

HOUSE BILL No. 5552

February 17, 2004, Introduced by Reps. Palsrok, Pappageorge, Shackleton, Stahl, Steil, Amos, Nofs, Meyer, Huizenga, Nitz, Palmer, Emmons, LaJoy, Voorhees, Moolenaar, Ward, Drolet, Bisbee, Hune, Farhat, Mortimer, Hummel, Caswell, Pastor, Robertson, Shaffer, DeRoche, Julian, Taub, Richardville, Vander Veen, Brandenburg, Acciavatti and Bradstreet and referred to the Committee on Agriculture and Resource Management.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending sections 50501, 50502, 50504, 50506, 50507, and 50508
(MCL 324.50501, 324.50502, 324.50504, 324.50506, 324.50507, and
324.50508), as added by 1995 PA 57.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 50501. The purpose of this part and of the authority
2 created by this part is to preserve existing jobs, create new
3 jobs, and alleviate and prevent unemployment through the
4 retention, promotion, and development of forestry and forest
5 industries and to protect the health and vigor of forest
6 resources by doing all of the following:

7 (a) Implementing a system of forest management that is
8 consistent with principles of sustainable forestry and with part
9 525.

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1 **(b)** ~~-(a)-~~ Funding practices prescribed and approved by the
2 department that intensify management of certain highly productive
3 portions of this state's forest system.

4 **(c)** ~~-(b)-~~ Implementing a system of forest management that is
5 investment-oriented, economically efficient, and environmentally
6 sound.

7 **(d)** ~~-(e)-~~ Promoting a stable and continuing supply of timber
8 for future economic expansion.

9 **(e)** ~~-(d)-~~ Providing dependable funding of scheduled forest
10 management operations.

11 **(f)** ~~-(e)-~~ Promoting effective investment of revenues from
12 timber sales for high future returns.

13 **(g)** ~~-(f)-~~ Facilitating timely performance of forest
14 management operations.

15 **(h)** ~~-(g)-~~ Earning additional revenues for forest management
16 from timber sales.

17 **(i)** ~~-(h)-~~ Improving existing timber stands and establishing
18 new stands of trees.

19 **(j)** ~~-(i)-~~ Providing for reforestation, forest protection, and
20 timber stand improvement.

21 **(k)** ~~-(j)-~~ Providing an additional funding source for the
22 purposes described in this section from indebtedness secured with
23 revenues generated from future sale of timber harvested from
24 state tax reverted lands, ~~and other~~ **from** lands in the state
25 forest system from which revenues derived from the sale of timber
26 were previously deposited in the forest management fund created
27 in former ~~Act No. 268 of the Public Acts of 1945~~ **1945 PA 268,**

1 and from other lands as provided by law.

2 Sec. 50502. As used in this part:

3 (a) "Authority" means the Michigan forest finance authority
4 created in section 50503.

5 (b) "Board" means the board of directors of the Michigan
6 forest finance authority, except where the context clearly
7 requires a different definition.

8 (c) "Bonds" means bonds of the authority issued as provided
9 in this part.

10 (d) "Department" means the department of natural resources.

11 (e) ~~(d)~~ "Notes" means notes of the authority issued as
12 provided in this part, including commercial paper.

13 (f) "State forester" means an employee of the department who
14 has an educational background and expertise in forest management
15 as designated by the director of the department based upon a
16 recommendation of the board.

17 (g) "Sustainable forestry" means that term as it is defined
18 in section 52501.

19 Sec. 50504. (1) The authority shall be governed by a board
20 of directors consisting of the ~~director,~~ the state treasurer,
21 the attorney general, the state forester, and ~~3~~ 4 residents of
22 the state, appointed by the governor with the advice and consent
23 of the senate — as follows:

24 (a) One individual shall be a member of an association
25 representing the forest products industry within the state.

26 (b) One individual shall be a commercial logging contractor
27 active in a forest product association.

1 (c) One individual shall be an owner of nonindustrial,
2 private forestland.

3 (d) One individual shall be from the wood products
4 manufacturing industry.

5 (2) The ~~3~~ 4 resident directors appointed under subsection
6 (1)(a) to (d) shall serve terms of 3 years. In appointing the
7 initial ~~3~~ 4 resident members of the board, the governor shall
8 designate ~~1~~ 2 to serve for 3 years, 1 to serve for 2 years, and
9 1 to serve for 1 year.

10 (3) ~~(2)~~ Upon appointment to the board under subsection (1),
11 and upon the taking and filing of the constitutional oath of
12 office, a member of the board shall enter the office and exercise
13 the duties of the office.

14 (4) ~~(3)~~ Regardless of the cause of a vacancy on the board,
15 the governor shall fill a vacancy in the office of a member of
16 the board by appointment with the advice and consent of the
17 senate. A vacancy shall be filled for the balance of the
18 unexpired term of the office. A member of the board shall hold
19 office until a successor has been appointed and has qualified.

20 (5) ~~(4)~~ Members of the board and officers and employees of
21 the authority are subject to ~~Act No. 317 of the Public Acts of~~
22 ~~1968, being sections 15.321 to 15.330 of the Michigan Compiled~~
23 ~~Laws~~ 1968 PA 317, MCL 15.321 to 15.330. A member of the board
24 or an officer, employee, or agent of the authority shall
25 discharge the duties of his or her position in a nonpartisan
26 manner, with good faith, and with that degree of diligence, care,
27 and skill that an ordinarily prudent person would exercise under

1 similar circumstances in a like position. In discharging his or
2 her duties, a member of the board or an officer, employee, or
3 agent of the authority, when acting in good faith, may rely upon
4 the opinion of counsel for the authority, upon the report of an
5 independent appraiser selected with reasonable care by the board,
6 or upon financial statements of the authority represented to the
7 member of the board, officer, employee, or agent to be correct by
8 the officer of the authority having charge of its books or
9 account, or stated in a written report by the auditor general or
10 a certified public accountant or the firm of the accountants
11 fairly to reflect the financial condition of the authority.

12 **(6)** ~~-(5)-~~ The board shall organize and make its own policies
13 and procedures. The board shall conduct all business at public
14 meetings held in compliance with the open meetings act, ~~Act~~
15 ~~No. 267 of the Public Acts of 1976, being sections 15.261 to~~
16 ~~15.275 of the Michigan Compiled Laws~~ **1976 PA 267, MCL 15.261 to**
17 **15.275.** Public notice of the time, date, and place of each
18 meeting shall be given in the manner required by ~~Act No. 267 of~~
19 ~~the Public Acts of 1976~~ **the open meetings act, 1976 PA 267, MCL**
20 **15.261 to 15.275.** ~~Three~~ **Four** members of the board constitute a
21 quorum for the transaction of business. An action of the board
22 requires a concurring vote by ~~3~~ **4** members of the board. A
23 state officer ~~or director~~ who is a member of the board may
24 designate a representative from his or her department to serve
25 instead of that state officer ~~or director~~ as a voting member of
26 the board for 1 or more meetings.

27 Sec. 50506. Except as otherwise provided in this part, the

1 board may do all things necessary or convenient to implement the
2 purposes, objectives, and provisions of this part, and the
3 purposes, objectives, and powers delegated to the board by other
4 laws or executive orders, including, but not limited to, all of
5 the following:

6 (a) Adopt an official seal and bylaws for the regulation of
7 its affairs and alter the seal or bylaws at its pleasure.

8 (b) Sue and be sued in its own name and plead and be
9 impleaded.

10 (c) Borrow money and issue negotiable revenue bonds and notes
11 pursuant to this part.

12 (d) Enter into contracts and other instruments necessary,
13 incidental, or convenient to the performance of its duties and
14 the exercise of its powers.

15 (e) With the prior consent of the department, solicit and
16 accept gifts, grants, loans, and other aid from any person, or
17 the federal, state, or local government or any agency of the
18 federal, state, or local government, or participate in any other
19 way in a federal, state, or local government program.

20 (f) Acquire standing timber, timber cutting rights, and the
21 state's interest in contracts granting cutting rights, on state
22 tax reverted lands, ~~and on other~~ lands in the state forest
23 system from which revenues derived from the sale of timber were
24 previously deposited in the forest management fund created in
25 former ~~Act No. 268 of the Public Acts of 1945~~ **1945 PA 268, and**
26 **on other lands as provided by law**, to be used for any of the
27 purposes provided in this part subject to the restrictions of

1 section 50509. However, the state shall not convey to the
2 authority fee title to any state forest lands.

3 (g) Procure insurance against loss in connection with the
4 property, assets, or activities of the authority.

5 (h) Invest money of the authority, at the board's discretion,
6 in instruments, obligations, securities, or property determined
7 proper by the board, and name and use depositories for its
8 money.

9 (i) Contract for goods and services and engage personnel as
10 necessary and engage the services of private consultants,
11 managers, legal counsel, and auditors for rendering professional
12 financial assistance and advice payable out of any money of the
13 authority, subject to the restrictions of section 50507.

14 (j) Indemnify and procure insurance indemnifying members of
15 the board from personal loss or accountability from liability
16 asserted by a person on bonds or notes of the authority, or from
17 any personal liability or accountability by reason of the
18 issuance of the bonds or notes, or by reason of any other action
19 taken or the failure to act by the authority.

20 (k) Do all other things necessary or convenient to achieve
21 the objectives and purposes of the authority, this part, rules
22 promulgated under this part, or other laws that relate to the
23 purposes and responsibilities of the authority.

24 Sec. 50507. (1) The authority shall finance only forest
25 management operations and practices **consistent with part 525** that
26 follow the guidelines, rules, and objectives prescribed and
27 approved by the department as these guidelines, rules, and

1 objectives are amended by the department.

2 (2) Funds managed by the authority shall be applied in a
3 manner consistent with **part 525 and** the land management planning
4 policies of the department on lands that have been identified for
5 forest management practices. In the absence of an approved state
6 forest management plan covering a candidate area, an interim
7 procedure, as adopted by the department, shall be used to assure
8 that all forest values have been considered in selecting sites
9 for investment with funds of the authority. The department shall
10 annually submit a list of activities and practices allocated from
11 the funds generated under this part for the board's review and
12 determination of consistency with the purposes of this part.

13 (3) The executive director of the authority shall notify the
14 department if the authority projects a probable default on any
15 bonds or notes issued by the authority, and within 1 year of
16 receipt of the notification, or within less than 1 year, if the
17 notification indicates a shorter time period is necessary to
18 avoid a default, the department shall identify and convey to the
19 authority sufficient timber on tax reverted lands to enable the
20 authority to avoid the projected default and to provide for
21 timely payment of principal of and interest on the authority's
22 bonds or notes. The authority may only issue contracts for the
23 cutting and sale of timber that has been conveyed to the
24 authority under this section to avoid a default on any bonds or
25 notes issued by the authority. The determination of the board as
26 to the need to cut and sell timber is conclusive. Contracts for
27 the cutting and sale of timber shall be consistent with **part 525**

1 **and with** the guidelines, rules, and objectives prescribed by the
2 department.

3 (4) The authority shall establish a fund designated as the
4 "forest development fund". Any money on hand or received in the
5 future from bond proceeds and from contracts for the cutting and
6 sale of timber on tax reverted lands shall be deposited in the
7 forest development fund. ~~and utilized by the~~ **In addition, this**
8 **fund may receive revenues from any other source.** The authority
9 ~~to~~ shall use money in the forest development fund for 1 or more
10 of the following:

11 (a) To provide for the payment of principal of and interest
12 on any bonds or notes issued by the authority. ~~and for~~

13 (b) For reforestation, forest protection, and timber stand
14 improvement. ~~and~~

15 (c) For payments in lieu of taxes on state forestland.

16 (d) For maintenance of certification of sustainable forestry
17 standards in the state forest under section 52506.

18 (e) To provide assistance to private landowners for forest
19 management activities.

20 (f) For any other purposes authorized by this part. ~~All~~
21 ~~money in the special forest management fund established pursuant~~
22 ~~to former Act No. 268 of the Public Acts of 1945 shall be~~
23 ~~transferred to the forest development fund.~~

24 Sec. 50508. (1) Except as provided in section 50507(3), the
25 department shall act as the agent for the authority in
26 contracting for the cutting and sale of timber or other forest
27 management operations and practices undertaken by the authority.

1 (2) The state's interest in all existing and future contracts
2 granting timber cutting rights on state tax reverted lands are
3 conveyed to the authority to be used for any of the purposes of
4 this part subject to the restrictions of this part. The money
5 received by the state from existing or future contracts for the
6 cutting and sale of timber on state tax reverted lands, ~~and~~ on
7 ~~other~~ lands in the state forest system from which revenues
8 derived from the sale of timber were previously deposited in the
9 forest management fund created in former ~~Act No. 268~~ of the
10 ~~Public Acts of 1945~~ **1945 PA 268, and on other lands as provided**
11 **by law** shall be deposited in the forest development fund and
12 utilized as provided in section 50507(4).

13 (3) In order to provide for additional security for
14 indebtedness of the authority, the department may convey to the
15 authority title to timber on all or any portion of tax reverted
16 lands, ~~and~~ on ~~other~~ lands in the state forest system from
17 which revenues derived from the sale of timber were previously
18 deposited in the forest management fund created in former ~~Act~~
19 ~~No. 268 of the Public Acts of 1945~~ **1945 PA 268, and on other**
20 **lands as provided by law.** The form of conveyance shall be
21 approved by the attorney general and by resolution of the state
22 administrative board. If the authority receives title to any
23 timber, it may release and reconvey timber on state tax reverted
24 lands, ~~and~~ on ~~other~~ lands in the state forest system from
25 which revenues derived from the sale of timber were previously
26 deposited in the forest management fund created in former ~~Act~~
27 ~~No. 268 of the Public Acts of 1945~~ **1945 PA 268, and on other**

1 **lands as provided by law** if requested by the department, and the
2 reconveyance from the authority to the department will not cause
3 the authority to default on any obligation or covenant contained
4 in any resolution of the authority authorizing issuance of bonds
5 or notes.

6 Enacting section 1. This amendatory act does not take
7 effect unless all of the following bills of the 92nd Legislature
8 are enacted into law:

9 (a) Senate Bill No. ____ or House Bill No. 5554 (request
10 no. 03780'03 *).

11 (b) Senate Bill No. ____ or House Bill No. 5553 (request
12 no. 05901'03 *).