



Senate Fiscal Agency
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BILL ANALYSIS

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Senate Bills 1167, 1168, and 1169 (as introduced 3-16-06)

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: 3-21-06

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.**
- **Require the roundtable to meet twice a year, including at least once in a rural community.**
- **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.**
- **Reduce the maximum percentage of the Fund that may be used for administrative purposes from 5% to 4%.**
- **Require the MDA to establish a competitive process for awarding grants and loans.**
- **Require the Agriculture Development Review Committee (ADRC) and the Commission on Agriculture to identify suitable projects for funding, according to specified criteria.**

- **Require a member of the ADRC or the Agriculture Commission to declare any conflict of interest related to a matter before the Department, and to refrain from participating in the discussion, deliberation, or voting on that matter.**
- **Specify that a recipient of a grant or loan under the program could not use the money to develop a casino or other gaming enterprise.**

The three bills are tie-barred to each other.

Senate Bill 1167

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 all of 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 Michigan State University.

The MDA Director would have to convene the first meeting of the roundtable within 90 days after the bill's effective date, and 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 MDA 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 with agricultural issues, and any member of the public who requested a copy.

Senate Bill 1168

Aq 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 for grants 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 Michigan State University.
- 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 was approved by the State Board of Education.)

Selection Criteria

The bill would require the Agriculture Development and Review Committee to provide recommendations to or assist the Agriculture Commission in identifying high-quality products for funding 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; the United States Department of Agriculture--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 requirement 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.

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

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 re-enact 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 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 grant from the Fund could not exceed \$250,000, and a loan could not exceed \$500,000. At least 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.)

Proposed MCL 285.302b (S.B. 1167)
MCL 285.302 (S.B. 1168)
Proposed MCL 285.302a (S.B. 1169)

Legislative Analyst: Curtis Walker

FISCAL IMPACT

Senate Bills 1167 and 1168 would have no fiscal impact on State or local government.

Senate Bill 1169 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 (FY) 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.