

# HOUSE BILL No. 5895

May 28, 1998, Introduced by Reps. Bobier and Wetters and referred to the Committee on Agriculture.

A bill to amend 1994 PA 451, entitled  
"Natural resources and environmental protection act,"  
(MCL 324.101 to 324.90106) by adding sections 36204, 36205,  
36206, and 36207.

## **THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1        SEC. 36204. (1) THE FARMLAND TRUST FUND BOARD IS CREATED  
2 WITHIN THE DEPARTMENT.

3        (2) THE BOARD SHALL CONSIST OF THE FOLLOWING MEMBERS:

4        (A) THE DIRECTOR OF THE DEPARTMENT OF NATURAL RESOURCES OR  
5 HIS OR HER DESIGNEE AS A NONVOTING MEMBER.

6        (B) THE DIRECTOR OF THE DEPARTMENT OF AGRICULTURE OR HIS OR  
7 HER DESIGNEE AS A NONVOTING MEMBER.

8        (C) FIVE INDIVIDUALS APPOINTED BY THE GOVERNOR AS FOLLOWS:

9        (i) TWO INDIVIDUALS REPRESENTING CONSERVATION INTERESTS.

1       (ii) TWO INDIVIDUALS REPRESENTING AGRICULTURAL INTERESTS.

2       (iii) ONE INDIVIDUAL REPRESENTING THE GENERAL PUBLIC.

3       (3) THE MEMBERS FIRST APPOINTED TO THE BOARD SHALL BE

4 APPOINTED WITHIN 60 DAYS AFTER THE EFFECTIVE DATE OF THIS

5 SECTION.

6       (4) MEMBERS OF THE BOARD SHALL SERVE FOR TERMS OF 4 YEARS OR

7 UNTIL A SUCCESSOR IS APPOINTED, WHICHEVER IS LATER, EXCEPT THAT

8 OF THE MEMBERS FIRST APPOINTED SHALL SERVE AS FOLLOWS:

9       (A) ONE OF THE INDIVIDUALS APPOINTED UNDER

10 SUBSECTION (2)(C)(i) AND 1 OF THE INDIVIDUALS APPOINTED UNDER

11 SUBSECTION (2)(C)(ii) SHALL SERVE FOR 3 YEARS.

12       (B) ONE OF THE INDIVIDUALS APPOINTED UNDER

13 SUBSECTION (2)(C)(i) AND 1 OF THE INDIVIDUALS APPOINTED UNDER

14 SUBSECTION (2)(C)(ii) SHALL SERVE FOR 2 YEARS.

15       (C) THE INDIVIDUAL APPOINTED UNDER SUBSECTION (2)(C)(iii)

16 SHALL SERVE FOR 1 YEAR.

17       (5) IF A VACANCY OCCURS ON THE BOARD, THE VACANCY SHALL BE

18 FILLED FOR THE UNEXPIRED TERM IN THE SAME MANNER AS THE ORIGINAL

19 APPOINTMENT.

20       (6) THE BOARD MAY REMOVE A MEMBER OF THE BOARD FOR INCOMPE-

21 TENCY, DERELICTION OF DUTY, MALFEASANCE, MISFEASANCE, OR NONFEA-

22 SANCE IN OFFICE, OR ANY OTHER GOOD CAUSE.

23       (7) THE FIRST MEETING OF THE BOARD SHALL BE CALLED BY THE

24 DIRECTOR OF THE DEPARTMENT OF AGRICULTURE. AT THE FIRST MEETING,

25 THE BOARD SHALL ELECT FROM AMONG ITS MEMBERS A CHAIRPERSON AND

26 OTHER OFFICERS AS IT CONSIDERS NECESSARY OR APPROPRIATE. AFTER

27 THE FIRST MEETING, THE BOARD SHALL MEET AT LEAST QUARTERLY, OR

1 MORE FREQUENTLY AT THE CALL OF THE CHAIRPERSON OR IF REQUESTED BY  
2 3 OR MORE MEMBERS.

3 (8) A MAJORITY OF THE MEMBERS OF THE BOARD CONSTITUTE A  
4 QUORUM FOR THE TRANSACTION OF BUSINESS AT A MEETING OF THE  
5 BOARD. A MAJORITY OF THE MEMBERS PRESENT AND SERVING ARE  
6 REQUIRED FOR OFFICIAL ACTION OF THE BOARD.

7 (9) THE BUSINESS THAT THE BOARD MAY PERFORM SHALL BE CON-  
8 DUCTED AT A PUBLIC MEETING OF THE BOARD HELD IN COMPLIANCE WITH  
9 THE OPEN MEETINGS ACT, 1976 PA 267, MCL 15.261 TO 15.275.

10 (10) A WRITING PREPARED, OWNED, USED, IN THE POSSESSION OF,  
11 OR RETAINED BY THE BOARD IN THE PERFORMANCE OF AN OFFICIAL FUNC-  
12 TION IS SUBJECT TO THE FREEDOM OF INFORMATION ACT, 1976 PA 442,  
13 MCL 15.231 TO 15.246.

14 (11) MEMBERS OF THE BOARD SHALL SERVE WITHOUT COMPENSATION.  
15 HOWEVER, MEMBERS OF THE BOARD MAY BE REIMBURSED FOR THEIR ACTUAL  
16 AND NECESSARY EXPENSES INCURRED IN THE PERFORMANCE OF THEIR OFFI-  
17 CIAL DUTIES AS MEMBERS OF THE BOARD.

18 SEC. 36205. (1) THE BOARD SHALL ANNUALLY DETERMINE WHICH  
19 GRANTS SHOULD BE APPROVED AND SHALL SUBMIT TO THE LEGISLATURE A  
20 LIST OF THOSE GRANTS THAT THE BOARD HAS DETERMINED SHOULD BE  
21 ACQUIRED WITH TRUST FUND MONEY, COMPILED IN ORDER OF PRIORITY.  
22 THE BOARD SHALL REQUIRE THE LOCAL UNIT OF GOVERNMENT TO PROVIDE  
23 AT LEAST 25% OF THE COST OF ACQUIRING THE AGRICULTURE CONSERVA-  
24 TION EASEMENTS THAT WILL BE FUNDED WITH THE GRANT.

25 (2) THE BOARD SHALL CONSIDER ALL OF THE FOLLOWING IN REVIEW-  
26 ING GRANT APPLICATIONS FOR THE ACQUISITION OF AGRICULTURE  
27 CONSERVATION EASEMENTS IN THE FOLLOWING PRIORITY ORDER:

1 (A) THE PRODUCTIVE CAPACITY OF THE FARMLAND SUITED FOR THE  
2 PRODUCTION OF FEED, FOOD, AND FIBER, INCLUDING, BUT NOT LIMITED  
3 TO, PRIME OR UNIQUE FARMLAND OR FARMLAND OF LOCAL IMPORTANCE, AS  
4 DEFINED BY THE UNITED STATES DEPARTMENT OF AGRICULTURE-NATURAL  
5 RESOURCES CONSERVATION SERVICE.

6 (B) WHETHER THE FARMLAND MEETS ANY OF THE FOLLOWING:

7 (i) THE FARMLAND WOULD COMPLEMENT AND IS PART OF A DOCU-  
8 MENTED, LONG-RANGE EFFORT OR PLAN FOR LAND PRESERVATION BY THE  
9 GOVERNING BODY OF THE LOCAL UNIT OF GOVERNMENT.

10 (ii) THE FARMLAND IS LOCATED WITHIN AN AGRICULTURAL SECURITY  
11 AREA.

12 (iii) THE FARMLAND IS ADJACENT TO FARMLAND THAT IS SUBJECT  
13 TO AN AGRICULTURE CONSERVATION EASEMENT OR OTHER EASEMENT THAT  
14 RESTRICTS DEVELOPMENT ON THE LAND IN PERPETUITY.

15 (C) THE AMOUNT OF MATCHING FUNDS FROM THE LOCAL UNIT OF GOV-  
16 ERNMENT, PRIVATE ORGANIZATIONS, THE OWNER OF THE FARMLAND, OR  
17 OTHER SOURCES IN EXCESS OF THE MINIMUM MATCH AMOUNT REQUIRED.

18 (D) WHETHER THE FARMLAND IS FACED WITH DEVELOPMENT PRESSURE  
19 THAT WILL PERMANENTLY ALTER THE ABILITY FOR THAT LAND TO BE USED  
20 FOR PRODUCTIVE AGRICULTURAL ACTIVITY.

21 (E) WHETHER THE LOCATION OF THE FARMLAND IS WITHIN THE  
22 JURISDICTION OF A CONSERVATION PLAN APPROVED BY A SOIL CONSERVA-  
23 TION DISTRICT UNDER PART 93.

24 (F) WHETHER THE FARMLAND IS ENROLLED UNDER PART 361.

25 (3) THE DEPARTMENT SHALL PROVIDE THE BOARD WITH STAFF AND  
26 ASSISTANCE NECESSARY TO CARRY OUT ITS RESPONSIBILITIES UNDER THIS  
27 PART.

1 (4) THE LEGISLATURE SHALL APPROVE BY LAW THE GRANTS TO BE  
2 FUNDED WITH MONEY IN THE TRUST FUND.

3 SEC. 36206. UPON APPROPRIATION, THE DEPARTMENT SHALL DIS-  
4 TRIBUTE GRANTS TO RECIPIENTS. THE DEPARTMENT SHALL CONDITION THE  
5 RECEIPT OF A GRANT UPON THE DEPARTMENT'S APPROVAL OF THE AGRICUL-  
6 TURE CONSERVATION EASEMENT. IN REVIEWING PERMITTED USES CON-  
7 TAINED WITHIN AN AGRICULTURE CONSERVATION EASEMENT, THE DEPART-  
8 MENT SHALL CONSIDER ALL OF THE FOLLOWING:

9 (A) WHETHER THE USE ADVERSELY AFFECTS THE PRODUCTIVITY OF  
10 FARMLAND OR ADVERSELY AFFECTS THE CHARACTER OF OPEN SPACE LAND.

11 (B) WHETHER THE USE MATERIALLY ALTERS OR NEGATIVELY AFFECTS  
12 THE EXISTING CONDITIONS OR USE OF THE LAND.

13 (C) WHETHER THE USE RESULTS IN A MATERIAL ALTERATION OF AN  
14 EXISTING STRUCTURE TO A NONAGRICULTURAL USE.

15 (D) WHETHER THE USE CONFORMS WITH ALL APPLICABLE FEDERAL,  
16 STATE, AND LOCAL LAWS AND ORDINANCES.

17 SEC. 36207. THE DEPARTMENT MAY PROMULGATE RULES TO IMPL-  
18 MENT THIS PART.

19 Enacting section 1. This amendatory act does not take  
20 effect unless Senate Bill No. \_\_\_\_\_ or House Bill  
21 No. \_\_\_\_\_ (request no. 05857'98) of the 89th Legislature is  
22 enacted into law.