

HOUSE
AMENDMENT

THIS AMENDMENT
ADOPTED

GOOD/MELTON
JANUARY 28, 2016

CLERK OF THE HOUSE

REVENUE POLICY SUBCOMMITTEE PROPOSES THE FOLLOWING AMENDMENT No. TO H. 4717 (H-WM\STAFF\AJ\LEGISLATION\2016\FARM AID BILL\SUBCOMMITTEE AMENDMENT PASSED)):

REFERENCE IS TO THE BILL AS INTRODUCED.

AMEND THE BILL, AS AND IF AMENDED, SECTION 2, PAGE 2, BY STRIKING SECTION 46-1-160(A)(2)(A) AND INSERTING:

/ (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; /

AMEND THE BILL FURTHER, SECTION 2, BY STRIKING SECTION 46-1-160(B)(4)(B) AND INSERTING:

/ (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 /

AMEND THE BILL FURTHER, SECTION 2, BY STRIKING SECTION 46-1-160(C) AND INSERTING:

/ (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. THE BOARD MAY 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.

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**RENUMBER SECTIONS TO CONFORM.
AMEND TITLE TO CONFORM.**

REPORT OF THE REVENUE POLICY SUBCOMMITTEE

(White, Limehouse, Bingham, Herbkersman, and Pitts - Staff Contact: A.J. Newton)

HOUSE BILL 4717

H. 4717 -- Reprs. 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, Gagnon, Gambrell, Herbkersman, Hixon, Hosey, Loftis, Long, Pitts, Rivers, Rutherford, Ryhal, G.R. Smith, Wells and W.J. McLeod: 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.

Summary of Bill:

-Eligibility:

- Farmers with a loss of at least 40% total agricultural commodity loss due to 2015 flood.
- Located in a county declared as a Secretarial Disaster by the US Secretary of Agriculture.
 - 45 of 46 counties eligible (Jasper County)
- Farm must be verified by the Farm Service Agency.
- Farmer must sign an affidavit under penalty of perjury stating the loss is accurate and truthful and also requires payback if proven false.

-Farm Board:

- Grant program will be administered by a seven-member board chaired by the Commissioner of Agriculture, with the remaining six members from the agriculture industry and appointed by the General Assembly.
- Board will adopt the application process details and approve all grants.

-Verification:

- To determine loss and grant amount, the board may require documentation or proof it deems necessary to administer the program.
- To determine loss for an insured agricultural commodity, the board must use the person's production history yield determined by the Federal Crop Insurance Corporation.
- To determine loss for an uninsured agricultural commodity the board must use the most recent year's County and Price Yield determined by USDA's National Agriculture Statistics Service.

-Grant Specifics:

- Grants awarded will be equal to 20% of the total loss, with a maximum grant of \$100,000.
- Grant payout combined with crop insurance or other payout it cannot exceed 100% of loss.

Introduced: 01/21/2016

Received by Ways and Means: 01/21/2016

Estimated Fiscal Impact:

Pending

Subcommittee Recommendation:

Favorable with Amendment

Full Committee Recommendation:

Pending

Other Notes/Comments:

Subcommittee Amendment: The amendment makes four changes to the bill. 1. It is a strike and insert which adds a Governor's State of Emergency Declaration as an additional trigger for eligibility. This is in addition to the USDA Secretarial Declaration and other original eligibility. 2. Technical change to clarify both year's county price and year's county yield will be used by the board to determine loss for uninsured agricultural commodities. 3. Allows grant awards to only be used for "agricultural production expenses and losses due to the declared disaster." It also prohibits the purchase of new equipment and allows the Farm Aid Board to determine what documentation they deem necessary to verify appropriate use of grants. 4. Includes a new provision to states if the person spends the money on ineligible expenses, then the grant must be paid back.

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A BILL

11 TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA,
12 1976, BY ADDING SECTION 46-1-160 SO AS TO CREATE THE
13 "SOUTH CAROLINA FARM AID FUND" TO ASSIST
14 FARMERS WHO HAVE SUFFERED AT LEAST A FORTY
15 PERCENT LOSS OF AGRICULTURAL COMMODITIES AS A
16 RESULT OF A NATURAL DISASTER, TO CREATE THE
17 FARM AID BOARD TO ADMINISTER THE FUND, AND TO
18 SPECIFY ELIGIBILITY AND GRANT AMOUNTS.

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

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23 SECTION 1. The General Assembly finds that:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

40 (2)(a) Within twenty days of the effective date of this section,
41 the board shall hold its initial meeting to adopt an application
42 process by which a person with a loss resulting from the flooding in
43 October 2015, may apply for a grant. A person shall apply not later

1 than forty-five days after the initial meeting of the board. The initial
2 deposit of monies into the fund only may be used for such claims.

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

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

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

16 (4) To determine loss, the board:

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

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

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

40 (C) If the board determines that a person who received a grant
41 provided inaccurate information, then the person shall refund the
42 entire amount of the grant, and if unpaid, the Department of

1 Revenue shall utilize the provisions of the Setoff Debt Collection
2 Act to collect the money from the person.

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

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

7 (F) For purposes of this section:

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

18 (2) 'Person' means any individual, trust, estate, partnership,
19 receiver, association, company, limited liability company,
20 corporation, or other entity or group.

21 (3) 'Related person' means any entity or person that bears a
22 relationship to the taxpayer as described in Section 267 of the
23 Internal Revenue Code."

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

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