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SFA BILL ANALYSIS

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Senate Bill 105 (as enrolled)
Sponsor: Senator Alan Sanborn
Committee: Agriculture, Forestry and Tourism

Date Completed: 3-18-03

RATIONALE

The National Forest System was established in 1907 and is managed by the U.S. Forest Service. Over the years, the U.S. Congress has provided for compensation to counties that contain this land, by requiring the U.S. government to share with these counties a portion of the revenue (mainly from timber sales) it receives from the forest land.

The first county payment program, enacted in 1908, requires the Federal government to share 25% of National Forest System revenue with counties where the national forest is situated, "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" (Chapter 192, 35 Stat. 260). In 2000, Congress enacted the Secure Rural Schools and Community Self-Determination Act, which gives eligible counties the option of continuing to receive their share of their state's payment from 25% of the National Forest System revenue (referred to as the "25% payment amount"); or electing to receive 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 ("the full payment amount"). A county receiving a full payment amount of $100,000 or more must use 80% to 85% for public schools and county roads, and set aside the remainder for special forest projects.

Michigan is home to several national forests (Hiawatha, Huron-Manistee, and Ottawa), which contain approximately 2.8 million acres. The Michigan Department of Natural Resources receives the Federal funds under the county payment program and redistribute them to approximately 30 counties that contain Federal forest land. The counties then redistribute the money according to Public Act 182 of 1990. It has been suggested that the statute be changed to reflect the payment options established under the Secure Rural Schools and Community Self-Determination Act.

CONTENT

The bill would amend Public Act 182 of 1990 to do all of the following:

-- Allow counties to elect to receive National Forest System payments in either the full payment amount or the 25% payment amount.
-- Require counties to give notice of their election to the Director of the Department of Natural Resources (DNR) and the U.S. Secretary of Agriculture.
-- Require a county receiving a full payment amount of $100,000 or more to set aside 15% to 20% for projects provided for in the Secure Rural Schools and Self-Determination Act.
-- Allow a county to refuse to accept a payment.

<u>DNR Distribution</u>

Public Act 182 provides that money received from the Federal government for land in the National Forest System must be distributed to the counties containing the land in the same proportion as the national forest acreage in each county is to the total national forest acreage in the State. The bill, instead, would require the DNR to distribute money received under the county payment program to county treasurers in accordance with annual amounts provided by the U.S. Department of Agriculture, Forest Service, under that program. ("County payment program" would mean the program authorized under Chapter 192, 35 Stat. 260, including the Secure Rural Schools and Community Self-Determination Act of 2000.)

Payment Election

Under the bill, by September 30 each year, the county board of commissioners of a county that was eligible for a payment under the county payment program would have to give the DNR Director and the U.S. Secretary of Agriculture 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 board of commissioners failed to notify the U.S. Secretary of Agriculture, the county would be considered to have elected the 25% payment amount.

Also, if a county board of commissioners 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 (for 15% to 20% of the payment). The board of commissioners would have to give a copy of the notification to the U.S. Secretary of Agriculture.

If a county board of commissioners that elected to receive the full payment amount failed to notify the U.S. Secretary of Agriculture by September 30 of any year, the county treasurer would have to return 15% of the payment received for that fiscal year to the general Treasury of the United States, and use the remaining funds for the purposes set forth in Public Act 182 (for a county receiving the 25% payment amount).

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 each eligible county's election.

Distribution of Payment

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 that elected the 25% payment amount.

Full Payment. If a county board of commissioners elected to receive the full payment amount, the county 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 amount. The treasurer would have do one or more of the following with the remaining 15% to 20% of the funds:

-- Reserve the balance for special projects on Federal lands (forest restoration, maintenance, or stewardship projects) as provided for in 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 that Act.
-- Return the balance to the U.S. Treasury.

If a county board of commissioners elected to receive the full payment amount, for any fiscal year in which the payment to the county was less than $100,000, the board of commissioners could elect to distribute the funds as provided for a county electing the 25% payment amount.

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 as provided for a county electing the 25% payment amount.

Payment Refusal

The board of commissioners of a county eligible for a payment under the county payment program could refuse to accept the payment by returning it to the U.S. Treasury.

Provision of Information

At the DNR's request, a county treasurer would have to give the Department information related to the distribution of funds under Public Act 182 as necessary for the DNR to meet its obligations under Federal law.

MCL 141.1301 & 141.1303

BACKGROUND

Due to the growth of the Federal timber sales program for several decades after Congress passed the 1908 Act, counties supporting National Forest System land received and relied on increasing shares of the timber sales revenue to provide funding for schools and roads. In recent years, however, Federal timber sales have sharply declined, which has decreased the revenue shared with the affected counties. This led Congress to enact the Secure Rural Schools and Community Self-Determination Act of 2000, in order to: stabilize payments to counties for schools and roads; provide additional investments in, and employment opportunities through, projects to improve the forest ecosystem and restore land and water quality; and improve cooperative relationships among the people who use the land and the agencies that manage it.

Counties that elect to receive their full payment amount must use 80% to 85% as required for the 25% payment amount (roads and schools), and reserve the balance for forest restoration, maintenance, or stewardship projects under Title II of the Act, county projects under Title III, or both, or return the balance to the U.S. Treasury. Counties whose full payment amount is less than $100,000 may choose to use all of the funds as required for the 25% payment amount.

Under Title III, county payments may be used for search, rescue, and emergency services performed on "Federal land" (land within the National Forest System); salaries and benefits of county employees who supervise individuals performing mandatory community service on Federal land; the purchase of easements; forest-related after-school programs; efforts to educate homeowners in fire-sensitive ecosystems; planning efforts to reduce the impact of development on adjacent Federal land; and cost-share requirements of the Cooperative Forestry Assistance Act.

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 were introduced under the Secure Rural Schools and Community Self-Determination Act, enacted by Congress in 2000. These options give counties more flexibility in their receipt and use of payments, and allow for 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. Apparently, the DNR has been extending the payment options to eligible counties for the last several years. By codifying the payment options, the bill would ensure that State statute reflected current practice and Federal law.

In addition, the bill would give eligible counties the flexibility to accept or reject payment under the program.

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bill would have no fiscal impact on State or local government since it would amend State statute to reflect existing Department practices and Federal law.

A portion of the revenue received by the Federal government for resources from the Federal forest lands in Michigan counties is transferred back to the counties and used to support schools and improvements to local roads. In FY 2001-02, approximately $3 million was passed from the Federal government through the State to the 30 eligible counties. Of the amount appropriated, approximately $540,000 was allocated to the five counties that opted to receive the full payment amount under the county payment program. The remaining revenue was allocated to the 24 counties that chose the 25% payment option. In FY 2002-03, $3,300,000 was appropriated for these Federal payments to counties. The Department estimates that actual collection will be approximately $2,500,000.

The bill would allow any county to refuse to accept the Federal funds. Five of the counties receive a payment of only a few dollars and may choose to refuse the funding rather than distribute it according to the formula established in the Act.

Fiscal Analyst: Jessica Runnels

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