

Legislative Analysis



EXTEND SUNSET FOR CERTAIN AGRICULTURE REGULATORY AND INSPECTION FEES

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House Bill 4849 (H-3)
Sponsor: Rep. Shanelle Jackson

House Bill 4860 (H-3)
Sponsor: Rep. Paul Condino

House Bill 4863 (H-3)
Sponsor: Rep. Bert Johnson

House Bill 4862 (H-6)
Sponsor: Rep. Paul Condino

House Bill 4864 (H-3)
Sponsor: Rep. Bert Johnson

Committee: Appropriations
Complete to 6-18-07

A SUMMARY OF HOUSE BILL 4849, 4860, 4862, 4863, AND 4864 AS REPORTED FROM APPROPRIATIONS COMMITTEE 08-21-2007

BRIEF SUMMARY:The five bills listed above would all extend sunsets for various Michigan Department of Agriculture regulatory or inspection fees established in statute.

Revenue from the fees is assumed in the Executive recommendation for the FY 2007-08 state Agriculture budget. Extension of statutory authority to collect these fees is necessary to enact the FY 2007-08 budget as presented by the Governor and/or to maintain baseline department programs.

The five substitutes differ from the H-2 substitutes as reported from subcommittee that the H-2 substitutes eliminated the sunsets from the acts. The committee substitutes extend the sunset dates to September 30, 2012.

The bills, statutes affected, fees, and fee revenue are summarized below:

House Bill 4849 (H-3) – Pesticide Regulatory Fees

The bill would amend Section 8317 (MCL 324.8317) of the Michigan Natural Resources and Environmental Protection Act (1994 PA 451) to extend the sunset (September 30, 2007 in current law) on certain pesticide regulatory fees to *September 30, 2012*. The fee for *private agricultural applicator* certification and for a *private registered applicator* (as defined in the act) would remain at \$50 per application after September 30, 2007 and would not revert to \$10 per application until the new sunset date.

Note that the certificates for private agricultural applicator and registered applicators are valid for a period of not less than three years. For a three-year certificate, the effective annual application fee is slightly more than \$16 per year. The department indicates that

total annual revenue from the various pesticide regulatory fees established under the act, including fees not subject to statutory sunset is approximately \$1.2 million. The department estimates that the failure to extend or remove the sunset would result in a reduction in fee revenue of approximately \$112,000 per year.

Under current law, all pesticide licensing fees are dedicated to the Pesticide Control Fund which is established in Section 8318 of the act. The bill would repeal Section 8318.

The H-3 substitute would direct the Michigan Department of Agriculture to deposit license fees and administrative fines received under the part (Part 83 of the act, Pesticide Control) in the Agriculture Licensing and Inspection Fees Fund which would be created in Section 9 of the 1931 PA 189, the Insect Pest and Plant Disease Act "*to be used pursuant to appropriation by the director in administering and carrying out those duties required by the law under this part* [i.e. Part 83]." The Agriculture Licensing and Inspection Fees Fund does not currently exist in 1931 PA 189; it would be created in House Bill 4862, to which House Bill 4849 is tie-barred. House Bill 4862 is described below.

House Bill 4860 (H-3) – Pet Shop Regulatory Fees

The bill would amend Section 4 of 1969 PA 287 (an act to regulate pet shops and animal control/animal protection shelters) to extend the sunset (September 30, 2007 in current law) on certain pet shop licensing and regulatory fees to *September 30, 2012*. Under current law and through September 30, 2007, the fee for an initial pet shop application license is \$200, and the fee for annual renewal license is \$100. If the sunset is not removed or extended annual pet shop license fees would be \$150 (with no distinction between initial application fees and renewal fees).

Under current law, revenue from the fees generates approximately \$34,200 per year. The act does not currently designate where fee revenue is be credited. It appears that fee revenue is currently treated as state General Fund revenue although restricted for support of the pet shop inspection program with the Michigan Department of Agriculture. The department estimates that failure to remove or extend the sunset would result in a reduction of fee revenue of \$25,200 per year.

The H-3 substitute would direct the Michigan Department of Agriculture to deposit license fees and administrative fines received under the act in the Agriculture Licensing and Inspection Fees Fund which would be created in Section 9 of the 1931 PA 189, the Insect Pest and Plant Disease Act. The Agriculture Licensing and Inspection Fees Fund does not currently exist in 1931 PA 189; it would be created in House Bill 4862, to which House Bill 4860 is tie-barred. House Bill 4862 is described below.

House Bill 4862 (H-6) – Insect Pest and Plant Disease

Fee sunset – The bill would amend Section 9 of the Insect Pest and Plant Disease Act (1931 PA 189) to extend the sunset (September 30, 2007 in current law) on regulatory

and license fees to *September 30, 2012*. The bill would provide for nursery license fees to remain at \$100 after September 30, 2007 and not revert to \$50 until the new sunset date. The annual license fee for persons using less than ¼ acre to grow nursery stock or utilizing less than 200 square feet of greenhouse space would remain at \$40 after September 30, 2007 through September 30, 2012. The bill would also amend Section 11 of the bill to make the fee for a non-resident nurseryman, dealer, or grower the same as that established in Section 9.

Annual revenue from these fees is approximately \$670,000. The department estimates that failure to remove or extend the sunset would result in a reduction in state fee revenue of approximately \$381,500.

New Restricted Fund – With the exception of an authorization of up to \$70,000 for the Horticulture Fund (see below), the act currently directs the Michigan Department of Agriculture to deposit license and inspection fees and administrative fines received under the act into the state General Fund to be used in enforcement of the act. The bill would direct those fees and fines into a new Agriculture Licensing and Inspection Fees Fund which the bill would create in new subsection 2. The bill would create the Agriculture Licensing and Inspection Fees Fund within the state treasury and would allow the fund to receive money from license fees, inspection fees, and administrative fines collected under PA 189, as well as other acts. The bill directs the department to expend money from the fund, upon appropriation, for the purpose of administering and carrying out the act (PA 189) as well as other acts. Funds in the new Agriculture Licensing and Inspection Fees Fund would remain in the fund at the close of the fiscal year and not lapse to the General Fund.

The new fund is intended to serve as a statutory state-restricted fund for department licensing and regulatory fee revenue. Historically, "licensing and inspection fee revenue" has been treated as a restricted fund source in state appropriations, but has not been established in statute.

Certificate of Inspection Fees – Under current law Section 6 of the act provides authority for the department's nursery inspection program (a program which provides a certificate of inspection for nursery stock). The section authorizes the director to charge inspection fees based on cost to the department of making the inspection. Department inspection fees currently generate approximately \$500,000 per year.

The section also requires the director to review and adjust the schedule of fees at the end of the fiscal year. Under current law the director may raise inspection fees by up to 50% in any fiscal year, subject to prior approval of the Commission of Agriculture. The bill as introduced would have eliminated the 50% limitation and the prior Commission approval requirement. The H-6 substitute retains the language from current law and simply makes a relatively minor clarifying change in wording (the addition of the word "however") and to the numbering of the subsections.

Horticulture Fund – Under current law, the Horticulture Fund is authorized to receive up to \$70,000 each year from licensing fees for use in horticulture research projects, training programs, and outreach materials. Under current law the Horticulture Fund would no longer exist on September 30, 2007 and would revert to the General Fund. The H-6 substitute would extend the sunset to *September 30, 2007* sunset. It would also direct that the money remaining in the fund at that time revert to the Agriculture Licensing and Inspection Fees Fund, rather than the state General Fund. This treatment is different from that of the bill as introduced which would have lifted the sunset on the Horticulture Fund.

House Bill 4863 (H-3) – Horse Riding Stables

The bill would amend Section 9 of 1974 PA 93 to extend the sunset (September 30, 2007 in current law) on certain regulatory and license fees to *September 30, 2012*. The fee for an initial horse riding stable license would remain at \$100 after September 30, 2007 and would not revert to \$25. The annual renewal fee would remain at \$50 after September 30, 2007 and not revert to \$25 until the new sunset date.

Annual revenue from these fees is approximately \$5,500. The department indicates that failure to remove the sunset would result in a reduction in state fee revenue of approximately \$3,000.

Horse riding stable fee revenue under PA 93 is currently credited to the state General Fund. The H-3 substitute would direct the Michigan Department of Agriculture to deposit license fees and administrative fines received under the act in the Agriculture Licensing and Inspection Fees Fund which would be created in Section 9 of the 1931 PA 189, the Insect Pest and Plant Disease Act. The Agriculture Licensing and Inspection Fees Fund does not currently exist in 1931 PA 189; it would be created in House Bill 4862, to which House Bill 4863 is tie-barred. House Bill 4862 is described above.

House Bill 4864(H-3) – Livestock Operations

The bill would amend Section 3 of 1937 PA 284 to extend the sunset (September 30, 2007 in current law) on certain livestock operation regulatory and license fees to *September 30, 2012*. Both the initial and annual renewal fees under current law and through September 30, 2007 are as follow:

Class I (livestock auction)	\$400.00
Class II (collection point/buying station)	\$250.00
Class III (horse auction)	\$150.00
Class IV (dealer/broker/agent)	\$ 50.00

If the act were not amended, the only fee authorized under the act after September 30, 2007 would be the license fees for dealer/broker/agent which would revert to \$5 for both initial application and annual renewal.

Annual revenue from these fees is approximately \$22,000. Failure to pass the bill would result in a reduction in state revenue of almost all fee revenue currently collected under the act.

Livestock operation fee revenue is currently credited to the state General Fund. The H-3 substitute would direct the Michigan Department of Agriculture to deposit license fees and administrative fines received under the act in the Agriculture Licensing and Inspection Fees Fund which would be created in Section 9 of the 1931 PA 189, the Insect Pest and Plant Disease Act. The Agriculture Licensing and Inspection Fees Fund does not currently exist in 1931 PA 189; it would be created in House Bill 4862, to which House Bill 4864 is tie-barred. House Bill 4862 is described above.

FISCAL IMPLICATIONS:

Revenue from the various license and regulatory fees is assumed in the Executive recommendation for the FY 2007-08 state Agriculture budget. Extension of statutory authority to collect the fees is necessary to enact the budget as presented by the Governor and/or to maintain baseline department programs. Failure to remove or extend the sunsets would result in a total reduction in fee revenue to the Michigan Department of Agriculture of approximately \$500,000.

Revenue from the above-described licensing and inspection fees supports Michigan Department of Agriculture animal health programs, and pesticide and plant pest management programs.

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■ 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.