

By: Miles

H.B. No. 2996

Substitute the following for H.B. No. 2996:

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C.S.H.B. No. 2996

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the creation of the Texas Urban Agricultural Innovation
3 Authority.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Title 4, Agriculture Code, is amended by adding
6 Chapter 60A to read as follows:

7 CHAPTER 60A. TEXAS URBAN AGRICULTURAL INNOVATION AUTHORITY

8 SUBCHAPTER A. ADMINISTRATION AND POWERS

9 Sec. 60A.001. CREATION OF AUTHORITY; PUBLIC PURPOSE. (a)

10 The Texas Urban Agricultural Innovation Authority is created within
11 the Department of Agriculture as a public authority.

12 (b) The authority is created to promote the creation and
13 expansion of urban agricultural projects in this state.

14 Sec. 60A.002. DEFINITION. In this chapter, "authority"
15 means the Texas Urban Agricultural Innovation Authority.

16 Sec. 60A.003. BOARD OF DIRECTORS. (a) The authority is
17 governed by a board of directors composed of the commissioner and
18 eight members appointed by the commissioner. Members of the board
19 must be appointed in the numbers specified and from the following
20 categories:

21 (1) two persons who are elected or appointed officials
22 of a municipality with a population of at least 500,000;

23 (2) three persons who are knowledgeable about
24 agricultural lending practices;

1 (3) one person who is a representative of an
2 agricultural business, as defined by Section 58.002; and

3 (4) two persons who represent urban farmers and the
4 interests of urban farmers.

5 (b) The appointed members of the board serve staggered terms
6 of two years, with the terms of four members expiring on January 1
7 of each even-numbered year and the terms of four members expiring on
8 January 1 of each odd-numbered year.

9 (c) Any vacancy occurring in an appointed position on the
10 board shall be filled by the commissioner for the unexpired term.

11 (d) A board member is not entitled to compensation or
12 reimbursement for serving as a director.

13 (e) Appointments to the board shall be made without regard
14 to the race, color, disability, sex, religion, age, or national
15 origin of the appointees.

16 Sec. 60A.004. OFFICERS. (a) The commissioner shall
17 designate a member of the board as the chairman of the board to
18 serve in that capacity at the pleasure of the commissioner. The
19 board shall elect other officers it considers necessary.

20 (b) The chairman of the board shall preside at meetings of
21 the board and perform other duties prescribed by the board.

22 Sec. 60A.005. ADMINISTRATION. (a) The commissioner with
23 the assistance of the board shall administer the authority. The
24 commissioner may appoint, employ, contract with, and provide for
25 employees, consultants, agents, and experts as the business of the
26 authority may require.

27 (b) The board shall hold regular and special meetings at

1 times specified by the chairman.

2 (c) The board is subject to Chapter 551, Government Code,
3 and Chapter 2001, Government Code.

4 Sec. 60A.006. FISCAL ACCOUNTING OF ADMINISTRATION. (a)
5 All funds acquired under this chapter may be used for
6 administration of this chapter.

7 (b) On or before January 1 of each year, the authority shall
8 prepare a report of its activities for the preceding fiscal year.
9 The report must set forth a complete operating and financial
10 statement. The authority shall file copies of the report with the
11 governor and the legislature as soon as practicable.

12 (c) The board members, administrator, and staff of the
13 authority may not be personally liable for loans issued or
14 contracts executed by the authority and shall be exculpated and
15 fully indemnified in the documents relating to any loans except in
16 the case of fraudulent or wilful misconduct on the part of the
17 individual seeking exculpation or indemnification.

18 Sec. 60A.007. REMOVAL OF BOARD MEMBER. (a) It is a ground
19 for removal from the board if a member:

20 (1) does not have at the time of appointment the
21 qualifications required by Section 60A.003;

22 (2) does not maintain during service on the board the
23 qualifications required by Section 60A.003; or

24 (3) cannot because of illness or disability discharge
25 the member's duties for a substantial part of the term for which the
26 member is appointed.

27 (b) The validity of an action of the board is not affected by

1 the fact that it is taken when a ground for removal of a board member
2 exists.

3 [Sections 60A.008-60A.050 reserved for expansion]

4 SUBCHAPTER B. PURPOSES AND POWERS

5 Sec. 60A.051. PURPOSES OF AUTHORITY. In order to promote
6 the creation and expansion of urban agricultural projects in this
7 state, the authority shall implement programs under Subchapters C
8 and D to:

9 (1) make or acquire loans to eligible persons;

10 (2) make or acquire loans to lenders to enable those
11 lenders to make loans to eligible persons;

12 (3) insure, coinsure, and reinsure, wholly or partly,
13 loans to eligible persons;

14 (4) guarantee, wholly or partly, loans to eligible
15 persons; and

16 (5) make grants to eligible persons.

17 Sec. 60A.052. POWERS OF AUTHORITY. (a) The authority has
18 all powers necessary to accomplish the purposes and programs of the
19 authority, including the power:

20 (1) to adopt and enforce bylaws, rules, and procedures
21 and perform all functions necessary for the board to carry out this
22 chapter;

23 (2) to sue and be sued, complain, and defend, in its
24 own name;

25 (3) to acquire, hold, invest, use, pledge, and dispose
26 of its revenues, income, receipts, funds, and money from every
27 source and to select one or more depositories, inside or outside the

1 state, subject to this chapter, any resolution, bylaws, or in any
2 indenture pursuant to which the funds are held;

3 (4) to establish, charge, and collect fees, charges,
4 and penalties in connection with the programs, services, and
5 activities provided by the authority in accordance with this
6 chapter;

7 (5) to procure insurance and pay premiums on insurance
8 of any type, in amounts, and from insurers as the board considers
9 necessary and advisable to accomplish any of the authority's
10 purposes;

11 (6) to make, enter into, and enforce contracts,
12 agreements, including management agreements, for the management of
13 any of the authority's property, leases, indentures, mortgages,
14 deeds of trust, security agreements, pledge agreements, credit
15 agreements, and other instruments with any person, including any
16 lender and any federal, state, or local governmental agency, and to
17 take other actions as may accomplish any of its purposes;

18 (7) to own, rent, lease, or otherwise acquire, accept,
19 or hold real, personal, or mixed property, or any interest in
20 property in performing its duties and exercising its powers under
21 this chapter, by purchase, exchange, gift, assignment, transfer,
22 foreclosure, mortgage, sale, lease, or otherwise and to hold,
23 manage, operate, or improve real, personal, or mixed property,
24 wherever situated;

25 (8) to sell, lease, encumber, mortgage, exchange,
26 donate, convey, or otherwise dispose of any or all of its properties
27 or any interest in its properties, deed of trust or mortgage lien

1 interest owned by it or under its control, custody, or in its
2 possession, and release or relinquish any right, title, claim,
3 lien, interest, easement, or demand however acquired, including any
4 equity or right of redemption in property foreclosed by it, and to
5 do any of the foregoing by public or private sale, with or without
6 public bidding, notwithstanding any other law; and to lease or rent
7 any improvements, lands, or facilities from any person to effect
8 the purposes of this chapter; and

9 (9) to request, accept, and use gifts, loans,
10 donations, aid, guaranties, allocations, subsidies, grants, or
11 contributions of any item of value for the furtherance of any of its
12 purposes.

13 (b) Money acquired under Subsection (a)(9) may be used only
14 for a purpose of the authority. Money from a gift or grant made for
15 a purpose of the authority is subject only to limitations contained
16 in the gift or grant.

17 Sec. 60A.053. PROGRAMS RULES. (a) The board shall adopt
18 rules to establish criteria for determining which eligible persons
19 may participate in programs under this chapter. The board's rules
20 must state that the policy of the authority is to provide programs
21 for providing financial assistance to eligible persons that the
22 board considers to present a reasonable risk and have a sufficient
23 likelihood of repayment. The board shall adopt collateral or
24 security requirements to ensure the full repayment of that
25 financial assistance and the solvency of any program implemented
26 under this chapter. The board shall approve any and all extensions
27 of that financial assistance under this chapter, provided that the

1 board may delegate this approval authority to the commissioner.

2 (b) The board shall also adopt rules to establish criteria
3 for lenders that may participate in programs under this chapter.

4 (c) Eligible persons or lenders participating in the
5 authority's programs shall pay the costs of applying for,
6 participating in, and administering and servicing the program, in
7 amounts the board considers reasonable and necessary. The board
8 shall charge an administrative fee for guaranteeing a loan that may
9 not be less than one percent of the amount of the guaranteed loan.
10 Any costs not paid by the eligible persons or lenders shall be paid
11 from the funds of the authority.

12 (d) The board by rule shall adopt an agreement to be used
13 between a lender and an approved applicant under Subchapter C under
14 which the authority makes a payment for the purpose of providing a
15 reduced interest rate on a loan guaranteed to a borrower. The
16 agreement must require the borrower to use the proceeds of the loan
17 for the purposes of the program under which the payment is made.
18 The board shall adopt rules to implement this subsection.

19 Sec. 60A.054. AUTHORITY EXEMPTION FROM TAXATION. The
20 property of the authority, its income, and its operations are
21 exempt from all taxes and assessments imposed by the state and all
22 public agencies and political subdivisions on property acquired or
23 used by the authority under this chapter.

24 Sec. 60A.055. FUNDING. State money may not be used for
25 purposes of the authority.

26 [Sections 60A.056-60A.100 reserved for expansion]

1 SUBCHAPTER C. URBAN FARMER INTEREST RATE REDUCTION PROGRAM

2 Sec. 60A.101. DEFINITIONS. In this subchapter:

3 (1) "Eligible lending institution" means a financial
4 institution that makes commercial loans, is either a depository of
5 state funds or an institution of the Farm Credit System
6 headquartered in this state, and agrees to participate in the urban
7 farmer interest rate reduction program and to provide collateral
8 equal to the amount of linked deposits placed with it.

9 (2) "Linked deposit" means a time deposit governed by
10 a written deposit agreement between the state and an eligible
11 lending institution that provides:

12 (A) that the eligible lending institution pay
13 interest on the deposit at a rate that is not less than the greater
14 of:

15 (i) the current market rate of a United
16 States treasury bill or note of comparable maturity minus three
17 percent; or

18 (ii) 0.5 percent;

19 (B) that the state not withdraw any part of the
20 deposit before the expiration of a period set by a written advance
21 notice of the intention to withdraw; and

22 (C) that the eligible lending institution agree
23 to lend the value of the deposit to an eligible borrower at a
24 maximum rate that is the linked deposit rate plus a maximum of four
25 percent.

26 Sec. 60A.102. URBAN FARMER INTEREST RATE REDUCTION PROGRAM.

27 (a) The board shall establish an urban farmer interest rate

1 reduction program to promote the creation and expansion of urban
2 agriculture in this state.

3 (b) To be eligible to participate in the urban farmer
4 interest rate reduction program, an applicant must own or lease
5 real property for agricultural purposes in a municipality with a
6 population of at least 500,000.

7 (c) The board shall approve or disapprove any and all
8 applications under this subchapter, provided that the board may
9 delegate this authority to the commissioner.

10 (d) The board shall adopt rules for the loan portion of the
11 urban farmer interest rate reduction program.

12 (e) In order to participate in the urban farmer interest
13 rate reduction program, an eligible lending institution may solicit
14 loan applications from eligible applicants.

15 (f) After reviewing an application and determining that the
16 applicant is eligible and creditworthy, the eligible lending
17 institution shall send the application for a linked deposit loan to
18 the authority.

19 (g) The eligible lending institution shall certify the
20 interest rate applicable to the specific eligible applicant and
21 attach it to the application sent to the authority.

22 (h) After reviewing each loan application under this
23 subchapter, the board or the commissioner shall recommend to the
24 comptroller the acceptance or rejection of the application.

25 (i) After acceptance of the application, the comptroller
26 shall place a linked deposit with the applicable eligible lending
27 institution for the period the comptroller considers appropriate.

1 The comptroller may not place a deposit for a period extending
2 beyond the state fiscal biennium in which it is placed. Subject to
3 the limitations described by Section 60A.105, the comptroller may
4 place time deposits at an interest rate described by Section
5 60A.101(2).

6 (j) Before the placing of a linked deposit, the eligible
7 lending institution and the state, represented by the comptroller,
8 shall enter into a written deposit agreement containing the
9 conditions on which the linked deposit is made.

10 (k) If a lending institution holding linked deposits ceases
11 to be either a state depository or a Farm Credit System institution
12 headquartered in this state, the comptroller may withdraw the
13 linked deposits.

14 (l) The board may adopt rules that create a procedure for
15 determining priorities for loans granted under this subchapter.
16 Each rule adopted must state the policy objective of the rule.

17 (m) A lending institution is not ineligible to participate
18 in the urban farmer interest rate reduction program solely because
19 a member of the board is also an officer, director, or employee of
20 the lending institution, provided that a board member shall recuse
21 himself or herself from any action taken by the board on an
22 application involving a lending institution by which the board
23 member is employed or for which the board member serves as an
24 officer or director.

25 Sec. 60A.103. COMPLIANCE. (a) On accepting a linked
26 deposit, an eligible lending institution must loan money to
27 eligible applicants in accordance with the deposit agreement and

1 this subchapter. The eligible lending institution shall forward a
2 compliance report to the board.

3 (b) The board shall monitor compliance with this subchapter
4 and inform the comptroller of noncompliance on the part of an
5 eligible lending institution.

6 Sec. 60A.104. STATE LIABILITY PROHIBITED. The state is not
7 liable to an eligible lending institution for payment of the
8 principal, interest, or any late charges on a loan made under this
9 subchapter. A delay in payment or default on a loan by a borrower
10 does not affect the validity of the deposit agreement. Linked
11 deposits are not an extension of the state's credit within the
12 meaning of any state constitutional prohibition.

13 Sec. 60A.105. LIMITATIONS IN PROGRAM. (a) The maximum
14 amount of a loan under this subchapter is \$500,000.

15 (b) A loan granted under this subchapter may be used for any
16 agriculture-related operating expense, including the purchase or
17 lease of land or fixed assets acquisition or improvement, as
18 identified in the application.

19 [Sections 60A.106-60A.150 reserved for expansion]

20 SUBCHAPTER D. URBAN FARMER GRANT PROGRAM

21 Sec. 60A.151. GRANT PROGRAM. (a) The authority shall
22 administer an urban farmer grant program. A grant must be for the
23 purpose of fostering the creation and expansion of urban
24 agricultural projects in this state.

25 (b) The board shall adopt rules governing the operation of
26 the program and selection criteria for grant recipients.

27 (c) The board shall select grant recipients.

1 Sec. 60A.152. ELIGIBILITY. To be eligible to receive a
2 grant under this subchapter, a person must:

3 (1) be an agricultural producer;

4 (2) own or lease real property for agricultural
5 purposes in a municipality with a population of at least 500,000;
6 and

7 (3) provide matching funds in the amount of not less
8 than one dollar for each dollar of grant money received.

9 Sec. 60A.153. AMOUNT OF GRANTS. A grant under the urban
10 farmer grant program may not be less than \$5,000 or more than
11 \$20,000.

12 SECTION 2. As soon as practicable after the effective date
13 of this Act, the commissioner of agriculture shall appoint the
14 members of the Texas Urban Agricultural Innovation Authority
15 created by Section 60A.001, Agriculture Code, as added by this Act.

16 SECTION 3. This Act takes effect September 1, 2011.