



Growing Michigan

Michigan Agricultural News

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MISS Dig Bills Pass in Michigan Senate, Stall in House

Legislation creating a new MISS Dig law passed the Michigan Senate on November 29 in a 26-12 vote, but failed to make it through the House before the 2012 Legislative Session closed on December 13. Supporters plan to reintroduce the bill during the 2013 session. The MISS Dig regulations, which require permits before excavation near buried utility lines, would substantially increase a farmer's responsibilities when they till their fields, according to Farm Bureau officials. Both the Michigan Farm Bureau and the Michigan Agri-Business Association oppose the bill as passed by the Senate.

The bill requires that farmers call MISS Dig before performing normal farming practices at any depth below 12 inches in the road right-of-way or below 18 inches in the farm field. Once the utility lines are marked, the farmer would be required to dig by hand – the bill calls it “soft excavation” – if digging within 48 inches of the line. Opponents of the bill argue that calling MISS Dig is already required by law before excavating, and that farmers engaged in routine tilling are not excavating and should be exempt.

Farm Bill Still Stalled

With members of Congress back for a lame duck session, the future of the stalled farm bill remains uncertain. It's possible the bill, which includes \$35 billion in savings over 10 years, could surface as part of the bigger deal to avoid the ‘fiscal cliff.’

Senator Debbie Stabenow, Democrat of Michigan and chairwoman of the Senate Agriculture Committee, and Representative Frank D. Lucas, Republican of Oklahoma and chairman of the House Agriculture Committee, are trying to persuade administration and Congressional leaders to include the measure in negotiations that are seeking to avoid more than \$500 billion in tax increases and more than \$100 billion in automatic spending cuts that would go into effect next year. Both lawmakers have sponsored versions of a farm bill with steep spending cuts that would help with deficit reduction, they said.

While the Obama administration has not decided whether to include the bill in its talks with Congress, officials have indicated that they would be open to overhauling some farm programs to narrow the deficit. U.S. Agriculture Secretary Tom Vilsack recently urged Congress to pass the bill, saying the department “would do everything we can” to implement a new farm bill in time for the 2013 harvest next fall.

Ag Groups Urge Action on Estate Taxes

More than 30 agriculture groups recently sent a letter to the U.S. House of Representatives and the U.S. Senate urging them to provide farmers and ranchers with permanent relief from the estate tax. Current tax relief is set to expire at the end of 2012. After January 1, 2013, exemption levels drop from \$5 million to \$1 million per individual and the tax rate increases from 35 percent to 55 percent.

The groups writing the letter – urged a full repeal of the tax. Barring that, they urged changes to the estate tax including a permanent extension of current law with provisions to index the exemption to inflation, provide for spousal transfers and include the stepped-up basis.



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SBA Economic Injury Disaster Loans Now Available in Michigan

The U.S. Small Business Administration (SBA) is offering federal economic injury disaster loans in eight Michigan counties that had excessive rain last August. The loans are available to small businesses, small agricultural cooperatives, small businesses engaged in aquaculture and most private non-profit organizations of all sizes located in the following counties: Arenac, Bay, Genesee, Gladwin, Gratiot, Midland, Saginaw, Shiawassee and Tuscola.

The loan amount can be up to \$2 million with interest rates of 3 percent for private, non-profit organizations of all sizes and 4 percent for small businesses, with terms up to 30 years.

Applicants may apply online using the Electronic Loan Application via SBA's secure website at <https://disasterloan.sba.gov/ela>. For more information, call the SBA's Customer Service Center at 800-659-2955, or send an email to disastercustomerservice@sba.gov.

Michigan Passes Groundwater Well Dispute Statute – Again

The hectic lame-duck session of the Michigan Legislature has resulted in the resurrection of the state's once-and-future groundwater dispute resolution process. Michigan had originally passed similar legislation in 2003, then repealed it in 2009 as a budget cutting measure. Pressure to revive the dispute resolution process mounted as complaints about failing wells increased under the past year's drought conditions, as water use for irrigation increased and water tables lowered. The bill provides a formal process for resolving disputes between high-capacity wells (such as irrigation wells) and residential or other low-capacity wells that allege impacts from the high-capacity withdrawals.

The revived law would allow small-capacity well owners to file complaints with the Director of either the MDEQ or MDARD (if the alleged perpetrator was an agricultural well), if the small-capacity well owners reasonably believe that a high-capacity well has interfered with the operation of their wells. The law gives the Director the authority to investigate the claim and to seek to resolve the complaint among the affected parties.

Michigan Farmers Concerned About Wetland Use Permits

Michigan farmers have been exempt from seeking permits for performing drain maintenance within a private agricultural drain since the 1980s. They have also been allowed to "construct new agricultural activities" in a wetland, such as planting blueberries after clearing previously unfarmed land. Now, the Department of Environmental Quality, under pressure from the Environmental Protection Agency (EPA), is telling farmers that's going to change.

A 2008 review of Michigan's wetland program by the EPA requires that the state change its law to comply with the Clean Water Act. House Bill 5897, sponsored by Representative Jim Stamas, would revise details of certain exemptions to the state wetland permit mandate, increase some wetland use permit fees and reduce others, and require permit denials to document their reasons, among other things.

2012: A Year in Review

The weather was certainly the primary challenge for the Michigan farmer this year, but from a legal perspective, our greatest challenge going forward is simply the uncertainty that surrounds agribusiness. If it passes, what will the Farm Bill look like? Will the federal estate tax exemptions be raised? Will a comprehensive solution to seasonal labor shortages finally be reached? Will the farming exemption in the state wetland statutes be rescinded? All of these issues were the subject of great debate this year, but all remain unresolved as of this writing. Hopefully the new year will bring favorable resolution.

We wish you all a Merry Christmas and happy new year!



Agriculture Events

- Michigan Agri-Business Association Winter Conference, Lansing, January 14-16, <http://www.miagbiz.org/index.cfm?show=10&mid=42>
- Varnum Food Processors Lunch & Learn, Grand Rapids, January 16, (Topic coming)
- Michigan Family Farms Conference, January 19, Battle Creek, <http://www.miffs.org/mffc/index.asp>
- Northern Michigan Small Farms Conference, Grayling, January 26, <http://smallfarmconference.com/>
- Michigan Farm Bureau Legislative Seminar, Lansing, February 13, <http://www.michfb.com/legislative/lansing>
- Agriculture & Natural Resources Week at MSU, East Lansing, March 2-9, <http://anrweek.canr.msu.edu/>



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