Legislative Analysis

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AGRICULTURAL DISASTER LOAN PROGRAM

House Bill 5717
Sponsor: Rep. Ray A. Franz
Committee: Agriculture

Complete to 6-5-12

A SUMMARY OF HOUSE BILL 5717 AS INTRODUCED 5-31-12

House Bill 5717 would establish a low-interest loan program within the Department of Treasury to provide financial assistance to growers, producers, processors, and some retail establishments to help alleviate the financial impacts caused by crop damage directly attributable to a natural disaster. The bill would create guidelines for the issuance of qualified agricultural loans by financial institutions to eligible landowners and appropriate money to the Department of Treasury to operate the loan program.

The loan program is intended to aid fruit growers and producers who have lost significant amounts of their crop due to fluctuations in the spring temperature. The program is similar to the $5 million, zero-interest loan program established by 2001 PA 123, which loaned state surplus funds to Michigan Sugar Beet Growers, Inc. for the purchase of the Michigan Sugar Company.

A detailed section-by-section analysis follows below.

FISCAL IMPACT:

House Bill 5717 would have an indeterminate fiscal impact on the State of Michigan. Under the provisions of the bill, the Department of Treasury would be appropriated $15.0 million as work project appropriations to pay loan origination fees and to provide loan guarantee or collateral support mechanisms. The estimated fiscal impact to the state would be dependent upon the amount of funding supporting loan origination fees (5% of the principal amount of any qualified agricultural loan) and lost loan guarantee or collateral support funding due to a default or other cause of nonpayment or breach of contract by the person receiving the loan.

As noted in the summary above, Michigan had previously entered into a program whereby the State made no-interest loans from the Common Cash pool to sugar beet growers' cooperatives for the purpose of buying the assets of agricultural processors who are in or have recently been in bankruptcy proceedings. The loans were not to exceed $5.0 million in total. Under the original legislation, the loan was scheduled to be repaid by February 1, 2007. Ultimately, the legislation was amended in 2007 to extend the loan period to a maximum of 10 years. According to the Michigan Comprehensive Annual Financial Report, repayment of the loan balances was made during FY 2011 and there were no loans outstanding as of September 30, 2011.

DETAILED SUMMARY:

<u>Section 1 - Name of the Act</u>
The act will be known and cited as the Agricultural Disaster Loan Origination Program Act of 2012.

<u>Section 2 - Definitions</u>
The bill defines a number of important terms used throughout the bill.

"Qualified agricultural loan" would mean, generally speaking:

- A loan to a person who is an owner or operator of a farm in the production of agricultural goods and who is experiencing financial stress and difficulty in meeting existing or projected debt obligations owned to financial institutions due to an agricultural disaster recognized by the Governor. A loan could be made for (1) operating capital for the rental, lease, and repair of equipment, crop insurance premiums, and the purchase of seed, feed, livestock, breeding stock, fertilizer, fuel and chemicals; or (2) refinancing all or a portion of a loan entered into before December 31, 2012 for those listed purposes.
- A loan to a farm owner or operator that has experienced 25% or more in major enterprises or production loss of 50% in any one crop on a farm due to an agricultural disaster recognized by the Governor.
- A loan to a person that buys, exchanges, processes, or sells farm produce whose retail sales directly to farmers with 75% or more of the persons' gross retail sales volume exempted from the state sales tax. A person engaged in the buying, exchanging, processing, or selling of farm produce must have suffered a 50% or greater loss in volume of one commodity when compared with the average volume of that commodity in the prior three years. Persons making retail sales directly to farmers must have suffered a 50% or greater reduction in gross retail sales volume when compared with the previous three years. All losses claimed under the provision must be directly attributable to a natural disaster recognized by the Governor and occurring after February 15, 2012.

<u>Section 3 - Establishment of program</u>
The bill would allow the State Treasurer to establish a qualified agricultural loan origination program that meets the following requirements:

- A qualified financial institution may make qualified agricultural loans before December 31, 2012.
- A person receiving a loan must pay an interest rate authorized under the new act and established by the qualified financial institution.
- The state will pay loan origination fees for administrative costs incurred by the financial institution equal to 5% of the principal amount of the loan. Payments could be made by the state in five equal annual installments.

Qualified agricultural loans would have to comply with the following requirements:

- Interest would be set by the financial institution at a rate of 1% or the rate of the 5-year U.S. note plus 0.25%.

- The term of the loan could not be more than 5 years.
- The first principal payment required under the loan cannot occur before 24 months after the loan is issued.

Qualified financial institutions participating in the program would have to identify (1) the loans funded under the program, (2) the terms and conditions of those loans, and (3) other information required by the State Treasurer.

Qualified agricultural loans to persons engaged in agricultural production would be limited to the value of the crop loss as certified by the producer in an affidavit demonstrating an accurate and valid production loss. The loan could not exceed the lesser of $400,000 or the value of the crop loss minus insurance proceeds that are received by owner as a result of the same crop loss. The amount of the loan would be reduced by 30% or $100,000 (whichever is less) if crop insurance was available for a particular crop and the producer did not purchase it.

Loans to businesses buying from or selling to farmers could not exceed the lesser of the following:

- $800,000 per facility.
- An amount not to exceed the value of the direct loss of the person applying for the loan, as determined by the Department of Treasury.
- $1,000,000 per person applying for the loan.

<u>Section 4 - Duties of State Officers/Financial Institutions</u>

The State Treasurer would be allowed to take any necessary action to ensure the successful operation of the program, including entering into agreements with qualified financial institutions.

The Attorney General would be required to approve as to the legal form all documents relating to the payment of a loan origination fee by the state.

Each year, every qualified financial institution participating in the program would have to (1) report the principal amount of loans made under the program in the prior calendar year to the State Treasurer and (2) file an affidavit with the State Treasurer signed by a senior executive of the institution stating the institution is in compliance with the program and this bill.

Financial institutions would be required to forward a copy of any affidavits executed and filed with the State Treasurer upon the treasurer's request. The affidavit and its copies would have to be destroyed by both parties once the loan is repaid.

The bill also declares the program is found and declared to be for a valid public purpose.

<u>Section 5 - Appropriation for program</u>

The bill would appropriate an amount sufficient to pay loan origination fees, loan guarantees, or collateral support mechanisms, not to exceed $15 million, to the

Department of Treasury for the 2011-12 fiscal year. No more than $3 million could be used for qualified agricultural loans to businesses that purchase from and sell to farms. The bill states the appropriation is a work project appropriation and any unencumbered or un-allotted funds would be carried forward into the next fiscal year.

The bill specifies that the purpose of the project is to provide financial assistance to the agricultural sector and to alleviate financial distress caused by crop damage and related economic impacts. It will be accomplished through the use of payments to qualified financial institutions for qualified agricultural loan origination fees for administrative costs incurred by the institutions. The total estimated completion cost is $15 million and is expected to be completed by September 30, 2016.

Section 6 - Michigan Strategic Fund

The bill would allow the Michigan Strategic Fund (MSF), to the extent authorized under the Michigan Strategic Fund Act, to support the program by providing a loan guarantee or collateral support mechanism to a qualified financial institution that is providing a loan to an eligible person. The loan guarantee would ensure that the financial institution does not refinance prior debt and must include repayment provisions for a loan or guarantee that is given for a person that leaves Michigan within three years after the provision of the loan or guarantee or otherwise breaches the terms of an agreement with the MSF.

Enacting Section 1

The bill would be repealed on February 15, 2018.

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