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House Bill 4995 (Substitute H-4 as passed by the House)
House Bill 5028 (Substitute H-4 as passed by the House)
House Bill 5029 (Substitute H-4 as passed by the House)
Sponsor: Representative Ruth Johnson (House Bill 4995)
Representative Randy Richardville (House Bill 5028)
Representative Chris Kolb (House Bill 5029)
House Committee: Tax Policy
Senate Committee: Farming, Agribusiness and Food Systems

Date Completed: 10-31-01

CONTENT

House Bills 4995 (H-4), 5028 (H-4), and 5029 (H-4) would amend the Township Zoning Act, the County Zoning Act, and the City and Village Zoning Act, respectively, to require that local units with a zoning ordinance include certain open space provisions for residential development. These requirements would apply beginning six months after the bills' effective date.

The zoning ordinances would have to allow a land owner to develop land zoned as residential by, in effect, clustering residences on one portion of the land and leaving the remaining land perpetually in an undeveloped state. (The bills would define "undeveloped state" as a natural state preserving natural resources, natural features, or scenic or wooded conditions; agricultural use; open space; or a similar use or condition. Land in an undeveloped state would not include a golf course but could include a recreational trail, picnic area, children's play area, greenway, or linear park, and could be dedicated to the use of the public.) These proposed ordinances would be known as the "Open Space Preservation" provisions.

Under House Bills 4995 (H-4) and 5028 (H-4), township and county zoning ordinances would have to state that the land owner could develop a portion of the land with the same number of dwelling units currently allowed on the whole parcel of land. The remaining percentage of land, as specified in the zoning ordinances but not less than 50%, would have to remain perpetually in an undeveloped state by means of a conservation easement, plat dedication, restrictive covenant, or other legal means running with the land. House Bill 5029 (H-4) contains identical provisions for city and village zoning ordinances, except that the amount of open space preserved would have to be at least 20%. Land developed in this way would be subject to other applicable ordinances, laws, and rules, including rules relating to suitability of soils for on-site sewage disposal for land not served by public sewers, and suitability of groundwater for on-site water supply for land not served by public water.

All three bills specify the conditions necessary for a land owner to exercise this development option. In addition to the percentage requirements above, they include requirements that the land be zoned at a density equivalent of two or fewer dwelling units per acre or, if the land were served by a public sewer system, three or fewer dwelling units per acre; that the development not depend on the extension of a public sewer or public water system, unless other development of the land also would depend on such an extension; and that the land not

already have been developed in a similar way.

After a land owner exercised the open space development option, the land could be rezoned accordingly.

The bills' requirement that zoning ordinances include Open Space Preservation provisions would not apply if, before the bills' enactment, a local unit had in effect a similar zoning ordinance provision and a land owner had exercised the option provided under that ordinance.

MCL 125.310 et al. (H.B. 4995)
125.240 et al. (H.B. 5028)
125.600 et al. (H.B. 5029)

Legislative Analyst: C. Layman

FISCAL IMPACT

It is unlikely that the bills would have any significant impact on local units or State revenues. The bills could have some minimal impact on specific local units depending on whether undeveloped areas are appraised separately from homesteads or are taxed separately from homesteads (for instance, as nonhomestead property), and whether market demographics value smaller individual properties with common areas differently from larger individual properties with no common areas.

Fiscal Analyst: D. Zin