Legislative Analysis

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AGRICULTURAL DISASTER LOAN PROGRAM

House Bill 5717 (Substitute H-2)
Sponsor: Rep. Ray A. Franz
Committee: Agriculture

Complete to 6-6-12

A SUMMARY OF HOUSE BILL 5717 (H-2) AS REPORTED FROM COMMITTEE 6-6-12

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.

A detailed section-by-section analysis follows below.

FISCAL IMPACT:

House Bill 5717 would have a fiscal impact on the state of up to $15.0 million. Under the provisions of the bill, $15.0 million would be appropriated as work project appropriations to the Department of Treasury to pay for loan origination fees for qualified agricultural loans as outlined under the bill. Funds used to pay banks and other financial services companies for loan origination fees would not be returned to the Department of Treasury. The appropriated funds could also support any loan guarantee or collateral support mechanisms provided by the Michigan Strategic Fund. At this time it is unclear how the funding will be used between the authorized uses. The estimated fiscal impact to the state could be up to $15.0 million, but would be dependent upon the amount of funding supporting loan origination fees (5% of the principal amount of the any qualified agricultural loan) and any lost loan guarantee or collateral support funding under programs provided by the Michigan Strategic Fund.

DETAILED SUMMARY:

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

Section 2 - Definitions

The bill defines a number of important terms used throughout the bill.

"Qualified agricultural loan" would, generally speaking, have to meet the following requirements:

- The loan is made to one of the following:
  - 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.
  - A person that buys, exchanges, processes, stores, or sells farm produce that suffered a 50% or greater loss in volume of a commodity when compared with the previous three years.
  - A person 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.
- The losses are due to an agricultural disaster recognized by the Governor and occurred before January 1, 2012.
- The person receiving the loan certifies in an affidavit that the loss satisfies the requirements of the act.

Section 3 - Establishment of program

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 would be made by the state in five equal annual installments by September 30, 2017.

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 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 that (1) buy, exchange, process, store, or sell produce or (2) make retail sales directly to the farmer could not exceed the lesser of the following:

- $800,000 per facility.
- $1.0 million per person applying for the loan.

Section 4 - Duties of State Officers/Financial Institutions

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 to the State Treasurer by March 31, 2013, 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.

Section 5 - Appropriation for program

The bill would appropriate an amount sufficient to pay loan origination fees, loan guarantees, or collateral support mechanisms, not to exceed $15.0 million, to the Department of Treasury for the 2012-13 fiscal year. No more than $3.0 million could be used for qualified agricultural loans to businesses that (1) buy, exchange, process, store, or sell produce or (2) make retail sales directly to the farmer. 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 $15.0 million and is expected to be completed by September 30, 2017.

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 a person eligible to participate in the program. The loan guarantee must 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.

POSITIONS:

Michigan Department of Agriculture and Rural Development supports the bill. (6-6-12)

Cherry Marketing Institute supports the bill. (6-6-12)

Michigan Bankers Association supports the bill. (6-6-12)

Michigan Corn Growers Association supports the bill. (6-6-12)

Michigan Environmental Council supports the bill. (6-6-12)

Michigan Farm Bureau supports the bill. (6-6-12)

Michigan Processing Apple Growers Division of the Michigan Agricultural Cooperative Marketing Association supports the bill. (6-6-12)

Michigan Soybean Association supports the bill. (6-6-12)

Representatives from the following businesses indicated support of the bill:
Great Lakes Packing Company, WIllmeng Farms, Ridgeview Orchard, Umlor Orchards, Greg Orchards and Produce, Gregory Brothers' Farms, Bardenhagen Farms, Grandview Orchards, Rasch Family Orchards, and Cherry Ke Orchards.

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