

1-1 By: Miles (Senate Sponsor - Estes) H.B. No. 2996
1-2 (In the Senate - Received from the House May 12, 2011;
1-3 May 12, 2011, read first time and referred to Committee on
1-4 Agriculture and Rural Affairs; May 23, 2011, reported favorably by
1-5 the following vote: Yeas 4, Nays 1; May 23, 2011, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the creation of the Texas Urban Agricultural Innovation
1-9 Authority.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Title 4, Agriculture Code, is amended by adding
1-12 Chapter 60A to read as follows:

1-13 CHAPTER 60A. TEXAS URBAN AGRICULTURAL INNOVATION AUTHORITY

1-14 SUBCHAPTER A. ADMINISTRATION AND POWERS

1-15 Sec. 60A.001. CREATION OF AUTHORITY; PUBLIC PURPOSE.

1-16 (a) The Texas Urban Agricultural Innovation Authority is created
1-17 within the Department of Agriculture as a public authority.

1-18 (b) The authority is created to promote the creation and
1-19 expansion of urban agricultural projects in this state.

1-20 Sec. 60A.002. DEFINITION. In this chapter, "authority"
1-21 means the Texas Urban Agricultural Innovation Authority.

1-22 Sec. 60A.003. BOARD OF DIRECTORS. (a) The authority is
1-23 governed by a board of directors composed of the commissioner and
1-24 eight members appointed by the commissioner. Members of the board
1-25 must be appointed in the numbers specified and from the following
1-26 categories:

1-27 (1) two persons who are elected or appointed officials
1-28 of a municipality with a population of at least 500,000;

1-29 (2) three persons who are knowledgeable about
1-30 agricultural lending practices;

1-31 (3) one person who is a representative of an
1-32 agricultural business, as defined by Section 58.002; and

1-33 (4) two persons who represent urban farmers and the
1-34 interests of urban farmers.

1-35 (b) The appointed members of the board serve staggered terms
1-36 of two years, with the terms of four members expiring on January 1
1-37 of each even-numbered year and the terms of four members expiring on
1-38 January 1 of each odd-numbered year.

1-39 (c) Any vacancy occurring in an appointed position on the
1-40 board shall be filled by the commissioner for the unexpired term.

1-41 (d) A board member is not entitled to compensation or
1-42 reimbursement for serving as a director.

1-43 (e) Appointments to the board shall be made without regard
1-44 to the race, color, disability, sex, religion, age, or national
1-45 origin of the appointees.

1-46 Sec. 60A.004. OFFICERS. (a) The commissioner shall
1-47 designate a member of the board as the chairman of the board to
1-48 serve in that capacity at the pleasure of the commissioner. The
1-49 board shall elect other officers it considers necessary.

1-50 (b) The chairman of the board shall preside at meetings of
1-51 the board and perform other duties prescribed by the board.

1-52 Sec. 60A.005. ADMINISTRATION. (a) The commissioner with
1-53 the assistance of the board shall administer the authority. The
1-54 commissioner may appoint, employ, contract with, and provide for
1-55 employees, consultants, agents, and experts as the business of the
1-56 authority may require.

1-57 (b) The board shall hold regular and special meetings at
1-58 times specified by the chairman.

1-59 (c) The board is subject to Chapter 551, Government Code,
1-60 and Chapter 2001, Government Code.

1-61 Sec. 60A.006. FISCAL ACCOUNTING OF ADMINISTRATION.

1-62 (a) All funds acquired under this chapter may be used for
1-63 administration of this chapter.

1-64 (b) On or before January 1 of each year, the authority shall

2-1 prepare a report of its activities for the preceding fiscal year.
 2-2 The report must set forth a complete operating and financial
 2-3 statement. The authority shall file copies of the report with the
 2-4 governor and the legislature as soon as practicable.

2-5 (c) The board members, administrator, and staff of the
 2-6 authority may not be personally liable for loans issued or
 2-7 contracts executed by the authority and shall be exculpated and
 2-8 fully indemnified in the documents relating to any loans except in
 2-9 the case of fraudulent or wilful misconduct on the part of the
 2-10 individual seeking exculpation or indemnification.

2-11 Sec. 60A.007. REMOVAL OF BOARD MEMBER. (a) It is a ground
 2-12 for removal from the board if a member:

2-13 (1) does not have at the time of appointment the
 2-14 qualifications required by Section 60A.003;

2-15 (2) does not maintain during service on the board the
 2-16 qualifications required by Section 60A.003; or

2-17 (3) cannot because of illness or disability discharge
 2-18 the member's duties for a substantial part of the term for which the
 2-19 member is appointed.

2-20 (b) The validity of an action of the board is not affected by
 2-21 the fact that it is taken when a ground for removal of a board member
 2-22 exists.

2-23 [Sections 60A.008-60A.050 reserved for expansion]

2-24 SUBCHAPTER B. PURPOSES AND POWERS

2-25 Sec. 60A.051. PURPOSES OF AUTHORITY. In order to promote
 2-26 the creation and expansion of urban agricultural projects in this
 2-27 state, the authority shall implement programs under Subchapters C
 2-28 and D to:

2-29 (1) make or acquire loans to eligible persons;

2-30 (2) make or acquire loans to lenders to enable those
 2-31 lenders to make loans to eligible persons;

2-32 (3) insure, coinsure, and reinsure, wholly or partly,
 2-33 loans to eligible persons;

2-34 (4) guarantee, wholly or partly, loans to eligible
 2-35 persons; and

2-36 (5) make grants to eligible persons.

2-37 Sec. 60A.052. POWERS OF AUTHORITY. (a) The authority has
 2-38 all powers necessary to accomplish the purposes and programs of the
 2-39 authority, including the power:

2-40 (1) to adopt and enforce bylaws, rules, and procedures
 2-41 and perform all functions necessary for the board to carry out this
 2-42 chapter;

2-43 (2) to sue and be sued, complain, and defend, in its
 2-44 own name;

2-45 (3) to acquire, hold, invest, use, pledge, and dispose
 2-46 of its revenues, income, receipts, funds, and money from every
 2-47 source and to select one or more depositories, inside or outside the
 2-48 state, subject to this chapter, any resolution, bylaws, or in any
 2-49 indenture pursuant to which the funds are held;

2-50 (4) to establish, charge, and collect fees, charges,
 2-51 and penalties in connection with the programs, services, and
 2-52 activities provided by the authority in accordance with this
 2-53 chapter;

2-54 (5) to procure insurance and pay premiums on insurance
 2-55 of any type, in amounts, and from insurers as the board considers
 2-56 necessary and advisable to accomplish any of the authority's
 2-57 purposes;

2-58 (6) to make, enter into, and enforce contracts,
 2-59 agreements, including management agreements, for the management of
 2-60 any of the authority's property, leases, indentures, mortgages,
 2-61 deeds of trust, security agreements, pledge agreements, credit
 2-62 agreements, and other instruments with any person, including any
 2-63 lender and any federal, state, or local governmental agency, and to
 2-64 take other actions as may accomplish any of its purposes;

2-65 (7) to own, rent, lease, or otherwise acquire, accept,
 2-66 or hold real, personal, or mixed property, or any interest in
 2-67 property in performing its duties and exercising its powers under
 2-68 this chapter, by purchase, exchange, gift, assignment, transfer,
 2-69 foreclosure, mortgage, sale, lease, or otherwise and to hold,

3-1 manage, operate, or improve real, personal, or mixed property,
 3-2 wherever situated;
 3-3 (8) to sell, lease, encumber, mortgage, exchange,
 3-4 donate, convey, or otherwise dispose of any or all of its properties
 3-5 or any interest in its properties, deed of trust or mortgage lien
 3-6 interest owned by it or under its control, custody, or in its
 3-7 possession, and release or relinquish any right, title, claim,
 3-8 lien, interest, easement, or demand however acquired, including any
 3-9 equity or right of redemption in property foreclosed by it, and to
 3-10 do any of the foregoing by public or private sale, with or without
 3-11 public bidding, notwithstanding any other law; and to lease or rent
 3-12 any improvements, lands, or facilities from any person to effect
 3-13 the purposes of this chapter; and

3-14 (9) to request, accept, and use gifts, loans,
 3-15 donations, aid, guaranties, allocations, subsidies, grants, or
 3-16 contributions of any item of value for the furtherance of any of its
 3-17 purposes.

3-18 (b) Money acquired under Subsection (a)(9) may be used only
 3-19 for a purpose of the authority. Money from a gift or grant made for
 3-20 a purpose of the authority is subject only to limitations contained
 3-21 in the gift or grant.

3-22 Sec. 60A.053. PROGRAMS RULES. (a) The board shall adopt
 3-23 rules to establish criteria for determining which eligible persons
 3-24 may participate in programs under this chapter. The board's rules
 3-25 must state that the policy of the authority is to provide programs
 3-26 for providing financial assistance to eligible persons that the
 3-27 board considers to present a reasonable risk and have a sufficient
 3-28 likelihood of repayment. The board shall adopt collateral or
 3-29 security requirements to ensure the full repayment of that
 3-30 financial assistance and the solvency of any program implemented
 3-31 under this chapter. The board shall approve any and all extensions
 3-32 of that financial assistance under this chapter, provided that the
 3-33 board may delegate this approval authority to the commissioner.

3-34 (b) The board shall also adopt rules to establish criteria
 3-35 for lenders that may participate in programs under this chapter.

3-36 (c) Eligible persons or lenders participating in the
 3-37 authority's programs shall pay the costs of applying for,
 3-38 participating in, and administering and servicing the program, in
 3-39 amounts the board considers reasonable and necessary. The board
 3-40 shall charge an administrative fee for guaranteeing a loan that may
 3-41 not be less than one percent of the amount of the guaranteed loan.
 3-42 Any costs not paid by the eligible persons or lenders shall be paid
 3-43 from the funds of the authority.

3-44 (d) The board by rule shall adopt an agreement to be used
 3-45 between a lender and an approved applicant under Subchapter C under
 3-46 which the authority makes a payment for the purpose of providing a
 3-47 reduced interest rate on a loan guaranteed to a borrower. The
 3-48 agreement must require the borrower to use the proceeds of the loan
 3-49 for the purposes of the program under which the payment is made.
 3-50 The board shall adopt rules to implement this subsection.

3-51 Sec. 60A.054. AUTHORITY EXEMPTION FROM TAXATION. The
 3-52 property of the authority, its income, and its operations are
 3-53 exempt from all taxes and assessments imposed by the state and all
 3-54 public agencies and political subdivisions on property acquired or
 3-55 used by the authority under this chapter.

3-56 Sec. 60A.055. FUNDING. State money may not be used for
 3-57 purposes of the authority.

3-58 [Sections 60A.056-60A.100 reserved for expansion]
 3-59 SUBCHAPTER C. URBAN FARMER INTEREST RATE REDUCTION PROGRAM

3-60 Sec. 60A.101. DEFINITIONS. In this subchapter:

3-61 (1) "Eligible lending institution" means a financial
 3-62 institution that makes commercial loans, is either a depository of
 3-63 state funds or an institution of the Farm Credit System
 3-64 headquartered in this state, and agrees to participate in the urban
 3-65 farmer interest rate reduction program and to provide collateral
 3-66 equal to the amount of linked deposits placed with it.

3-67 (2) "Linked deposit" means a time deposit governed by
 3-68 a written deposit agreement between the state and an eligible
 3-69 lending institution that provides:

4-1 (A) that the eligible lending institution pay
 4-2 interest on the deposit at a rate that is not less than the greater
 4-3 of:

4-4 (i) the current market rate of a United
 4-5 States treasury bill or note of comparable maturity minus three
 4-6 percent; or

4-7 (ii) 0.5 percent;

4-8 (B) that the state not withdraw any part of the
 4-9 deposit before the expiration of a period set by a written advance
 4-10 notice of the intention to withdraw; and

4-11 (C) that the eligible lending institution agree
 4-12 to lend the value of the deposit to an eligible borrower at a
 4-13 maximum rate that is the linked deposit rate plus a maximum of four
 4-14 percent.

4-15 Sec. 60A.102. URBAN FARMER INTEREST RATE REDUCTION PROGRAM.

4-16 (a) The board shall establish an urban farmer interest rate
 4-17 reduction program to promote the creation and expansion of urban
 4-18 agriculture in this state.

4-19 (b) To be eligible to participate in the urban farmer
 4-20 interest rate reduction program, an applicant must own or lease
 4-21 real property for agricultural purposes in a municipality with a
 4-22 population of at least 500,000.

4-23 (c) The board shall approve or disapprove any and all
 4-24 applications under this subchapter, provided that the board may
 4-25 delegate this authority to the commissioner.

4-26 (d) The board shall adopt rules for the loan portion of the
 4-27 urban farmer interest rate reduction program.

4-28 (e) In order to participate in the urban farmer interest
 4-29 rate reduction program, an eligible lending institution may solicit
 4-30 loan applications from eligible applicants.

4-31 (f) After reviewing an application and determining that the
 4-32 applicant is eligible and creditworthy, the eligible lending
 4-33 institution shall send the application for a linked deposit loan to
 4-34 the authority.

4-35 (g) The eligible lending institution shall certify the
 4-36 interest rate applicable to the specific eligible applicant and
 4-37 attach it to the application sent to the authority.

4-38 (h) After reviewing each loan application under this
 4-39 subchapter, the board or the commissioner shall recommend to the
 4-40 comptroller the acceptance or rejection of the application.

4-41 (i) After acceptance of the application, the comptroller
 4-42 shall place a linked deposit with the applicable eligible lending
 4-43 institution for the period the comptroller considers appropriate.
 4-44 The comptroller may not place a deposit for a period extending
 4-45 beyond the state fiscal biennium in which it is placed. Subject to
 4-46 the limitations described by Section 60A.105, the comptroller may
 4-47 place time deposits at an interest rate described by Section
 4-48 60A.101(2).

4-49 (j) Before the placing of a linked deposit, the eligible
 4-50 lending institution and the state, represented by the comptroller,
 4-51 shall enter into a written deposit agreement containing the
 4-52 conditions on which the linked deposit is made.

4-53 (k) If a lending institution holding linked deposits ceases
 4-54 to be either a state depository or a Farm Credit System institution
 4-55 headquartered in this state, the comptroller may withdraw the
 4-56 linked deposits.

4-57 (l) The board may adopt rules that create a procedure for
 4-58 determining priorities for loans granted under this subchapter.
 4-59 Each rule adopted must state the policy objective of the rule.

4-60 (m) A lending institution is not ineligible to participate
 4-61 in the urban farmer interest rate reduction program solely because
 4-62 a member of the board is also an officer, director, or employee of
 4-63 the lending institution, provided that a board member shall recuse
 4-64 himself or herself from any action taken by the board on an
 4-65 application involving a lending institution by which the board
 4-66 member is employed or for which the board member serves as an
 4-67 officer or director.

4-68 Sec. 60A.103. COMPLIANCE. (a) On accepting a linked
 4-69 deposit, an eligible lending institution must loan money to

5-1 eligible applicants in accordance with the deposit agreement and
5-2 this subchapter. The eligible lending institution shall forward a
5-3 compliance report to the board.

5-4 (b) The board shall monitor compliance with this subchapter
5-5 and inform the comptroller of noncompliance on the part of an
5-6 eligible lending institution.

5-7 Sec. 60A.104. STATE LIABILITY PROHIBITED. The state is not
5-8 liable to an eligible lending institution for payment of the
5-9 principal, interest, or any late charges on a loan made under this
5-10 subchapter. A delay in payment or default on a loan by a borrower
5-11 does not affect the validity of the deposit agreement. Linked
5-12 deposits are not an extension of the state's credit within the
5-13 meaning of any state constitutional prohibition.

5-14 Sec. 60A.105. LIMITATIONS IN PROGRAM. (a) The maximum
5-15 amount of a loan under this subchapter is \$500,000.

5-16 (b) A loan granted under this subchapter may be used for any
5-17 agriculture-related operating expense, including the purchase or
5-18 lease of land or fixed assets acquisition or improvement, as
5-19 identified in the application.

5-20 [Sections 60A.106-60A.150 reserved for expansion]

5-21 SUBCHAPTER D. URBAN FARMER GRANT PROGRAM

5-22 Sec. 60A.151. GRANT PROGRAM. (a) The authority shall
5-23 administer an urban farmer grant program. A grant must be for the
5-24 purpose of fostering the creation and expansion of urban
5-25 agricultural projects in this state.

5-26 (b) The board shall adopt rules governing the operation of
5-27 the program and selection criteria for grant recipients.

5-28 (c) The board shall select grant recipients.

5-29 Sec. 60A.152. ELIGIBILITY. To be eligible to receive a
5-30 grant under this subchapter, a person must:

5-31 (1) be an agricultural producer;

5-32 (2) own or lease real property for agricultural
5-33 purposes in a municipality with a population of at least 500,000;
5-34 and

5-35 (3) provide matching funds in the amount of not less
5-36 than one dollar for each dollar of grant money received.

5-37 Sec. 60A.153. AMOUNT OF GRANTS. A grant under the urban
5-38 farmer grant program may not be less than \$5,000 or more than
5-39 \$20,000.

5-40 SECTION 2. As soon as practicable after the effective date
5-41 of this Act, the commissioner of agriculture shall appoint the
5-42 members of the Texas Urban Agricultural Innovation Authority
5-43 created by Section 60A.001, Agriculture Code, as added by this Act.

5-44 SECTION 3. This Act takes effect September 1, 2011.

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