



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

BILL



ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

Senate Bill 226 (Substitute S-1 as reported)
Senate Bill 228 (Substitute S-3 as reported)
Sponsor: Senator Jud Gilbert, II (S.B. 226)
Senator Gerald Van Woerkom (S.B. 228)
Committee: Agriculture, Forestry and Tourism

Date Completed: 4-11-05

RATIONALE

Almost 29% of the land in Michigan is farmed, according to the Economic Research Service (ERS) within the U.S. Department of Agriculture. Indeed, when food processing is included in the industry, agriculture is the State's second largest economy, behind manufacturing. Michigan also is the second-most agriculturally diverse state in the nation, with over 70 commercial agriculture products, as reported by the Michigan Department of Agriculture (MDA). While the State's agricultural industry has weathered the economic downturn better than has manufacturing, the rates of unemployment and poverty are higher in rural counties than in urban counties. The ERS reports that, nationally, workers' average wages are 20% lower in rural areas than the wages in urban areas. In order to attract young people to agriculture and retain them in rural areas, it has been suggested that the State reimburse a portion of educational loans incurred by certain agricultural employees.

Another issue concerning the agricultural industry involves environmental regulation. In part because agriculture is dependent on a healthy environment, Michigan's Department of Environmental Quality (DEQ) regulates farms' waste discharge and pesticide use, and monitors some large water withdrawals. Reportedly, in the past, there has been some discord between agricultural producers and the DEQ. In light of this, and in view of the economic problems faced by rural communities, it has been suggested that rural and agricultural

interests be represented in the form of an advisory council within the DEQ.

CONTENT

Senate Bill 226 (S-1) would create Part 23 (Agriculture and the Environment) of the Natural Resources and Environmental Protection Act to establish the "Agriculture and Rural Communities Advisory Council" within the Department of Environmental Quality.

Senate Bill 228 (S-3) would create the "Rural Agricultural Recruitment Act" to require the Michigan Higher Education Assistance Authority to establish a loan repayment program that would reimburse a percentage of educational loans incurred by up to 1,000 eligible agricultural employees in rural areas per year.

The bills are described in more detail below.

Senate Bill 226 (S-1)

Responsibilities

The Agriculture and Rural Communities Advisory Council would have to evaluate how laws, rules, and policies administered by the Department affected farmers, food processors, agribusiness, and rural communities. The Council also would have to provide, to the DEQ and to the legislative standing committees with jurisdiction over

natural resources, environmental, and agricultural issues, advice and recommendations on the laws, rules, and policies administered by the DEQ that affected farmers, food processors, agribusiness, and rural communities.

The DEQ would have to provide staff and assistance to the Council as necessary or useful for it to carry out its responsibilities.

Membership

The DEQ Director would have to appoint a total of seven members to the Council: two individuals from an association representing farmers, two from an association representing food processors, two from an association representing agribusinesses, and one from an association representing local units of government.

Members would have to serve for three-year terms, or until a successor was appointed, whichever was later, except as follows: Of the members first appointed, one representing farmers and one representing food processors would have to serve for one-year terms, and one appointed to represent agribusinesses and the member representing local units of government would serve two-year terms.

The members first appointed to the Council would have to be appointed within 60 days after the bill's effective date.

If a vacancy occurred on the Council, the Governor would have to make an appointment for the unexpired term in the same manner as the original appointment.

A member of the Council could be removed, by the DEQ Director, for incompetency, dereliction of duty, malfeasance, misfeasance, or nonfeasance in office, or any other good cause.

Members would have to serve without compensation, but could be reimbursed for their actual and necessary expenses incurred in the performance of their official duties.

Procedures

The DEQ Director would have to call the first meeting of the Council, at which the Council would have to elect from among its

members a chairperson and other officers it considered necessary or appropriate. After the first meeting, the Council would have to meet at least twice per year, or more frequently at the call of the chairperson or if requested by three or more members.

A majority of the members would constitute a quorum for the transaction of business at a Council meeting. A majority of the members present and serving would be required for official action of the Council.

The Council would be subject to the Open Meetings Act and the Freedom of Information Act.

Senate Bill 228 (S-3)

The bill would require the Michigan Higher Education Assistance Authority to administer a partial repayment program for agricultural employees who had incurred eligible debt. The bill would define "eligible debt" as the total unpaid debt or expenses owed by an agricultural employee as a result of loans taken to attend an associate degree or bachelor's degree program at an approved institution, calculated at the time he or she first applied for a repayment under the proposed Act.

After every year of continuous eligible agricultural employment, for up to 10 years, the Authority could repay up to 2.5% of the agricultural employee's eligible debt, or \$750, whichever was less.

The Authority could not provide repayment of eligible debt to more than 1,000 recipients in the 2005-06 State fiscal year or to more than 1,000 new recipients in each subsequent fiscal year. Recipients would have to be selected based on the order applications were received by the Authority from eligible individuals.

"Eligible agricultural employment" would mean full-time employment at an agricultural facility located in a rural area or engaging in veterinary practice in a rural area, primarily as a large animal veterinarian. "Rural area" would be defined as a county in the State with a population of 70,000 or less. "Agricultural facility" would mean land, or a building or other improvement on or to land, used for "agricultural processing" (defined below).

An individual would have to meet all of the following criteria, in order to be eligible for repayment of eligible debt:

- He or she had completed the period of continuous eligible agricultural employment required under the bill.
- He or she had received an associate or bachelor's degree from an approved institution after the 2003-2004 academic year and before beginning his or her eligible agricultural employment.
- He or she was a United States citizen or permanent resident of the United States.
- He or she had resided continuously in the State for the completed period of eligible agricultural employment.
- He or she was in compliance with the bill and the rules promulgated under it.
- He or she had not been convicted of a felony involving an assault, physical injury, or death.
- He or she met any other standards established in rules promulgated by the Authority.

("Approved institution" would mean a degree- or certificate-granting public or independent nonprofit college or university, junior college, or community college in this State.)

In its sole discretion, the Authority could make a pro rata repayment of eligible debt for an agricultural employee who completed part of a year of eligible agricultural employment, paid to the employee or his or her estate, if one of the following occurred before that year of eligible employment was completed: 1) The employee died, 2) the employee was unable to continue performing eligible agricultural employment because of a permanent disability, or 3) the Authority found other extenuating circumstances that it considered to constitute a compelling reason to make a pro rata repayment for that partial year of eligible agricultural employment.

The Authority could accept funds from any source for the operation of the repayment program, and would have to distribute those funds in a manner consistent with the bill.

The Authority would have to determine the form of an application for repayment of eligible debt under the bill, and establish an application process.

The Authority could promulgate rules necessary for the implementation of its functions under the bill. The rules could include additional standards of eligibility for agricultural employees to receive repayment of eligible debt.

"Agricultural processing" would mean transforming, packaging, sorting, or grading livestock or livestock products, plants or plant products, or other agricultural commodities into goods that are used for intermediate or final consumption, including goods for nonfood use, or the manufacture, production, or construction of agricultural equipment, implements, and supplies. The term would include, but not be limited to, the following:

- Grain handling and processing, including grain storage, drying, treatment, conditioning, milling, and packaging.
- Seed and feed grain development and processing.
- Fruit and vegetable processing, including preparation, canning, and packaging.
- Processing of livestock and livestock products, dairy products, poultry and poultry products, fish, or apiarian products, including slaughter, shearing, collecting, preparation, canning, and packaging.
- Fertilizer and agricultural chemical manufacturing, processing, application, and supplying.
- Farm machinery, equipment, and implement manufacturing and supplying.
- Manufacturing and supplying of agricultural commodity processing machinery and equipment, including machinery and equipment used in slaughter, treatment, handling, collecting, preparation, canning, or packaging of agricultural commodities.
- Construction, manufacturing, implementation, supplying, or servicing of irrigation, drainage, and soil and water conservation devices or equipment.
- Fuel processing and development for the production of fuel from agricultural commodities or by-products.
- Processing and packaging of agricultural commodities specifically for export.
- Forestry product processing and supplying, including sawmilling, wood chipping, timber harvesting, and manufacturing of prefabricated buildings, paper, furniture, or other goods from forestry products.

-- Facilities and equipment for research and development of products, processes, and equipment for the production, processing, preparation, or packaging of agricultural commodities and by-products.

"Agricultural commodities" would include, but not be limited to, the products of aquaculture, hydroponics, and silviculture.

Proposed MCL 324.2301-324.2304
(S.B. 226)

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

Michigan's natural environment contains plentiful land and water to grow and process foods. Overly burdensome water and waste regulations, however, might drive large employers such as Gerber Foods, located in Fremont, to other states. Reportedly, Gerber has complained that some of the regulations to which it must adhere (such as those dealing with the quality of its wastewater) are difficult to comply with. Also, other producers evidently have complained of an adversarial relationship between themselves and the DEQ. By establishing the Agricultural and Rural Communities Advisory Council within the DEQ, Senate Bill 226 (S-1) would give producers and food processors a stronger voice and strengthen the relationship between agricultural interests and the State. Michigan must do all it can to reach out to agriculture, which is the State's second-largest employer, and to encourage the economies of rural areas, which contain almost 19% of the State's people (ERS, Michigan Fact Sheet, 2003 estimates).

Supporting Argument

Senate Bill 228 (S-3) could help boost local economies and encourage more people to enter farming, food processing, or other agricultural employment by forgiving a portion of their student debt. Reportedly, the average unemployment rate in Michigan's rural counties is 8.1%, compared with the State average of 7.3% (*The Muskegon Chronicle*, 2-15-05). Also, it is well known that few young people are opting to farm; according to the MDA, the average Michigan farmer is now 54 years old. The

trend of educated adults' moving to urban areas, however, has decreased; *Amber Waves*, a publication of the ERS, reported that during the 1990s rural areas attracted and kept college graduates at the same rate as did central cities and suburbs. At the same time, the number of rural high school dropouts fell. It stands to reason, then, that the amount of student debt accrued by rural residents has increased. Providing a partial loan repayment program for those employed in the agricultural sector in a rural area would help these less-populated areas of the State to attract and retain college graduates, injecting local economies with much-needed revenue.

Opposing Argument

Both bills would spend money the State does not have. Senate Bill 226 (S-1) would create an unfunded obligation for the DEQ to plan, staff, and run the proposed Advisory Council, and Senate Bill 228 (S-3) would create a student loan repayment program without an identified source of revenue to repay the loans. While both bills might be worthwhile, there simply is not the money to fund the obligations they would create.

Response: The cost to the DEQ under Senate Bill 226 (S-1) would be minimal, as the Council would be required to meet only twice each year. While the cost to the State under Senate Bill 228 (S-3) would be greater, there would be no mandate to repay loans; the bill simply would hold a place for the loan forgiveness program until a source of revenue became available.

Opposing Argument

Senate Bill 226 (S-1) would be duplicative and inequitable. The current DEQ Director has formed a council from representatives of the regulated community for the purpose of advising him on general environmental policy. That body, the Environmental Advisory Council, consists of 24 members serving two-year terms and representing diverse interests: agriculture, environmental groups, academicians, and businesses owners, among others. The proposed Agricultural and Rural Communities Advisory Council, with only seven members representing food interests, would be a body with a limited perspective, reducing the value of its work. Further, creating such a council would create an unwelcome precedent by favoring one regulated group over another. All members of the regulated community, including

citizens, already have the means to provide input to the Department through a 1-800 phone number; through participation in rules committees and the legislative process; and through the Director himself as he seeks input on specific topics.

Response: Agriculture is different from other members of the regulated community because producers have so little control over the weather and natural resources, upon which they are heavily dependent, and over the price of their product. Small businesses can raise their prices if they suffer a setback; not so with most farmers, whose commodities are priced in Chicago. Because of this, and because farming takes place in every county in Michigan, agriculture deserves a special seat at the DEQ table.

Opposing Argument

Senate Bill 228 (S-3) contains a number of technical problems that could end up costing the State in the long run. The Department of Treasury, which contains the Authority charged with administering the proposed loan forgiveness program, pointed out that a number of key terms in the bill are not adequately defined: "eligible debt" would not be limited to specific loan programs (such as Stafford loans or Pell grants) but rather would include all loans a student had taken out to cover his or her educational expenses. Theoretically, this could include mortgages and credit card debt. Also, the bill would not limit the loan period from which debt was accumulated, making the determination of eligible debt difficult, especially if loans from graduate and undergraduate study had been consolidated. Similarly, "full-time employment" and "engaging in veterinary practice" are not defined, which means, in theory, that a dog groomer at a veterinary clinic could be eligible to have part of his or her student loans forgiven. Last, the bill would require the Authority to process applications for loan forgiveness in the order they were received; since the Authority does not timestamp applications, however, there would be no criteria to determine who could receive money, if multiple applications arrived on the last day.

Response: The bill would allow the Authority to promulgate rules necessary for the implementation of its functions, including additional standards of eligibility for agricultural employees to receive repayment of eligible debt.

Legislative Analyst: Claire Layman

FISCAL IMPACT

Senate Bill 226 (S-1)

The bill would result in indeterminate costs for the State for the reimbursement of travel expenses of Council members and for Department staff and resources dedicated to assisting the Council.

Senate Bill 228 (S-3)

The bill could create an obligation for the State of up to \$750,000 in the 2005-06 fiscal year. The obligation could increase by as much as an additional \$750,000 each year in future years. After 10 years, the State's obligation would reach a maximum and could be as much as \$7.5 million per year. The actual fiscal impact of the bill would depend upon the amount the Legislature chose to appropriate to fund the proposed loan repayment program and participation rates for the program. Secondary impacts, such as retaining certain graduates or postponing a date in which they might move from the State, are likely to be minimal. It is impossible to estimate how many individuals would enroll under the proposed program.

This analysis is based on a number of assumptions, some of which concern issues not addressed in the bill. For example, "full-time employment" in the definition of "eligible agricultural employment" is not defined, nor is "engaging in veterinary practice". It is unclear if an individual owning a small plot of land in a rural county would qualify if he or she operated a small storage facility, farmed the land at any level, or purchased a backhoe, chainsaw, or wood chipper and established a business to supplement his or her existing income, or even enrolled the property in a farm program to leave the land fallow. Similarly, any involvement in a veterinary practice in a rural area would apparently be sufficient to qualify for benefits under the bill. Furthermore, determining eligible debt could be difficult, particularly when consolidation or partial repayment had occurred and/or the borrower had obtained education eligible for loans but not for repayment under the bill. An example is a borrower who had \$3,000 in loans as an undergraduate and another \$5,000 in graduate loans and had

consolidated the loans into an \$8,000 loan, of which \$4,000 had been repaid. It is unclear what portion of the borrower's outstanding debt would be eligible for repayment under the bill.

The bill would provide the Authority with rule-making power, but the requirements that would be imposed by those rules presently are unknown. Therefore, any ambiguous aspects of the bill could cause the fiscal impact to vary drastically from the sample impact illustrated above. The costs of administering the program are currently unknown.

This estimate is preliminary and will be revised as new information becomes available.

Fiscal Analysts: Jessica Runnels
David Zin

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.