

Legislative Analysis



WITHDRAWING LAND FROM THE COMMERCIAL FOREST PROGRAM WITHOUT FEE OR PENALTY

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House Bill 4913 as reported without amendment

Sponsor: Rep. Frank Foster

Committee: Natural Resources, Tourism, and Outdoor Recreation

First Analysis (9-13-11)

BRIEF SUMMARY:

House Bill 4913 would require the Department of Natural Resources to grant an application for withdrawal from the Commercial Forest program without payment of the withdrawal application fee or penalty for land that was exempt from the ad valorem property tax at the point of entrance into the program.

FISCAL IMPACT:

House Bill 4913 would have an indeterminate fiscal impact on the DNR. Under the provisions of the bill, the Commercial Forest Fund within the DNR would not receive the withdrawal application fee for land parcels that meet the listed conditions in the future. The fee ranges from a minimum of \$200 to a maximum of \$1,000 per parcel, depending on the amount of acreage. The fiscal impact of House Bill 4913 on local units of government is indeterminate and depends upon how many land parcels would be withdrawn from the Commercial Forest Program under the bill's provisions. (See Fiscal Information later in the analysis.)

THE APPARENT PROBLEM:

Part 511 (Commercial Forests) of the Natural Resources and Environmental Protection Act (NREPA) allows the Department of Natural Resources (DNR) to establish and maintain the commercial forests program. This program allows participating landowners to pay a reduced property tax in return for developing, maintaining, and managing the land as a commercial forest under an approved management plan. Generally speaking, an owner who decides to withdraw land from the Commercial Forest program must submit an application and pay an application fee of \$1 per acre to the DNR, subject to a \$200 minimum and \$1,000 maximum. Additionally, the owner must also pay a penalty to the township in which the commercial forestland is located according to a penalty formula in the act (See Background Information: Withdrawal Penalty).

According to committee testimony, a 501(c)(3) non-profit organization owned a parcel of land and was paying the ad valorem property taxes on the land, even though the organization was exempt. In an attempt to find some tax relief the organization enrolled the property in the Commercial Forest Program. When it was discovered the organization had been exempt from property taxes all along it attempted to withdraw the land from the Commercial Forest program. At that time it was discovered the organization would be subject to a substantial financial penalty for withdrawal. This bill would allow tax exempt organizations to withdraw

from the program without having to pay the fees and penalty associated with withdrawal. Committee testimony revealed this bill would only impact one organization currently.

THE CONTENT OF THE BILL:

This bill would amend Section 51108 of NREPA to require the DNR to grant an application to withdraw land from the commercial forest program without payment of the withdrawal application fee or penalty, provided **all** of the following requirements are met:

- Evidence is submitted to the department that the land met the legal requirements to be exempt from ad valorem property tax in the tax year in which the list application was submitted and approved.
- The application to withdraw is submitted to the department by the same land owner that submitted the application for land to be determined as a commercial forest under Section 51103.
- Reimbursement is made by the land owner to the state treasurer for the specific tax that was paid by the state treasurer to the county treasurer, as provided in Section 51106(1), for each tax year the land was commercial forestland.

MCL 324.51108

BACKGROUND INFORMATION:

Withdrawal Penalty. Under current statute the withdrawal penalty is calculated as follows:

- a. Multiply the number of acres of commercial forestland being withdrawn by one half of the valuation per acre for the county, in which the land is located, adjusted annually for inflation.
- b. Multiply the product from (a) above by the average millage rate levied by all townships, excluding villages, in the county where the land is located.
- c. Multiply the product from (b) above by the number of years (maximum of 7) in which the property was a part of the Commercial Forest program.
- d. Multiply the product from (c) above by the amount designated for the appropriate county as contained in the act (which ranges from 0.2 to 0.8, depending on the county).

FISCAL INFORMATION:

House Bill 4913 would allow the withdrawal of lands from the Commercial Forest Program without the payment of a withdrawal application fee or a penalty, under certain conditions.

The withdrawal application fees that are required under current law are deposited into the Commercial Forest Fund within the DNR. The Fund received approximately \$25,000 in revenues in FY 2009-10. Expenditures from the Fund may only be used for the enforcement, administration, and monitoring of Part 511 (Commercial Forest Program) and Part 12 (Sustainable Forest Conservation Easement Program) of the Natural Resources and Environmental Protection Act (NREPA).

House Bill 4913 would have an indeterminate fiscal impact on the DNR. Under the provisions of the bill, the Commercial Forest Fund within the DNR would not receive the withdrawal application fee for land parcels that meet the listed conditions in the future. The fee ranges from a minimum of \$200 to a maximum of \$1,000 per parcel, depending on the amount of acreage.

In addition, for any parcel of land withdrawn from the Commercial Forest Program, the State of Michigan would no longer be required to make the Payment in Lieu of Taxes (PILT) payment from the General Fund to county treasurers. By statute, the State Treasurer is required to transmit an annual PILT payment of \$1.20 per acre in the program until December 31 of 2011. After that date, the payment is increased to \$1.25 per acre with a five cent adjustment every five years afterwards. In FY 2010-11, the State will pay an estimated \$2.3 million in PILT payments for the Commercial Forest Program.

The fiscal impact of House Bill 4913 on local units of government would be indeterminate and would depend upon how many land parcels would be withdrawn from the Commercial Forest Program under the bill's provisions.

ARGUMENTS:

For:

This bill would allow tax exempt organizations to withdraw land from the commercial forest program penalty free. These organizations are already exempt from ad valorem property tax requirements and receive no additional tax benefit by enrolling in the Commercial Forest program. Since they are realizing no benefit it would be unfair to penalize them for withdrawing from the program.

Against:

There was no opposition to this bill at the committee level.

POSITIONS:

The Department of Natural Resources supports the bill. (9-13-11)

Michigan Environmental Council supports the bill. (9-13-11)

Michigan Association of Counties is neutral on the bill. (9-13-11)

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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.