Legislative Analysis

Mitchell Bean, Director
Phone: (517) 373-8080
http://www.house.mi.gov/hfa

MODIFY COMMERCIAL FOREST ACT

House Bill 5454
Sponsor: Rep. Kevin Elsenheimer

House Bill 5455
Sponsor: Rep Bill Huizenga
Committee: Conservation, Forestry, and Outdoor Recreation

Complete to 12-7-05

A SUMMARY OF HOUSE BILLS 5454 AND 5455 AS INTRODUCED 11-29-05

The bills would amend the Natural Resources and Environmental Protection Act to modify the Commercial Forest Act. Among other things, the bills would set the penalty rate for owners of commercial forestland who withdrew their property; require that the public have access to the forestland for hunting and fishing; and modify the eligibility criteria to designate commercial forestland. The bills are tie-barred to each other so that neither could go into effect unless both are enacted.

Currently under the law, commercial forests are not subject to the ad valorem general property tax. Instead, the forests are subject to an annual specific tax that between 1981 and now, ranged from 15 cents per acre to 1.10 per acre. House Bill 5454 (MCL 324.51105 et al) would retain the specific tax and the $1.10 per acre rate for commercial forests.

Currently under the law, commercial forestland can be withdrawn from this taxing arrangement if the landowner pays the township treasurer a penalty per acre equal to the product of the current average property tax per acre on timber cutover property within the township (as determined by the township assessor) multiplied by either 1) the number of years, to a maximum of seven, that the land was assessed the specific tax (this method applied to forestlands designated before January 1994), or 2) the number of years, to a maximum of 15 years (applied to more recently designated forest lands). The law also specifies how the penalty is calculated in townships having no real property classified as timber cutover. House Bill 5454 would eliminate these provisions and specify, instead, that the penalty per acre would be equal to the sum of the ad valorem general property tax from which the forestland was exempted for the preceding 15 years, but not longer than the period for which the property had been designated as commercial forestland.

House Bill 5454 requires that, for land classified as commercial forest after March 30, 1995, the owner provide the Department of Natural Resources with documentation that he or she would provide access to the general public for hunting and fishing. The documentation would have to include one or more of the following:

-- if through land owned by the owner of the commercial forestland, a statement certifying the area or areas through which the general public could access the commercial forestland;
-- if through land owned by a person other than the owner of the commercial forestland, a copy of an easement that granted rights to the general public to access the commercial forestland; or
-- if through public land, a statement identifying those public lands through which the general public could access the commercial forestland.

For land classified as commercial forestland after March 30, 1995, if the location of the public access for hunting and fishing changes by an act of the owner, the owner of the commercial forestland would be required to provide the department with an update of the documentation. Failure to maintain access to the general public for hunting and fishing would subject the commercial forestland to declassification.

House Bill 5455 would modify the eligibility criteria under the Commercial Forest Act (MCL 324.51101 et al).

Currently under the law, the owner of forestland can apply to the Department of Natural Resources to have the land determined to be a commercial forest. House Bill 5455 would modify this section specifying, instead, that an owner of at least 40 contiguous acres or a survey unit consisting of one-sixteenth of a section could apply. "Contiguous" would mean land that touches at any point. The existence of a public or private road, a railroad, or a utility right-of-way that separates any part of the land does not make the land non-contiguous.

Currently under the law, a forestland owner submits an application to the department, accompanied by a non-refundable application fee in the amount of $1 per acre (or fraction of an acre), not to exceed $1,000. Under House Bill 5455, the application would have to be postmarked or delivered not later than April 1 to be eligible for approval as commercial forest for the following tax year. Further, the application fee would be in the amount of $1 per acre (or fraction of an acre), but not less than $200 and not more than $1,000.

The application to the department must also be accompanied by a legal description and the amount of acreage considered for determination as a commercial forest; a statement certifying that a forest management plan covering the forestland has been prepared and is in effect; and a statement certifying that the owner of the forestland owns the timber rights to the standing timber. House Bill 5455 would retain all of these provisions, and also require documentation that the owner of the commercial forestland would provide access to the general public for hunting and fishing.

Upon receipt of the application, the forest management certification, the timber rights certification, and the application fee, the Department of Natural Resources must evaluate the forestland that is offered, and set a date for a public hearing to determine the eligibility of the forestland as a commercial forest. The hearing must be held in the

county where the land is located not later than November 1 following receipt of the application, accompanying fee, and certifications. House Bill 5455 would retain these provisions, and also require that public access documentation be filed with the application, before a hearing date was established.

Finally, the bill would delete outdated language in the law concerning the requirement that owners of forestland designated before January 1994 develop a forest management plan, and file a statement that the plan was complete with the Department of Natural Resources before January 1997.

The bill would delete the definition for "natural resources professional" which currently means a person who is acknowledged by the department as having the education, knowledge, experience, and skills to identify, schedule, and implement appropriate forest management practices needed to achieve the purposes of this part on land subject to or to be subject to this part.

FISCAL INFORMATION:

The bills would have no fiscal impact on the State, and an indeterminate impact on local governmental units, given that the PILT provision is a "Hold Harmless" for local tax revenue, and the penalty revenue would depend on the value of the property listed as a Commercial Forest Reserve at the time it is withdrawn from the program.

Legislative Analyst: J. Hunault
Fiscal Analyst: Kirk Lindquist

■ 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.