

BILL ANALYSIS

C.S.H.B. 2996
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Agriculture & Livestock
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Urban agriculture is the practice of cultivating, processing, and distributing food in or around a city and the practice can also involve animal husbandry, aquaculture, agro-forestry, and horticulture. Interested parties are concerned that the state has fallen behind other states in the research and advancement of urban agriculture even though Texas is one of the largest agricultural states in terms of agricultural production. The parties also point to urban food deserts within the state where there is a notable lack of access to affordable fruits, vegetables, whole grains, low-fat milk, and other healthy foods. The parties further assert that increased urban agriculture would help improve access to healthy foods, would expand entrepreneurial activities, economic activity, and job opportunities in a city through production, processing, packaging, and marketing of consumable products, and would reduce food costs while providing higher quality food products.

C.S.H.B. 2996 seeks to promote the creation and expansion of urban agricultural projects by establishing certain interest rate reduction programs and grant programs for urban farmers, among other provisions.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the board of directors of the Texas Urban Agricultural Innovation Authority and to the authority in SECTION 1 of this bill.

ANALYSIS

C.S.H.B. 2996 amends the Agriculture Code to create the Texas Urban Agricultural Innovation Authority within the Department of Agriculture as a public authority to promote the creation and expansion of urban agricultural projects in Texas. The bill provides that the authority is governed by a board of directors composed of the commissioner of agriculture and eight members appointed by the commissioner. The bill establishes criteria for those appointments and sets out provisions relating to the terms of the board members and the filling of board vacancies. The bill provides that a member is not entitled to compensation or reimbursement for serving as a director. The bill requires the commissioner, as soon as practicable after the bill's effective date, to appoint the members of the board and requires those appointments to be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees. The bill requires the commissioner of agriculture to designate a member of the board as the chairman of the board to serve in that capacity at the pleasure of the commissioner and requires the board to elect other officers it considers necessary. The bill requires the chairman to preside at meetings of the board and perform other duties prescribed by the board.

C.S.H.B. 2996 requires the commissioner, with the assistance of the board, to administer the authority and authorizes the commissioner to appoint, employ, contract with, and provide for employees, consultants, agents, and experts as the business of the authority requires. The bill requires the board to hold regular and special meetings at times specified by the chairman and

makes the board subject to the state's open meetings law and the Administrative Procedure Act. The bill authorizes all funds acquired under the bill's provisions to be used for administration of those provisions. The bill requires the authority, on or before January 1 of each year, to prepare a report of its activities for the preceding fiscal year, requires the report to set forth a complete operating and financial statement, and requires the authority to file copies of the report with the governor and the legislature as soon as practicable. The bill provides that the board members, administrator, and staff of the authority may not be personally liable for loans issued or contracts executed by the authority and requires the board members, administrator, and staff to be exculpated and fully indemnified in the documents relating to any loans except in the case of fraudulent or wilful misconduct on the part of the individual seeking exculpation or indemnification. The bill establishes grounds for the removal of a board member and provides that the validity of an action of the board is not affected by the fact that it is taken when a ground for removal of a board member exists.

C.S.H.B. 2996 requires the authority, in order to promote the creation and expansion of urban agricultural projects in Texas, to implement programs under the bill's provisions to make or acquire loans to eligible persons; to make or acquire loans to lenders to enable those lenders to make loans to eligible persons; to insure, coinsure, and reinsure, wholly or partly, loans to eligible persons; to guarantee, wholly or partly, loans to eligible persons; and to make grants to eligible persons. The bill grants the authority all powers necessary to accomplish the purposes and programs of the authority and specifies that rulemaking and certain other powers are included in that provision. The bill specifies that use of money acquired under provisions of the bill granting the authority the power to request, accept, and use gifts, loans, donations, aid, guaranties, allocations, subsidies, grants, or contributions of any item of value for the furtherance of any of its purposes is limited to a purpose of the authority. The bill provides that money from a gift or grant made for a purpose of the authority is subject only to limitations contained in the gift or grant.

C.S.H.B. 2996 requires the board to adopt rules to establish criteria for determining which eligible persons may participate in programs under the bill's provisions and requires the rules to state that the policy of the authority is to provide programs for providing financial assistance to eligible persons that the board considers to present a reasonable risk and have a sufficient likelihood of repayment. The bill requires the board to adopt collateral or security requirements to ensure the full repayment of that financial assistance and the solvency of any program implemented under the bill's provisions and to approve any and all extensions of that financial assistance, provided that the board is authorized to delegate this approval authority to the commissioner. The bill requires the board also to adopt rules to establish criteria for lenders that may participate in programs under the bill's provisions.

C.S.H.B. 2996 requires eligible persons or lenders participating in the authority's programs to pay the costs of applying for, participating in, and administering and servicing the program, in amounts the board considers reasonable and necessary. The bill requires the board to charge an administrative fee for guaranteeing a loan that may not be less than one percent of the amount of the guaranteed loan and requires any costs not paid by the eligible persons or lenders to be paid from the funds of the authority. The bill requires the board by rule to adopt an agreement to be used between a lender and an approved applicant under specified terms, requires the agreement to require the borrower to use the proceeds of the loan for the purposes of the program under which the payment is made, and requires the board to adopt rules to implement the agreement. The bill exempts the property of the authority, its income, and its operations from all taxes and assessments imposed by the state and all public agencies and political subdivisions on property acquired or used by the authority. The bill prohibits state money from being used for purposes of the authority.

C.S.H.B. 2996 requires the board to establish an urban farmer interest rate reduction program to promote the creation and expansion of urban agriculture in Texas. The bill requires an applicant, to be eligible to participate in the program, to own or lease real property for agricultural purposes

in a municipality with a population of at least 500,000. The bill requires the board to approve or disapprove any and all applications for participation in the program, provided that the board is authorized to delegate this authority to the commissioner, and requires the board to adopt rules for the loan portion of the program. The bill authorizes an eligible lending institution, as a requisite for participating in the program, to solicit loan applications from eligible applicants. The bill requires the eligible lending institution, after reviewing an application and determining that the applicant is eligible and creditworthy, to send the application for a linked deposit loan to the authority and to certify the interest rate applicable to the specific eligible applicant and attach it to the application sent to the authority. The bill requires the board or the commissioner, after reviewing each loan application under the bill's provisions, to recommend to the comptroller of public accounts the acceptance or rejection of the application.

C.S.H.B. 2996 requires the comptroller, after acceptance of the application, to place a linked deposit with the applicable eligible lending institution for the period the comptroller considers appropriate. The bill prohibits the comptroller from placing a deposit for a period extending beyond the state fiscal biennium in which it is placed and authorizes the comptroller, subject to the limitations of the bill's provisions, to place time deposits at an interest rate described by the bill's provisions. The bill requires the eligible lending institution and the state, represented by the comptroller, to enter into a written deposit agreement containing the conditions on which the linked deposit is made before the placing of a linked deposit. The bill authorizes the comptroller, if a lending institution holding linked deposits ceases to be either a state depository or a Farm Credit System institution headquartered in Texas, to withdraw the linked deposits. The bill authorizes the board to adopt rules that create a procedure for determining priorities for loans granted under the bill's provisions and requires each rule adopted to state the policy objective of the rule. The bill establishes that a lending institution is not ineligible to participate in the urban farmer interest rate reduction program solely because a member of the board is also an officer, director, or employee of the lending institution, under certain conditions.

C.S.H.B. 2996 requires an eligible lending institution, on accepting a linked deposit, to loan money to eligible applicants in accordance with the deposit agreement and the bill's provisions. The bill requires the lending institution to forward a compliance report to the board and requires the board to monitor compliance with the bill's provisions and inform the comptroller of noncompliance on the part of an eligible lending institution. The bill establishes that the state is not liable to an eligible lending institution for payment of the principal, interest, or any late charges on a loan made under the bill's provisions and that a delay in payment or default on a loan by a borrower does not affect the validity of the deposit agreement. The bill establishes that linked deposits are not an extension of the state's credit within the meaning of any state constitutional prohibition. The bill establishes that the maximum amount of a loan under the bill's provisions is \$500,000 and authorizes a loan granted under the bill's provisions to be used for any agriculture-related operating expense.

C.S.H.B. 2996 requires the authority to administer an urban farmer grant program and requires a grant under the program to be for the purpose of fostering the creation and expansion of urban agricultural projects in Texas. The bill requires the board to adopt rules governing the operation of the program and selection criteria for grant recipients and to select the recipients. The bill establishes as eligibility requirements for a grant under the program that a person be an agricultural producer, own or lease real property for agricultural purposes in a municipality with a population of at least 500,000, and provide matching funds in the amount of not less than one dollar for each dollar of grant money received. The bill provides that a grant under the program may not be less than \$5,000 or more than \$20,000.

C.S.H.B. 2996 defines "authority" and provides for the meanings of "eligible lending institution" and "linked deposit" as those terms are used in provisions of the bill relating to the urban farmer interest rate reduction program.

EFFECTIVE DATE

September 1, 2011.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 2996 differs from the original by requiring two members of the board of directors of the Texas Urban Agricultural Innovation Authority to be persons who are elected or appointed officials of a municipality with a population of at least 500,000, whereas the original specifies that population to be at least 1.5 million. The substitute differs from the original by establishing that a board member is not entitled to reimbursement for serving as a director, whereas the original entitles a board member to reimbursement for actual and necessary expenses incurred in performing the official duties of office.

C.S.H.B. 2996 differs from the original by granting the authority the power to request, accept, and use gifts, loans, donations, aid, guaranties, allocations, subsidies, grants, or contributions of any item of value for the furtherance of any of its purposes, whereas the original includes appropriations in that list of items the authority has the power to request, accept, and use. The substitute differs from the original by specifying that the use of money acquired under that provision is limited to a purpose of the authority and that money from a gift or grant made for a purpose of the authority is subject only to limitations contained in the gift or grant, whereas the original provides that the use of a gift or grant for the furtherance of a purpose of the authority is subject, after its appropriation, only to limitations contained in the gift or grant.

C.S.H.B. 2996 contains a provision not included in the original prohibiting state money from being used for purposes of the authority. The substitute, in provisions setting out eligibility requirements for participation in the urban farmer interest rate reduction program or to receive a grant under the urban farmer grant program, differs from the original by requiring an applicant, or person, as applicable, to own or lease real property for agricultural purposes in a municipality with a population of at least 500,000, whereas the original specifies a population of at least 1.5 million. The substitute differs from the original in a nonsubstantive way.