

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT (EXCERPT)
Act 451 of 1994

SUBPART 4
FOREST IMPROVEMENT DISTRICT

324.50123 Establishment authorized; powers generally.

Sec. 50123. A forest improvement district may be established pursuant to this part, and when established has the powers conferred by this part.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.50124 Petitions.

Sec. 50124. (1) A district may be established by filing a petition, signed by 10 or more owners of forest land who control a total combined acreage of not less than 50,000 acres lying within the limits of the gross territorial boundary proposed to be organized into a district, with the department asking that a district be organized in the territory described in the petition. The petition shall state all of the following:

(a) The proposed name of the district.

(b) A legal description of the forest land proposed to be organized as the district, including the proposed gross territorial boundary of the district.

(c) A tentative implementation schedule for the forest practices functions and services the district will perform.

(d) An analysis that demonstrates the economic and administrative feasibility of a district within the defined boundaries.

(e) A request that the boundaries for the district be established.

(2) If more than 1 petition is filed covering parts of the same territory, the department shall determine which of the districts shall encompass that territory.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.50125 Creation of district; hearing; notice; determination; defining boundaries of district; actual notice.

Sec. 50125. (1) Within 30 days after a petition has been filed, the department shall give notice of a proposed hearing upon the question of the desirability, necessity, and feasibility of the creation of the district, upon the question of the appropriate boundaries to be assigned to the district, and upon all other relevant issues.

(2) If it appears at the hearing that it may be desirable to include territory outside of the area within which notice of the hearing was given, the hearing shall be adjourned and notice of the further hearing shall be given to forest owners or occupiers of land throughout the entire area considered for inclusion in the district, and a further hearing held. The gross territorial boundary of a district shall not include an area included within the gross territorial boundary of another district.

(3) If the department concludes after a 30-day grace period following the hearing, upon the facts presented and upon other relevant information available, that need for a district exists, it shall make and record that determination, and shall define, by metes and bounds or by plat maps, the forest land of the district. The gross territorial boundary of the district shall be defined by metes and bounds or by plat maps.

(4) In making its determination and in defining the boundaries of a district, the department shall consider the forest tree species in the proposed district, the condition of the forest land, the prevailing forest practices, the benefits forests may receive from being included within the district, the relation of the proposed area to other districts already organized or proposed for organization, and other physical, geographical, and economic factors considered relevant.

(5) In making a determination as to district boundaries, if the department determines that the forest improvement projects will impact upon the property value of nonparticipating landowners, the department shall provide actual notice of hearings as provided for in this section.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.50126 Operation of district; feasibility.

Sec. 50126. (1) If the department makes and records a determination that the need for a district exists and defines its boundaries, the department shall then consider the question of whether the operation of a district within those boundaries is administratively and economically feasible.

(2) If the department determines that the operation of a district is feasible, it shall record that determination and shall proceed with the organization of that district.

(3) If the department determines the operation of a district is not feasible, it shall record the reasons for its determination and deny the petition. After 6 months have expired from the date of the denial of a petition by the department, subsequent petitions covering the same or substantially the same territory may be filed and a new hearing and determination made.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.50127 Board of directors; appointment and qualifications of directors; presentation and contents of application; certification statement; examination and recordation of application and statement; issuance and contents of certification.

Sec. 50127. (1) If the operation of a district is determined to be feasible, the department shall appoint 2 directors who, with the 3 directors elected as provided in sections 50131 and 50132, constitute the first board of directors of the district. The directors appointed shall be persons who are by training and experience qualified to perform the functions which are required of them by this part.

(2) The board shall present the secretary of state with an application that states all of the following:

(a) That a petition for the creation of a district was filed with the department pursuant to this part; that the proceedings specified in this part were taken pursuant to the petition; and that the application is being filed in order to complete the organization of the district and that they are the directors.

(b) The name and official residence of each of the directors, together with a certification evidencing their right to office.

(c) The term of office of each of the directors.

(d) The proposed name of the district.

(e) The location of the principal office of the district.

(f) The date the district is to come into existence under this part. The application shall be subscribed and sworn to by each of the directors before an officer authorized by the laws of the state to take and certify oaths.

(3) The application shall be accompanied by a statement by the department that certifies all of the following:

(a) That a petition was filed, notice given, and a hearing held as required.

(b) That the department determined there is a need for a district to function in the proposed territory and defined its boundaries.

(c) That the department subsequently determined that the operation of the proposed district is administratively and economically feasible.

(4) The secretary of state shall examine the application and statement and shall receive and record them in an appropriate book of record and shall issue a certificate to the board specifying the date of creation and the gross territorial boundary of the district.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.50128 District as governmental subdivision and public body corporate and politic.

Sec. 50128. The district shall constitute a governmental subdivision of the state and a public body corporate and politic on the date specified in the directors' application or on the date the application and statement are filed and recorded, whichever is later.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.50129 Petition for discontinuance; filing; form; notice.

Sec. 50129. A petition for discontinuance of membership in, for deletion of member forest land within, and for including additional territory within an existing district shall be filed with the board. The board shall

prescribe the form for the petition. The board annually shall notify the department of any changes in membership or land ownership status changes.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.50130 Petitions for change of boundary line; filing; contents; hearing; determination; application for certificate evidencing change of boundary; statement; effect of filing; issuance and contents of certificate.

Sec. 50130. (1) Petitions signed by a majority of the members of each of the boards of adjoining districts may be filed with the department asking that the boundary line between the districts be changed. These petitions shall identify the existing boundary line between the districts and the proposed new gross territorial boundary.

(2) Within 30 days after a petition has been filed, the department shall hold a public hearing upon the question of the proposed boundary change. All members of the affected districts, and all other interested persons, may attend the hearing and be heard.

(3) After the hearing, the department shall determine, upon the facts presented at the hearing and upon other relevant information, whether the operation of the districts within the proposed new gross territorial boundaries would be administratively and economically feasible. If the department determines the operation of the districts within the proposed new boundaries will be feasible, it shall record that determination and notify the boards of the districts of its determination.

(4) The boards of the affected districts shall present an application to the secretary of state, signed by them, for a certificate evidencing the change of boundary. The application shall be accompanied by a statement of the department certifying that the boundary between the districts has been changed pursuant to the procedures prescribed and identifying the new gross territorial boundary lines. When the application and statement are filed, the change of boundary is effective and the date of filing shall be identified on the certificate which the secretary of state shall issue to the boards of the affected districts.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.50131 Board of directors as governing body of district; officers; election and appointment of directors; terms; eligibility to vote; vacancy; annual meeting; fiscal year; quorum; concurrence of majority for determination; expenses; delegation of powers and duties; recall petition; notice; recall election; cessation of term; furnishing commission with documents and other information; surety bonds; records; audit; representatives of local legislative body.

Sec. 50131. (1) The governing body of a district shall be the board of directors which shall consist of 5 persons. The board may elect a chairperson and other officers which it considers necessary or convenient for implementing this part. The term of office of a director shall be 3 years except for the first board. The board of directors of the western Upper Peninsula forest improvement district shall be determined pursuant to subpart 2.

(2) The first board shall consist of 3 directors elected as provided in section 50132 and the 2 directors appointed by the department. The directors shall take office on the date specified by the secretary of state as the beginning of a district's existence or as soon as appointed, whichever is later. The term of office of the director first appointed shall be 1 year, the second director shall be appointed for 2 years, and the directors first elected at the time of the referendum shall serve as follows: the director receiving the highest number of votes shall serve for 3 years, the director receiving the next highest number of votes shall serve for 2 years, and the director receiving the next highest number of votes shall serve for 1 year. Thereafter, as the terms of the directors of the first board expire, the department shall appoint a director to the board if the state land encompassed by the district's gross territorial boundary is greater than 5% of the forest land which comprises the district and a timber volume agreement has been made. The other positions on the board shall be filled by elections at the annual meeting of the members of a district. If the state land encompassed by a district's gross territorial boundary is 5% or less of the forest land which comprises the district, all of the positions on the board shall be filled by those elections.

(3) All members who own forest land within a district, except for state lands, shall be eligible to vote for 1 or more candidates for the board, according to the amount of forest land owned within the district pursuant to

the following schedule:

- (a) An owner of less than 100 acres may cast 3 votes.
- (b) An owner of at least 100 acres but less than 500 acres may cast 4 votes.
- (c) An owner of at least 500 acres but less than 1,000 acres may cast 5 votes.
- (d) An owner of at least 1,000 acres but less than 5,000 acres may cast 6 votes.
- (e) An owner of at least 5,000 acres but less than 10,000 acres may cast 7 votes.
- (f) An owner of at least 10,000 acres but less than 20,000 acres may cast 8 votes.
- (g) An owner of at least 20,000 acres but less than 50,000 acres may cast 9 votes.
- (h) An owner of 50,000 acres or more may cast 10 votes.

(4) A vacancy shall be filled by appointment by the board and a director appointed shall serve until the next annual meeting when a director shall be elected to finish the unexpired term. The annual meeting shall be held within 30 days after the close of the fiscal year of a district. The fiscal year of a district shall be the same as the fiscal year of this state.

(5) A majority of the directors constitutes a quorum, and the concurrence of a majority of the directors in any matter within their power shall be required for the board's determination. A quorum shall consist of 3 members of the board at least 2 of whom shall be elected members. A director shall not receive compensation for services rendered, but is entitled to expenses, including traveling expenses, necessarily incurred in the discharge of duties performed as a director. The directors may delegate to their chairperson, to 1 or more directors, or to 1 or more agents or employees, power and duties as they consider proper.

(6) A petition may be filed with the department for an election to recall 1 or more directors if the petition is signed by members within a district whose forest land comprises 20% or more of the forest land within the district. Within 30 days after a petition has been filed, the board shall give notice in the manner provided by the Michigan election law, Act No. 116 of the Public Acts of 1954, being sections 168.1 to 168.992 of the Michigan Compiled Laws, of the holding of a recall election. The recall election shall be held within 45 days after the filing of a petition. All members who own forest land within the boundaries of a district, except for state land, are eligible to vote in the recall election pursuant to the schedule in subsection (3). A 2/3 majority of the votes cast is required to recall a director. The term of a director who is recalled shall cease on the date the results of the election are published by the department.

(7) A board shall furnish the department with copies of ordinances, rules, regulations, orders, contracts, forms, and other documents it adopts or employs, and with other information concerning its activities as the department requires in the performance of its duties under this part.

(8) A board shall require the execution of surety bonds for each employee or officer who is entrusted with funds or property; shall provide for the keeping of a full and accurate record of each proceeding and each resolution, regulation, or order issued or adopted; and shall provide for an annual audit of the accounts of receipts and disbursements.

(9) The board shall invite the legislative body of each local unit of government or county located within, partially within, or near the territory comprising a district to designate a representative to advise and consult with the board on all questions which may affect the property or other interests of that local unit of government or county.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.50132 Nominating petition; filing; signatures; notice; eligibility to vote.

Sec. 50132. (1) A candidate for the first board of directors shall file nominating petitions with the department at or before the hearing on the need for a district. A candidate shall be a member of the proposed district. A nominating petition shall not be accepted by the department unless it is subscribed by 6 or more members of a proposed district. A member may sign more than 1 nominating petition. The department shall give notice of the initial election of 3 directors. Notice shall be posted at the business office of each governmental unit in the proposed district, published in each newspaper of record distributed in the proposed district, mailed to each individual elected governmental official within the proposed district and mailed to any individual requesting written notification of the initial election. The 3 candidates who receive the largest number of the votes cast shall be the elected directors for a district.

(2) All members within a district are eligible to vote for 1 or more candidates for the first board of directors, according to the amount of forest land owned within a proposed district, pursuant to the schedule in section 50131(3).

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.50133 Consolidation into single district; petition; notice; hearing; determination; order; board of consolidated district; certificate of organization; powers and duties; property, agreements, and obligations of consolidated district.

Sec. 50133. (1) Two or more districts may petition the department for consolidation into a single district. The department shall not act on the petition unless it is signed by a majority of the board of each of the districts involved. Within 30 days after receipt of a petition, the department shall give notice of a hearing on the proposed consolidation. Notice shall be given to all members in the area proposed to be included in the consolidated district.

(2) Based on the facts presented at the hearing and other relevant facts, the department shall determine if consolidation is desirable. If the department determines that consolidation is desirable, it shall issue an order which states that the districts are to be consolidated on a date specified, the name of the consolidated district, and its gross territorial boundaries.

(3) The board of the consolidated district shall consist of the chairperson of the board of each of those districts consolidated, who shall serve for a term of 2 years, and 3 other members appointed by the department, who shall serve for a term of 1 year. Thereafter, directors shall be elected or appointed as provided in section 50131.

(4) Upon receipt of the order of consolidation, the secretary of state shall issue a certificate of proper organization to the directors of the consolidated district. The consolidated district shall have the same powers and duties as other districts organized under this part.

(5) The assets, liabilities, records, documents, writings, or other property of the districts consolidated shall become the property of the consolidated district. All agreements made by, and obligations of the districts consolidated shall be binding upon and enforceable by the consolidated district.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.50134 Discontinuance of district; petition; public hearings; notice of referendum; eligibility to vote; publishing results of referendum; determination; certificate of determination; payment of debt and disposition of property; application for discontinuance; issuance and recordation of certificate of dissolution; contracts, bonds, or other obligations; limitation on petition for discontinuance.

Sec. 50134. (1) The members within a district, whose total lands compose 25% or more of the private forest land which comprise the district, may file a petition with the department requesting that the district be discontinued. The petition shall identify the provisions to be taken for the payment of outstanding debt and the disposition of district property.

(2) The department may conduct public hearings to assist it in its consideration of the petition. Within 60 days after a petition has been filed, the board shall give notice for the holding of a referendum upon the issue of the discontinuance of a district. All members of the district shall be eligible to vote in the referendum pursuant to the schedule in section 50131(3).

(3) The board shall publish the results of the referendum. If a majority of the votes cast are in favor of discontinuing a district, the department shall determine that the district will be discontinued. Even if a majority of the votes cast are not in favor of discontinuing a district, the department may determine that the district not continue in existence. If the department determines that the district shall continue, it shall record that determination and deny the petition. If the department determines that a district shall be discontinued, it shall record its determination and certify its decision to the board of the district. In making its determination, the department shall consider the economic and administrative feasibility of the continuation of a district, the extent of outstanding debt of the district, the attitudes of the members within the district, the number of members eligible to vote in the referendum who voted, the proportion of the votes cast in favor of the discontinuance of the district to the total number of votes cast, and other economic and social factors which may be relevant to the determination.

(4) Upon receipt from the department of a certification of a determination that a district shall be discontinued, the board shall proceed to terminate the affairs of the district. The board shall provide for the payment of all outstanding debt and for the disposition of district property to the state. The board shall thereafter file an application with the secretary of state for the discontinuance of the district. The application shall identify the action taken to provide for the payment of all outstanding debt and for the disposition of

district property. The secretary of state shall issue a certificate of dissolution to the board of the district which specifies the effective date of discontinuance and shall record the certificate in the appropriate book of record.

(5) Each contract, bond, or other obligation to which a district is a party shall remain in force and effect for the period provided in the contract, bond, or other indebtedness. If a district is discontinued, the department shall be substituted for the district as a party to each contract entered into by the district, except the department is not responsible for any coupon or bond issued by a district under this part. The department is entitled to all benefits and subject to all responsibilities under each contract for which it is substituted as a party and has the same right to perform, to require performance, to sue and be sued, and to modify or terminate the contract by mutual consent or otherwise, as the board of a district would have had.

(6) The department shall not entertain a petition for the discontinuance of a district, or make determination pursuant to a petition under this section, more often than once every 2 years.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.50135 Additional powers of district.

Sec. 50135. In addition to those powers granted elsewhere in this part, a district has all of the following powers, which are subject to federal and state environmental laws:

(a) To obtain real property for purposes of industrial site development within the gross territorial boundary of a district, a municipality located within the gross territorial boundary may take private property under the uniform condemnation procedures act, Act No. 87 of the Public Acts of 1980, being sections 213.51 to 213.77 of the Michigan Compiled Laws, for the purpose of transfer to the district and may transfer the property to the district for use in an industrial site. The taking, transfer, and use shall be considered necessary for public purposes and for the benefit of the public. For the purposes of this section, "industrial site development" means the location of industrial plant facilities for production, processing, handling, storage, marketing, manufacturing, or directly related transportation facilities of forest resources. Each district shall have only 1 industrial site not to exceed 150 acres.

(b) To act as the marketing agent for the members or an association of the members within a district after obtaining their consent, in order to facilitate cooperation among the members to increase their bargaining power, including the power to make commitments of private timber in a manner, volume, and for periods prescribed by the board.

(c) To conduct business operations with the powers provided in section 261 of the business corporation act, Act No. 284 of the Public Acts of 1972, being section 450.1261 of the Michigan Compiled Laws.

(d) To conduct and publish the results of surveys, investigations, and support research by research institutions relating to the need and nature of forest practices within a district.

(e) To develop comprehensive management plans for forest practices within the district which specify the procedures, performances, and resources necessary or desirable for the effectuation of the plans. If the state land encompassed by a district's gross territorial boundary is greater than 5% of the total forest land area, the department and the district administrators shall cooperate in the development of comprehensive management plans. The plans shall be published so as to bring them to the attention of the members within a district.

(f) To conduct projects to demonstrate the means and methods of forest practices within a district on forest land owned or controlled by the state or an agency of the state, with the cooperation of the agency administering and having jurisdiction, and on any other forest land within a district upon obtaining the consent of the owner or the necessary rights or interest in the land.

(g) To carry out and to assist members in carrying out forest practices within a district.

(h) To obtain options upon and to acquire, by purchase, exchange, lease, gift, grant, bequest, devise, or otherwise, property, real or personal, or rights or interests in real or personal property; to maintain, administer, and improve property acquired; to receive income from the property and to expend that income in implementing this part; and to sell, lease, or otherwise dispose of its property or interests.

(i) To make available to members within a district, on terms the board shall prescribe, foresters, forest managers, forest practice and harvesting machinery and equipment, seeds, and seedlings and other material, equipment, or personnel, as will be of assistance in carrying out forest practices.

(j) To construct, improve, operate, and maintain sawmills, hardboard mills, and other structures or facilities as may be necessary or convenient to carry out this part, and to cooperate with owners of existing structures and facilities.

(k) To assume by purchase, lease, or otherwise, and to administer, a forest improvement project undertaken within the boundaries of a district by the United States or an agency of the United States, or an agency of the state; to manage, as agent of the United States or an agency of the United States, or an agency of the state, a

forest improvement project within its boundaries; to act as agent for the United States, or an agency of the United States, or for an agency of the state, in connection with the acquisition of real or personal property for, or in the construction, operation, or administration of, a forest improvement project within its boundaries; to accept donations, gifts, and contributions in money, services, materials, or otherwise, from the United States or an agency of the United States, from an agency of the state, or from any other source, and to use or expend that money or those services, materials, or other contributions in carrying on its operations subject to policies and procedures as adopted by the department; and to accept money, gifts, and donations from any source.

(l) To cooperate with industrial and trade development agencies in efforts to promote the expansion of industrial and manufacturing activities utilizing wood products.

(m) To sue and be sued in the name of the district; to have a seal, which seal shall be judicially noticed; to have perpetual succession unless discontinued as provided in this part; to make and execute contracts and other instruments, necessary or convenient to the exercise of its powers; and to promulgate rules consistent with this part and the rules of the department in order to carry into effect the policy and purposes of this part.

(n) To extend benefits to members as considered desirable by the board and to require contributions in money, services, materials, or otherwise of members of forest land as a condition of extending benefits under this part.

(o) To defray all or part of the project costs of a forest improvement project, borrow money, and issue bonds as provided in this part. A bond or coupon issued under this part shall not be a general obligation of, or constitute a debt of the state or a political subdivision of the state, other than the issuing district.

(p) To enter into lease, lease-purchase, installment sale, loan, or other agreements with a person to provide for the acquisition, construction, equipping, improving, or financing of a forest improvement project.

(q) To mortgage any of the following in favor of the holders of the bonds issued in conjunction with a project:

(i) The project.

(ii) The industrial site of the district.

(iii) Any building, equipment, or other personal property situated on the site.

(iv) District owned forest land.

(v) Member owned forest land, with the member's consent.

(r) To sell and convey any district owned property, including without limitation the sale and conveyance of the industrial site and its facilities subject to a mortgage, for a price and at a time the board determines. A sale or conveyance shall not be made in a manner as to impair the rights or interests of the holders of bonds.

(s) To employ a district manager, foresters, architects, attorneys, accountants, construction and financial experts, and other employees and agents as are necessary to implement this part.

(t) To receive and accept from a public or private agency loans or grants for or in aid of a project or portion of a project undertaken, and receive and accept a loan, grant, aid, or contribution from any source of money, property, labor, or any other thing of value, to be held, used, and applied only for the purposes for which the loan, grant, aid, or contribution is made.

(u) To issue bonds for purposes of funding a forest improvement district or forest practices.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.50136 Repealed. 2013, Act 45, Imd. Eff. June 6, 2013.

Compiler's note: The repealed section pertained to cooperation between state agency and district board.

Popular name: Act 451

Popular name: NREPA

324.50137 Expenses of district; sources of payment; allocation of funds.

Sec. 50137. (1) The expenses of a district may be paid from 1 or more of the following:

(a) An appropriation by the legislature.

(b) The revenues of the district's facilities and operations.

(c) The proceeds of the service fees authorized by this part.

(d) The proceeds of sales of state timber within the district except for the redemption of the bonds in case of default.

(e) Federal grants or from gifts or grants from private persons.

(f) The proceeds from the sale of the bonds of the district.

(g) Any other funds available to the district.

(2) When allocating available funds among proposed districts, the department shall consider the proposed

district or districts which in its judgment will produce the greatest public benefit, giving consideration to all of the following factors:

(a) The need for and potential commercial benefits of forest improvement if the district is formed within the proposed gross territorial boundaries.

(b) The need for and potential benefits to long-term production, maintenance, and enhancement of the total forest resource system.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.50138 Cooperative exercise of powers.

Sec. 50138. The boards of any 2 or more districts may cooperate in the exercise of powers conferred in this part.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.50139 Report.

Sec. 50139. During the years of operation of a district, a detailed report of the operation and impact of the district shall be submitted by the board of the district to the departments and the legislature for analysis and evaluation.

History: Add. 1995, Act 57, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA