



House
Legislative
Analysis
Section
Romney Building, 10th Floor
Lansing, Michigan 48909
Phone: 517/373-6466

REGULATE DNR BURNS

House Bill 4049 as enrolled (Vetoed) Third Analysis (1-8-98)

Sponsor: Rep. David Anthony
**First House Committee: Conservation,
Environment and Recreation**
**Second House Committee: Forestry
and Mineral Rights**
**Senate Committee: Natural Resources
and Environmental Affairs**

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 amend Part 517 of the Natural Resources and Environmental Protection Act (NREPA), concerning the prevention of forest fires, to regulate "prescribed burns" (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). The bill would prohibit the DNR from conducting a prescribed burn without alerting local residents of the purpose and anticipated consequences of the burn, and allowing them to express their opinions at a public hearing in the county in which the prescribed burn would occur.

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 general circulation covering the prescribed burn area, that a prescribed burn was scheduled within a designated 60-day period. The notification and publication would have to take place at least two weeks before the first day of the 60-day period.

Public Notice. Under the bill, a public notice would be drafted in a manner that the DNR determined was best suited for notifying residents in or near the project burn area.

Buffer Zone. The department would be prohibited from conducting a prescribed burn on privately-owned property without the written consent of the property owner. In addition, a prescribed burn could not be conducted on 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. The buffer zone would not be required if the owner of the adjoining privately-owned property granted written consent to a waiver or specified reduction of the buffer zone. The bill would also specify that the DNR could not intentionally conduct a prescribed burn within a buffer zone, and that, before conducting a prescribed burn in a projected burn area that adjoined a state trunk line highway or county road, the department would have to consider excluding an area that would serve as a buffer zone.

MCL 324.52701 et al.

House Bill 4049 (1-8-98)

FISCAL IMPLICATIONS:

According to the Senate Fiscal Agency (SFA), the bill would have minimal impact on state funds. (11-3-97)

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:

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.)

Against:

In his veto message, the governor stated that certain technical issues need to be addressed in the bill, including the appropriate description for the location of public meetings, public notice requirements, and provisions regarding burns on private property.

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.