



Telephone: (517) 373-5383 Fax: (517) 373-1986 TDD: (517) 373-0543

House Bill 4887 (Substitute H-1 as passed by the House)

Sponsor: Representative Jeff Mayes

House Committee: Energy and Technology Senate Committee: Agriculture and Bioeconomy

Date Completed: 8-18-09

## **CONTENT**

The bill would amend Part 361 (Farmland and Open Space Preservation) of the Natural Resources and Environmental Protection Act to include a renewable energy system at a farm operation as a permitted use of land that is subject to an agricultural conservation easement or development rights agreement.

Part 361 permits the Michigan Department of Agriculture or a local unit of government to execute an agricultural conservation easement or development rights easement or agreement with the owner of farmland or open space land. In exchange for a credit against the income tax or Michigan Business Tax, the owner agrees not to undertake development of the land for a term of years or in perpetuity. The land may be used only as specified in the easement or agreement, or for certain permitted uses specified in the Act.

"Permitted use" means any use expressly authorized within a development rights agreement, development rights easement, or agricultural conservation easement that is consistent with the farming operation or that does not alter the open space character of the land. Storage, retail or wholesale marketing, or processing of agricultural products is a permitted use in a farming operation if the farm operator produced more than 50% of the stored, processed, or marketed products for at least three of the preceding five years.

Under the bill, a renewable energy system at a farm operation also would be a permitted use. "Renewable energy system" would mean either of the following:

- -- A wind energy conversion system or solar energy system used to generate electricity.
- -- A system that uses biomass to generate energy.

"Biomass" would mean that term as defined in the Clean, Renewable, and Efficient Energy Act, i.e., any organic matter that is not derived from fossil fuels, that can be converted to usable fuel for the production of energy, and that replenishes over a human time frame, including agricultural crops and crop wastes; short-rotation energy crops; herbaceous plants; trees and wood derived from sustainably managed forests or procurement systems; paper and pulp products; precommercial wood thinning waste, brush, or yard waste; wood wastes and residues from the processing of wood products or paper; animal waste; wastewater sludge or sewage; aquatic plants; food production and processing waste; and organic by-products from biofuel production.

MCL 324.36101 & 324.36104a Legislative Analyst: Curtis Walker

Page 1 of 2 hb4887/0910

## **FISCAL IMPACT**

The bill would have an indeterminate impact on State revenue. Eligibility for the farmland preservation credit requires that the affected property only be engaged in a permitted use, as defined by law. Other uses of the property carry the risk that the land will no longer qualify for the credit. The bill's fiscal impact would depend on whether the new permitted uses would occur at all or would occur on the same property, absent the bill. If the same property would otherwise be used for a renewable energy system and the property would lose eligibility for the credit, then the bill would decrease State revenue relative to current law. The magnitude of any decrease would depend upon the specific characteristics of the affected property. If the same uses would occur, but occur on other property (or not at all), the bill would have no effect on revenue.

Farmland preservation credits under the Michigan Business Tax and the individual income tax are expected to total \$36.4 million in FY 2008-09.

Fiscal Analyst: David Zin

## S0910\s4887sa

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.