

PRESCRIBED BURNS

Senate Bill 981 with House committee amendment First Analysis (10-12-98)

Sponsor: Senator George McManus, Jr.
**Senate Committee: Hunting, Fishing
and Forestry**
**House Committee: Conservation,
Environment, and Recreation**

THE APPARENT PROBLEM:

The Department of Natural Resources (DNR) periodically conducts prescribed burns (intentionally set fires) on state- or privately-owned property as part of a land use management plan to replace forests with scattered trees and prairie grass, promote reforestation, enhance wildlife habitats, control insects, prevent runaway forest fires, and accomplish other purposes. According to the U.S. Fish and Wildlife Service, 273 acres were subject to prescribed burns in Michigan during 1996. Although prescribed burns are a result of extensive preparation and controlled circumstances, some burns might resemble a wildfire. In addition, some trees that are burned could provide raw materials for lumber, furniture, paper, and other uses. Some people feel that the DNR should be required to give public notice before conducting a prescribed burn of more than 40 acres. It has also been proposed that any marketable timber be offered for sale.

THE CONTENT OF THE BILL:

The bill would amend Part 517 of the Natural Resources and Environmental Protection Act (NREPA), concerning the prevention of forest fires, to prohibit the state or a department, bureau, board, commission, or other agency of the state, or a political subdivision of the state, from enacting, adopting, promulgating, enforcing, or practicing any law, rule, policy, or concept that authorized the burning of a forest area, unless both of the following conditions were met before the burning:

- Notice of the location of a prescribed burn of more than 40 acres was provided to the general public by publication in a newspaper of general circulation in the

county where the proposed burn would occur at least two weeks before the first day of a designated 60-day period in which the burn was scheduled to occur.

- Marketable timber had been offered for sale in the manner prescribed by the Department of Natural Resources (DNR) for sale of forest products, if consistent with management objectives.

Under the bill, "prescribed burn" would mean a fire that was intentionally set by the DNR in a forest area on state- or privately-owned property to assist the department in implementing one or more land use management goals.

MCL 324.51701 and 324.51702

FISCAL IMPLICATIONS:

According to the Senate Fiscal Agency (SFA), the bill's requirement that the state offer timber rights for sale prior to a proposed burn would result in indeterminate additional revenues. (4-6-98)

ARGUMENTS:

For:

Prescribed burns are an effective forest management tool used for such purposes as habitat improvement and wildlife enhancement. Prescribed burns help prevent wildfires by reducing the accumulation of forest fuels (deadwood and other dead vegetation) and help restore and maintain biodiversity. Although prescribed burns are used to protect the health, safety, and general welfare of the public, the bill would require that the Department of Natural Resources (DNR) give public notice of a projected burn of more

than 40 acres, so as not to surprise and alarm local residents.

The bill would also require that the DNR sell marketable timber before a prescribed burn if it were consistent with management objectives. Apparently, marketable timber, which can provide a significant economic benefit, has been burned away and wasted because the DNR did not offer to sell it in the past.

Against:

Senate Bill 981 is similar to House Bill 4049 of 1997, which was vetoed by the governor. Reportedly, this bill does not contain the provisions that were objectionable to the governor. Nevertheless, it should be noted that, in testimony on House Bill 4049 before the House committee, some people expressed the opinion that the provisions of the bill would interfere in the DNR's current management policies. Others expressed the viewpoint that, according to their interpretation, passage of Ballot Proposal G in the 1996 election demonstrated a public conviction that department policies should be formed by professional wildlife managers, and should not be "micro-managed" by the legislature. (Ballot Proposal G of 1996 provided that the Commission of Natural Resources would have the exclusive authority to regulate the taking of game in the state.)

Against:

As noted, Senate Bill 981 contains provisions similar to House Bill 4049 of 1997. However, the House Bill also required that the DNR conduct at least one public meeting annually to allow local residents to express their opinions before a prescribed burn was conducted. This provision was included because previous burns had caught local citizens by surprise and raised considerable alarm. As an additional precaution, House Bill 4049 required that the department notify each local fire department with jurisdiction over a burn area prior to a burn. Some people maintain that such notification provisions should be included in Senate Bill 981.

POSITIONS:

The Department of Natural Resources (DNR) supports the bill. (11-10-98)

The Michigan United Conservation Clubs (MUCC) indicated support of the bill before the House Committee. (11-10-98)

Analyst: R. Young

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.