Senate Fiscal Agency
P.O. Box 30036
Lansing, Michigan 48909-7536

BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986

Senate Bills 685 through 690 (as reported without amendment)
Senate Bill 699 (as reported without amendment)
Sponsor: Senator Sue Shink (S.B. 685 & S.B. 699)
Senator Kevin Daley (S.B. 686)
Senator Sam Singh (S.B. 687)
Senator John Cherry (S.B. 688)
Senator Dan Lauwers (S.B. 689)
Senator Roger Victory (S.B. 690)
Committee: Natural Resources and Agriculture

CONTENT

Senate Bill 685 would amend Part 361 (Farmland and Open Space Preservation) of the Natural Resources and Environmental Protection Act (NREPA) to allow the owner of farmland and related buildings subject to a conservation easement under Subpart 11 (Conservation and Historic Preservation Easement) and an agricultural conservation easement or development rights agreement under Part 361 or Part 362 (Agricultural Preservation Fund) to claim a tax credit against the income tax or the Michigan Business Tax Act if the agreements were executed before January 1, 2025.

Senate Bill 690 would amend Part 361 of NREPA to do the following:

-- Expand the tax credit for agricultural conservation easements and development rights agreements to conservation easements under Subpart 11 and open space preservation programs allowed under the Michigan Zoning Enabling Act.
-- Require the Michigan Department of Agriculture and Rural Development (MDARD) to maintain a record of each development rights agreement, agricultural conservation easement, or purchase of development rights for which a tax credit under Part 361 was claimed.
-- Require a landowner to submit a recorded copy of a permanent conservation easement to MDARD by November 1 for the purpose of obtaining the tax credit.

Senate Bill 686 would amend Part 361 of NREPA to allow up to one acre of land to be relinquished from an agricultural conservation easement as determined by a professional surveyor licensed in Michigan.

Senate Bill 687 would amend Part 362 of NREPA to do the following:

-- Allow MDARD to accept contributions of the development rights to a conservation easement without being added as a coholder of an existing conservation easement.
-- Allow a local government to solely hold an agricultural conservation easement if the easement instrument included specific language affording the State access to the property.

Senate Bill 688 would amend Part 361 of NREPA to modify references in accordance with changes proposed by Senate Bill 686.

Senate Bill 689 would amend Part 361 of NREPA to specify that any remaining land not subject to a transfer from a development rights agreement to an agricultural conservation easement or purchase of development rights would continue to be subject to the development rights agreement until the natural termination date of the agreement.

Senate Bill 699 would amend Part 362 of the NREPA to increase, from $1.4 million to $2.1 million, the maximum amount of money that MDARD) and the Board of the Agricultural Preservation Fund may spend annually on administrative costs to implement Part 361.

All bills except Senate Bill 699 are tie-barred.

Proposed MCL 324.36109b (S.B. 685)
MCL 324.36110 (S.B. 686);324.36206 (S.B. 687)
324.36103 (S.B. 688); 324.36111 (S.B. 689)
324.36109 (S.B. 690); 324.36202 (S.B. 699)

BRIEF RATIONALE

Part 361 preserves farmland from development for non-agricultural uses. A landowner may voluntarily enter into agreements with MDARD under Part 361 to keep land in agricultural use in exchange for a tax credit. According to testimony, the Department of Treasury recently reinterpreted the language governing this land preservation tax credit, which resulted in landowners who entered a permanent agricultural conservation easement with MDARD having their tax returns withheld or being told that they owed back taxes from previous years of the tax credit being misapplied. Specifically, affected landowners entered easements through consent agreements that did not grant the State a co-holder status on the land. These consent agreements did not provide the State enforcement rights and so were in violation of statute. To return to compliance, these landowners either had to pay back taxes or make MDARD a co-owner of the property. Some believe it is unfair that landowners participating in a voluntary contract to preserve agricultural land within Michigan must make such a choice when this situation was not the result of actions taken by the landowners themselves. The bills were proposed to allow landowners to continue to receive tax credits and resolve compliance issues.

Legislative Analyst: Alex Krabill

FISCAL IMPACT

Senate Bills 685 through 690

The bills would reduce General Fund revenue by an indeterminate, and likely minimal, amount. The actual revenue loss would depend on the number of affected properties, the applicable tax rates, and the taxable value of those properties, as well as the household income of affected taxpayers. The current credit reduces revenue by approximately $50.0 to $56.0 million per year. To illustrate the potential revenue loss, if the bills' changes increased credits by 5%, the bill would reduce State General Fund revenue by $2.5 million to $2.8 million per year. According to MDARD, the package of bills would have a significant fiscal impact, requiring additional staffing (approximately 3.0 full-time equivalents) to implement the proposed changes for an estimated additional cost of $600,000. The program is currently funded by the Agricultural Preservation Fund, with $1.6 million of these restricted funds appropriated in the fiscal year (FY) 2025-26 budget. The restricted fund, which currently has a balance of $10.8 million, could support MDARD's costs for these bills, should the cap on Fund usage be amended as proposed in Senate Bill 699, and should a subsequent adjustment to the FY 2025-26 program budget, either by supplemental appropriation or contingency fund transfer, be made in accordance with additional funds required. The bills would have an indeterminate, and likely minimal fiscal impact on local government revenue. The revenue would depend on the taxable value of properties, easements, and the value of what replaces the farmland.

Senate Bill 699

The bill would allow MDARD to increase its annual expenditure from the Fund from a maximum of $1.4 million to a maximum of $2.1 million for the purpose of administering the Farmland and Open Space Preservation Program. These additional restricted revenues would be available from the Fund, which has a current balance of $10.0 million.

Date Completed: 11-7-25

Fiscal Analysts: Bruce R. Baker
Bobby Canell; Jonah Houtz
David Zin