

Senate Fiscal Agency
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SFA**BILL ANALYSIS**

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Senate Bill 49 (Substitute S-1 as passed by the Senate)
Senate Bill 395 (Substitute S-1 as passed by the Senate)
Sponsor: Senator Leon Stille
Committee: Farming, Agribusiness and Food Systems

Date Completed: 4-12-99

RATIONALE

In rural areas across the State, many property owners raise a limited number of livestock, poultry, or horses on small parcels of land that are zoned agricultural by the township or county where the land is located. In response to increasing residential development in these areas, some local governments have revised agricultural zoning laws. Rural property owners fear that zoning changes may restrict current and future agricultural activities on these parcels. Although people generally agree that local officials should be able to regulate land use, some feel that these regulations should not unduly threaten agricultural uses.

CONTENT

Senate Bill 49 (S-1) would amend the County Zoning Act and Senate Bill 395 (S-1) would amend the Township Zoning Act to provide that a zoning ordinance adopted under the respective Act could not prohibit the keeping of farm animals on a parcel of at least 40 acres, but could limit the number of farm animals as appropriate for the size of the parcel. Both bills specify that they would not require a zoning ordinance to prohibit or limit the keeping of farm animals on a parcel of less than 40 acres.

Proposed MCL 125.201b (S.B. 49)
Proposed MCL 125.271b (S.B. 395)

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

Property owners in rural areas across the State are concerned that changes in local zoning laws threaten agricultural activities, such as the keeping of farm animals. Evidently, many zoning revisions have been enacted in response to concerns of persons who have moved into new residential communities that are encroaching on rural areas. There is concern

that the amended zoning ordinances are aimed at restricting the number of animals and farming activities that occur on agricultural land surrounding these communities, even though the agricultural operations existed before the residential community was developed. Under the bill, a local government could not prohibit the keeping of farm animals on a parcel of at least 40 acres, but could restrict the total number of animals on the parcel. Thus, the bill would protect landowners by prohibiting local governments from using zoning laws to place burdensome restrictions on the use of the land, but would provide for local control by allowing these governments to restrict the number of animals on a parcel.

Response: Not all parcels where animals are kept are at least 40 acres; many are smaller. Instead of specifying a parcel size, perhaps the bill should refer to a parcel of a size that would be scientifically appropriate for the number of animals on the land.

Opposing Argument

Under the county and township zoning Acts, the lawful use of land existing at the time a zoning ordinance or an amendment to that ordinance is enacted may continue, although the use does not conform to the provisions of the zoning ordinance or amendment. Thus, if a local government amends a zoning ordinance that applies to land zoned agricultural, the agricultural use of that property may continue as a nonconforming use under the amended ordinance. If the use of the land changes, then it must comply with the amended ordinance. Therefore, rural property owners who keep animals on land that complies with local zoning may continue those practices after the ordinance has been amended.

Response: Even though the Acts permit nonconforming uses of land, the expansion of agricultural activities on small rural parcels is inhibited because a change in the use of the land requires a property owner to meet requirements of an amended ordinance, which may place more

restrictions on agricultural activities.

Opposing Argument

The zoning Acts enable a local community to regulate land use by providing for the creation of zoning districts to permit commercial, industrial, agricultural, or residential uses of the land. Within each district, land that meets criteria of a zoning classification must be treated the same as other parcels in the district. The bills would depart from current zoning regulations by permitting zoning to be based on a parcel's size and not classification. Consequently, the bills would contradict a guiding principle of zoning regulation, which provides for the uniform treatment of land within a zoning district.

Legislative Analyst: L. Arasim

FISCAL IMPACT

The bills would have no fiscal impact on State or local government.

Fiscal Analyst: R. Ross

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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.