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**BILL ANALYSIS**

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House Bill 5454 (Substitute H-1 as passed by the House)  
House Bill 5455 (Substitute H-1 as passed by the House)  
House Bill 5628 (Substitute H-1 as passed by the House)  
Sponsor: Representative Kevin Elsenheimer (H.B. 5454)  
Representative Bill Huizenga (H.B. 5455)  
Representative Tom Casperson (H.B. 5628)  
House Committee: Conservation, Forestry, and Outdoor Recreation  
Senate Committee: Agriculture, Forestry and Tourism

Date Completed: 2-22-06

### **CONTENT**

**House Bills 5454 (H-1) and 5455 (H-1) would amend Part 511 (Commercial Forests) of the Natural Resources and Environmental Protection Act (NREPA) to do the following:**

- Establish a minimum size for land to be classified as commercial forest.
- Revise the current application fee of \$1 per acre for a commercial forest classification to include a minimum fee of \$200.
- Require the owner of commercial forestland to provide documentation that he or she would provide access to the general public for hunting and fishing.
- Require the owner to notify the Department of Natural Resources (DNR) if the location of public access changed.
- Specify that failure to maintain public access to commercial forestland would subject it to declassification.
- Revise the penalty for the withdrawal of acreage from commercial forestland classification, and offer an exemption from the penalty for one year after the bill's effective date under certain conditions.
- Repeal Section 51107 of the Act, which requires the tax rate for commercial forestland to be adjusted in 2006 and every 10th year after that.

**House Bill 5628 (H-1) would amend Part 505 (Michigan Forest Finance Authority) of NREPA to require that the proceeds from the sale of the first 90,000 cords of wood from the State forest be distributed to local governments in counties with commercial forestland, to the School Aid Fund, and any remainder to the General Fund.**

House Bill 5454 (H-1) is tie-barred to House Bills 5455, 5462, and 5628. (House Bill 5462 would amend the General Property Tax Act to exempt qualified forest property from local school operating taxes.) House Bill 5455 (H-1) is tie-barred to House Bill 5454.

The bills are described in detail below.

#### **House Bill 5454 (H-1)**

##### Tax Rate for Commercial Forests

Part 511 allows the owner of forestland to apply to the DNR to have that land determined to be a commercial forest. Commercial forests are not subject to the ad valorem general property tax, but instead are subject to an annual specific tax of \$1.10 per acre, as adjusted by Section 51107. (That section requires the tax rate to be adjusted in 2006 and every 10 years after that based on the State equalized value of timber cutover lands in the State.) The bill would remove the provision for

adjustments to the tax rate. (House Bill 5455 (H-1) would repeal Section 51107.)

### Withdrawal Penalty

Under Part 511, an owner of a commercial forest may withdraw his or her land, in whole or in part, from the operation of the part upon application to the DNR and payment of a withdrawal application fee and penalty. The penalty per acre is equal to the product of the current average ad valorem property tax per acre on timber cutover real property within the township where the commercial forestland is located multiplied by the number of years, up to 15, that the land was subject to Part 511.

If the township where the commercial forestland is located does not contain any timber cutover real property, then the per-acre average of the ad valorem property tax for all timber cutover real property in the county must be used in calculating the penalty. If no timber cutover real property is located in the county, the per-acre average of the ad valorem property tax for all timber cutover real property in townships contiguous to the country where the commercial forestland is located must be used in calculating the penalty.

The bill would remove these provisions concerning the calculation of the penalty. Under the bill, the penalty would equal the sum of the ad valorem general property tax from which the forestland was exempted for the previous 10 years, but not longer than the period for which the property had been designated as commercial forestland.

For one year after the bill's effective date, an owner of commercial forest property would not be subject to a withdrawal penalty if all of the following occurred:

- An owner of commercial forestland withdrew his or her land from the operation of Part 511.
- The former commercial forestland was placed on the assessment roll in the local tax collecting unit in which the former commercial forestland was located.
- The owner of the former commercial forestland claimed and was granted an exemption from the tax levied by a local school district for school operating purposes under proposed Section 7jj of

the General Property Tax Act. (House Bill 5462 would create Section 7jj.)

In all other cases, for one year after the bill's effective date, the penalty would be the same as the withdrawal penalty that was in effect immediately before the bill's effective date.

### Public Access

Part 511 specifies that an owner of a commercial forest must not deny the general public the privilege of hunting or fishing on commercial forestland unless the land is closed to hunting or fishing by order of the DNR or by an act of the Legislature.

Under the bill, for land classified as commercial forest on or after March 30, 1995, the owner of the commercial forestland would have to provide to the DNR documentation that he or she would provide access to the general public for hunting and fishing as required.

The documentation would have to include one or more of the following:

- If the public access were to be provided through land owned by the owner of the commercial forestland, a statement certifying the area or areas through which the public could gain access to the commercial forestland.
- If the public access were to be provided through land owned by another person, a copy of an easement granting rights to the general public to gain access to the commercial forestland.
- If the public access were to be provided through public land accessible to the general public, a statement identifying that public land.

If portions of the commercial forestland were contiguous only at a point, the owner would have to provide documentation of public access to each portion of land by one of the methods specified above.

For commercial forestland classified on or after March 30, 1995, if the location of the public access to that land changed by an act of the owner, he or she would have to give to the DNR updated documentation of public access.

Failure by an owner to maintain public access for hunting and fishing would be a violation of Part 511 and would subject the commercial forestland to declassification.

#### Declassification of Commercial Forestland

Part 511 permits the DNR, upon notice to the owner and after a hearing, to declassify all or a portion of a commercial forest if an owner of the commercial forest uses it in violation of the part; fails to pay any specific tax; fails to report to the DNR before harvesting, cutting, or removing forest products from the commercial forest; removes minerals in violation of the part; or, after certifying that a forest management plan has been prepared and is in effect, fails to plant, harvest, or remove forest products in compliance with the plan. The DNR is required to declassify the commercial forest if, at the hearing, the Department determines that one of those violations was committed.

The bill would delete the provisions permitting the DNR to declassify commercial forest. Under the bill, the DNR would be required to remove the commercial forest designation for a commercial forest (rather than declassify it) if, after providing notice and an opportunity for a hearing, the Department determined that one of the violations currently listed had occurred or the owner had failed to maintain public access for hunting or fishing.

#### **House Bill 5455 (H-1)**

As noted above, Part 511 allows the owner of forestland within the State to apply to the DNR to have that forestland designated a commercial forest. Under the bill, the forestland would have to consist of at least 40 contiguous acres or a survey unit consisting of one quarter of one quarter of a section of forestland. (A section of land is one square mile, or 640 acres.) "Contiguous" would mean land that touched at any point. The existence of a road, railroad, or utility right-of-way that separated any part of the land would not make the land noncontiguous.

The bill would require an application for designation as commercial forest to be postmarked or delivered by April 1 to be eligible for approval as commercial forest for the following tax year.

Under Part 511, the applicant must pay an application fee of \$1 per acre, not to exceed \$1,000. The bill also would establish a minimum fee of \$200.

The bill would require that, with the application, the owner submit documentation that he or she would provide access to the general public for hunting and fishing as required under Part 511.

Part 511 requires the DNR, upon receiving all required application materials, to evaluate the forestland offered and fix a date for a public hearing. The bill would include the public access documentation among the materials required before the DNR may establish a hearing date.

Within three months of the bill's effective date, the Department of Treasury would have to notify all owners of land classified as commercial forestland of the amendments to Part 511 enacted in 2006.

The bill would repeal Section 51107 of NREPA, which requires the tax rate for commercial forestland to be adjusted in 2006 and every 10th year after that.

#### **House Bill 5628 (H-1)**

Part 505 requires the Michigan Forest Finance Authority to deposit into the Forest Development Fund any money received from cutting and selling timber on tax-reverted land. The money in the Fund must be used for one or more of the following:

- To provide for the payment of principal or interest on any bonds issued by the Authority.
- For reforestation, forest protection, and timber stand improvement.
- To obtain and maintain certification of sustainable forestry standards in the State forest.
- For any other purpose authorized under Part 505.

The bill would retain those provisions, but would require that in each fiscal year, money received by the Fund from the sale of the first 90,000 cords of wood harvested from the State forest be distributed as follows:

- The first \$2.2 million would have to be distributed to each city, township,

village, and county in each county with land classified as commercial forest, in proportion to the amount of commercial forestland in that local tax collecting unit, to be distributed in the same manner and in the same proportion as ad valorem taxes collected under the General Property Tax Act.

- The next \$2.2 million would have to be deposited into the School Aid Fund.
- The balance of the money would have to be deposited in the General Fund of the State.

Additional money received by the Fund would have to be used as currently specified.

"State forest" would mean that term as defined in Section 52501, i.e., State land owned or controlled by the DNR that is designated as State forest by the Director of the Department.

MCL 324.51105 et al. (H.B. 5454)  
324.51101 et al. (H.B. 5455)  
324.50507 (H.B. 5628)

Legislative Analyst: Curtis Walker

## **FISCAL IMPACT**

### **House Bills 5454 (H-1) and 5455 (H-1)**

House Bill 5455 (H-1) would set a minimum of \$200 for the commercial forest classification application fee, which would increase revenue to the Commercial Forest Fund by an undetermined amount. Applications regarding forestland of 199 acres or less would have to be accompanied by a minimum fee of \$200 instead of using the rate of \$1 per acre to calculate the fee. The Commercial Forest Fund receives annual revenue of approximately \$35,000 and statute designates its use for enforcement, administration, and monitoring of compliance with Part 511 (Commercial Forests) of NREPA.

House Bill 5454 (H-1) would revise the withdrawal penalty paid to local units of government by commercial forest owners. The revised formula could result in more or less revenue depending on how long the forestland had been in the program and the number of timber cutover real property acres that would be applied to the calculation under the current formula.

House Bill 5454 (H-1) would postpone implementation of the proposed changes to the withdrawal penalties described above until one year after the bill was enacted into law. During that year, current owners of commercial forests would be allowed to withdraw from a commercial forest designation without paying the penalty if they met certain criteria. The suspension of the withdrawal penalty could encourage commercial forest owners to withdraw, resulting in an indeterminate loss of revenue to local units of governments and the Commercial Forest Fund.

The Department of Treasury would incur minimal administrative costs to notify current owners of commercial forestland of enacted statutory changes.

The repeal of Section 51107 would eliminate the recalculation of payments in lieu of taxes on commercial forest land and would result in savings for the State. In FY 2005-06, there were 2,209,700 acres of land in the State certified by the DNR as commercial forestland, for which the DNR paid \$1.20 per acre for a total of \$2,651,600 in payments in lieu of taxes. Since counties are not required to report the number of timber cutover acres, sufficient information is not available to calculate the per-acre amount of the State equalized valuation (SEV) of timber cutover for the required adjustment ratio. Using the true cash value of timber cutover land statewide as an approximation, the statutory increase would raise the rate paid by the State by 400.0% from \$1.20 to \$4.80 per acre, for a total payment of \$10,606,600. The payments are supported entirely with General Fund revenue.

Using the true cash value of timber cutover land to estimate the increase, the rate paid by owners of commercial forests would increase under statute from \$1.10 to \$4.40 per acre, for a total payment of \$9,722,700. Since it would maintain the amounts paid by commercial foresters and the State at current levels, the bill would result in a collective loss to counties of \$15,246,900 in additional revenue anticipated in FY 2006-07, and savings for commercial foresters of \$7,292,000 and savings for the State of \$7,954,900.

### **House Bill 5628 (H-1)**

House Bill 5628 (H-1) would cost the State a net of \$2.2 million since revenue currently deposited into the Forest Development Fund would be distributed to local units of government. The State School Aid Fund also would realize a \$2.2 million gain at the expense of the Forest Development Fund, although this would shift money between State restricted funds. The Department of Natural Resources estimates that the sale of the first 90,000 cords of wood harvested would earn \$4.4 million for the Forest Development Fund, based on 2004 data. This would leave no balance for deposit into the General Fund. The Forest Development Fund is used to manage the State forests, prescribe treatment on timber, and fight forest fires. It has annual revenue between \$28.0 million and \$31.0 million. The bill would reduce the annual revenue to the Fund by approximately \$4.4 million.

Fiscal Analyst: Jessica Runnels

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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.