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**BILL ANALYSIS**

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House Bill 4391 (Substitute H-2 as passed by the House)

Sponsor: Representative Dan Lauwers

House Committee: Appropriations

Senate Committee: Appropriations

Date Completed: 5-26-15

**CONTENT**

The bill would amend certain sections of the Natural Resources and Environmental Protection Act concerning pesticide regulation, fertilizer regulation, groundwater and freshwater protection, and water pollution and environmental protection involving the Department of Agriculture and Rural Development (MDARD); the amendments would include the adjustment of certain fees.

**Pesticide Regulation**

The bill would authorize the MDARD Director to conduct audits to determine compliance with pesticide regulations and allow the Director to contract for the performance of the audits. The bill would require registrants or licensees that operate from a business location outside of the State to either maintain in the State a registered office and a resident agent or maintain and make available to the Department records required by State regulation of fertilizers.

The bill would adjust the fee schedule for two pesticide applicator fees. – Under the act, private registered applicator and private agricultural applicator certification fees will be reduced from \$50 to \$10 after September 30, 2015. The bill would strike the sunset dates so that these two fees would remain at \$50 after September 30, 2015.

The bill also would increase the registration application fee for each pesticide sold or distributed in the State from \$40 to \$100 and create a new \$100 late fee for each registration fee received after June 30.

**Fertilizer Regulation**

The bill would authorize the MDARD Director to conduct audits to determine compliance with fertilizer regulations and allow the Director to contract for the performance of the audits. The bill would require registrants or licensees that operate from a business location outside of the State to either maintain in the State a registered office and a resident agent or maintain and make available to the Department records required by State regulation of fertilizers.

**Groundwater and Freshwater Protection**

The bill would require the Agriculture and Environmental Assurance Advisory Council to annually report to the Director "a proposed conservation technical assistance plan that recommends the targeted use of funds generated by water quality protection fees in a manner that maximizes federal, state, and private resources to provide grants to conservation districts

and other qualified persons that deliver conservation and engineering technical assistance". The bill also would require the Council to provide recommendations on the creation of a tiered recognition program for farms working toward Michigan Agriculture Environmental Assurance Program (MAEAP) verification, incentives to increase participation in MAEAP, and recommendations on funding for research projects that address impediments to verification and improve MAEAP practice standards.

The bill would make changes in how MAEAP operates, including:

- Establishing that MAEAP verifications would be valid for five years, instead of the current three years.
- Making implementation of conservation technical assistance plans eligible for grants under the MAEAP grants program.
- Requiring the MDARD Director to present a conservation technical assistance plan to the Commission of Agriculture and Rural Development for review and approval.
- Requiring the Director to submit a tiered recognition program to the Commission for review and approval.
- Requiring the MDARD Director to prepare an annual report on MAEAP beginning December 1, 2016.

The bill also would require the MDARD Director to make a consent form available to farmers implementing conservation practices to give MDARD permission for the Department to associate the farmer's name, farm location, and mailing address with the conservation practices implemented on the farm and also to provide for a statement by the farmer that conservation practices being implemented are for the purpose of working toward MAEAP verification. The bill would exempt consent form information from the Freedom of Information Act.

The bill would change the current provision that requires an annual water quality protection fee of \$100 for each specialty pesticide product registered, and for all other registered pesticide products, a fee of .75% of the wholesale value of previous year product sales, but not less than \$150. The bill would make the annual water quality protection fee a flat \$270 per pesticide product registered.

The bill also would change the current provision that requires an annual water quality protection fee of one and one-half cents per percent of nitrogen in fertilizer for each ton of fertilizer sold in the State. Beginning January 1, 2016, the fee would be \$.0005 per pound of fertilizer (without nitrogen measurement).

The bill would delay the sunset date for water quality protection fees from December 1, 2015, to December 1, 2021. The MDARD Director would be authorized to audit, or contract for an audit of records that are the basis of these fees.

Currently, if the balance of the Freshwater Protection Fund exceeds \$3.5 million at the close of any fiscal year, the Department may not collect water quality protection fees until the amount in the Fund is less than \$1.0 million. Under the bill, if the Fund balance exceeded \$5.0 million at the close of a fiscal year, water quality protection fees could not be collected until the amount in the Fund was less than \$2.0 million.

#### Water Pollution and Environmental Protection

The bill would require that not more than \$100,000 from total annual appropriations from the Clean Water Fund be used to monitor and benchmark the effectiveness of conservation practices and MAEAP standards in cooperation with participating farmers.

MCL 324.8307A et al.

**FISCAL IMPACT**

The bill would have a positive fiscal impact on the FY 2015-16 budget for MDARD. The budget as recommended by the Governor includes increased net revenue from the fees adjusted in the bill for the pesticide program (\$870,000) and the fertilizer program (\$350,000) and continued revenue realized by the removal of current sunset provisions, plus approximately \$37,000 in additional revenue is expected from the bill's change in the administration of late fees. The bill also would generate \$900,000 in increased water quality fees that is encompassed within the House-passed FY 2015-16 MDARD budget bill.

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