

SUBSTITUTE FOR
SENATE BILL NO. 1024
(As amended May 12, 2004)

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:

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Senate Bill No. 1024 (S-2) as amended May 12, 2004

1 (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 [(b)] Implementing a system of forest management that is
5 investment-oriented, economically efficient, and environmentally
6 sound.

 [(c) Implementing a system of forest management that is consistent
with principles of sustainable forestry and with part 525.]

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

12 (e) "State forester" means an employee of the department who
13 has a 4-year degree in forest management from an accredited
14 college or university and experience in forest management and who
15 is designated as the state forester by the director.

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

18 Sec. 50504. (1) The authority shall be governed by a board
19 of directors consisting of the director, the state treasurer, **the**
20 **director of the department of labor and economic growth**, and ~~3~~
21 6 residents of the state, appointed by the governor with the
22 advice and consent of the senate — **as follows:**

23 (a) One individual shall represent the forest products
24 industry within the state.

25 (b) One individual shall be a commercial logging contractor.

26 (c) One individual shall be an owner of nonindustrial,
27 private forestland.

1 (d) One individual shall be from the wood products
2 manufacturing industry.

3 (e) One individual shall represent hunters, anglers, and
4 other outdoor recreation interests.

5 (f) One individual from a college or university in the state
6 with knowledge and expertise in forest management.

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

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

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

22 (5) ~~(4)~~ Members of the board and officers and employees of
23 the authority are subject to ~~Act No. 317 of the Public Acts of~~
24 ~~1968, being sections 15.321 to 15.330 of the Michigan Compiled~~
25 ~~Laws~~ 1968 PA 317, MCL 15.321 to 15.330. A member of the board
26 or an officer, employee, or agent of the authority shall
27 discharge the duties of his or her position in a nonpartisan

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

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

1 the board for 1 or more meetings. **The state treasurer shall**
2 **serve as chairperson of the board.**

3 Sec. 50506. Except as otherwise provided in this part, the
4 board may do all things necessary or convenient to implement the
5 purposes, objectives, and provisions of this part, and the
6 purposes, objectives, and powers delegated to the board by other
7 laws or executive orders, including, but not limited to, all of
8 the following:

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

11 (b) Sue and be sued in its own name and plead and be
12 impleaded.

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

15 (d) Enter into contracts and other instruments necessary,
16 incidental, or convenient to the performance of its duties and
17 the exercise of its powers.

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

23 (f) Acquire standing timber, timber cutting rights, and the
24 state's interest in contracts granting cutting rights, on state
25 tax reverted lands, ~~and~~ on ~~other~~ lands in the state forest
26 system from which revenues derived from the sale of timber were
27 previously deposited in the forest management fund created in

1 former ~~Act No. 268 of the Public Acts of 1945~~ **1945 PA 268, and**
2 **on other lands as provided by law**, to be used for any of the
3 purposes provided in this part subject to the restrictions of
4 section 50509. However, the state shall not convey to the
5 authority fee title to any state forest lands.

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

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

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

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

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

27 Sec. 50507. (1) The authority shall finance only forest

1 management operations and practices **consistent with part 525** that
2 follow the guidelines, rules, and objectives prescribed and
3 approved by the department as these guidelines, rules, and
4 objectives are amended by the department.

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

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

1 notes issued by the authority. The determination of the board as
2 to the need to cut and sell timber is conclusive. Contracts for
3 the cutting and sale of timber shall be consistent with **part 525**
4 **and with** the guidelines, rules, and objectives prescribed by the
5 department.

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

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

16 (b) **For** reforestation, forest protection, and timber stand
17 improvement. ~~and~~

18 (c) **To obtain and maintain certification of sustainable**
19 **forestry standards in the state forest under section 52505.**

20 (d) **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 (5) **The auditor general shall audit the expenditures of the**
25 **forest development fund at least once every 3 years.**

26 Sec. 50508. (1) Except as provided in section 50507(3), the
27 department shall act as the agent for the authority in

1 contracting for the cutting and sale of timber or other forest
2 management operations and practices undertaken by the authority.

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

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

1 deposited in the forest management fund created in former ~~Act~~
2 ~~No. 268 of the Public Acts of 1945~~ **1945 PA 268, and on other**
3 **lands as provided by law** if requested by the department, and the
4 reconveyance from the authority to the department will not cause
5 the authority to default on any obligation or covenant contained
6 in any resolution of the authority authorizing issuance of bonds
7 or notes.

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

11 (a) Senate Bill No. 1023.

12 (b) House Bill No. 5554.