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SFA



BILL ANALYSIS

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House Bill 4049 (Substitute S-4 as reported)
Sponsor: Representative David Anthony
First House Committee: Conservation, Environment and Recreation
Second House Committee: Forestry and Mineral Rights
Senate Committee: Natural Resources and Environmental Affairs

Date Completed: 11-3-97

RATIONALE

The Department of Natural Resources (DNR) periodically conducts prescribed burns (intentionally set fires) as part of a land use management plan in order to replace forests with scattered trees and prairie grass, to promote reforestation, to enhance wildlife habitats, and for other purposes. In Menominee County, however, a prescribed burn apparently ran out of control, spread past a county highway and destroyed some private property. Some people feel that the DNR, before conducting these burns, should be required to notify local residents and allow them to express their concerns at a public meeting.

CONTENT

The bill would amend the Natural Resources and Environmental Protection Act (NREPA) to regulate prescribed burns covering more than 40 acres. The bill would require the DNR to conduct public meetings, give public notice of prescribed burns, create a buffer zone between the burn area and private property, and consider excluding an area along a State highway or county road.

“Prescribed burn” would mean a fire that was intentionally set by the DNR in a forest area on State-owned or private property to assist the Department in implementing one or more land use management goals. The Department could not conduct a prescribed burn on privately owned property except with the owner’s written consent or specified reduction of the buffer zone.

Public Meetings and Public Notice

The DNR would be prohibited from conducting a prescribed burn covering more than 40 acres in a

year unless the Department conducted at least one public meeting that year in the county of the projected burn site. The public meeting would have to be conducted to alert the public that one or more prescribed burns could occur and what the purpose and anticipated consequences of the prescribed burn would be. Members of the public would have an opportunity to express any concerns and opinions regarding a prescribed burn. For a prescribed burn of more than 40 acres, the DNR also would have to notify each local fire department with jurisdiction over the projected burn area and publish a public notice in a newspaper with a general circulation covering the prescribed burn area that a prescribed burn was scheduled to take place within a designated 60-day period. The notification and publication would have to occur at least two weeks before the first day of the 60-day period.

Buffer Zone

The DNR would have to establish a buffer zone of at least 100 feet between the projected burn area and any adjoining private property in order to conduct a prescribed burn covering more than 40 acres. The Department would not be allowed to conduct a prescribed burn on private property, unless the owner of the private property submitted a written consent to have all or a portion of the property included in a prescribed burn, or submitted a waiver or specified reduction of the buffer zone, or both. The Department, however, could not intentionally conduct a prescribed burn within a buffer zone established under the bill.

Highway Buffer Zone

If a projected burn area would adjoin a State trunk line highway or county road, the DNR would have

to consider excluding from the prescribed burn an area along the highway or road to serve as a buffer zone.

MCL 324.51701 et al.

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

Prescribed burns are an effective forest management tool used for such purposes as habitat improvement, slash reduction, and wildlife enhancement. A prescribed burn, however, could run out of control and destroy private property. Reportedly, local residents in Menominee County were surprised and alarmed when an uncontrolled prescribed burn damaged a small portion of private property. The bill would require the DNR to give local residents notice and an opportunity to express any concerns or opinions regarding the burn. The bill also would require the Department to notify each local fire department with jurisdiction over the projected burn area for extra precaution.

Opposing Argument

The bill would require a buffer zone of at least 100 feet between a projected burn area and any adjoining private property. Some people doubt that the specific line would be effective, since nature does not recognize buffer zones and property lines. Prescribed burns are not precise and could be affected by wind, weather, and the environment.

Response: The bill would recognize the uncertainty of prescribed burns by providing that the DNR could not intentionally conduct a prescribed burn within a buffer zone established under the bill.

Opposing Argument

There has been concern that while the bill would provide adequate public notice, it also would inform the public about a prescribed burn, which could become hazardous if many people come to see the fire.

Response: The bill would set a 60-day period for the DNR to schedule a prescribed burn, which would allow a sufficient length of time for people to be unable to predict a specific burn date.

Legislative Analyst: N. Nagata

FISCAL IMPACT

The bill would have minimal fiscal impact on State and local government.

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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.