COMMITTEE REPORT

February 11, 2016

**H. 4717**

Introduced by Reps. White, Lucas, Hiott, Simrill, G.M. Smith, Lowe, Whitmire, Taylor, George, V.S. Moss, J.E. Smith, M.S. McLeod, Bowers, Corley, Parks, McKnight, Douglas, Knight, Erickson, Sandifer, Willis, Kirby, Clary, Cobb‑Hunter, Hardee, Duckworth, Johnson, Limehouse, Clyburn, Bales, Horne, Stavrinakis, Hayes, Yow, Neal, Kennedy, Newton, Tinkler, Riley, Howard, King, Henegan, Williams, Anthony, Clemmons, Crosby, Cole, Daning, Dillard, Forrester, Funderburk, Gambrell, Herbkersman, Hixon, Hosey, Loftis, Long, Pitts, Rivers, Rutherford, Ryhal, G.R. Smith, Wells, W.J. McLeod, Ridgeway, G.A. Brown, Bamberg, Hodges, Alexander, Thayer and McEachern

S. Printed 2/11/16--H.

Read the first time January 21, 2016.

**THE COMMITTEE ON WAYS AND MEANS**

To whom was referred a Bill (H. 4717) to amend the Code of Laws of South Carolina, 1976, by adding Section 46‑1‑160 so as to create the “South Carolina Farm Aid Fund” to assist farmers, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by striking all after the enacting words and inserting:

/ SECTION 1. The General Assembly finds that:

(1) The historic flood of October 2015 caused unprecedented damage to the State and its people, with particular devastating statewide impacts on South Carolina farmers and the state’s agriculture industry.

(2) The State has over twenty‑five thousand farms across nearly five million acres, which generate billions of dollars annually and represents a vital component to a healthy state economy.

(3) The total loss of crops as a result of the flooding is estimated at nearly four hundred million dollars and the estimated federal crop insurance payments will only cover about one‑third of the total crop loss.

(4) The federal crop insurance program established in 2014 is an inadequate method of indemnification as compared to traditional forms of insurance and is not sufficient to aid farmers with substantial losses due to catastrophic events of nature.

(5) The State of South Carolina has a significant public interest to prevent the economic collapse of many of the state’s farms which could cause a severe disruption in the state’s economy and food supply chain.

SECTION 2. Chapter 1, Title 46 of the 1976 Code is amended by adding:

“Section 46‑1‑160. (A)(1) There is created the ‘South Carolina Farm Aid Fund’. This fund is separate and distinct from the general fund of the State and all other funds. Earnings on this fund must be credited to it and any balance in this fund at the end of a fiscal year carries forward in the fund in the succeeding fiscal year. Revenues credited to this fund in a fiscal year must be used to operate a grant program that provides financial assistance to farmers.

(2) To be eligible for a grant, the person must have:

(a) experienced a verifiable loss of agricultural commodities of at least forty percent as a result of a natural disaster, excluding drought, for which:

(i) the Governor declares a state of emergency in the State; and

(ii) the United States Secretary of Agriculture has issued a Secretarial Disaster Declaration for the county in which the farm is located;

(b) a farm number issued by the Farm Service Agency; and

(c) signed an affidavit, under penalty of perjury, certifying that each fact of the loss presented by the person is accurate.

(B)(1) There is created the Farm Aid Board. The board is composed of the following members:

(a) the Commissioner of Agriculture, ex officio, or his designee, who shall serve as chairman;

(b) one member representing South Carolina Farm Bureau Federation appointed by the Chairman of the Senate Finance Committee;

(c) one member representing a Farm Credit Association appointed by the Chairman of the House Ways and Means Committee;

(d) one member of the crop insurance industry appointed by the Chairman of the Senate Agriculture and Natural Resources Committee;

(e) one agricultural commodities producer appointed by the Chairman of the House Agriculture, Natural Resources and Environmental Affairs Committee;

(f) the Vice President for Public Service and Agriculture of Clemson Public Service Activities, or his designee; and

(g) the Vice President for Land Grant Services of South Carolina State Public Service Activities, or his designee.

(2)(a) Within twenty days of the effective date of this section, the board shall hold its initial meeting to adopt an application process by which a person with a loss resulting from the flooding in October 2015, may apply for a grant. A person shall apply not later than forty‑five days after the initial meeting of the board. The initial deposit of monies into the fund only may be used for such claims.

(b) For any other loss, the board shall set forth the process and application process by which a person may apply for grants.

(3)(a) Each grant awarded by the board must equal twenty percent of the person’s verifiable loss of agricultural commodities. However, a person, including any grant made to a related person, may not receive grants aggregating more than one hundred thousand dollars with respect to any single major disaster. Also, a person, including any grant made to a related person, may not receive grants that when combined with losses covered by insurance, exceed one hundred percent of the actual loss. If a grant is made to a related person, the amount to be included in the limits set by this section must be the amount of the grant multiplied by the person’s ownership interest in the related person. However, a person who shares an ownership interest with another person or entity may not be refused a grant solely because the other person or related person has otherwise received the maximum grant amount, but in this case, the person’s grant amount is limited by the person’s ownership interest.

(b) If the total amount of grants allowed pursuant to subitem (a) for a single major disaster exceeds the monies in the fund, then each person’s grant must be reduced proportionately.

(4) To determine loss, the board:

(a) must measure the person’s cumulative total loss of all affected agricultural commodities for the calendar year in which the eligible loss occurred against the person’s expected production of all agricultural commodities affected by a qualifying natural disaster in the same year;

(b) shall use the person’s applicable actual production history yield, as determined by the Federal Crop Insurance Corporation, to determine loss for insured agricultural commodities. In determining loss for uninsured agricultural commodities, the board shall use the most recent year’s county price and county yield, as applicable, as determined by the National Agriculture Statistics Service, United States Department of Agriculture; and

(c) may require any documentation or proof it considers necessary to efficiently administer the grant program, including the ownership structure of each entity and the social security numbers of each owner. Minimally, in order to verify loss, the board shall require the submission of dated, signed, and continuous records. These records may include, but are not limited to, commercial receipts, settlement sheets, warehouse ledger sheets, pick records, load summaries, contemporaneous measurements, truck scale tickets, contemporaneous diaries, appraisals, ledgers of income, income statements of deposit slips, cash register tape, invoices for custom harvesting, u‑pick records, and insurance documents.

(C) Grant awards must be used for agricultural production expenses and losses due to the declared disaster but does not include the purchase of new equipment or the paying down of debt. The board shall require any documentation it determines necessary to verify the appropriate use of grant awards, including receipts.

(D) If the board determines that a person who received a grant provided inaccurate information, then the person shall refund the entire amount of the grant. If the board determines that a person who received a grant used the funds for ineligible expenses, then the person must refund the amount of the ineligible expenses. If the person does not refund the appropriate amount, the Department of Revenue shall utilize the provisions of the Setoff Debt Collection Act to collect the money from the person.

(E) From the 2014‑2015 Contingency Reserve Fund, there is appropriated $40,000,000 to the South Carolina Farm Aid Fund. Any funds from this appropriation remaining in the fund on June 30, 2017, shall lapse to the general fund.

(F) The board may accept private funds, grants, and property to be used to make financial awards from the grant program.

(G) Staffing for the board must be provided by the staff of the Department of Agriculture.

(H) For purposes of this section:

(1) ‘Agricultural commodities’ means wheat, cotton, flax, corn, dry beans, oats, barley, rye, tobacco, rice, peanuts, soybeans, sugar beets, sugar cane, tomatoes, grain sorghum, sunflowers, raisins, oranges, sweet corn, dry peas, freezing and canning peas, forage, apples, grapes, potatoes, timber and forests, nursery crops, citrus, and other fruits and vegetables, nuts, tame hay, native grass, aquacultural species including, but not limited to, any species of finfish, mollusk, crustacean, or other aquatic invertebrate, amphibian, reptile, or aquatic plant propagated or reared in a controlled or selected environment, excluding stored grain.

(2) ‘Person’ means any individual, trust, estate, partnership, receiver, association, company, limited liability company, corporation, or other entity or group.

(3) ‘Related person’ means any person, joint venture, or entity that has a direct or indirect ownership interest of a person or legal entity.”

SECTION 3. This act takes effect upon approval by the Governor and applies to any loss created by a disaster after September 2015. /

Renumber sections to conform.

Amend title to conform.

W. BRIAN WHITE for Committee.

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 46‑1‑160 SO AS TO CREATE THE “SOUTH CAROLINA FARM AID FUND” TO ASSIST FARMERS WHO HAVE SUFFERED AT LEAST A FORTY PERCENT LOSS OF AGRICULTURAL COMMODITIES AS A RESULT OF A NATURAL DISASTER, TO CREATE THE FARM AID BOARD TO ADMINISTER THE FUND, AND TO SPECIFY ELIGIBILITY AND GRANT AMOUNTS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. The General Assembly finds that:

(1) The historic flood of October 2015 caused unprecedented damage to the State and its people, with particular devastating statewide impacts on South Carolina farmers and the state’s agriculture industry.

(2) The State has over twenty‑five thousand farms across nearly five million acres, which generate billions of dollars annually and represents a vital component to a healthy state economy.

(3) The total loss of crops as a result of the flooding is estimated at nearly four hundred million dollars and the estimated federal crop insurance payments will only cover about one‑third of the total crop loss.

(4) The federal crop insurance program established in 2014 is an inadequate method of indemnification as compared to traditional forms of insurance and is not sufficient to aid farmers with substantial losses due to catastrophic events of nature.

(5) The State of South Carolina has a significant public interest to prevent the economic collapse of many of the state’s farms which could cause a severe disruption in the state’s economy and food supply chain.

SECTION 2. Chapter 1, Title 46 of the 1976 Code is amended by adding:

“Section 46‑1‑160. (A)(1) There is created the ‘South Carolina Farm Aid Fund’. This fund is separate and distinct from the general fund of the State and all other funds. Earnings on this fund must be credited to it and any balance in this fund at the end of a fiscal year carries forward in the fund in the succeeding fiscal year. Revenues credited to this fund in a fiscal year must be used to operate a grant program that provides financial assistance to farmers.

(2) To be eligible for a grant, the person must have:

(a) experienced a verifiable loss of agricultural commodities of at least forty percent as a result of a natural disaster, excluding drought, for which the United States Secretary of Agriculture has issued a Secretarial Disaster Declaration;

(b) a farm number issued by the Farm Service Agency; and

(c) signed an affidavit, under penalty of perjury, certifying that each fact of the loss presented by the person is accurate.

(B)(1) There is created the Farm Aid Board. The board is composed of the following members:

(a) the Commissioner of Agriculture, ex officio, or his designee, who shall serve as chairman;

(b) one member representing South Carolina Farm Bureau Federation appointed by the Chairman of the Senate Finance Committee;

(c) one member representing a Farm Credit Association appointed by the Chairman of the House Ways and Means Committee;

(d) one member of the crop insurance industry appointed by the Chairman of the Senate Agriculture and Natural Resources Committee;

(e) one agricultural commodities producer appointed by the Chairman of the House Agriculture, Natural Resources and Environmental Affairs Committee;

(f) the Vice President for Public Service and Agriculture of Clemson Public Service Activities, or his designee; and

(g) the Vice President for Land Grant Services of South Carolina State Public Service Activities, or his designee.

(2)(a) Within twenty days of the effective date of this section, the board shall hold its initial meeting to adopt an application process by which a person with a loss resulting from the flooding in October 2015, may apply for a grant. A person shall apply not later than forty‑five days after the initial meeting of the board. The initial deposit of monies into the fund only may be used for such claims.

(b) For any other loss, the board shall set forth the process and application process by which a person may apply for grants.

(3)(a) Each grant awarded by the board must equal twenty percent of the person’s verifiable loss of agricultural commodities. However, a person, including any grant made to a related person, may not receive grants aggregating more than one hundred thousand dollars with respect to any single major disaster. Also, a person, including any grant made to a related person, may not receive grants that when combined with losses covered by insurance, exceed one hundred percent of the actual loss.

(b) If the total amount of grants allowed pursuant to subitem (a) for a single major disaster exceeds the monies in the fund, then each person’s grant must be reduced proportionately.

(4) To determine loss, the board:

(a) must measure the person’s cumulative total loss of all affected agricultural commodities for the calendar year in which the eligible loss occurred against the person’s expected production of all agricultural commodities affected by a qualifying natural disaster in the same year;

(b) shall use the person’s applicable actual production history yield, as determined by the Federal Crop Insurance Corporation, to determine loss for insured agricultural commodities. In determining loss for uninsured agricultural commodities, the board shall use the most recent year’s County and Price Yield, as applicable, as determined by the National Agriculture Statistics Service, United States Department of Agriculture; and

(c) may require any documentation or proof it considers necessary to efficiently administer the grant program, including the ownership structure of each entity and the social security numbers of each owner. Minimally, in order to verify loss, the board shall require the submission of dated, signed, and continuous records. These records may include, but are not limited to, commercial receipts, settlement sheets, warehouse ledger sheets, pick records, load summaries, contemporaneous measurements, truck scale tickets, contemporaneous diaries, appraisals, ledgers of income, income statements of deposit slips, cash register tape, invoices for custom harvesting, u‑pick records, and insurance documents.

(C) If the board determines that a person who received a grant provided inaccurate information, then the person shall refund the entire amount of the grant, and if unpaid, the Department of Revenue shall utilize the provisions of the Setoff Debt Collection Act to collect the money from the person.

(D) The board may accept private funds, grants, and property to be used to make financial awards from the grant program.

(E) Staffing for the board must be provided by the staff of the Department of Agriculture.

(F) For purposes of this section:

(1) ‘Agricultural commodities’ means wheat, cotton, flax, corn, dry beans, oats, barley, rye, tobacco, rice, peanuts, soybeans, sugar beets, sugar cane, tomatoes, grain sorghum, sunflowers, raisins, oranges, sweet corn, dry peas, freezing and canning peas, forage, apples, grapes, potatoes, timber and forests, nursery crops, citrus, and other fruits and vegetables, nuts, tame hay, native grass, aquacultural species including, but not limited to, any species of finfish, mollusk, crustacean, or other aquatic invertebrate, amphibian, reptile, or aquatic plant propagated or reared in a controlled or selected environment, excluding stored grain.

(2) ‘Person’ means any individual, trust, estate, partnership, receiver, association, company, limited liability company, corporation, or other entity or group.

(3) ‘Related person’ means any entity or person that bears a relationship to the taxpayer as described in Section 267 of the Internal Revenue Code.”

SECTION 3. This act takes effect upon approval by the Governor and applies to any loss created by a disaster after September 2015.

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