

SENATE BILL No. 1244

March 27, 2008, Introduced by Senators McMANUS, ALLEN and PATTERSON and referred to the Committee on Agriculture.

A bill to amend 2000 PA 322, entitled "Julian-Stille value-added act," by amending the title and sections 1, 2, 2a, and 3 (MCL 285.301, 285.302, 285.302a, and 285.303), the title and section 2 as amended by 2006 PA 423 and section 2a as added by 2006 PA 424; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

TITLE

An act to create certain committees; to create certain funds from certain sources and to provide for the disposition of money from the funds; to provide for the creation of certain funds by certain private entities; to create incentives and to locate and maintain value-added agricultural processing, commercialization of

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1 agriculture, and production ventures within this state; to provide
2 for grants ~~, loans, and loan guarantees~~ to certain private and
3 governmental entities for certain purposes; to provide for certain
4 powers and duties for certain private entities, state agencies,
5 commissions, and departments; to authorize ~~loans, loan guarantees,~~
6 expenditures ~~,~~ and grants from the funds; and to finance the
7 development of certain programs.

8 Sec. 1. This act shall be known and may be cited as the
9 ~~"Julian Stille value added"~~ **"GEORGE A. MCMANUS JR. AGRICULTURE**
10 **INNOVATION GRANT** act".

11 Sec. 2. (1) As used in this section and sections 2a and 2b:

12 (a) "Agricultural processing" means 1 or more of the
13 operations that transform, package, sort, or grade livestock or
14 livestock products, agricultural commodities, or plant or plant
15 products into goods that are used for the intermediate or final
16 consumption including goods for nonfood use.

17 (b) "Commercialization" means the transition from research to
18 the actions necessary to achieve market entry and general market
19 competitiveness of new innovative technologies, processes, and
20 products and the services that support, assist, equip, finance, or
21 promote a person or an entity with that transition.

22 (c) "Department" means the Michigan department of agriculture.

23 (d) "Eligible grantee" means a person able to receive a grant
24 under this section and includes, but is not limited to,
25 individuals, farmer owned cooperatives, partnerships, limited
26 liability companies, private or public corporations, and local
27 units of government.

1 (e) "Fund" means the agricultural development **GRANT** fund
2 created in section 2a.

3 (f) "Joint evaluation committee" means a committee selected by
4 the commission of agriculture with appropriate expertise to conduct
5 an independent, unbiased, objective, and competitive evaluation of
6 grant proposals. The committee shall include at least 3 producers,
7 including 1 plant agricultural producer, 1 animal agricultural
8 producer, and another producer at large, an individual with a
9 scientific agriculture education, and an agricultural financial
10 lender.

11 ~~—— (g) "Qualified agricultural loan" means a loan for projects~~
12 ~~designed to establish, retain, attract, or develop value added~~
13 ~~agricultural processing and related agricultural production~~
14 ~~operations in this state.~~

15 ~~—— (h) "Specialty crops" means any agricultural commodity except~~
16 ~~wheat, feed grains, oil seeds, cotton, rice, peanuts, and tobacco,~~
17 ~~as well as products derived from these agricultural commodities.~~

18 (G) ~~(i)~~—"Value-added" means the enhancement or improvement of
19 the overall value of an agricultural commodity or of an animal or
20 plant product into a product of higher value. The enhancement or
21 improvement includes, but is not limited to, marketing,
22 agricultural processing, transforming, or packaging.

23 (2) The department shall establish and administer an
24 agricultural value-added grant program. The **DIRECTOR OF THE**
25 **DEPARTMENT, WITH THE CONSENT OF THE** commission of agriculture,
26 shall award grants from the fund created in section 2a only for
27 projects designed to establish, retain, expand, attract, or develop

1 value-added agricultural processing and related agricultural
2 production operations in this state. In approving a grant under
3 this subsection, the **DIRECTOR OF THE DEPARTMENT SHALL PROVIDE**
4 **SUPPORTING DOCUMENTATION ON THE SELECTION OF APPROVED APPLICANTS TO**
5 **THE** commission of agriculture. ~~shall state the specific objective~~
6 ~~reasons supporting the selection of the applicant over competing~~
7 ~~applicants.~~ The joint evaluation committee shall assist and provide
8 recommendations to the ~~commission of agriculture~~ **DIRECTOR OF THE**
9 **DEPARTMENT** in identifying high-quality projects for funding based
10 upon the selection criteria and scoring system approved by the
11 commission of agriculture. The recommendations shall include all
12 materials and decision documents used by the joint evaluation
13 committee in making the recommendations.

14 (3) All scoring sheets, meetings, and other decisions made by
15 the joint evaluation committee shall be open to the public and
16 considered public documents. A record or portion of a record,
17 material, or other data received, prepared, used, or retained by
18 the department in connection with an application to or with a
19 project or product assisted by the department or with an award,
20 grant, ~~loan,~~ or investment relating to financial or proprietary
21 information submitted by the applicant that is considered by the
22 applicant and acknowledged by the department as confidential shall
23 not be subject to the disclosure requirements of the freedom of
24 information act, 1976 PA 442, MCL 15.231 to 15.246.

25 (4) Subject to subsection (2), the department shall do all of
26 the following:

27 (a) Establish a competitive process to award grants. The

1 competitive process shall include, but is not limited to, the
2 following:

3 (i) A provision that the applications must be reviewed by the
4 joint evaluation committee. Scientific and technical merit,
5 commercial merit, and the ability to leverage additional funding
6 shall be given equal weight in the review and scoring process.

7 (ii) A preference for proposals that demonstrate a high level
8 of innovation for value-added agricultural processing and related
9 agricultural production ventures to benefit producers in this
10 state.

11 (iii) A preference **MAY BE MADE** for proposals that ~~are attempting~~
12 ~~to secure~~ **HAVE SECURED** a license for agricultural-related
13 intellectual property to be produced in Michigan.

14 (iv) A provision that the program will utilize contracts with
15 measurable milestones, clear objectives, and provisions to revoke
16 awards for breach of contract.

17 (v) Provide for a cash match of at least 10% of the grant by
18 the applicant.

19 (vi) Limit overhead rates for recipients of grants to reflect
20 actual overhead but not greater than 15% of the grant.

21 (vii) A preference for proposals whose business plan forecasts
22 revenues within 2 years or that have outside investments from
23 investors with experience and management teams with experience in
24 the area targeted by the proposal, or both.

25 (b) Prepare a request for proposals on at least an annual
26 basis for grants for eligible grantees from the fund. Grants are
27 contingent upon the availability of funds.

1 (5) Subject to subsection (4) (a) (i), an application for a grant
2 submitted under this section shall be evaluated and ranked
3 according to selection criteria and a scoring or point system
4 approved by the director of the department. The selection criteria
5 and the scoring or point system shall be reviewed and approved by
6 the commission of agriculture. In developing such a system, the
7 department shall seek the assistance of the Michigan economic
8 development corporation, any institution of higher education, the
9 United States department of agriculture-rural development agency,
10 the rural development council of Michigan, agricultural producers,
11 and other industry and professional organizations as determined by
12 the director of the department.

13 (6) The ~~commission of agriculture~~ **DIRECTOR OF THE DEPARTMENT**
14 shall ensure that a recipient of a grant under this section agrees
15 that, as a condition of receiving the grant, that recipient shall
16 not use the money for the development of a casino regulated under
17 the Michigan gaming control and revenue act, ~~the Initiated Law of~~
18 1996 **IL 1**, MCL 432.201 to 432.226, a casino regulated under the
19 Indian gaming regulatory act, Public Law 100-497, 102 Stat. 2467,
20 or any other gaming enterprise.

21 ~~— (7) The department, in cooperation with the department of~~
22 ~~treasury and Michigan financial institutions, shall establish a~~
23 ~~low interest loan program in a manner similar to the qualified~~
24 ~~agricultural loan program established in section 2a of 1955 PA 105,~~
25 ~~MCL 21.142a, or a loan guarantee program to provide qualified~~
26 ~~agricultural loans. The department of treasury shall give the~~
27 ~~department any necessary assistance required to establish a low-~~

~~1 interest loan or loan guarantee program. The department shall work
2 with Michigan financial institutions to establish a certification
3 system to verify that loan applicants are requesting qualified
4 agricultural loans. As part of the low interest loan program, the
5 department shall do the following:~~

~~6 — (a) Work with the department of treasury to establish
7 agreements with participating financial institutions.~~

~~8 — (b) Ensure that an investment or new investment utilizing the
9 21st century jobs fund in which a qualified agricultural loan is
10 attributed is not made pursuant to this section after June 1, 2008.~~

~~11 — (c) Ensure that the terms of a qualified agricultural loan
12 under this section are for a term of not more than 5 years and that
13 the first payment made by the recipient occurs not later than 24
14 months after the date of the loan.~~

~~15 — (d) Ensure that the interest rate charged by participating
16 financial institutions does not exceed 50% of prime in Michigan
17 plus 1%.~~

~~18 — (e) Ensure that participating financial institutions do not
19 refinance prior debt.~~

~~20 — (f) Require a participating financial institution to certify
21 compliance with the Sarbanes Oxley act of 2002, Public Law 107-204,
22 or prohibit an officer, director, or principal shareholder of a
23 participating financial institution, or his or her immediate family
24 members, from receiving an agricultural value added low interest
25 loan from the financial institution.~~

~~26 — (g) Require the recipient of a qualified agricultural loan
27 under this section to agree that, as a condition of receiving the~~

1 ~~loan, that the recipient shall not use the money for the~~
2 ~~development of a casino regulated under the Michigan gaming control~~
3 ~~and revenue act, the Initiated Law of 1996, MCL 432.201 to 432.226,~~
4 ~~a casino regulated under the Indian gaming regulatory act, Public~~
5 ~~Law 100-497, 102 Stat. 2467, or any other gaming enterprise.~~

6 ~~—— (8) As part of a loan guarantee program, the department shall~~
7 ~~do the following:~~

8 ~~—— (a) Work with the department of treasury to establish~~
9 ~~agreements with participating financial institutions.~~

10 ~~—— (b) Ensure that participating financial institutions require~~
11 ~~adequate collateral and fully liquidate all collateral before~~
12 ~~calling on the loan guarantees.~~

13 ~~—— (c) Establish a loan guarantee of not more than 90% of the~~
14 ~~financial institution's loss after all alternatives to collect have~~
15 ~~been exhausted.~~

16 ~~—— (d) Ensure that participating financial institutions do not~~
17 ~~refinance prior debt.~~

18 ~~—— (e) Require a participating financial institution to certify~~
19 ~~compliance with the Sarbanes Oxley act of 2002, Public Law 107-204,~~
20 ~~or prohibit an officer, director, or principal shareholder of a~~
21 ~~participating financial institution, or his or her immediate family~~
22 ~~members, from receiving an agricultural value added loan guarantee~~
23 ~~from the financial institution.~~

24 ~~—— (f) Require the recipient of a qualified agricultural loan~~
25 ~~under this section to agree that, as a condition of receiving the~~
26 ~~loan guarantee, that the recipient shall not use the money for the~~
27 ~~development of a casino regulated under the Michigan gaming control~~

1 ~~and revenue act, the Initiated Law of 1996, MCL 432.201 to 432.226,~~
2 ~~a casino regulated under the Indian gaming regulatory act, Public~~
3 ~~Law 100-497, 102 Stat. 2467, or any other gaming enterprise.~~

4 ~~— (g) Maintain a list of financial institutions that will~~
5 ~~participate in the loan guarantee program.~~

6 (7) ~~(9)~~—The director of the department may impose fiduciary
7 obligations upon a recipient of a grant, including performance
8 bonding, and may impose conditions upon the receipt and expenditure
9 of the grant money.

10 (8) ~~(10)~~—Notwithstanding section 3(1) of 1968 PA 317, MCL
11 15.323, members of the commission of agriculture and the joint
12 evaluation committee are subject to 1968 PA 317, MCL 15.321 to
13 15.330. As used in this subsection, "substantial conflict of
14 interest" means that the pecuniary interest is of such importance
15 as to either materially influence the judgment of the member in the
16 actual performance of his or her duty under the act or to
17 foreseeably and materially influence the judgment of a reasonable
18 person with similar knowledge and experience acting under similar
19 circumstances and in a like position as the member. For purposes of
20 this section, members of the commission of agriculture and the
21 joint evaluation committee shall do the following:

22 (a) Discharge the duties of the position in a nonpartisan
23 manner, in good faith, in the best interests of this state, and
24 with the degree of diligence, care, and skill that a fiduciary
25 would exercise under similar circumstances in a like position. In
26 discharging duties of the office, the commission of agriculture
27 when acting in good faith may rely upon the report of the joint

1 evaluation committee or upon financial statements of the department
2 represented to the commission of agriculture by the officer having
3 charge of its books or accounts or stated in a written report by
4 the auditor general.

5 (b) Not make or participate in making, or in any way attempt
6 to use his or her position to influence a matter before the
7 department regarding ~~, a loan, loan guarantee, grant ,~~ or other
8 expenditure under this act.

9 (c) Not have any financial interest in a recipient of proceeds
10 under this act and shall not engage in any conduct that constitutes
11 a substantial conflict of interest.

12 (d) Immediately advise the commission of agriculture in
13 writing of the details of any incident or circumstances that may
14 present the existence of a substantial conflict of interest with
15 respect to the performance of his or her duty under this act.

16 (e) Disclose a substantial conflict of interest related to any
17 matter before the department or the commission of agriculture takes
18 any action with respect to the matter, which disclosure shall
19 become a part of the record of the official proceedings.

20 (f) Refrain from doing all of the following with respect to
21 the matter that is a basis of a substantial conflict of interest:

22 (i) Voting in the proceedings related to the matter.

23 (ii) Participating in the discussion or deliberation of the
24 matter.

25 (iii) Being present at the meeting when the discussion,
26 deliberation, and voting on the matter takes place.

27 (iv) Discussing the matter with any other member of the

1 commission of agriculture or the joint evaluation committee.

2 (9) ~~(11)~~—An application for a grant from the fund shall be
3 made on a form or format prescribed by the department. The
4 department may require the applicant to provide information
5 reasonably necessary to allow the department to make a
6 determination required under this section.

7 (10) ~~(12)~~—The department shall promulgate rules under the
8 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
9 24.328, to implement this section.

10 ~~—(13) The amendatory act that added subsection (5) shall not~~
11 ~~affect any grants awarded under this act prior to the effective~~
12 ~~date of the amendatory act that added subsection (5).~~

13 Sec. 2a. (1) The agricultural development fund is created as a
14 revolving fund within the department of treasury to be administered
15 by the department. The state treasurer shall direct the investment
16 of the fund. Money in the fund at the close of the fiscal year
17 shall remain in the fund and shall not lapse to the general fund.
18 The department may utilize up to 4% of the fund for administrative
19 purposes. The state treasurer shall credit to the fund money from
20 the following sources:

21 (a) Appropriations.

22 (b) Money or other assets from any source for deposit into the
23 fund, including federal money, other state revenues, gifts,
24 bequests, or donations, as well as money from any other source
25 provided by law.

26 ~~—(c) Any money representing loan repayments and interest on the~~
27 ~~loans.~~

1 (2) Of the money appropriated under 2006 PA 153 from the 21st
2 century jobs trust fund, ~~not more than 10% shall be used for grants~~
3 ~~and the remaining shall be used for loans and loan guarantees. The~~
4 **THE** maximum grant from the fund shall not exceed \$250,000.00. ~~The~~
5 ~~maximum low interest loan supported by the fund shall not exceed~~
6 ~~\$500,000.00.~~

7 (3) Upon request from the commission of agriculture, the state
8 treasurer shall invest the money in the ~~agricultural development~~
9 fund in a manner similar to the qualified agricultural loan program
10 established in section 2a of 1855 PA 105, MCL 21.142a, as provided
11 in section 2.

12 Sec. 3. (1) As used in this section:

13 (a) "Department" means the department of environmental
14 quality.

15 (b) "Fund" means the Michigan clean air fund created in this
16 section.

17 (2) The Michigan clean air fund is created within the
18 department of treasury to be administered by the department. Money
19 in the fund at the close of the fiscal year shall remain in the
20 fund and shall not lapse to the general fund. The state treasurer
21 shall credit to the fund the money from the uncollectibles
22 allowance recovery funds established in section 4 as well as money
23 from any other source provided by law.

24 (3) Money in the fund shall be used by the department to
25 provide grants ~~and loans~~ to individuals, private or public
26 corporations, and local units of government for programs or
27 projects established to reduce oxides of nitrogen and volatile

1 organic compounds and for the administration of the grant ~~and loan~~
2 program.

3 (4) The director of the department shall have final approval
4 of grants ~~and loans~~ made under this section. Grants ~~and loans~~ made
5 under this section are contingent upon the availability of money in
6 the fund.

7 (5) The director of the department may impose fiduciary
8 obligations upon a recipient of a grant, including performance
9 bonding, and may impose conditions upon the receipt and expenditure
10 of the grant money.

11 (6) An application for a grant ~~or loan~~ from the fund shall be
12 made on a form or in a format prescribed by the department. The
13 department may require the applicant to provide any information
14 reasonably necessary to allow the department to make a
15 determination required under this section.

16 (7) The department shall promulgate rules under the
17 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
18 24.328, to implement this section.

19 Enacting section 1. Section 2b of the Julian-Stille value-
20 added act, 2000 PA 322, MCL 285.302b, is repealed.