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BILL ANALYSIS

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Senate Bill 1037 (Substitute S-1 as reported)  
Sponsor: Senator Mike Prusi  
Committee: Natural Resources and Environmental Affairs

Date Completed: 9-9-08

### **RATIONALE**

Part 527 (Municipal Forests) of the Natural Resources and Environmental Protection Act allows the Department of Natural Resources (DNR) to sell certain land to a public agency, such as a school district or municipality, for forestry purposes. Under amendments enacted in 2004 and 2006, the DNR does not retain a reversionary interest in municipal forestland conveyed under these provisions before the effective date of the 2004 amendments; that is, the land will not revert to State ownership if it is not used for forestry purposes. The DNR must relinquish its reversionary interest upon a public agency's request (although, beginning in June 2010, the public agency may not convey the property without the Department's approval). The DNR does retain a reversionary interest, however, if the forestland is "prime land". Prime land is municipal forestland that provides access to a public body of water, is within the boundary of a program administered by the DNR, or meets certain criteria pertaining to acreage and tree growth. This land will revert to State ownership if it is no longer used for forestry purposes.

The Ewen-Trout Creek Consolidated School District in Ontonagon County wished to sell a parcel of municipal forestland that was conveyed to the district and was subject to a reversionary interest under Part 527. According to correspondence between the school district and the DNR, the Department denied the district's request that it relinquish the reversionary interest because the forestland contains a stream, making it prime land. The district then requested the DNR to relinquish its interest in only a portion of the property, which is separated

from the stream by a road. The Department originally determined that the stream "encumbered" the entire parcel and denied the amended request. Therefore, it was suggested that a statutory amendment should remove the State's reversionary interest in a parcel that is split from prime land and no longer qualifies as prime land.

### **CONTENT**

**The bill would amend Part 527 of the Natural Resources and Environmental Protection Act to prevent a parcel from being considered prime land after it was split from prime land, if the parcel no longer were within the boundary of a DNR-administered program or no longer provided access to a public body of water.**

Under Part 527, the Department of Natural Resources, the Department of Treasury, or a State officer in charge of State land may sell homestead, tax, swamp, or primary school land to a public agency for forestry purposes at a price set by the Department or the State officer. ("Public agency" means a school district, a public educational institution, a governmental unit or agency of the State, or a municipality.) The amount of land sold may not exceed the amount necessary for the public agency, and the land must be suitable for and used solely for a forestry purpose unless conveyed as provided under Part 527.

Land sold to a public agency must be used only for a forestry purpose if it is prime land. When the prime land is no longer used for a

forestry purpose, the land reverts to the State.

"Prime land" means municipal forestland that meets one or more of the following requirements:

- Is within a boundary of a program administered by the DNR.
- Provides access to a public body of water.
- Is at least 121 acres in size and, at any time during the preceding 10 years, had a basal area of at least 90 square feet per acre.

Under the bill, if prime land were partitioned or split, a resulting parcel could not be considered prime land meeting the criterion of being within the boundary of a DNR program or providing access to a public body of water, unless the resulting parcel independently met that requirement. This would not apply to prime land that qualified based on acreage and basal area (which refers to the growth of trees of a certain size).

MCL 324.52706

### **BACKGROUND**

Part 527 has its origins in Public Act 217 of 1931, which was incorporated into the Natural Resources and Environmental Protection Act (NREPA) when that statute was enacted in 1994. According to the Department of Natural Resources, the 1931 statute was enacted to provide for the establishment of municipal (county, township, city, village, or school district) forests, including the acquisition of State land by municipalities to be managed for forestry purposes. The DNR reports that approximately 75,000 acres of State land were deeded to municipalities throughout the State under this Act; most of the property was deeded before 1960 and actively managed as forestland for many years by the municipalities.

Public Act 377 of 2004 amended Part 527 to remove the DNR's reversionary interest in municipal forestland, except in the case of prime land. At the time, it was pointed out that many parcels conveyed to school districts and municipalities no longer serve their original purpose. For example, property might have been surrounded by undeveloped land away from core cities

when it was conveyed, but now is surrounded by development. Proponents of the amendments believed that removing the reversionary interest would give communities and school districts flexibility by expanding the potential uses of the land. They also noted that forestland subsequently sold to another entity would return to the tax rolls and generate revenue for municipalities, school districts, and the State.

Public Act 179 of 2006 amended the provisions enacted in 2004, making what were considered technical corrections. Among other things, the 2006 amendments added references to land conveyed under Public Act 217 of 1931, since all of the land in question apparently was conveyed before NREPA was enacted.

Under the current statute, except for prime land, the DNR must relinquish a reversionary interest in municipal forestland conveyed to a public agency under Part 527 or Public Act 217 of 1931 before October 12, 2004 (the effective date of Public Act 377), within 90 days after the Department receives a written request from the public agency. Beginning on June 6, 2010, the public agency may not convey the municipal forestland without the DNR's approval.

A public agency to which a reversionary interest was relinquished and any public agency that is a successor in interest may not convey the forestland, or any part of it, unless the conveyance is to a public agency for \$1 or to a public agency or any other person for fair market value. If the conveyance is made for fair market value, the public agency must have an accounting taken, retain 50% of the proceeds, and submit the remaining 50% to the Department of Treasury for deposit as follows:

- The first \$18.0 million in total proceeds from all such conveyances must be deposited in the General Fund.
- Any excess proceeds must be deposited in the Fire Protection Fund.

These provisions do not apply to subsequent conveyances of the municipal forestland once it is conveyed for fair market value, an accounting is taken, and the proceeds are distributed as provided.

If, before June 6, 2010, a public agency conveys municipal forestland formerly subject to a reversionary interest that was relinquished, the public agency must notify the DNR within 60 days.

### **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 provisions in Part 527 concerning prime land limit the use of the property and prevent a public agency from selling it. This created a problem for the Ewen-Trout Consolidated School District, which had been trying for years to sell a parcel of municipal forestland in order to raise badly needed revenue for the district. As noted above, the DNR initially refused to relinquish its interest because, technically, the property provided access to a public body of water. Evidently, however, this public body of water is a stream that is dry most of the summer and has little or no environmental or recreational significance. Because a road separates the portion of the parcel with the stream from the remainder of the forestland, splitting the land would allow the portion without the stream to be conveyed free of the State's reversionary interest. The bill represents a reasonable compromise for public agencies holding municipal forestland that provides access to a public body of water or is within the boundaries of a DNR-administered program.

**Response:** The bill is no longer needed to address the situation in the Ewen-Trout School District. According to the DNR, the property in question ultimately was split and the Department deeded over its reversionary interest in the portion without the stream.

#### **Opposing Argument**

The bill would further dilute the protections afforded to municipal forests that qualify as prime land, which already were weakened by the 2004 and 2006 amendments. In addition, although public agencies that sold forestland for fair market value would realize an immediate gain, they would forgo their opportunity for long-term revenue from sustainable forest management activities.

Legislative Analyst: Suzanne Lowe

### **FISCAL IMPACT**

The bill would generate an indeterminate amount of revenue for the State and local units of government. Currently, a municipality may not sell prime land. By dividing prime land into parcels that were not within a boundary of a DNR program or did not provide access to a public body of water, a municipality would be able to sell portions of land that are not eligible for sale under existing law.

Proceeds from the sale of municipal forestland are divided evenly between the State and the local unit of government. Of the amount received by the State, the first \$18.0 million of revenue under Part 527 is deposited into the General Fund and additional revenue is deposited in the Fire Protection Fund.

Fiscal Analyst: Jessica Runnels

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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.