Legislative Analysis

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SUGAR BEET COOPERATIVE LOAN

House Bill 6122 (Substitute H-1)
Sponsor: Rep. Joseph Rivet
Committee: Agriculture and Resource Management
First Analysis (9-9-04)

BRIEF SUMMARY: The bill would amend Public Act 105 of 1855 to require the state treasurer to subordinate the state interest in a loan provided to a sugar beet growers cooperative (Michigan Sugar Company Growers, Inc.) for the purchase of an agricultural processor (Michigan Sugar Company) to the primary loan of the cooperative.

FISCAL IMPACT: A fiscal review is in progress.

THE APPARENT PROBLEM:

Public Act 123 of 2001 amended Public Act 105 of 1855 to provide a $5 million zero interest loan of state surplus funds to Michigan Sugar Beet Growers, Inc. - a cooperative of more than 1,000 sugar beet growers - to assist them in the purchase of Michigan Sugar Company, a subsidiary of Texas-based Imperial Sugar, which had filed for bankruptcy. The $63.5 million sale was finalized in February 2002.

In April 2004, Illova Sugar Ltd. of South Africa announced its intention to sell its wholly-owned U.S. subsidiary, Monitor Sugar Company, which is based in Monitor Township in Bay County. Soon after, discussions between Illova Sugar Ltd. and the Monitor Sugar Beet Growers Association regarding the formation of the development of a cooperative to purchase Monitor Sugar evolved into a discussion with Michigan Sugar Company regarding the merger of the two Michigan companies and the formation of one giant cooperative of 1,400 growers with 180,000 acres supplying five sugar processing plants in Michigan. [Michigan Sugar has about 1,000 growers and four processing plants in Caro, Carrollton, Croswell, and Sebewaing, in addition to two plants in Ohio. Monitor Sugar has about 600 growers and one processing plant in Monitor Township. About 200 growers provide products to both companies.] In late July 2004, an agreement was reached whereby Monitor Sugar growers and Michigan Sugar growers will combine under one cooperative operating under the name Michigan Sugar Company. The company would continue to offer Monitor Sugar's Big Chief brand sugar and Michigan Sugar's Pioneer brand sugar. To join the cooperative, Monitor Sugar growers would have to buy one share, estimated at $250, per acre of sugar beets expected to be grown in 2005.

The purchase of Monitor Sugar by Michigan Sugar will require Michigan Sugar to increase it indebtedness. Lenders have apparently expressed their willingness to refinance loans with Michigan Sugar to accommodate the purchase. However, the state's loan provided under Public Act 123 of 2001 would have priority lien position over any increased indebtedness incurred for the purchase of Monitor Sugar. This has discouraged lenders from refinancing their loans with Michigan Sugar, thereby placing the purchase of Monitor Sugar in jeopardy. Legislation requiring the state treasurer to subordinate the state's lien position for Michigan Sugar has been introduced.

THE CONTENT OF THE BILL:

The bill would modify the terms of a loan authorized in 2001 to Michigan Sugar Beet Growers, Inc. from state surplus funds.

Public Act 105 of 1855 places certain conditions and limitations on the type of investments the state treasurer may make with surplus funds. Public Act 123 of 2001 amended Public Act 105 to provide a $5 million zero interest loan of state surplus funds to Michigan Sugar Beet Growers, Inc. - a cooperative of more than 1,000 sugar beet growers - to assist them in the $63.5 million purchase of Michigan Sugar Company, a subsidiary of Texas-based Imperial Sugar, which had filed for bankruptcy.

The bill would amend the provisions dealing with that loan to require the state treasurer, as part of the modification of the sugar beet growers' cooperative loan, to subordinate the state's interest in the loan to the primary loan of the cooperative, and relinquish any enforcement powers or authority that may exist under current contract or agreement.

Under the bill, repayment of the loan would begin at least 10 years after the modification and be payable over a 20 year period. Currently, the act calls for the loan to be for a period not to exceed five years. (The scheduled maturity date is February 1, 2007.)

MCL 21.142e

ARGUMENTS:

For:

Reportedly, Michigan Sugar Company's lenders are unwilling to refinance their loans with the company to enable it to purchase of Monitor Sugar Company. This is said to be due to the fact that any increased indebtedness by the company would have a lien position subordinate to the state's lien position from its 2002 loan. Thus far, the state treasurer has refused to subordinate the state's position - a decision that potentially places the sale of Monitor Sugar to Michigan Sugar in jeopardy. According to several news accounts, Monitor Sugar's parent company has expressed a desire to sell its Michigan subsidiary by September 30. If the monitor sugar growers and Michigan Sugar are unable to obtain adequate financing, there is a strong possibility that Monitor Sugar will be sold to another company, with the distinct possibility of the plant then being closed. Proponents say that this bill, then, facilitates the sale of Monitor Sugar to Michigan Sugar in order to ensure the retention of several hundred permanent and seasonal jobs in the Thumb area.

Against:

Public Act 123 of 2001 provided a loan to the Michigan Sugar Company growers with certain conditions. This bill changes those conditions after the fact. The problem could be solved by obtaining additional financing to pay off the state loan. In addition, it is not entirely clear why the bill extends the repayment period for the loan. Under the 2001 law, the loan had a maturity date of February 1, 2007, at which time the loan would have to be repaid. The bill, however, provides that the loan would be repaid beginning at least 10 years after the loan is modified and that repayment would not occur for at least 10 years after the loan agreement is modified, and would be spread over a period of 20 years. The apparent problem with the current law is said to be the state loan's priority over other lenders and not with the repayment of the loan. Moreover, the loan was originally predicated on the purchase of Michigan Sugar Company by the growers' cooperative. That purchase has occurred, so the state should be paid back accordingly.

POSITIONS:

Michigan Sugar Company supports the bill. (9-8-04)

The Monitor Sugarbeet Growers' Association supports the bill. (9-8-04)

The Michigan Farm Bureau supports the concept of the bill. (9-8-04)

The Department of Treasury opposes the bill. (9-8-04)

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.