narrative reports and documentation of county expenditures.
- Payments were made to the U.S. General Treasury as set forth in the bill.

The bill specifies that a county treasurer who accepted payment under the county payment program would agree to comply with the reporting requirements and deadlines established by the DNR. A county treasurer could establish reporting requirements for county agencies, local school districts, or townships in order to comply with the DNR's reporting requirements.

The Director could withhold future year payments to a county that failed to comply with the reporting requirements or that did not adequately document that the funds were distributed and spent in accordance with the Secure Rural Schools and Community Self-Determination Act and this Act. The DNR would have to give the county treasurer written notification that payment was being withheld and the deficiencies in the reports or documentation. If the county treasurer failed to correct the deficiencies to the satisfaction of the DNR within 90 days, the Department would have to give a written explanation to the U.S. Secretary of Agriculture and return the funds to the U.S. General Treasury.

Election to Opt-Out

The treasurer of a county that was eligible to receive a payment equal to or less than \$100 under the county payment program could opt not to receive and redistribute the money by providing written notice upon request of the DNR. The DNR would have to distribute the rejected money to the county that had land within the same national forest and that otherwise would receive the smallest payment in the same fiscal year. If there were no other county that had land within the same national forest that would receive payment, the DNR would have to distribute the money to the county that otherwise would receive the smallest payment in the same fiscal year.

MCL 141.1301 & 141.1303

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

The payment options for counties was first introduced under the Secure Rural Schools and Community Self-Determination Act, enacted by Congress in 2000. Although the DNR apparently has been extending those payment options to eligible counties, the bill would codify them in statute, and would allow for more flexibility in county payment options, stabilization of education and road maintenance funding, job creation in the affected counties, and other opportunities associated with the implementation of forest restoration, maintenance, or stewardship projects.

In addition, the bill would give those counties that receive \$100 or less the flexibility to accept or reject payment under the program according to their benefit.

Legislative Analyst: Nobuko Nagata

FISCAL IMPACT

Because the bill, for the most part, would codify existing Department practices and changes in Federal law, the bill would have no impact on State or local revenues or

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expenditures. During FY 2001-02, approximately \$3 million was passed from the Federal government through the State to counties with Federal forest land. Of that amount, just under \$600,000 was allocated to five counties that opted to receive the full payment amount under the county payment program. The remaining \$2.4 million was allocated to 25 counties that chose to receive the 25% payment amount.

Currently, five counties receive less than \$100 under the county payment program. Some or all of these counties could choose to reject payment under the program.

There are administrative costs associated with the county payment program, for which there is no source of reimbursement.

Fiscal Analyst: Pam Graham