

BILL ANALYSIS

Senate Research Center

C.S.S.B. 1430
By: Duncan
Natural Resources
4/8/1999
Committee Report (Substituted)

DIGEST

Currently, the regulation of the administration of certain loan programs by the Texas Agricultural Finance Authority is codified in Chapter 44 and Chapter 58 of the Texas Agriculture Code, and Chapter 502, Transportation Code. This bill would revise the regulations of the administration of certain loan programs by the Texas Agricultural Finance Authority and would promote the development of agriculture-related rural businesses.

PURPOSE

As proposed, C.S.S.B. 1430 revises the regulations of the administration of certain loan programs by the Texas Agricultural Finance Authority and promotes the development of agriculture-related rural businesses.

RULEMAKING AUTHORITY

Rulemaking authority is granted to the board of directors of the Texas Agricultural Finance Authority in SECTION 13 (Section 58.052(e), Agriculture Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 44.001, Agriculture Code, to redefine "eligible borrower," "linked deposit," "microenterprise," and "board." Deletes the definition of "small business incubator." Makes conforming changes.

SECTION 2. Amends Section 44.002, Agriculture Code, as follows:

Sec. 44.002. New heading: CREATION OF MICROENTERPRISE PROGRAMS. Deletes text requiring the board of directors of the Texas Agricultural Finance Authority (board) to create an agricultural diversification program. Makes a conforming change.

SECTION 3. Amends Section 44.0045, Agriculture Code, to authorize an applicant applying on behalf of a proposed microenterprise to receive a loan of up to \$25,000, rather than \$15,000, to begin operation. Authorizes an applicant applying on behalf of an established microenterprise to receive a loan of up to \$50,000, rather than \$30,000, to expand, modernize, or otherwise improve an established operation. Deletes text prohibiting financial assistance in the form of a loan from being used to refinance an existing debt of a microenterprise. Makes conforming and nonsubstantive changes.

SECTION 4. Amends Section 44.007, Agriculture Code, to require the board to approve or disapprove any and all applications under this chapter, provided that the board may delegate this authority to the commissioner of agriculture (commissioner). Requires the rules promulgated by the board for the loan portion of the linked deposit program to include a list of the categories of crops customarily grown in Texas, with consideration given to the Texas Agricultural Statistics Service information available and relevant to this determination, and identification of criteria for a project eligible for natural disaster assistance. Requires the commissioner or the board to recommend to the comptroller of public accounts the acceptance or rejection of the application, after reviewing each linked deposit loan application. Provides that a lending institution is not ineligible to participate in the linked deposit program solely because a member of the board is also an officer, director, or employee of the lending institution, provided that a board member shall recuse himself or herself from any action taken by the board on an application involving a lending institution by which the board member is employed or for which the board member serves as an officer or director. Deletes text providing for the representation of the eligible lending

institution and the state by the board; text requiring the rules to include a list of crops the production of which has declined markedly because of natural disasters; and text requiring the eligible lending institution to send the application for a linked deposit loan to the board, after reviewing an application and determining that the applicant is eligible and creditworthy. Makes conforming and nonsubstantive changes.

SECTION 5. Amends Section 44.010, Agriculture Code, to authorize, at any one time, not more than \$25 million, rather than \$15 million, of which \$10 million may only be used to finance water conservation projects, to be placed in linked deposits. Provides that the maximum amount of a loan under this chapter to finance production of a crop declared eligible for natural disaster relief, as defined by board rule, is \$250,000. Authorizes a loan granted pursuant to this chapter to be used for any agriculture-related operating expense as identified in the application. Deletes text requiring a loan granted pursuant to this chapter to be applied to the purchase or lease of certain items or services; and text providing restrictions on the use of a loan granted pursuant to this chapter used to finance eligible water conservation projects or equipment.

SECTION 6. Amends Sections 44.012 and 44.013, Agriculture Code, as follows:

Sec. 44.012. New heading: MONEY FOR LOANS. Deletes text authorizing the board to accept gifts and grants of money from certain entities or persons for the use of making grants under the agricultural diversification program. Makes conforming changes.

Sec. 44.013. RURAL MICROENTERPRISE DEVELOPMENT FUND. Provides that the rural microenterprise development fund (fund) is a fund in the comptroller's office, rather than the state treasury. Requires certain money appropriated to the board, rather than the Agricultural Diversification Board, to be deposited to the credit of the fund.

SECTION 7. Amends Section 58.002, Agriculture Code, by amending Subdivisions (1) and (7) and adding Subdivision (9), to redefine "agricultural business" and "eligible agricultural business," and to define "rural area."

SECTION 8. Amends Section 58.016(b), Agriculture Code, to make a conforming change.

SECTION 9. Amends Section 58.0172, Agriculture Code, by adding Subsection (e), to make conforming changes.

SECTION 10. Amends Section 58.021, Agriculture Code, to require the Texas Agricultural Finance Authority (authority) to design and implement certain programs to promote the development of agriculture-related rural businesses. Requires the authority's programs to be designed and implemented to provide financial assistance to enable eligible agricultural businesses to finance or refinance costs incurred in connection with the development, increase, improvement, or expansion of production, processing, marketing, or export of Texas agricultural products, including the costs of insect eradication and suppression programs. Authorizes the authority to make, guarantee, participate in, insure, coinsure, or reinsure loans to the entity designated to carry out boll weevil eradication in an amount approved by the board to enable that entity to execute Chapter 74D. Authorizes the authority to issue an obligation on behalf of, or make, guarantee, participate in, insure, coinsure, or reinsure loans to, a state agency or an institution of higher education for the purpose of development, improvement, or expansion of an agricultural product or an agriculture-related business in an amount approved by the board. Makes conforming and nonsubstantive changes.

SECTION 11. Amends Section 58.023(a), Agriculture Code, to delete text requiring the board's rules to state that the policy of the authority is to provide programs for providing financial assistance to eligible businesses that otherwise would not be made.

SECTION 12. Amends Chapter 58C, Agriculture Code, by adding Section 58.026, as follows:

Sec. 58.026. LIMITATION OF LIABILITY FOR CERTAIN RECREATIONAL ACTIVITIES. Provides that the provisions of Chapter 75, Civil Practice and Remedies Code, apply to eligible recreational activities which are funded under this chapter.

SECTION 13. Amends Chapter 58, Agriculture Code, by adding Subchapter E, as follows:

SUBCHAPTER E. YOUNG FARMER LOAN GUARANTEE PROGRAM

Sec. 58.051. DEFINITIONS. Defines “commercial lender” and “plan.” Redefines “eligible applicant.”

Sec. 58.052. YOUNG FARMER LOAN GUARANTEE PROGRAM. Requires the board to administer a loan guarantee program that benefits eligible applicants who desire to establish a farming or ranching operation or an agriculture-related business. Authorizes the board to grant to an eligible applicant a guarantee of a loan made by a commercial lender for the purposes prescribed by this subchapter. Prohibits the guarantee amount from exceeding the lesser of \$250,000 or 90 percent of the loan amount. Prohibits the aggregate amount guaranteed under this subchapter from exceeding twice the amount contained in the young farmer loan guarantee account (account) within the Texas agricultural fund. Authorizes a loan guarantee recipient to use proceeds from the loan for working capital for operating a farm or ranch, or for any agriculture-related business purpose, including the purchase of real estate, as identified by the plan. Provides that a loan guarantee is voidable by the board if the recipient uses loan proceeds for any other purposes than the identified purposes in the plan. Requires the board to include this restriction as a condition in each loan guarantee instrument executed under this subchapter. Requires the board to adopt an agreement, to be used between a commercial lender and an approved eligible applicant, under which the program provides a payment from money in the account for the purpose of providing a reduced interest rate on a loan guaranteed to a borrower under this subchapter. Requires the board to adopt rules to implement this subsection. Prohibits the maximum rate reduction from exceeding three percentage points.

Sec. 58.053. APPLICATION FOR LOAN GUARANTEE. Sets forth the requirements for an application for a loan guarantee for the board’s review. Authorizes the board to charge a reasonable application fee for processing an application filed under this section.

Sec. 58.054. BOARD CONSIDERATION OF LOAN GUARANTEE APPLICATION. Sets forth the factors the board is required to consider in deciding whether to approve an application for a loan guarantee.

Sec. 58.055. DEFAULT. Authorizes the authority, through its representative, to bring suit against a defaulting party, if a recipient of a loan guarantee defaults on a loan that is guaranteed and the authority is required to honor its guarantee. Provides that any suit brought by the authority under this section may have venue in Travis County.

Sec. 58.056. MONEY FOR LOAN GUARANTEE PROGRAM. Authorizes the authority to accept gifts and grants of money from certain entities or persons for use in the young farmer guarantee program. Authorizes the legislature to appropriate money for the program.

Sec. 58.057. YOUNG FARMER LOAN GUARANTEE ACCOUNT. Provides that the account is an account in the Texas agricultural fund. Authorizes money in the account to be used only by the authority for the purpose of making or administering loan guarantees under this subchapter. Provides that the account consists of certain funds, transfers, grants, donations, income earned, and other money received under this subchapter. Requires income and interest earned on money in the account to be deposited to the credit of the account, notwithstanding Section 404.071, Government Code. Provides that the account is exempt from the application of Section 403.095, Government Code. Authorizes the board to spend not more than \$100,000 during each fiscal year from income earned on the account and from application fees collected by the authority under Section 58.053 to pay the administrative costs of the program. Requires the board to attempt to administer the fund in a manner that makes private donations to the fund an eligible itemized deduction for federal income taxation purposes. Provides that the board has the same authority in administering the young farmer loan guarantee program as it has in administering other programs established by this chapter.

SECTION 14. Amends Section 502.174(b), Transportation Code, to require the county assessor-collector to send an assessment collected under this section to the comptroller, at a certain time and in a certain manner, for deposit in the Texas agricultural fund, rather than the general revenue fund.

SECTION 15. Repealers: Section 44.004, Agriculture Code (Research and Innovation); Section 44.005,

Agriculture Code (Business Assistance); Section 44.006, Agriculture Code (Small Business Incubators); Section 44.011, Agriculture Code Criteria for all Grants); and Chapter 253, Agriculture Code (Young Farmer Loan Guarantee Program).

SECTION 16. Emergency clause.

Effective date: upon passage.

SUMMARY OF COMMITTEE CHANGES

SECTION 3.

Amends Section 44.0045, Agriculture Code, to make a nonsubstantive change.

SECTION 6.

Amends Section 44.013, Agriculture Code, to provide that the fund is a fund in the comptroller's office, rather than the general revenue fund.

SECTION 7.

Amends Section 58.002, Agriculture Code, to redefine "agricultural business."

SECTION 10.

Amends Section 58.021, Agriculture Code, to authorize the authority to make, guarantee, participate in, insure, coinsure, or reinsure loans to the entity designated to carry out boll weevil eradication in an amount approved by the board to enable that entity to execute Chapter 74D. Authorizes the authority to issue an obligation on behalf of, or make, guarantee, participate in, insure, coinsure, or reinsure loans to, a state agency or an institution of higher education for the purpose of development, improvement, or expansion of an agricultural product or an agriculture-related business in an amount approved by the board.

SECTION 13.

Amends Section 58.051, Agriculture Code, to redefine "eligible applicant."

Amends Section 58.052, Agriculture Code, to authorize a loan guarantee recipient to use proceeds from the loan for working capital for operating a farm or ranch, or for any agriculture-related business purpose, including the purchase of real estate, as identified by the plan.