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REGULATE DNR BURNS

House Bill 4049 as passed by the House Second Analysis (9-11-97)

Sponsor: Rep. David Anthony
**First House Committee: Conservation,
Environment and Recreation**
**Second House Committee: Forestry
and Mineral Rights**

THE APPARENT PROBLEM:

In 1995, a unique land management plan was instituted on state-owned land in Menominee County by the Department of Natural Resources (DNR). The plan, named the Shakey Lakes Savanna Management Plan, involved the establishment of an oak savanna landscape. In order to establish the savanna, the DNR conducted "prescribed burns" -- fires that are intentionally set -- so that part of the area's oak forest could be replaced with scattered trees and prairie grasses. The impact of one of these prescribed burns, however, alarmed area residents. Due to shifting winds, the fire apparently ran out of control, leaped across a county road, and burned a small portion of private property. As a result of this incident, local property owners feared that their homes and property could be destroyed should another burn occur during high winds. At the time, legislation was proposed, and passed by the House, that would have required that the DNR notify local residents and allow them to express their opinions at a public meeting prior to conducting these burns, and that local fire departments also be notified. The legislation has been reintroduced.

THE CONTENT OF THE BILL:

House Bill 4049 would add a new part, Part 518, to the Natural Resources and Environmental Protection Act (NREPA) that would regulate "prescribed burns" covering more than 40 acres. A "prescribed burn" would be defined under the bill to mean a fire that is intentionally set by the Department of Natural Resources (DNR) on state- or privately-owned property to assist in executing one or more land use management goals. A prescribed burn on privately-owned property could be conducted only with the property owner's consent. The provisions of the bill would apply only to prescribed burns in forest areas of the state.

Public Meetings. Under the bill, the DNR would have to conduct at least one public meeting a year in order to conduct a prescribed burn of more than 40 acres in any geographic area of the state in that year. In addition,

the department would have to notify each local fire department with jurisdiction over the projected burn area, and publish a public notice in a daily newspaper with a circulation covering the prescribed burn area, that a prescribed burn was scheduled within a designated 30-day period. The notification and publication would have to take place at least two weeks before the first day of the 30-day period.

Buffer Zone. The department would be prohibited from conducting a prescribed burn of more than 40 acres unless there was at least a 100-foot buffer zone between the projected burn area and any adjoining privately-owned property. A 100-foot buffer zone would not be required if the owner of the adjoining privately-owned property agreed to have all or a portion of his or her property included in a prescribed burn. In addition, the bill would require that, before conducting a prescribed burn in a projected burn area that adjoined a state trunk line highway or county road, the department consider excluding an area that would serve as an aesthetic buffer strip.

Public Notice. Under the bill, a public notice would be drafted in a manner that the DNR determined was best suited for notifying residents of the geographic area in or near the area in which a prescribed burn could occur, or was scheduled to occur.

MCL 324.52801 et al.

FISCAL IMPLICATIONS:

According to the Department of Natural Resources (DNR), the bill would have an indeterminate impact on state funds. The cost would depend on the publication cost of public notices, and on travel and arrangement expenses for each public meeting held. The department estimates that one public meeting would cost approximately \$1,000, depending on the location and the number of department staff involved. In addition, the bill's requirement that an aesthetic buffer zone be left

House Bill 4049 (-9-11-97)

along highways would also cost more in time and money. (8-26-97)

ARGUMENTS:

For:

Department of Natural Resources (DNR) "prescribed burning" programs are conducted in all parts of the state and are a vital component of the DNR's land management programs. Burns are conducted as a tool in projects to assist in the return of certain wildlife, insects, and wildflowers; to return land to its natural habitat; and in reforestation projects. However, problems have arisen concerning a fire that ran out of control and damaged bordering private property. Reportedly, the fire caught local citizens by surprise, raised considerable alarm, and illustrated the importance of notifying area residents of DNR-planned burns. The bill would alleviate these concerns by assuring that local residents receive full information on the expected consequences of the burns. As an additional precaution, the bill would also require the department to notify each local fire department with jurisdiction over the burn area. In addition, the bill requires that aesthetic buffer zones be left along highways to hide the unsightly charred remains of forest, prairie, or marsh that remain after DNR-prescribed burns.

Against:

The bill would require that a public notice be published in a daily newspaper with a circulation covering the prescribed burn area. However, this could prove to be impossible for the department to achieve, since, in many rural areas, there is no daily local newspaper. The bill should, instead, allow publication in other types of newspapers.

Against:

In testimony before the House committee, some people expressed the opinion that the provisions of the bill would interfere in the DNR's current management policies. Others expressed the viewpoint that, according to their interpretation, passage of Ballot Proposal G in the 1996 election demonstrated a public conviction that department policies should be formed by professional wildlife managers, and should not be "micro-managed" by the legislature. (Ballot Proposal G of 1996 provided that the Commission of Natural Resources would have the exclusive authority to regulate the taking of game in the state.)

POSITIONS:

The Michigan United Conservation Clubs supports the bill. (8-26-97)

The Department of Natural Resources (DNR) has no position on the bill. (8-26-97)

The Lake States Lumber Association and the Michigan/Wisconsin Timber Producers Association have no position on the bill, but have expressed some concern over the bill's provisions that would legislate issues that should, instead, be encompassed in DNR policy. (8-26-97)

Analyst: R. Young

■ 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.

