



Senate Fiscal Agency
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BILL ANALYSIS



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House Bill 4561 (Substitute H-2 as passed by the House)
House Bills 4562 and 4563 (as passed by the House)
House Bill 4564 (Substitute H-2 as passed by the House)
Sponsor: Representative Dan Lauwers (H.B. 4561)
Representative Curtis S. VanderWall (H.B. 4562)
Representative Daire Rendon (H.B. 4563)
Representative Tom Barrett (H.B. 4564)
House Committee: Agriculture
Senate Committee: Agriculture

Date Completed: 10-4-17

CONTENT

House Bills 4561 (H-2) and 4564 (H-2) would amend the General Sales Tax Act and the Use Tax Act, respectively, to rephrase and reorganize exemptions for certain property used or consumed in agriculture, and would include a statement of legislative intent.

House Bill 4562 would amend the Agricultural Disaster Loan Origination Program Act to eliminate the Act's February 15, 2018, sunset provision, and other dates or deadlines associated with the sunset.

House Bill 4563 would amend Public Act 105 of 1855, which governs the disposition of excess funds in the State Treasury, to amend the definitions of "qualified agricultural loan" and "facility" to reflect the changes proposed by House Bill 4561(H-2).

House Bill 4562 and 4563 are tie-barred to House Bill 4561.

The bills, except for House Bill 4563, are discussed in more detail below.

House Bills 4561 (H-2) & 4564 (H-2)

Section 4a(1)(e) of the General Sales Tax Act and Section 4a(1)(e) of the Use Tax Act provide an exemption for property sold to, or the sale of tangible property to a person "engaged in a business enterprise and using or consuming" the tangible personal property "in the tilling, planting, caring for, or harvesting of the things of the soil, in the breeding, raising, or caring for livestock, poultry, or horticultural products..., or in the direct gathering of fish by net, line, or otherwise only by an owner-operator of the business enterprise".

The exemption includes machinery that is capable of simultaneously harvesting grain or other crops and biomass and machinery used for harvesting biomass; agricultural land tile and subsurface irrigation pipe, if the land tile or pipe is used in the production of agricultural products as a business enterprise; a portable grain bin; grain drying equipment and the fuel or energy source that powers it for agricultural purposes; tangible personal property affixed

to and directly used in the operation of a portable grain bin or grain drying equipment; and the sale or acquisition of agricultural land tile, portable grain bins, and grain drying equipment purchased or acquired by a person in the business of constructing, altering, repairing, or improving real estate for others to the extent the property is affixed to or made a structural part of real estate used for an exempt purpose.

Under the bills, Section 4a(1)(e) of the General Sales Tax Act and Section 4a(1)(f) of the Use Tax Act would exempt the sale of property to, or property sold to, a person "engaged in a business enterprise that uses or consumes the tangible personal property for either the tilling, planting, draining, caring for, or harvesting of things of the soil for agricultural purposes or the breeding, raising, or caring for livestock, poultry, or horticultural products...". The exemption would include the sale to such a person of machinery that is capable of simultaneously harvesting grain or other crops and biomass and machinery used for harvesting biomass; agricultural land tile and subsurface irrigation pipe; portable grain bins; and grain drying equipment and the fuel or energy source that powers it.

The bills also would provide an exemption for the sale of tangible personal property used in the direct gathering of fish, by net, line, or otherwise, by an owner-operator of a business enterprise.

In addition, the bills would exempt agricultural land tile, subsurface irrigation pipe, portable grain binds, and grain drying equipment sold to a person in the business of constructing, altering, repairing, or improving real estate for others to the extent that it was affixed to and made a structural part of real estate for others and used for an exempt purpose described in Section 4a(1)(e) of the General Sales Tax Act or Section 4a(1)(f) of the Use Tax Act.

House Bill 4561 (H-2) states that it "clarifies the original intent of the legislature that the exemption provided for by section 4a(1)(e) of the general sales tax act ...in regard to the tilling, planting, draining, caring for, or harvesting of things of the soil is only applicable when these activities are performed in a business enterprise that constitutes an agricultural purpose."

House Bill 4564 (H-2) contains the same statement but refers to Section 4a(1)(e) of the Use Tax Act.

House Bill 4562

Under the Agricultural Disaster Loan Origination Program Act, the State Treasurer may establish a qualified agricultural loan origination program to make qualified agricultural loans. ("Qualified agricultural loan" means a loan made under the Act to farmers, agricultural processors, or farm-related retail sales operations who suffered certain losses due to an agricultural disaster recognized by the Governor and occurring after January 1, 2012.)

The Act is scheduled to sunset on February 15, 2018. The bill would eliminate this sunset.

Under the program, a qualified financial institution must make a qualified agricultural loan before March 31, 2013. The bill would eliminate this requirement. The program also must meet the following:

- A person receiving a qualified agricultural loan must pay an interest rate authorized under the Act and established by the qualified financial institution.
- The State must pay loan origination fees for administrative costs incurred by the financial institution equal to 5% of the original principal amount of the loan in five equal installments by September 30, 2017.

The bill would delete the September 30, 2017, deadline.

Each qualified financial institution participating in the program must report to the State Treasurer the principal amount of each loan made under the program by March 31, 2013, and file with the State Treasurer an affidavit stating that it is complying with the program and the Act. Under the bill, the report to the State Treasurer would have to be made by March 31 each year.

MCL 205.54a (H.B. 4561)
286.422-286.425 (H.B. 4562)
21.142a (H.B. 4563)
205.94 (H.B. 4564)

Legislative Analyst: Jeff Mann

FISCAL IMPACT

House Bills 4561 (H-2) & 4564 (H-2)

The bills would potentially increase State sales and use tax revenue by a negligible amount. The changes in the bills are largely cosmetic. The only change having a potential fiscal impact reflects that the exempted activities must be for agricultural (and related) purposes. The bills would prevent the exemptions from being interpreted to allow a taxpayer that engaged in the listed activities, such as draining, to claim an exemption when the activities did not serve an agricultural purpose. It is unknown how many taxpayers that engage in listed activities for nonagricultural purposes currently claim the exemptions, but the magnitude of any affected revenue would likely be negligible.

House Bill 4562

The bill would have no fiscal impact on State or local government. Although the bill would eliminate the sunset on the agricultural loan program, no current funding has been appropriated to it. Any appropriations to the program in the future would be at the discretion of the Legislature.

House Bill 4563

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Cory Savino
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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.