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BILL ANALYSIS

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Senate Bills 912, 913, and 914 (as introduced 12-1-05)

Sponsor: Senator Gerald Van Woerkom (S.B. 912)

Senator Tony Stamas (S.B. 913)

Senator Jason E. Allen (S.B. 914)

Committee: Agriculture, Forestry and Tourism

Date Completed: 1-25-06

CONTENT

Senate Bill 912 would amend the General Property Tax Act to do the following:

- Exempt qualified forest property from taxes levied by local school districts, with some exceptions.
- Require the amount exempted each year under the bill to be paid to the School Aid Fund from the General Fund.

The bill also would repeal Part 513 (Private Forestry) of the Natural Resources and Environmental Protection Act (NREPA), which provides a tax exemption for private forest reservations.

Senate Bill 913 would create the "Qualified Forest Property Recapture Tax Act", effective January 1, 2007, to provide for the recapture of taxes owed on qualified forest property that was converted by a change in use after December 31, 2006, and no longer qualified for a tax exemption. Proceeds collected under the bill would have to be deposited in the State's General Fund.

Senate Bill 914 would amend the Revised School Code to exempt qualified forest property from mills levied by local school districts.

The bills would define "qualified forest property" as a parcel of real property that meets all of the following conditions:

- Is not less than 20 contiguous acres in size, of which at least 80% is productive forest capable of producing wood products.
- Is stocked with forest products.
- Has no buildings or structures on the real property.
- Is subject to an approved forest management plan.
- Is subject to a development rights agreement or development rights easement under Part 361 (Farmland and Open Space Preservation) of NREPA.

"Productive forest" would mean real property capable of producing at least 50 cubic feet of wood per acre per year. "Approved forest management plan" would mean a forest management plan for harvesting, planting, and regeneration of forest products prepared by a certified or registered forester that contained mandatory and recommended management practices. "Forest products" would include timber and pulpwood-related products.

The three bills are tie-barred together.

Senate Bill 912

Under the bill, qualified forestry property would be exempt from the tax levied by a local school district for school operating purposes to the extent provided under Section 1211 of the Revised School Code (which Senate Bill 914 would amend).

To claim an exemption under the bill, the owner of the property would have to file an affidavit with the local tax collecting unit by May 1. The affidavit would have to be on a form prescribed by the Treasury Department and would have to attest that the property for which the exemption was claimed was qualified forest property.

The assessor would have to determine if the property was qualified forest property, and if so, would have to exempt the property from the collection of the tax until December 31 of the year in which the property was no longer qualified forest property.

If all or a portion of the property were no longer qualified forest property, the owner would have to rescind the exemption for that portion of the property within 90 days by filing with the local tax collecting unit a rescission form prescribed by the Treasury Department. An owner who failed to do so would be subject to a penalty of \$5 per day for each failure, beginning after the 90 days had passed, up to a maximum of \$1,000. The Treasury Department could waive the penalty. A penalty collected under this provision would have to be deposited in the State's General Fund.

An owner of property that was qualified forest property on May 1, for which no exemption was on the tax roll, could file an appeal with the July or December board of review under Section 53b in the year the exemption was claimed or the next year. (Section 53b permits either a taxpayer or an assessing officer to petition the board of review if there has been a clerical error or a mutual mistake in the assessment, computation, or rate of taxation. The bill would amend Section 53b to permit the board of review to hear appeals provided for in the bill.)

An owner of property that was qualified forest property on May 1, for which an exemption was denied, could file an appeal with the July board of review for summer taxes or, if there were not a summer levy of school operating taxes, with the December board of review.

If the local tax assessor believed that the property for which an exemption had been granted was not qualified forest property, the assessor could deny or modify an existing exemption by notifying the owner in

writing as required under Section 24c. (That section requires the assessor to notify the owner or owners by certified mail of an increase in the tentative taxable value for the year. The notice must contain specific information on the change, including the current tentative taxable value, the net change from the preceding year, the classification of the property, and the time and place where the board of review will be meeting.) A taxpayer could appeal the assessor's determination to the board of review. A decision of the board of review could be appealed to the Residential and Small Claims Division of the Michigan Tax Tribunal.

If property for which an exemption had been granted were not qualified forest property, the property would have to be placed immediately on the tax roll and a corrected tax bill issued for each tax year by the local tax collecting unit or by the county treasurer as though the exemption had not been granted.

If property exempted under the bill were converted by a change in use and were no longer qualified forest property, the property would be subject to the qualified forest property recapture tax under the proposed Qualified Forest Property Recapture Tax Act.

Annually, the State Treasurer would have to pay from the General Fund to the School Aid Fund an amount equal to the total amount of the tax exempted under the bill in each year.

Every three years, beginning in 2008, the Treasury Department would have to provide to the House and Senate standing committees with primary jurisdiction over forestry issues a report that included the number of acres of qualified forest property in each county, and the amount of timber produced on qualified forest property each year.

In addition, the bill would repeal Part 513 of NREPA, effective September 1, 2007. Part 513 provides an exemption from all taxation for the value of private forest reservations over \$1 per acre. Land may be designated a private forest reservation if it meets certain size requirements and if the owner plants at least 1,200 trees per acre, or a sufficient number of forest trees to assure a spacing of six feet by six feet on the open areas.

Before removing any trees, the owner must pay a license fee of 5% of the appraised valuation of the cut timber. If the owner withdraws land from the classification of a private forest reserve, or fails to comply with Part 513, the assessor must assess the value of the timber on the stump, and the owner must pay a fee of 5% of the appraised valuation. All taxes and fees collected under Part 513 that are allocated to the local school district where the reservation is located must be paid to the State Treasurer and credited to the School Aid Fund.

Senate Bill 913

The bill would create the "Qualified Forest Property Recapture Tax Act".

Beginning January 1, 2007, the qualified forest property recapture tax would be imposed as provided under the bill if the property was converted by a change in use after December 31, 2006. "Converted by a change in use" would mean that due to a change in use the property was no longer qualified forest property as determined by the assessor of the local tax collecting unit.

The recapture tax would be the obligation of the person who owned the property at the time the property was converted by a change in use. If a recapture tax were imposed, it would be a lien on the property subject to the recapture tax until paid. If the recapture tax were not paid within 90 days of the date the property was converted by a change in use, the State Treasurer could bring a civil action against the property owner as of the date the property was converted by a change in use. If the recapture tax remained unpaid on March 1 in the year after the property was converted, the property would have to be returned as delinquent to the county treasurer of the county in which the property was located. Property upon which the recapture tax, interest, penalties, and fees remained unpaid after the property was returned as delinquent would be subject to forfeiture, foreclosure, and sale for the enforcement and collection of the delinquent taxes as provided in the General Property Tax Act.

The rate of the recapture tax would be a percentage of the total amount exempted under Section 7jj of the General Property

Tax Act (which Senate Bill 912 would add), based on the number of years between the time the exemption was first claimed and the time the property was converted by a change in use, as follows:

- Within 20 years: 100%
- 20 or more years but less than 30 years: 75%
- 30 or more years but less than 40 years: 50%

If the property were converted by a change in use 40 or more years after an exemption was first claimed under Section 7jj, no recapture tax would be due.

The recapture tax would have to be collected by the county treasurer and deposited with the State Treasurer as provided in the bill. By the 15th day of each month, the county treasurer would have to itemize the recapture taxes collected the preceding month on a form prescribed by the State Treasurer, and transmit the form and the recapture taxes collected to the State Treasurer.

The county treasurer could retain the interest earned on the money collected under the bill as reimbursement for the costs incurred by the county in collecting and transmitting the recapture tax. The money retained would have to be deposited in the treasury of the county where the recapture tax was collected to the credit of the general fund.

The local tax assessor would have to notify the county treasurer of the date the property was converted by a change in use.

The State Treasurer would be required to credit the proceeds of the recapture tax collected by the county treasurers to the State's General Fund.

The Department of Treasury would have to administer the proposed Act.

Senate Bill 914

Under Section 1211 of the Revised School Code, the board of a school district may levy a limited number of mills for school operating purposes. Principal residences and qualified agricultural property are exempt from the levied mills except as reduced by a school board. The bill also

would exempt qualified forest property from the mills.

The Code permits the board of a school district that had a foundation allowance of more than \$6,500 for fiscal year (FY) 1994-95 to reduce the exemption for a primary residence and qualified agricultural property by the number of mills required to generate sufficient revenue for the school district's combined State and local revenue to be equal to the district's foundation allowance in FY 1994-95. Under the bill, the board also could reduce that exemption for qualified forest property.

A school district may levy additional mills on all classes of property if the Department of Treasury determines that the maximum number of mills allowed to be levied is not sufficient to generate a certain minimum amount of revenue. If the number of mills a school district is allowed to levy is less than the number allowed during the previous year, any reduction in the school district's millage rate must be calculated by first reducing any additional mills the school district had levied on all classes of property, and then increasing the exemptions for a principal residence and qualified agricultural property. The bill would include qualified forest property in that provision.

MCL 211.53b et al. (S.B. 912)
380.1211 (S.B. 914)

Legislative Analyst: Curtis Walker

FISCAL IMPACT

These bills would have no fiscal impact because no forest land would qualify for the tax exemption proposed in Senate Bill 912. One of the conditions for being "qualified forest property" is that the land be subject to a development rights agreement under Part 361 of NREPA (Farmland and Open Space Preservation, commonly referred to as P.A. 116); however, to qualify for the P.A. 116 program, the property must be in agricultural use and the definition of agricultural use explicitly excludes the management and harvesting of a woodlot.

If this P.A. 116 qualifying requirement were excluded from the fiscal impact analysis, it is estimated that these bills would reduce the revenue generated by the 18-mill local school tax in the range of \$30 million to \$50

million. When first implemented, the impact of the bills would probably be less than this range because it would take some time for forest owners to establish a management program and qualify their land for this tax exemption. Probably over time, the cost of this tax exemption would approach the higher end of this range.

This loss in revenue would affect the General Fund under provisions contained in Senate Bill 912. The reduction in local school property tax revenue, which this bill would cause, would directly reduce the tax revenue going to local school districts; however, due to the State's guaranteed foundation allowance, this loss in local school revenue would be made up dollar-for-dollar through increased payments from the School Aid Fund (SAF). This bill would hold the SAF harmless, however, by requiring that the General Fund reimburse the SAF for the increase in expenditures.

Enacting Section 2 in this bill would repeal a tax reduction program called the Private Forest Reservation Program. This program was first established in 1917 and was intended to help preserve forest land on farms. Under this program, the owner of land with not more than 160 acres with at least half of the land devoted to agricultural uses may designate up to one-fourth of the land as a private forest reservation. The land in this forest reservation is not taxed on the value that is in excess of \$1 per acre. This is entirely a local government program, so there are no up-to-date statewide aggregate data available on the amount of land that is in this program or how much of a tax reduction this land is receiving. What little data there are suggest this is a very small program on a statewide basis; however, individual land owners participating in this program could be receiving a substantial tax reduction.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.