

DNR SHALL NOTIFY TOWNSHIP SUPERVISOR & 9-1-1 BEFORE PRESCRIBED BURNS OF FORESTS

Phone: (517) 373-8080
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House Bill 4082 (reported from committee as H-2)

Sponsor: Rep. Mary Whiteford

Committee: Natural Resources

Complete to 3-28-17

Analysis available at
<http://www.legislature.mi.gov>

(Enacted as Public Act 60 of 2017)

BRIEF SUMMARY: House Bill 4082 would require the Department of Natural Resources (DNR) to give notice before conducting a prescribed burn by calling or e-mailing the township supervisor and Primary PSAP (9-1-1 call center) of each township where the prescribed burn would take place. If the DNR fails to provide proper notice, then the department would be liable for any costs incurred by a township as a result of the prescribed burn. The bill does this by adding a new Section 51503c to the Natural Resources and Environmental Protection Act (NREPA).

FISCAL IMPACT: House Bill 4082 would have a negligible fiscal impact on the Department of Natural Resources. The requirement that the department contact, or attempt to contact, a township supervisor and primary public safety answering point 24 hours prior to conducting a prescribed burn is unlikely to create significant additional costs. The bill also makes the DNR liable for any costs incurred by a township as a result of a prescribed burn in which the department violates this procedure. The scale and likelihood of such violations is unclear at present, making cost projections difficult to determine. The bill is unlikely to have a significant fiscal impact on local units of government.

THE APPARENT PROBLEM:

Throughout Michigan, every time a fire department responds to a call for a fire, the municipality is responsible for the cost of the run, no matter who is at fault for the cause of the fire. A cost is incurred even when the fire department responds and their services are not used or needed. A former deputy township supervisor of Valley Township in Allegan County (Anthony Garofalo) testified on March 15, 2017, describing the thousands of dollars his township was responsible for when the local fire department was called to respond to numerous forest fires. Even though the forest fires on those occasions were the result of a prescribed burn by the DNR, and the DNR had the ability to handle the fires themselves and didn't need the help of the local fire department, the township was still faced with the fire department's bill. It is the belief of Mr. Garofalo that townships across the state would not be put in the position of paying fire department costs for DNR prescribed burns if notice of the burns was provided to the township supervisor and the local primary PSAP.

THE CONTENT OF THE BILL:

House Bill 4082 would require the Department of Natural Resources (DNR) to give notice before conducting a prescribed burn by calling or e-mailing the township supervisor and

Primary PSAP (9-1-1 call center) of each township where the prescribed burn would take place. The bill does this by adding a new Section 51503c to the Natural Resources and Environmental Protection Act (NREPA).

Currently under the law, there is no requirement that the DNR give notice to the township supervisor or Primary PSAP when conducting a prescribed burn.

Under the bill, the DNR would be required to not only give or attempt to give notice of a prescribed burn to the township supervisor and Primary PSAP, but also maintain a record of the notification attempts. Notification would have to be given through both telephone and electronic mail. In addition, the notice from the DNR must include the location, expected date, and estimated number of acres of the prescribed burn, as well as the name, email address, and phone number of the person in charge of the prescribed burn. If the DNR violates Section 51503c, then the department would be liable for any costs incurred by a township as a result of the prescribed burn. However, this new kind of notification violation would not be subject to Section 51512, which imposes financial penalties on those whose violations of this part of NREPA cause a forest or grass fire.

The bill also would amend Section 51501 of NREPA by adding a definition for "primary public safety answering point" (primary PSAP). This definition refers to the current definition in Section 102 of the Emergency 9-1-1 Service Enabling Act, which reads, "'PSAP,' or 'primary PSAP,' means a communications facility operated or answered on a 24-hour basis assigned responsibility by a public agency or county to receive 9-1-1 calls and to dispatch public safety response services, as appropriate, by the direct dispatch method, relay method, or transfer method. It is the first point of reception by a public safety agency of a 9-1-1 call and serves the jurisdictions in which it is located and other participating jurisdictions, if any."

ARGUMENTS:

For:

Proponents say that municipalities across the state will not be faced with unnecessary fire department costs if notice of DNR prescribed burns is given to the township supervisor and the local primary PSAP. If proper notice is given, the dispatchers at the primary PSAP would be aware of a prescribed burn and any calls received regarding smoke or fire in the areas of the burn could be properly evaluated instead of the township needlessly sending the fire department. If notice was not provided, the DNR would be responsible for township costs. Obviously, the bill does not prevent a fire department from responding as it sees fit.

Response:

Concerns were presented during committee meetings that the DNR may sometimes have difficulty in meeting the notice requirements as weather can change in an instant and decisions to go through with a prescribed burn can be decided at the last minute.

POSITIONS:

A representative from the Department of Natural Resources supports the bill. (3-22-17)

A representative from the Michigan Townships Association supports the bill. (3-22-17)

Legislative Analyst: Emily S. Smith
Fiscal Analyst: Austin Scott

■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.