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BILL



ANALYSIS

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Senate Bill 1034 (as introduced 5-29-18)  
Sponsor: Senator Darwin L. Booher  
Committee: Natural Resources

Date Completed: 5-30-18

### **CONTENT**

**The bill would amend the General Property Tax Act to do the following:**

- **Increase the total number of acres of qualified forest property that may be exempt from local school operating taxes, beginning in fiscal year 2018-19, from 1.2 million acres to 2.5 million acres.**
- **Require a parcel of qualified forest property to be at least 10, rather than 20, acres in size.**
- **Include in the definition of "productive forest" real property meeting certain tree density criteria.**
- **Require a qualified forest school tax affidavit to include a statement indicating that the property owner held the timber rights for the property.**
- **Permit the Michigan Department of Agriculture and Rural Development (MDARD), for multiple parcels owned by the same person and located in the same local tax collecting unit, to include required information in a single affidavit.**
- **Revise the process for rescinding the exemption for property that is no longer qualified forest property, and require the property owner to be billed for any recapture tax required under the Qualified Forest Property Recapture Tax Act.**
- **Require a property owner to notify MDARD if the owner no longer wished to keep property enrolled in the Qualified Forest Program.**
- **Provide for the fee collected locally on qualified forest property to be collected on the summer tax bill unless a local tax collecting unit did not collect summer taxes.**
- **Require a qualified forester to be a member of the Association of Consulting Foresters.**

### **Acreage Limit**

Under the Qualified Forest Program, property owners are exempt from the payment of local school operating taxes and instead pay a two-mill annual fee, which is deposited in the Private Forestland Enhancement Fund. Property in the program also remains subject to other property taxes, including the State Education Tax.

The General Property Tax Act limits the total number of acres statewide that may be eligible for the exemption. The current limit is 1.2 million acres. Under the bill, that would apply through the 2017-18 fiscal year. In fiscal year 2018-19 and each subsequent fiscal year, the limit would increase to 2.5 million.

### Qualified Forest Property; Productive Forest

The Act defines "qualified forest property" as a parcel of real estate that is not less than 20 contiguous acres in size and meets other criteria. For parcels smaller than 40 acres, at least 80% must be stocked with productive forest capable of producing forest products. For parcels of 40 acres or more, at least 50% must be stocked with productive forest capable of producing forest products.

Under the bill, a parcel would have to be at least 10 contiguous acres in size. The bill would retain the stocking requirements, but would refer to productive timberland, rather than productive forest. The bill also states that these stocking requirements would apply on a per-parcel basis only and could not be met on a basis that averaged stocking density across multiple parcels.

The Act defines "productive forest" as real property capable of growing at least 20 cubic feet of wood per acre per year. Under the bill, the term would include real property on which there was a tree density that met at least one of the following:

- At least 200 seedlings per acre with a diameter of at least one inch measured by caliper at the root crown, although the one-inch requirement would not apply to a clear cut that was adequately producing the desired species through natural regeneration.
- At least 100 saplings per acre two to five inches in diameter.
- At least three cords per acre of either conifer species five to nine inches in diameter, or all other species five to 11 inches in diameter.
- At least 1,300 board feet per acre of either conifer species at least nine inches in diameter, or all other species at least 11 inches in diameter.

Except for seedlings, the diameter would have to be measured 4.5 feet from level ground.

### Application Process; Affidavit

To obtain an exemption for qualified forest property, the owner must submit an application, a forest management plan, and a fee to MDARD. If it determines that the application and supporting documents comply with the Act, MDARD must approve the application and prepare a qualified forest school tax affidavit. The affidavit must contain specified information, including a statement that the owner is attesting that the property for which the exemption is claimed is qualified forest property and will be managed according to the approved forest management plan. The bill also would require the affidavit to include a statement indicating that the property owner held the timber rights for the property.

If the approved application and supporting documents extended to multiple parcels owned by the same person and located in the same tax collecting unit, the Department could include the required information in a single qualified forest school tax affidavit.

Currently, MDARD is required to provide one copy of the qualified forest school tax affidavit to the local conservation district and one copy to the Department of Treasury. The bill would require MDARD, instead of providing copies, to provide a spreadsheet listing all parcels for which it had received a qualified forest school tax affidavit.

### Rescission; Recapture Tax; Withdrawal

Under the Act, within 90 days after all or a portion of exempted property is no longer qualified forest property, the owner must rescind the exemption for the applicable portion by filing a rescission form with the register of deeds for the county where the property is located.

The bill, instead, would require the owner to notify MDARD that all or a portion of the property was no longer qualified forest property. The Department would have to notify the county treasurer that a request had been made to remove the exemption for the applicable portion, and to calculate any recapture tax required under the Qualified Forest Property Recapture Tax Act. The county treasurer would have to bill the property owner for any required recapture tax. When the proceeds of the recapture tax were deposited into the Private Forestland Enhancement Fund, as provided in that Act, MDARD would have to prepare a rescission form for the applicable portion of the property that was no longer qualified forest property and file the form with the register of deeds.

(The Qualified Forest Property Recapture Tax Act imposes a tax on property that is converted by a change in use that makes it no longer eligible for the exemption as qualified forest property.)

Currently, if a property owner fails to file a rescission form, beginning after 90 days have elapsed, the owner is subject to a penalty of \$5 per day for each separate failure, up to a maximum of \$1,000. Under the bill, this penalty would apply if a property owner failed to notify the Department as required.

Under the Act, if all or a portion of forest property for which an exemption has been granted is converted by a change in use and is no longer qualified forest property, the owner must immediately notify the local tax collecting unit, the assessor, MDARD, and the Department of Treasury.

Under the bill, if all or a portion of forest property for which an exemption had been granted were converted by a change in use and were no longer qualified forest property, or if an owner of qualified forest property did not wish to keep all or a portion of the property enrolled in the Qualified Forest Program, the owner immediately would have to notify MDARD, as provided above.

#### Local Fee

Each year in which qualified forest property is first exempt from school operating taxes, the local tax collecting unit must collect a fee on each parcel of exempt forest property located in that local unit. The fee must be determined by multiplying two mills by the property's taxable value, and must be collected at the same time and in the same manner as taxes collected under the Act. The bill would require the fee to be collected on the summer tax bill or, if the local tax collecting unit did not collect summer taxes, on the winter tax bill.

#### Forest Management Plan

The Act requires a forest management plan to contain certain information, including a description of forest practices, including harvesting, thinning, and reforestation, that will be undertaken. The bill also would require a plan to include a description of all stands or management units, including basal area for forested stands.

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Legislative Analyst: Suzanne Lowe

#### **FISCAL IMPACT**

The bill would have a negative fiscal impact on the State and local government. The bill would lower local school revenue, and thus increase School Aid Fund expenditures in order to maintain per-pupil funding guarantees, by an unknown amount that would depend on the

specific characteristics of any additional land enrolled in the program. The bill would increase the total number of acres that can be categorized as qualified forest property from 1.2 million to 2.5 million. It is unknown how many property owners would choose to seek qualified forest property status under the bill. Assuming an average property tax rate of 33 mills and an average taxable value of \$1,000 per acre, if the entire increase in available acres became qualified forest property (an increase of 1.3 million acres), the bill would reduce local school revenue by approximately \$21.0 million. It is not known how long it would take to reach the maximum number of acres, or if the maximum would ever be reached. In 2017, enrolled acres represented only 37% of the current 1.2-million-acre cap. If per-pupil funding guarantees were to be maintained, School Aid Fund expenditures would need to rise by the amount of any local school revenue loss.

The bill would have no fiscal impact on the Department of Agriculture and Rural Development.

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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.