

Legislative Analysis



MIGRANT LABOR HOUSING INSPECTION FEES

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House Bills 5657-5659

Sponsor: Rep. John Espinoza

Committee: Appropriations

Complete to 12-09-09

SUMMARY OF HOUSE BILLS 5657, 5658, AND 5659 AS REPORTED FROM COMMITTEE 12-09-09

Each of the three bills would amend a single section of the Michigan Public Health Code (1978 PA 368) regarding the Michigan Department of Agriculture's migrant labor housing licensing and inspection programs. Specifically:

House Bill 5657 would amend Section 12412 of the Public Health Code (MCL 333.12412), to provide for non-refundable licensing fee equal to \$5.00 per unit of occupancy.

House Bill 5658 would amend Section 12431 of the Public Health Code (MCL 333.12431), a section which currently establishes a "migratory labor housing fund." Under current law, only administrative civil fine revenue assessed under Section 12411(4) is specifically earmarked for the fund. Current law also allows the use of fund revenue to provide up to 50% matching grants for extensive remodeling of migrant labor housing units.

Although Section 12411(4) provides for civil fines for operating an agricultural labor camp without a license, the provision does not in fact generate revenue. House Bill 5657 would strike the reference to Section 12411(4) and would add language to indicate that the State Treasurer may receive money or other assets from any source for deposit in the fund. The bill would direct the Treasurer to credit the fund with interest, and also indicates that *the department* is administrator of the fund for auditing purposes. The bill would also strike current language which provides for a matching grant program; the bill would add language indicating that money in the fund shall be used for implementation of Part 124, i.e. the migrant labor licensing and inspection program.

House Bill 5659 would amend Section 12425 of the Public Health Code (MCL 333.12425), to provide for a non-refundable reinspection licensing fee of \$500 for each camp location that did not meet the initial or subsequent inspection.

BACKGROUND INFORMATION:

Part 124 of the Public Health Code (MCL 333.12401 et seq.) provides for licensing and regulation of agricultural labor camps – defined as "a tract of land and all tents, vehicles, buildings, or other structures pertaining thereto, part of which is established, occupied, or

used as living quarters for 5 or more migratory laborers engaged in agricultural activities, including related food processing." Specific rules governing agricultural labor camps are established in the State Administrative Code, R 325.3601 - 325.3699. Under the Public Health Code, the Michigan Department of Community Health has authority over regulation of agricultural labor camps; that authority was transferred to the Michigan Department of Agriculture in 1996 (Executive Order 1996-1). The department's regulatory program is commonly called the migrant labor housing inspection program.

Although the department's inspections under the Michigan Public Health Code are limited to living quarters for five or more workers, the department also performs inspection of smaller sites for other program requirements, including inspections in conjunction with the H-2A Temporary Agriculture Worker program. The Michigan Department of Energy, Labor and Economic Growth will not place H-2A workers to un-inspected facilities. The Department currently administers a US Department of Labor farm labor housing construction grant program. That program, which provides approximately \$400,000 per year in federal construction grants, requires the department maintain an inspection program. The department indicates that the U.S. Department of Labor Wage and Hour accepts its licensing protocol, and that townships provide a variance for housing that is licensed by the program.

The department indicates that it performs approximately 1,000 inspections each year over 850 housing locations. Within those housing locations there are over 4,000 living units with a licensed capacity of 22,000 workers and their families. About 40 percent of the occupants of this housing are children.

Funding for the Michigan Department of Agriculture's migrant labor housing inspection program has been included within the *Environmental Stewardship* line item in the department's budget.

The department indicates that baseline program costs are approximately \$725,000. Although Section 12431 of the Public Health Code currently establishes a "migratory labor housing fund," and earmarks certain administrative civil fines to the fund, as a practical matter, those fines generate little revenue to support the regulatory and inspection program. In effect, the program is currently supported entirely with General Fund revenue.

Program activities were reduced in 2009 as a result of General Fund budget reductions made in Executive Order 2009-22. Prior to the Executive Order, there were seven department employees assigned to the Migrant Labor Housing program. The department indicates that there are currently five employees assigned to the program.

FISCAL IMPACT:

The department estimates that the proposed fee of \$5.00 per unit of occupancy would generate approximately \$110,000 in restricted revenue for support of the migrant labor housing regulatory program. The \$110,000 figure is based on 22,000 housing units. The

proposed \$500 reinspection fee under House Bill 5659 is intended as an incentive for compliance at the time of initial inspection and not a primary source of inspection fee revenue.

The FY 2009-10 enacted Agriculture budget, 2009 PA 119, includes \$110,000 in migrant housing inspection fee revenue in anticipation of the establishment of the fees proposed in this bill package. A failure to enact the \$5 fee proposed in House Bill 5657 would result in a reduction in program activity.

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