

By: Miles

H.B. No. 2996

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Texas Urban Agricultural Innovation Authority.

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

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

CHAPTER 60A. TEXAS URBAN AGRICULTURAL INNOVATION AUTHORITY

SUBCHAPTER A. ADMINISTRATION AND POWERS

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

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

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

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

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

(1) two persons who are elected or appointed officials of a municipality with a population of at least 1.5 million;

(2) three persons who are knowledgeable about 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 for
12 serving as a director but is entitled to reimbursement for actual
13 and necessary expenses incurred in performing the official duties
14 of office.

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

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

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

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

1 authority may require.

2 (b) The board shall hold regular and special meetings at
3 times specified by the chairman.

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

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

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

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

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

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

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

26 (3) cannot because of illness or disability discharge
27 the member's duties for a substantial part of the term for which the

1 member is appointed.

2 (b) The validity of an action of the board is not affected by
3 the fact that it is taken when a ground for removal of a board member
4 exists.

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

6 SUBCHAPTER B. PURPOSES AND POWERS

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

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

12 (2) make or acquire loans to lenders to enable those
13 lenders to make loans to eligible persons;

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

16 (4) guarantee, wholly or partly, loans to eligible
17 persons; and

18 (5) make grants to eligible persons.

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

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

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

27 (3) to acquire, hold, invest, use, pledge, and dispose

1 of its revenues, income, receipts, funds, and money from every
2 source and to select one or more depositories, inside or outside the
3 state, subject to this chapter, any resolution, bylaws, or in any
4 indenture pursuant to which the funds are held;

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

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

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

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

27 (8) to sell, lease, encumber, mortgage, exchange,

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

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

15 (b) The use of a gift or grant for the furtherance of a
16 purpose of the authority is subject, after its appropriation, only
17 to limitations contained in the gift or grant.

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

1 of that financial assistance under this chapter, provided that the
2 board may delegate this approval authority to the commissioner.

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

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

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

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

25 [Sections 60A.055-60A.100 reserved for expansion]

26 SUBCHAPTER C. URBAN FARMER INTEREST RATE REDUCTION PROGRAM

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

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

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

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

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

16 (ii) 0.5 percent;

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

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

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

25 (a) The board shall establish an urban farmer interest rate
26 reduction program to promote the creation and expansion of urban
27 agriculture in this state.

1 (b) To be eligible to participate in the urban farmer
2 interest rate reduction program, an applicant must own or lease
3 real property for agricultural purposes in a municipality with a
4 population of at least 1.5 million.

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

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

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

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

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

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

23 (i) After acceptance of the application, the comptroller
24 shall place a linked deposit with the applicable eligible lending
25 institution for the period the comptroller considers appropriate.
26 The comptroller may not place a deposit for a period extending
27 beyond the state fiscal biennium in which it is placed. Subject to

1 the limitations described by Section 60A.105, the comptroller may
2 place time deposits at an interest rate described by Section
3 60A.101(2).

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

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

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

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

23 Sec. 60A.103. COMPLIANCE. (a) On accepting a linked
24 deposit, an eligible lending institution must loan money to
25 eligible applicants in accordance with the deposit agreement and
26 this subchapter. The eligible lending institution shall forward a
27 compliance report to the board.

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

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

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

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

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

18 SUBCHAPTER D. URBAN FARMER GRANT PROGRAM

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

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

25 (c) The board shall select grant recipients.

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

1 (1) be an agricultural producer;

2 (2) own or lease real property for agricultural
3 purposes in a municipality with a population of at least 1.5
4 million; and

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

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

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

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