

## **BILL ANALYSIS**

Senate Research Center  
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H.B. 2996  
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Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Urban agriculture is the practice of cultivating, processing, and distributing food in or around a city and the practice can also involve animal husbandry, aquaculture, agro-forestry, and horticulture. Texas lags behind other states in the research and advancement of urban agriculture even though Texas is one of the largest agricultural states in terms of agricultural production.

Increased urban agriculture would help improve access to healthy foods, would expand entrepreneurial activities, economic activity, and job opportunities in a city through production, processing, packaging, and marketing of consumable products, and would reduce food costs, while providing higher quality food products.

H.B. 2996 amends current law relating to the creation of the Texas Urban Agricultural Innovation Authority.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the board of directors of the Texas Urban Agriculture Innovation Authority in SECTION 1 (Sections 60A.053, 60A.102, and 60A.151, Agriculture Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Title 4, Agriculture Code, by adding Chapter 60A, as follows:

#### CHAPTER 60A. TEXAS URBAN AGRICULTURAL INNOVATION AUTHORITY

##### SUBCHAPTER A. ADMINISTRATION AND POWERS

Sec. 60A.001. CREATION OF AUTHORITY; PUBLIC PURPOSE. (a) Provides that the Texas Urban Agricultural Innovation Authority (authority) is created within the Texas Department of Agriculture (TDA) as a public authority.

(b) Provides that the authority is created to promote the creation and expansion of urban agricultural projects in this state.

Sec. 60A.002. DEFINITION. Defines, in this chapter, "authority."

Sec. 60A.003. BOARD OF DIRECTORS. (a) Provides that the authority is governed by a board of directors (board) composed of the commissioner of agriculture (commissioner) and eight members appointed by the commissioner. Requires members of the board to be appointed in the numbers specified and from the following categories:

- (1) two persons who are elected or appointed officials of a municipality with a population of at least 500,000;
- (2) three persons who are knowledgeable about agricultural lending practices;

(3) one person who is a representative of an agricultural business, as defined by Section 58.002 (Definitions); and

(4) two persons who represent urban farmers and the interests of urban farmers.

(b) Provides that the appointed members of the board serve staggered terms of two years, with the terms of four members expiring on January 1 of each even-numbered year and the terms of four members expiring on January 1 of each odd-numbered year.

(c) Requires that any vacancy occurring in an appointed position on the board be filled by the commissioner for the unexpired term.

(d) Provides that a board member is not entitled to compensation or reimbursement for serving as a director.

(e) Requires that appointments to the board be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

Sec. 60A.004. OFFICERS. (a) Requires the commissioner to designate a member of the board as the chairman of the board to serve in that capacity at the pleasure of the commissioner. Requires the board to elect other officers it considers necessary.

(b) Requires the chairman of the board to preside at meetings of the board and perform other duties prescribed by the board.

Sec. 60A.005. ADMINISTRATION. (a) Requires the commissioner with the assistance of the board to administer the authority. Authorizes the commissioner to appoint, employ, contract with, and provide for employees, consultants, agents, and experts as the business of the authority may require.

(b) Requires the board to hold regular and special meetings at times specified by the chairman.

(c) Provides that the board is subject to Chapter 551 (Open Meetings), Government Code, and Chapter 2001 (Administrative Procedure), Government Code.

Sec. 60A.006. FISCAL ACCOUNTING OF ADMINISTRATION. (a) Authorizes all funds acquired under this chapter to be used for administration of this chapter.

(b) Requires the authority, on or before January 1 of each year, to prepare a report of its activities for the preceding fiscal year. Requires the report to set forth a complete operating and financial statement. Requires the authority to file copies of the report with the governor and the legislature as soon as practicable.

(c) Prohibits the board members, administrator, and staff of the authority from being personally liable for loans issued or contracts executed by the authority and shall be exculpated and fully indemnified in the documents relating to any loans except in the case of fraudulent or wilful misconduct on the part of the individual seeking exculpation or indemnification.

Sec. 60A.007. REMOVAL OF BOARD MEMBER. (a) Provides that it is a ground for removal from the board if a member:

(1) does not have at the time of appointment the qualifications required by Section 60A.003;

(2) does not maintain during service on the board the qualifications required by Section 60A.003; or

(3) cannot because of illness or disability discharge the member's duties for a substantial part of the term for which the member is appointed.

(b) Provides that the validity of an action of the board is not affected by the fact that it is taken when a ground for removal of a board member exists.

[Reserves Sections 60A.008-60A.050 for expansion.]

## SUBCHAPTER B. PURPOSES AND POWERS

Sec. 60A.051. PURPOSES OF AUTHORITY. Requires the authority, in order to promote the creation and expansion of urban agricultural projects in this state, to implement programs under Subchapters C and D to:

- (1) make or acquire loans to eligible persons;
- (2) make or acquire loans to lenders to enable those lenders to make loans to eligible persons;
- (3) insure, coinsure, and reinsure, wholly or partly, loans to eligible persons;
- (4) guarantee, wholly or partly, loans to eligible persons; and
- (5) make grants to eligible persons.

Sec. 60A.052. POWERS OF AUTHORITY. (a) Provides that the authority has all powers necessary to accomplish the purposes and programs of the authority, including the power:

- (1) to adopt and enforce bylaws, rules, and procedures and perform all functions necessary for the board to carry out this chapter;
- (2) to sue and be sued, complain, and defend, in its own name;
- (3) to acquire, hold, invest, use, pledge, and dispose of its revenues, income, receipts, funds, and money from every source and to select one or more depositories, inside or outside the state, subject to this chapter, any resolution, bylaws, or in any indenture pursuant to which the funds are held;
- (4) to establish, charge, and collect fees, charges, and penalties in connection with the programs, services, and activities provided by the authority in accordance with this chapter;
- (5) to procure insurance and pay premiums on insurance of any type, in amounts, and from insurers as the board considers necessary and advisable to accomplish any of the authority's purposes;
- (6) to make, enter into, and enforce contracts, agreements, including management agreements, for the management of any of the authority's property, leases, indentures, mortgages, deeds of trust, security agreements, pledge agreements, credit agreements, and other instruments with any person, including any lender and any federal, state, or local governmental agency, and to take other actions as may accomplish any of its purposes;

(7) to own, rent, lease, or otherwise acquire, accept, or hold real, personal, or mixed property, or any interest in property in performing its duties and exercising its powers under this chapter, by purchase, exchange, gift, assignment, transfer, foreclosure, mortgage, sale, lease, or otherwise and to hold, manage, operate, or improve real, personal, or mixed property, wherever situated;

(8) to sell, lease, encumber, mortgage, exchange, donate, convey, or otherwise dispose of any or all of its properties or any interest in its properties, deed of trust or mortgage lien interest owned by it or under its control, custody, or in its possession, and release or relinquish any right, title, claim, lien, interest, easement, or demand however acquired, including any equity or right of redemption in property foreclosed by it, and to do any of the foregoing by public or private sale, with or without public bidding, notwithstanding any other law; and to lease or rent any improvements, lands, or facilities from any person to effect the purposes of this chapter; and

(9) to request, accept, and use gifts, loans, donations, aid, guaranties, allocations, subsidies, grants, or contributions of any item of value for the furtherance of any of its purposes.

(b) Authorizes money acquired under Subsection (a)(9) to be used only for a purpose of the authority. Provides that money from a gift or grant made for a purpose of the authority is subject only to limitations contained in the gift or grant.

Sec. 60A.053. PROGRAMS RULES. (a) Requires the board to adopt rules to establish criteria for determining which eligible persons may participate in programs under this chapter. Requires the board's rules to state that the policy of the authority is to provide programs for providing financial assistance to eligible persons that the board considers to present a reasonable risk and have a sufficient likelihood of repayment. Requires the board to adopt collateral or security requirements to ensure the full repayment of that financial assistance and the solvency of any program implemented under this chapter. Requires the board to approve any and all extensions of that financial assistance under this chapter, provided that the board may delegate this approval authority to the commissioner.

(b) Requires the board to also adopt rules to establish criteria for lenders that may participate in programs under this chapter.

(c) Requires eligible persons or lenders participating in the authority's programs to pay the costs of applying for, participating in, and administering and servicing the program, in amounts the board considers reasonable and necessary. Requires the board to charge an administrative fee for guaranteeing a loan that may not be less than one percent of the amount of the guaranteed loan. Requires that any costs not paid by the eligible persons or lenders be paid from the funds of the authority.

(d) Requires the board by rule to adopt an agreement to be used between a lender and an approved applicant under Subchapter C under which the authority makes a payment for the purpose of providing a reduced interest rate on a loan guaranteed to a borrower. Requires that the agreement require the borrower to use the proceeds of the loan for the purposes of the program under which the payment is made. Requires the board to adopt rules to implement this subsection.

Sec. 60A.054. AUTHORITY EXEMPTION FROM TAXATION. Provides that the property of the authority, its income, and its operations are exempt from all taxes and assessments imposed by the state and all public agencies and political subdivisions on property acquired or used by the authority under this chapter.

Sec. 60A.055. FUNDING. Prohibits state money from being used for purposes of the authority.

[Reserves Sections 60A.056-60A.100 for expansion.]

#### SUBCHAPTER C. URBAN FARMER INTEREST RATE REDUCTION PROGRAM

Sec. 60A.101. DEFINITIONS. Defines, in this subchapter, "eligible lending institution" and "linked deposit."

Sec. 60A.102. URBAN FARMER INTEREST RATE REDUCTION PROGRAM. (a) Requires the board to establish an urban farmer interest rate reduction program to promote the creation and expansion of urban agriculture in this state.

(b) Requires an applicant, to be eligible to participate in the urban farmer interest rate reduction program, to own or lease real property for agricultural purposes in a municipality with a population of at least 500,000.

(c) Requires the board to approve or disapprove any and all applications under this subchapter, provided that the board is authorized to delegate this authority to the commissioner.

(d) Requires the board to adopt rules for the loan portion of the urban farmer interest rate reduction program.

(e) Authorizes an eligible lending institution, in order to participate in the urban farmer interest rate reduction program, to solicit loan applications from eligible applicants.

(f) Requires the eligible lending institution, after reviewing an application and determining that the applicant is eligible and creditworthy, to send the application for a linked deposit loan to the authority.

(g) Requires the eligible lending institution to certify the interest rate applicable to the specific eligible applicant and attach it to the application sent to the authority.

(h) Requires the board or the commissioner, after reviewing each loan application under this subchapter, to recommend to the comptroller of public accounts (comptroller) the acceptance or rejection of the application.

(i) Requires the comptroller, after acceptance of the application, to place a linked deposit with the applicable eligible lending institution for the period the comptroller considers appropriate. Prohibits the comptroller from placing a deposit for a period extending beyond the state fiscal biennium in which it is placed. Authorizes the comptroller, subject to the limitations described by Section 60A.105, to place time deposits at an interest rate described by Section 60A.101(2).

(j) Requires the eligible lending institution and the state, represented by the comptroller, before the placing of a linked deposit, to enter into a written deposit agreement containing the conditions on which the linked deposit is made.

(k) Authorizes the comptroller, if a lending institution holding linked deposits ceases to be either a state depository or a Farm Credit System institution headquartered in this state, to withdraw the linked deposits.

(l) Authorizes the board to adopt rules that create a procedure for determining priorities for loans granted under this subchapter. Requires that each rule adopted state the policy objective of the rule.

(m) Provides that a lending institution is not ineligible to participate in the urban farmer interest rate reduction program solely because a member of the board is also an officer, director, or employee of the lending institution, provided that a board member is required to 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.

Sec. 60A.103. COMPLIANCE. (a) Requires an eligible lending institution, on accepting a linked deposit, to loan money to eligible applicants in accordance with the deposit agreement and this subchapter. Requires the eligible lending institution to forward a compliance report to the board.

(b) Requires the board to monitor compliance with this subchapter and inform the comptroller of noncompliance on the part of an eligible lending institution.

Sec. 60A.104. STATE LIABILITY PROHIBITED. Provides that the state is not liable to an eligible lending institution for payment of the principal, interest, or any late charges on a loan made under this subchapter. Provides that a delay in payment or default on a loan by a borrower does not affect the validity of the deposit agreement. Provides that linked deposits are not an extension of the state's credit within the meaning of any state constitutional prohibition.

Sec. 60A.105. LIMITATIONS IN PROGRAM. (a) Provides that the maximum amount of a loan under this subchapter is \$500,000.

(b) Authorizes a loan granted under this subchapter to be used for any agriculture-related operating expense, including the purchase or lease of land or fixed assets acquisition or improvement, as identified in the application.

[Reserves Sections 60A.106-60A.150 for expansion.]

#### SUBCHAPTER D. URBAN FARMER GRANT PROGRAM

Sec. 60A.151. GRANT PROGRAM. (a) Requires the authority to administer an urban farmer grant program. Requires a grant to be for the purpose of fostering the creation and expansion of urban agricultural projects in this state.

(b) Requires the board to adopt rules governing the operation of the program and selection criteria for grant recipients.

(c) Requires the board to select grant recipients.

Sec. 60A.152. ELIGIBILITY. Requires a person, to be eligible to receive a grant under this subchapter, to:

(1) be an agricultural producer;

(2) own or lease real property for agricultural purposes in a municipality with a population of at least 500,000; and

(3) provide matching funds in the amount of not less than one dollar for each dollar of grant money received.

Sec. 60A.153. AMOUNT OF GRANTS. A grant under the urban farmer grant program may not be less than \$5,000 or more than \$20,000.

SECTION 2. Requires the commissioner, as soon as practicable after the effective date of this Act, to appoint the members of the authority created by Section 60A.001, Agriculture Code, as added by this Act.

SECTION 3. Effective date: September 1, 2011.