



Senate Fiscal Agency
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 BILL ANALYSIS

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Senate Bill 1167 (Substitute S-1 as reported)
Senate Bill 1168 (Substitute S-1 as reported)
Senate Bill 1169 (Substitute S-1 as reported)
Sponsor: Senator Ron Jelinek (S.B. 1167)
 Senator Michelle A. McManus (S.B. 1168)
 Senator Cameron S. Brown (S.B. 1169)
Committee: Agriculture, Forestry and Tourism

Date Completed: 4-5-06

RATIONALE

The Agricultural Development Fund was created under the Julian-Stille Value-Added Act in 2000, for the purpose of encouraging the development of value-added agricultural processing and production in the State. Under the Act, money may be deposited into the Fund from appropriations, State or Federal revenue, or other sources. The Fund may be used for grants to individuals, farmer-owned cooperatives, businesses, and local units of government, for the development of value-added agricultural processing and production ventures. Grant money may be used for land, buildings, or equipment; improvements to physical infrastructure; marketing research; business plan development; and other purposes.

Public Act 225 of 2005 allocated \$5.0 million to the Agricultural Development Fund from a newly created 21st Century Jobs Trust Fund (described in **BACKGROUND**, below) for grants and loans. It has been suggested that the Value-Added Act should allow the Agricultural Development Fund to issue loans, as well as grants, and that other changes could make the Act more effective in promoting the commercialization of agricultural products.

CONTENT

The bills would amend the Value-Added Act to do the following:

-- Require the Director of the Michigan Department of Agriculture (MDA) to convene an agricultural value-added

commercialization roundtable to discuss the commercialization of agricultural products, processes, and services.

- Allow the public to address the roundtable on pertinent issues during meetings.**
- Provide for the Agricultural Development Fund to be used for loans as well as grants, and identify the Fund as a revolving fund.**
- Require that at least 50% of the money in the Fund be awarded as grants and loans for specialty crops.**
- Specify that not more than 25% of the money appropriated in fiscal year 2005-06 from the 21st Century Jobs Trust Fund could be used for grants.**
- Limit the maximum grant from the Fund to \$250,000 and the maximum loan to \$500,000.**
- Require the MDA to establish a competitive process for awarding grants and loans.**
- Reduce the maximum percentage of the Fund that may be used for administrative purposes from 5% to 4%.**
- Require the Agriculture Development Review Committee (ADRC) and the Commission on Agriculture to identify suitable projects for funding, according to specified criteria.**

The three bills are tie-barred to each other.

Senate Bill 1167 (S-1)

Under the bill, the MDA Director would have to convene an agricultural value-added commercialization roundtable to discuss all facets of the commercialization of agricultural products, processes, and services, including the availability of capital, innovation infrastructure, and university licensing of agricultural research. The Director would have to invite at least the following individuals to participate in the roundtable:

- Three from an association representing farmers.
- Two from an association representing food processors.
- Two from an association representing agribusiness.
- Two representing agricultural lending institutions.
- One representing an institution of higher education.
- One representing the United States Department of Agriculture (USDA) Rural Development Agency.
- One representing the Michigan Strategic Fund.
- One representing the Rural Development Council of Michigan.

The MDA Director would have to convene the first meeting of the roundtable within 90 days after the bill's effective date, and convene the roundtable at least twice each calendar year. (If the bill took effect after September 30, the roundtable would have to convene once in the first calendar year.) The roundtable could advise the Director on the need for a more frequent meeting schedule. Its meetings would have to be open to and held in a place available to the general public. The MDA would have to provide notice of each roundtable meeting on its website and by any other means deemed appropriate.

At least one meeting each year would have to be held in a rural community. At this meeting, the public would have to be given an opportunity to address the roundtable on issues within its purview. The MDA would have to prepare a summary of each roundtable meeting, including a Department response to issues raised during the meeting, and would have to post the summary on its website and provide a copy to all of the following: the members of the

roundtable, the standing committees of the Senate and House of Representatives dealing primarily with agricultural issues, and any member of the public who requested a copy.

Senate Bill 1168 (S-1)

Ag Dev't Fund; Grant & Loan Program

Under the Act, the MDA must use the Agricultural Development Fund to make grants to qualified grantees who apply and submit proposals demonstrating feasibility for development of value-added agricultural processing and agricultural production ventures consistent with the purposes described in the Act. Grantees may include individuals, farmer-owned cooperatives, partnerships, limited liability companies, private or public corporations, and local units of government for projects designed to establish, retain, expand, attract, or develop value-added agricultural processing and related agricultural production operations in this State.

The bill would delete these provisions, instead requiring the MDA to establish and administer an agricultural value-added grant and revolving loan program. The Agriculture Commission could award grants and loans from the Agricultural Development Fund only for the commercialization of agricultural value-added products, processes, and services.

("Commercialization" would mean the transition from research to the actions necessary to achieve market entry and general market competitiveness of new innovative technologies, processes, and products and the services that support, assist, equip, finance, or promote a person or entity with that transition.)

Under the Act, the MDA must prepare, on at least an annual basis, a request for proposals for grants from the Fund. The Act specifies that grants are contingent upon the availability of funds. Under the bill, loans from the Fund would be subject to the same provisions.

Under the Act, a cash match of at least 10% of the grant by the applicant or other repayment guarantee with a dedicated funding source is required before a grant

may be awarded. The bill would remove that provision.

Competitive Process

The bill would require the MDA to establish a competitive process to award grants and make loans for the commercialization of agricultural value-added products, processes, and services. The competitive process would have to include all of the following:

- A provision that the applications would have to be reviewed by the Agriculture Development Review Committee.
- A preference for proposals that demonstrated a high level of innovation for value-added agricultural processing and related agricultural production ventures to benefit producers in the State.
- A preference for proposals that attempted to secure a license for agricultural value-added technology through an institution of higher education.
- A provision that the program would use contracts with measurable milestones, clear objectives, provisions to revoke awards for breach of contract, and repayment provisions for loans given to qualified businesses that left Michigan within three years of executing the contract, or otherwise breached the terms of the contract.
- A provision that the applicant leverage other resources as a condition of the grant or loan.
- A provision that limited overhead rates for recipients of grants and loans to reflect actual overhead, not to exceed 15% of the grant or loan.
- A provision that grants could be awarded only to Michigan institutions of higher education, Michigan nonprofit research institutions, and Michigan nonprofit corporations.
- A preference for proposals that forecasted revenue within two years or had outside investments from investors with experience and management teams with experience in the area targeted by the proposal, or both.

Scientific and technical merit, commercial merit, and the ability to leverage additional funding would have to be given equal weight in the review and scoring process.

The bill would require the Agriculture Commission, in approving a grant or loan under the Act, to state the specific objective reasons that supported the selection of the applicant over competing applicants.

(The bill would define "agriculture development review committee" as a committee selected by the Agriculture Commission with appropriate expertise to conduct an independent, unbiased, objective, and competitive evaluation of activities funded. "Institution of higher education" would refer to an institution of higher education, a community or junior college, or an independent nonprofit degree-granting institution of postsecondary education in this State that is approved by the State Board of Education.)

Selection Criteria

The bill would require the Agriculture Development Review Committee to provide recommendations to or assist the Agriculture Commission in identifying for funding high-quality products that were likely to result in the commercialization of agricultural value-added products, processes, and services. The recommendations would have to include all materials and decision documents used by the ADRC in making the recommendations. The ADRC would have to include at least three producers, including one plant agricultural producer, one animal agricultural producer, and another producer at large.

Under the Act, an application for a grant must be evaluated and ranked according to selection criteria and a scoring or point system approved by the MDA Director and the Agriculture Commission. In developing this system, the MDA must seek the assistance of the Michigan Economic Development Corporation; Michigan State University (MSU); the USDA Rural Development Agency; the Rural Development Council of Michigan; three producers, including one plant agricultural producer, one animal agricultural producer, and another producer at large; and other industry and professional organizations as determined appropriate by the MDA Director.

Under the bill, these requirements also would apply to a loan application, and would be subject to the requirements that the

ADRC review applications and that scientific and technical merit, commercial merit, and the ability to leverage additional funding be given equal weight in the review and scoring process. The bill would remove the reference to an animal agricultural producer, and would refer to any institution of higher education, rather than MSU.

Under the Act, the selection criteria must give primary consideration to the ability of the proposed project to provide sound agricultural economic development in the given geographical area of the State, with demonstrated economic and social benefits and the analysis of the proposed project in terms of and relative to risk, business and market planning, financial soundness, and credit worthiness. Special consideration must be given to projects that meet these considerations and that demonstrate a high level of innovation and initiative for value-added agricultural processing and related agricultural production ventures to benefit producers in this State. The bill would delete these requirements.

The bill would require the Agriculture Commission to ensure that a recipient of a grant or loan agreed that, as a condition of receiving the grant or loan, he or she could not use the money for the development of a casino or any other gaming enterprise.

Conflicts of Interest

The bill would require the Agriculture Commission to discharge the duties of the position in a nonpartisan manner, in good faith, in the best interest of the State, and with the degree of diligence, care, and skill that a fiduciary would exercise under similar circumstances. In discharging duties of the office, the Commission could rely upon the report of the ADRC or upon financial statements of the Department represented to the Commission by the officer having charge of its books or accounts or in a written report by the Auditor General.

A member of the Commission or the ADRC could not make or participate in making, or in any way attempt to use his or her position to influence, a matter before the MDA regarding a loan, grant, or other expenditure under the Act; could not have any financial interest in a recipient of proceeds under the Act; and could not engage in any conduct that constituted a conflict of interest.

A member of the Commission or the ADRC would have to advise the Commission immediately in writing of the details of any incident or circumstances that could present a conflict of interest with respect to the performance of his or her duty under the Act. If a member of the Commission or the ADRC had a conflict of interest related to any matter before the Department, the member would have to disclose that fact before the MDA or the Commission took any action on the matter. The disclosure would become part of the record of the official proceedings.

A member with a conflict of interest would have to refrain from doing all of the following:

- Voting in the proceedings related to the matter involving the conflict of interest.
- Participating in the discussion of and deliberation on the matter.
- Being present at the meeting when the discussion, deliberation, and voting on the matter took place.
- Discussing the matter with any other peer review expert.

Senate Bill 1169 (S-1)

The Act provides for an Agricultural Development Fund within the Treasury Department, to be administered by the MDA. Money in the Fund at the close of the fiscal year must remain in the Fund and not lapse to the General Fund. The MDA may use up to 5% of the Fund for administrative purposes. The State Treasurer must credit to the Fund both of the following:

- Money from appropriations.
- Money or other assets from any source for deposit into the Fund, including Federal money, other State revenue, gifts, bequests, donations, and money from any other source provided by law.

The Treasury Department must deposit at least \$5.0 million of the revenue available in the Michigan Clean Air Fund into the Agricultural Development Fund.

Senate Bill 1168 would remove those provisions, and Senate Bill 1169 would reenact similar language, except to specify that the Fund would be created as a revolving fund. The State Treasurer would have to direct the investment of the Fund.

The MDA could use a maximum of 4%, rather than 5%, for administrative purposes. The State Treasury would have to credit to the Fund any money representing loan repayments and interest on the loans.

The bill specifies that of the money appropriated during fiscal year 2005-06 from the 21st Century Jobs Trust Fund, a maximum of 25% could be used for grants. A minimum of 50% would have to be awarded as grants and loans for specialty crops. (Under Senate Bill 1168, "specialty crops" would mean any agricultural crop except wheat, feed grains, oil seeds, cotton, rice, peanuts, and tobacco.) A grant from the Fund could not exceed \$250,000, and a loan could not exceed \$500,000.

Interest charged for a loan would have to be at least 120% of the State Treasury common cash earnings rate.

Proposed MCL 285.302b (S.B. 1167)

MCL 285.302 (S.B. 1168)

Proposed MCL 285.302a (S.B. 1169)

BACKGROUND

The 21st Century Jobs Trust Fund was created under Public Act 232 of 2005, as part of a package of bills to securitize a portion of the State's tobacco settlement revenue (that is, provide for the sale to investors of the right to receive settlement proceeds). The State receives annual payments from tobacco companies in settlement of a series of lawsuits filed in the 1990s. Under the settlement agreement, Michigan is to receive more than \$1.0 billion, to be paid over 20 years. Public Act 232 provides for a portion of the securitization revenue to be deposited into the 21st Century Jobs Trust Fund. Specifically, \$394.0 million is to be deposited in the Fund in FY 2005-06, and \$75.0 million each year from FY 2007-08 to FY 2014-15.

As noted above, the amount for FY 2005-06 includes \$5.0 million credited to the Agricultural Development Fund.

As passed by the Legislature, the legislation had allocated \$10.0 million to the Fund and required that at least \$5.0 million be used for specialty crop grants and loans. The requirement for specialty crop grants and loans was vetoed, however, which reduced the allocation to \$5.0 million.

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

Currently, the Agricultural Development Fund may only distribute grants, which allows only a limited number of applicants to qualify for funding. The bills would permit loans as well as grants to be issued under the Value-Added Act, allowing the money to go further. Money lent out and later repaid to the Fund could then be reissued to other applicants. Such a structure would benefit more individuals, businesses, organizations, and universities, which would do more to stimulate the agricultural sector of Michigan's economy.

The bills also provide for additional oversight of the Fund, helping to ensure that grants and loans were issued where they would have the most impact on the agricultural community and on the State's economy. The decision-making process would be impartial, involving experts in the field who were best able to determine where the money could be most effective. The proposed roundtable would help to generate innovative ideas and focus on ways to leverage the Fund to generate additional resources. The roundtable would bring together knowledgeable individuals who could provide valuable insights and recommendations, and would give the public a forum for input.

Opposing Argument

There is no need for the Fund to issue loans as well as grants. Loans are already widely available to farmers and businesses, and might not be as useful as a grant would be to a fledgling company, which may be struggling with high expenses and development costs. Loans must be repaid, while grants provide vital resources without creating additional obligations or debt. Grants, however, are relatively scarce. The bills would further limit the amount of money available as grants, causing greater competition for those dollars. In addition, only institutions of higher education, nonprofit research institutions, and nonprofit corporations would qualify for grants under the bills. Grants, rather than loans, should be more widely available to all applicants.

In addition, applicants currently must match 10% of the amount of a grant, which ensures that an applicant is serious and has some resources to work with. The 10% match requirement should not be eliminated.

Opposing Argument

Senate Bill 1169 (S-1) would lower the amount of the Fund that may be used for administrative purposes from 5% to 4%. That decrease in funding would limit the Department's ability to oversee the Fund. It is important that the Fund be used wisely to have the greatest possible benefit, but the MDA cannot provide proper oversight of the Fund without sufficient resources.

Opposing Argument

The process for awarding grants, as well as loans under the bills, could be improved significantly. The current application process is very complex, and should be simplified and streamlined to make it as easy as possible to distribute funds while maintaining proper oversight. Reportedly, applicants are sometimes intimidated or discouraged by the difficulty of applying for grants from the Fund. Others are concerned that, with sensitive application materials going through several different review processes and being handled by many people, confidential or proprietary business information could fall into the hands of competitors or accidentally become public. In addition, it is unclear whether individuals on the review boards would have the expertise to review the financial information included in the applications. With large sums of money at stake, and the potential for undesirable consequences, these concerns should be addressed.

Legislative Analyst: Curtis Walker

FISCAL IMPACT

Senate Bills 1167 (S-1) and 1168 (S-1)

The bills would have no fiscal impact on State or local government.

Senate Bill 1169 (S-1)

The bill would have no direct fiscal impact on State government. The bill would change how money in the Agricultural Development Fund may be spent. Current law allows up to 5% of the Fund to be used for

administrative purposes. Under the bill, up to 4% of the Fund could be used for these purposes.

Current law requires the Fund to be used to provide grants. Under the bill, not more than 25% of the money appropriated to the Fund in fiscal year 2005-06 from the 21st Century Jobs Trust Fund could be used for grants. The maximum grant would be \$250,000. The bill would allow the Fund to be used to provide loans of up to \$500,000. Of the total amount of funding, not less than 50% would have to be awarded as grants and loans for specialty crops.

Fiscal Analyst: Craig Thiel

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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.