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BILL ANALYSIS

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House Bill 5189 (Substitute H-1 as passed by the House)
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Sponsor: Representative Dan Lauwers (H.B. 5189 & H.B. 5191)
Representative Brett Roberts (H.B. 5190)
House Committee: Agriculture
Senate Committee: Agriculture

Date Completed: 4-20-16

CONTENT

House Bill 5189 (H-1) would amend Part 361 (Farmland and Open Space Preservation) of the Natural Resources and Environmental Protection Act (NREPA) to do the following:

- **Increase from $25 to $50 the fee that the Department of Agriculture and Rural Development may charge to process a change in ownership or subdivision of land subject to a development rights agreement or easement.**
- **Require the fee to be forwarded to the State Treasurer for deposit into the Agricultural Preservation Fund.**
- **Remove language requiring a county or township governing board to notify the governing body of a city or village if the land subject to an application for a farmland development rights agreement is within a certain distance of the city's or village's boundary.**

House Bill 5190 (H-1) would amend the Income Tax Act to do the following:

- **Require an amount equal to 3.5% of the total amount of farmland tax credits in the preceding State fiscal year to be deposited into the Agricultural Preservation Fund.**
- **Allow a taxpayer to file a farmland preservation tax credit claim electronically.**

House Bill 5191 (H-1) would amend the revenue Act to do the following:

- **Apply certain interest calculations to farmland tax credit refunds, beginning January 1, 2017.**
- **Require the Department of Treasury to notify a taxpayer of the status of a return if the State did not pay or refund a farmland preservation tax credit within 45 days of the date the return was received.**

House Bill 5189 (H-1) is tie-barred to House Bill 5190, and would take effect 90 days after its enactment.

House Bill 5189 (H-1)

Part 361 of the Natural Resources and Environmental Protection Act allows the State and a landowner to enter into a farmland development rights agreement that entitles the landowner to a tax credit in exchange for keeping the land in agricultural production for the term of the agreement. Part 361 also authorizes the State to purchase the development rights of farmland. (In addition, Part 362 allows eligible local units of government to purchase agricultural conservation easements.) In the case of a purchase, the landowner permanently relinquishes the right to develop the land for nonagricultural purposes.

An owner of land desiring a farmland development rights agreement may apply by filing an application with the local governing body having jurisdiction. After receiving the application, the local governing body must notify the county or regional planning commission and the soil conservation district agency. If the county has jurisdiction, it must notify the township board of the township in which the land is situated. The bill would delete a requirement that a county or township governing board notify the governing body of a city or village if the land is within three miles of the city's boundary or within one mile of the village's boundary.

The Act allows land described in a development rights agreement to be divided into smaller parcels. Each of those parcels must be covered by a separate development rights agreement and must be eligible for subsequent renewal. The bill would eliminate this requirement.

The State land use agency, i.e., the Department of Agriculture and Rural Development, is permitted to charge and collect a fee of $25 to process each change of ownership or division of land subject to a development rights agreement or easement. The fee must be used by the Department to administer the Act. The bill would increase the fee allowed to $50, and require the fee to be forwarded to the State Treasurer for deposit into the Agricultural Preservation Fund.

The bill would repeal Section 36117 of the Act, which required the Department to prepare a report and make recommendations to the Legislature for a State plan to preserve particular land by January 30, 1976.

House Bill 5190 (H-1)

Under the bill, beginning October 1, 2016, from individual income tax revenue, an amount equal to 3.5% of the total amount of farmland tax credits claimed under Section 36109 of NREPA in the preceding State fiscal year would have to be deposited into the Agricultural Preservation Fund created in Section 36202 of that Act.

(Section 36109 allows an owner of farmland and related buildings subject to one or more development rights agreements under Part 361 of NREPA or agricultural conservation agreements or purchases of development rights under Part 361 or 362 to claim a credit against the State income tax for the amount by which the property taxes on the land and structures used in the farming operation restricted by the development rights agreements, agricultural conservation agreements, or purchases of development rights exceed 3.5% of the household income.

Section 36202 created the Agricultural Preservation Fund within the State Treasury. Money in the Fund may be spent, upon appropriation, as follows: a) a maximum of $1.4 million for the Department of Agriculture and Rural Development's and Agricultural Preservation Fund board's administrative costs for the Fund and the Farmland and Open Space Preservation Program, b) after administrative costs, to provide grants to local units of government, and c) if the remaining money in the Fund exceeds $ 5.0 million after administrative costs and grants, to acquire development rights to farmland or agricultural conservation easements.)

Under the bill, beginning with the 2016 tax year, a taxpayer could, regardless of the number of development rights agreements entered into under Part 361 of NREPA, file a farmland preservation tax credit claim electronically with his or her annual income tax return.

House Bill 5191 (H-1)

The revenue Act requires the Department of Treasury to credit or refund an overpayment of taxes, or taxes, penalties, and interest erroneously or unjustly assessed and collected, with interest, as described by the Act. Interest is added at the rate calculated for payment of tax deficiencies beginning the later of 45 days after a claim for refund is filed or the date established for filing a return. In addition to that interest, for refunds for tax imposed under Part 1 of the Income Tax Act (the individual income tax), the State must add interest to refunds not paid by a certain date. That interest must be calculated at 3% annually, from the date the original return was due until the refund is paid, provided various conditions are met. The bill specifies that interest would have to be calculated until a date preceding the date of the refund by a maximum of seven days, rather than until the refund is paid. The revenue Act also requires additional interest to be added to a refund for taxes imposed under the Michigan Business Tax Act.

Beginning January 1, 2017, the interest calculations described above would apply to refunds of credits authorized under Section 36109 of the Natural Resources and Environmental Protection Act.

If the State did not pay or refund a farmland tax credit within 45 days from the date the return was received by the Department, it would have to notify the taxpayer of the status of the return and whether he or she had filed a complete return.

MCL 324.36101 et al. (H.B. 5189) Legislative Analyst: Jeff Mann
206.51 (H.B. 5190)
205.30 (H.B. 5191)

FISCAL IMPACT

House Bill 5189 (H-1)

The bill would reduce restricted revenue used to administer the Natural Resources and Environmental Protection Act by an unknown and likely minimal amount. The bill also would increase restricted revenue to the Agricultural Preservation Fund by twice the amount of the reduction in funds to administer NREPA, although the increase would still be minimal. The bill would double the fee for processing an ownership change for farmland enrolled in a preservation program. Between 2011 and 2015, transfer requests processed have varied between approximately 700 and 1,900 per year, indicating that the bill would reduce revenue to administer NREPA by between $17,500 and $47,500 each year, and increase revenue to the Agricultural Preservation Fund by between $35,000 and $95,000.

House Bill 5190 (H-1)

The bill would reduce General Fund revenue by approximately $1.4 million per year. In tax year 2014, approximately 7,200 farms claimed $40.8 million in credits, for an average credit of $5,704. Over the 2009 to 2012 tax years, an average of $40.2 million of farmland preservation tax credits were claimed each year. Although the School Aid Fund receives revenue from the individual income tax, credits are applied against the portion received by the General Fund, and the bill's proposed redirection of revenue would be taken from the revenue remaining after any School Aid Fund distributions. As a result, all of the reduction in revenue under the bill would lower General Fund revenue. The Department of Treasury would experience minimal expenses that would be within current appropriation.

House Bill 5191 (H-1)

The bill would have no fiscal impact on State or local government.

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