

Legislative Analysis



AGRICULTURAL REAL PROPERTY

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House Bill 4072 as introduced
Sponsor: Rep. Dave Hildenbrand

House Bill 4271 (Substitute H-2)
Sponsor: Rep. Joe Hune

House Bill 4468 as introduced
Sponsor: Rep. John Stahl
Committee: Tax Policy

First Analysis (10-27-05)

BRIEF SUMMARY: Each of the bills would amend the General Property Tax Act to classify certain types of agriculture-related property as being "agricultural real property."

FISCAL IMPACT: Given that the amount of property that would qualify for the 18-mill exemption is not known, the fiscal impact of these bills cannot accurately be determined. To the extent that property becomes eligible for the 18-mill exemption, local property tax revenue that would be earmarked for local education would decline. Although there is no direct impact on state revenue, there is an indirect burden on the School Aid Fund in that it must compensate for reduced educational funding at the local level.

THE APPARENT PROBLEM:

The General Property Tax Act provides certain tax benefits to agricultural property, including exempting such property for the local 18 school operating mills and allowing the valuation of such property to remain capped upon a transfer of ownership so long as it continues to be used for an agricultural purpose. Generally speaking, the act classifies property as being agricultural property if such property is used for an agricultural operation. The act further defines "agricultural operation" to mean, among others, raising livestock and performing any practices on a farm incident to, or in conjunction with, farming operations.

Reportedly, there has been some inconsistency among local taxing units in the state regarding the classification of property as it relates to equine and cervidae operations and game bird hunting preserves, as it is not entirely clear as to whether these activities are commercial in nature or agricultural in nature. Property used to board and train horses, for example, often is a commercial activity. However, such property clearly has an agricultural component as well. Legislation has been introduced to clearly specify that raising equines (horses) and cervidae (deer, elk, and moose) and operating a game bird hunting preserve would be considered to be an agricultural operation.

THE CONTENT OF THE BILL:

Under the General Property Tax Act (MCL 211.34c), "agricultural real property" includes parcels used partially or entirely for certain "agricultural operations," which the act further defines to mean the following:

- Farming in all its branches, including cultivating soil.
- Growing and harvesting any agricultural, horticultural, or floricultural commodity.
- Dairying.
- Raising livestock, bees, fish, fur-bearing animals, or poultry.
- Turf and tree farming.
- Performing any practices on a farm incident to, or in conjunction with, farming operations.

House Bill 4072

The bill would add that "agricultural operation" includes raising, breeding, training, or boarding horses.

House Bill 4271

The bill specifies that raising livestock would including farming operations that harvest cervidae on site where at least 60 percent of the cervidae were born as part of the farming operation. In addition, the bill would define "livestock" to mean cattle, sheep, new world camelids, goats, bison, privately owned cervides, ratites, swine, equine, poultry, aquaculture, and rabbits. Livestock would not include dogs or cats.

House Bill 4468

The bill would add that raising poultry includes operating a game bird hunting preserve licensed under Part 417 of the Natural Resources and Environmental Protection Act.

BACKGROUND INFORMATION:

School Millage Exemption

Under the General Property Tax Act "qualified agricultural property" is exempt from the 18 local school operating mills, and is defined to mean unoccupied property and related buildings classified as agricultural, or other unoccupied property and related buildings located on that property devoted primarily to "agricultural use" as defined in Part 361 (Farmland and Open Space Preservation) of the Natural Resources and Environmental Protection Act. (The bills contained in this summary each expand what is considered to be property that is classified as agricultural real property.)

"Agricultural Use" is defined under the NREPA to mean the production of plants and animals useful to humans, including forages and sod crops; grains, feed crops, and field

crops; dairy and dairy products; poultry and poultry products; livestock, including breeding and grazing of cattle, swine, captive cervidae, and similar animals; berries; herbs; flowers; seeds; grasses; nursery stock; fruits; vegetables; Christmas trees; and other similar uses and activities. Part 361 further notes that "agricultural use" does not include the management and harvesting of a woodlot. In addition, property used for commercial storage, commercial processing, commercial distribution, commercial marketing, or commercial shipping operations or other commercial or industrial purposes is not eligible for the exemption. A parcel is devoted primarily to agricultural use only if more than 50 percent of the parcel's acreage is devoted to agricultural use. Owners of property that is not classified as agricultural real property must file an affidavit with the local assessing unit by May 1.

ARGUMENTS:

For:

By clarifying what is considered to be agricultural property, the bills keep the General Property Tax Act in line with emerging trends within the agricultural industry. Today, more and more farmers are engaging in a variety of "value-added" agricultural operations, such as game preserves and equine-related operations. These alternative production and marketing strategies are more "commercial" in nature than traditional agricultural operations. In the future, as these types of agricultural practices develop, the line of demarcation between commercial and agricultural activities becomes blurred. This increases the likelihood that such property would no longer receive the tax benefits currently provided under the statute, and undermines efforts to retain and preserve farmland in the state.

The bill clarifies that raising equines and raising cervidae are considered to be agricultural operations, thus enabling property used for such purposes to qualify for the exemption from school operating taxes. This change is consistent with a variety of other state laws with respect to how such activities are classified. The breeding and grazing of captive cervidae is considered to be an "agricultural use" under Part 361 of the Natural Resources and Environmental Protection Act (more commonly known as PA 116). A similar definition is included in Part 362 (Agricultural Preservation Fund). Part 327 (Great Lakes Preservation) defines "agricultural purpose" to mean the agricultural production of those plants and animals, including cervidae and the breeding and grazing of equine. Perhaps most importantly, the Animal Industry Act, which regulates equine and cervidae operations, defines "livestock" to mean those species of animals used for human food and fiber or those species of animals used for service to humans, including privately owned cervids and equine.

Further, the bill also clarifies that game bird hunting preserves are considered an agricultural operation. While not specifically related to taxation, the Court of Appeals issued an unpublished opinion, *Milan Township v. Jaworski*, in December 2003 that held that a pheasant and quail hunting preserve was a "farm" as that term is used in the Right to Farm Act, because it is used for the breeding, raising, and selling of game birds for commercial purposes. House Bill 4468 is consistent in spirit with the court's decision.

Additionally, the Commission on Agriculture adopted a resolution in June 2002 recognizing game bird hunting preserves as an agricultural activity and value-added farm opportunity.

Against:

Agricultural operations have special treatment under the school financing plan first put in place by Proposal A over a decade ago. They are exempt from paying local school operating taxes (which other businesses must pay) and they are exempt from having the taxes on property increase when it is sold (increases that other property owners must face). Expanding the nature of agricultural exemptions, then, results in reduced revenue for schools and for local units of government as more and more property becomes entitled to these benefits. If the distinction between agricultural and commercial property classifications becomes more blurred, and as more different kinds of operations become classified for tax purposes as agricultural rather than commercial, it may be more practical to re-examine these tax exemptions in their entirety rather than expanding the amount of property that enjoys them.

POSITIONS:

The Michigan Farm Bureau testified in support of the bills. (10-5-05)

The Michigan Association of Gamebird Breeders and Hunting Preserves testified in support of HB 4468. (10-5-05)

The Willow Lake Sportsmen's Club testified in support of HB 4468. (10-5-05)

Masco Corporation indicated that it supports HB 4072 and HB 4468. (10-5-05)

The Michigan Association of Realtors indicated that it supports HB 4468. (10-5-05)

The Hunter's Ridge Club indicated that it supports HB 4468. (10-5-05)

The Michigan United Conservation Clubs indicated that it supports HB 4468. (10-5-05)

The Michigan Game Birds Association indicated that it supports HB 4468. (10-5-05)

The Department of Treasury testified that it opposes the bills. (10-5-05)

The Michigan Assessors Association indicated that it opposes the bills. (10-5-05)

The Michigan Townships Association testified in opposition to HB 4468. (10-5-05)

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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.