JULIAN-STILLE VALUE-ADDED ACT
Act 322 of 2000

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

History: 2000, Act 322, Imd. Eff. Oct. 26, 2000;—Am. 2006, Act 423, Imd. Eff. Sept. 29, 2006;—Am. 2013, Act 163, Imd. Eff. Nov. 12, 2013.

The People of the State of Michigan enact:

285.301 Short title.

Sec. 1. This act shall be known and may be cited as the "Julian-Stille value-added act".

History: 2000, Act 322, Imd. Eff. Oct. 26, 2000.

285.302 Definitions; agricultural value-added grant program; establishment and administration; grant awards; procedure; condition of receiving grant; establishment of low-interest loan program; fiduciary obligations upon grant recipient; "substantial conflict of interest" defined; grant application; form or format; rules; effect on prior grants.

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

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

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

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

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

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

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

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

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

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

(2) The department shall establish and administer an agricultural value-added grant program. The commission of agriculture shall award grants from the fund created in section 2a only for projects designed to establish, retain, expand, attract, or develop value-added agricultural processing and related agricultural production operations in this state. In approving a grant under this subsection, the commission of agriculture shall state the specific objective reasons supporting the selection of the applicant over competing applicants. The joint evaluation committee shall assist and provide recommendations to the commission of agriculture in identifying high-quality projects for funding based upon the selection criteria and scoring system approved by the commission of agriculture. The recommendations shall include all materials and decision documents used by the joint evaluation committee in making the recommendations.

(3) All scoring sheets, meetings, and other decisions made by the joint evaluation committee shall be open

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to the public and considered public documents. A record or portion of a record, material, or other data received, prepared, used, or retained by the department in connection with an application to or with a project or product assisted by the department or with an award, grant, loan, or investment relating to financial or proprietary information submitted by the applicant that is considered by the applicant and acknowledged by the department as confidential shall not be subject to the disclosure requirements of the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

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

(a) Establish a competitive process to award grants. The competitive process shall include, but is not limited to, the following:

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

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

(*iii*) A preference for proposals that are attempting to secure a license for agricultural-related intellectual property to be produced in Michigan.

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

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

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

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

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

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

(6) The commission of agriculture shall ensure that a recipient of a grant under this section agrees that, as a condition of receiving the grant, that recipient shall not use the money for the development of a casino regulated under the Michigan gaming control and revenue act, the Initiated Law of 1996, MCL 432.201 to 432.226, a casino regulated under the Indian gaming regulatory act, Public Law 100-497, 102 Stat. 2467, or any other gaming enterprise.

(7) The department, in cooperation with the department of treasury and Michigan financial institutions, shall establish a low-interest loan program in a manner similar to the qualified agricultural loan program established in section 2a of 1855 PA 105, MCL 21.142a, or a loan guarantee program to provide qualified agricultural loans. The department of treasury shall give the department any necessary assistance required to establish a low-interest loan or loan guarantee program. The department shall work with Michigan financial institutions to establish a certification system to verify that loan applicants are requesting qualified agricultural loans. As part of the low-interest loan program, the department shall do the following:

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

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

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

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

(e) Ensure that participating financial institutions do not refinance prior debt.

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

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loan from the financial institution.

(g) Require the recipient of a qualified agricultural loan under this section to agree that, as a condition of receiving the loan, that the recipient shall not use the money for the development of a casino regulated under the Michigan gaming control and revenue act, the Initiated Law of 1996, MCL 432.201 to 432.226, a casino regulated under the Indian gaming regulatory act, Public Law 100-497, 102 Stat. 2467, or any other gaming enterprise.

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

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

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

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

(d) Ensure that participating financial institutions do not refinance prior debt.

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

(f) Require the recipient of a qualified agricultural loan under this section to agree that, as a condition of receiving the loan guarantee, that the recipient shall not use the money for the development of a casino regulated under the Michigan gaming control and revenue act, the Initiated Law of 1996, MCL 432.201 to 432.226, a casino regulated under the Indian gaming regulatory act, Public Law 100-497, 102 Stat. 2467, or any other gaming enterprise.

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

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

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

(a) Discharge the duties of the position in a nonpartisan manner, in good faith, in the best interests of this state, and with the degree of diligence, care, and skill that a fiduciary would exercise under similar circumstances in a like position. In discharging duties of the office, the commission of agriculture when acting in good faith may rely upon the report of the joint evaluation committee or upon financial statements of the department represented to the commission of agriculture by the officer having charge of its books or accounts or stated in a written report by the auditor general.

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

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

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

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

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

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

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

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

(*iv*) Discussing the matter with any other member of the commission of agriculture or the joint evaluation committee.

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

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

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

History: 2000, Act 322, Imd. Eff. Oct. 26, 2000;—Am. 2006, Act 423, Imd. Eff. Sept. 29, 2006.

Administrative rules: R 285.351 et seq. of the Michigan Administrative Code.

285.302a Agricultural development fund; creation as revolving fund; administration; investment; lapse; money appropriated from 21st century jobs trust fund; manner of investment.

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

(a) Appropriations.

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

(c) Any money representing loan repayments and interest on the loans.

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

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

History: Add. 2006, Act 424, Imd. Eff. Sept. 29, 2006.

285.302b Repealed. 2006, Act 422, Eff. Sept. 29, 2008

Compiler's note: The repealed section pertained to agricultural value-added commercialization roundtable.

285.303 "Department" and "fund" defined; Michigan clean air fund; creation; administration; grants and loans; rules.

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

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

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

(2) The Michigan clean air fund is created within the department of treasury to be administered by the department. Money in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund. The state treasurer shall credit to the fund the money from any source provided by law.

(3) Money in the fund shall be used by the department to provide grants and loans to individuals, private or public corporations, and local units of government for programs or projects established to reduce oxides of nitrogen and volatile organic compounds and for the administration of the grant and loan program.

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

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

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

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

History: 2000, Act 322, Imd. Eff. Oct. 26, 2000;—Am. 2013, Act 163, Imd. Eff. Nov. 12, 2013.

Compiler's note: Enacting section 2 of Act 163 of 2013 provides:

"Enacting section 2. All money in the Michigan clean air fund on the effective date of this amendatory act is appropriated and transferred to the Michigan public service commission for distribution to utilities in the amounts contributed by the utilities to the Michigan clean air fund. Money received by the Michigan public service commission and distributed to utilities under this enacting section shall be refunded to customers through the reconciliation process provided in sections 6h and 6j of 1939 PA 3, MCL 460.6h and 460.6j."

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285.304 Repealed. 2013, Act 163, Imd. Eff. Nov. 12, 2013.

Compiler's note: The repealed section pertained to administration and establishment of uncollectibles allowace recovery fund.

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