



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-2621/1
MDK:jld/emw/amn

2015 ASSEMBLY BILL 913

February 15, 2016 – Introduced by Representatives SPREITZER, DANOU, BERCEAU, HESSELBEIN, KAHL, KITCHENS, JORGENSEN, NOVAK, QUINN, TRANEL and ZAMARRIPA, cosponsored by Senators RINGHAND, CARPENTER and VINEHOUT. Referred to Committee on Agriculture.

1 **AN ACT** *to amend* 15.01 (4) and 227.01 (1); and *to create* 15.137 (7), 20.235 (1)
2 (em), 39.52 and 71.05 (6) (b) 53. of the statutes; **relating to:** creating a program
3 for reimbursing the higher education debt of small farm operators, creating an
4 individual income tax deduction for certain amounts received from such a
5 program, granting rule-making authority, making an appropriation, and
6 providing a penalty.

Analysis by the Legislative Reference Bureau

This bill provides for establishing a program for reimbursing certain individuals who operate small farms for their higher education debt. An individual is eligible for reimbursement if he or she graduated from an accredited public or nonprofit institution that awards associate's or baccalaureate degrees or if he or she completed a farm and industry short course offered by the University of Wisconsin System. However, no more than 25 percent of the amount appropriated for the program in a fiscal year can be used to reimburse individuals who complete a farm and industry short course. Debt is not eligible for reimbursement if it is reimbursed, assumed, or paid for under another program.

The bill defines "small farm" as a farm with annual gross cash farm income that is not less than \$35,000 nor more than \$500,000 or 140 percent of the maximum amount for a small farm under the typology of the economic research service of the U.S. Department of Agriculture, whichever is greater. Whether a farm qualifies as

ASSEMBLY BILL 913

a small farm is determined at the time an individual first receives a reimbursement payment under the program.

The bill creates a five-member council in the Department of Agriculture, Trade and Consumer Protection, called the Small Farm Higher Education Debt Council, which must establish the program and has rule-making power. The council consists of the DATCP secretary or his or her designee and the chancellor of the UW-Extension or his or her designee. The DATCP secretary appoints the following other members for three-year terms: 1) an individual who administers or participates or cooperates in programs of the Farm Service Agency of the U.S. Department of Agriculture; 2) a representative of agricultural lenders; and 3) a representative of higher education loan providers or servicers. The bill requires DATCP to provide administrative support to the council.

To be eligible for reimbursement, the council must find that an individual satisfies the above educational requirements and that an individual is a state resident whose primary occupation is to operate a small farm. The bill defines "operate" as to engage in agricultural activities at a small farm and participate in the day-to-day operation of the farm. Also, to be eligible, an individual must begin to operate a small farm no later than five years after obtaining a baccalaureate or associate's degree or completing a farm and industry short course. In addition, the individual must intend to operate a small farm for at least five years after applying to the council for reimbursement. An individual is not eligible for reimbursement if another individual who also operates the small farm obtains reimbursement under the program.

The bill requires the Higher Educational Aids Board to enter into agreements with individuals whom the council finds satisfy the eligibility requirements. In addition, HEAB must find that the repayment period of each student that is reimbursed under the program does not exceed ten years, and, for a federal student loan, that the individual has entered into the standard repayment plan of the federal Department of Education. However, HEAB may waive the foregoing requirements based on financial hardship. In an agreement with HEAB, an individual must express his or her commitment to pursue a long-term career in farming in this state and to make a good faith effort to comply with the requirements of the program. An agreement must also require an individual to annually submit documentation to HEAB showing that the individual continues to be a state resident whose primary occupation is to operate a small farm and that in the preceding year he or she has made all required payments on outstanding higher education debt. An agreement must also require an individual to notify HEAB within 60 days if he or she ceases to be a state resident or his or her primary occupation ceases to be the operation of a small farm. Except as described below, an agreement and the payments terminate if an individual ceases to be a state resident or ceases to have as a primary occupation the operation of a small farm. The bill provides that an individual whose agreement terminates is liable to HEAB for a specified portion of the individual's most recent annual payment.

The bill requires HEAB to make five annual payments of equal amounts to individuals who satisfy the bill's requirements. HEAB must make the first payment

ASSEMBLY BILL 913

as soon as practicable after entering into the agreement and the subsequent payments annually thereafter after receiving the documentation required in an agreement. The total amount of the annual payments is \$30,000, which is adjusted for inflation, or the total amount of an individual's outstanding higher education debt, whichever is less. The bill appropriates the following maximum amounts for the program: in fiscal year 2016-17, \$60,000; in fiscal year 2017-18, \$120,000; in fiscal year 2018-19, \$180,000; in fiscal year 2019-20, \$240,000; and in fiscal year 2020-21 and each fiscal year thereafter, \$300,000. The Department of Administration must adjust the foregoing amounts based on inflation.

The bill creates a penalty for individuals who intentionally provide false information to HEAB or the council, which is a civil forfeiture of no more than \$500. In addition, if an individual with whom HEAB has entered into an agreement intentionally provides false information or fails to notify HEAB that he or she ceases to be a state resident or ceases to operate a small farm as his or her primary occupation, the agreement terminates and the individual is liable to HEAB for the total amount of payments he or she has received together with 10 percent annual interest. If funding is available due to agreement terminations or because the maximum amounts described above have not been exceeded in a fiscal year, the council may advise HEAB of other individuals who are eligible for reimbursement payments and, based on the amount of available funding, HEAB may limit the total amount of annual payments to those individuals. If funding is not available to make payments to all eligible individuals who apply for reimbursement, the council must give priority to applicants in specified categories.

The bill allows certain individuals with whom HEAB has entered into agreements to remain eligible for payments despite ceasing to be state residents or ceasing to have as a primary occupation the operation of small farms. The bill requires HEAB to consult with the council and promulgate rules allowing such individuals to remain eligible if the ineligibility is due to circumstances beyond their control, and those circumstances must include deployment in the United States armed forces or national guard. The rules must provide for suspending the payments during ineligibility and reinstating the payments when an individual is a state resident or has as a primary occupation the operation of a small farm.

The bill also creates an individual income tax subtract modification (deduction) for payments made to an individual under the bill. The deduction first applies to taxable years beginning after December 31, 2015.

The bill requires the Legislative Audit Bureau to evaluate the effectiveness of the program in achieving the purpose of the program, which the bill specifies as to recruit and retain new Wisconsin farmers of diverse backgrounds who have completed postsecondary education, regardless of field of study, previous state residency, or background in agriculture. The bill also specifies that the purpose is to sustain the state's small and midsize family farms while fostering innovation in sustainable best practices. Employment of sustainable best practices is one of the categories for the council to prioritize applicants if sufficient funding is not available. No later than July 1, 2023, and every ten years thereafter, the Legislative Audit Bureau must submit a report to the legislature regarding the evaluation. The report

ASSEMBLY BILL 913

must include the bureau's recommendations on terminating, continuing, revising, or expanding the program, including any funding recommendations.

Because this bill relates to an exemption from state or local taxes, it may be referred to the Joint Survey Committee on Tax Exemptions for a report to be printed as an appendix to the bill.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 15.01 (4) of the statutes, as affected by 2015 Wisconsin Act 55, is
2 amended to read:

3 15.01 (4) "Council" means a part-time body appointed to function on a
4 continuing basis for the study, and recommendation of solutions and policy
5 alternatives, of the problems arising in a specified functional area of state
6 government, except the council on physical disabilities has the powers and duties
7 specified in s. 46.29 (1) and (2), the state council on alcohol and other drug abuse has
8 the powers and duties specified in s. 14.24, the small farm higher education debt
9 council has the powers and duties specified in s. 39.52 (3) and (9), and the electronic
10 recording council has the powers and duties specified in s. 706.25 (4).

11 **SECTION 2.** 15.137 (7) of the statutes is created to read:

12 15.137 (7) SMALL FARM HIGHER EDUCATION DEBT COUNCIL. There is created in the
13 department of agriculture, trade and consumer protection a small farm higher
14 education debt council consisting of the secretary of agriculture, trade and consumer
15 protection or his or her designee, the chancellor of the University of
16 Wisconsin-Extension or his or her designee, and the following members appointed
17 by the secretary of agriculture, trade and consumer protection for 3-year terms:

ASSEMBLY BILL 913

1 (a) An individual who administers or participates or cooperates in programs
2 of the farm service agency of the U.S. department of agriculture. The secretary may
3 consult with the farm service agency in making the appointment.

4 (b) An individual representing agricultural lenders.

5 (c) An individual representing higher education loan providers or servicers.

6 **SECTION 3.** 20.235 (1) (em) of the statutes is created to read:

7 20.235 (1) (em) *Small farm operators.* A sum sufficient to make reimbursement
8 payments to small farm operators under the program under s. 39.52. Subject to s.
9 39.52 (6), the amount appropriated under this paragraph in fiscal year 2016-17 may
10 not exceed \$60,000, in fiscal year 2017-18 may not exceed \$120,000, in fiscal year
11 2018-19 may not exceed \$180,000, in fiscal year 2019-20 may not exceed \$240,000,
12 and in fiscal year 2020-21 and each fiscal year thereafter may not exceed \$300,000.

13 **SECTION 4.** 39.52 of the statutes is created to read:

14 **39.52 Small farm operators. (1) DEFINITIONS.** In this section:

15 (a) "Council" means the small farm higher education debt council.

16 (b) "Higher education debt" means debt, including interest, incurred in pursuit
17 of a degree from an institution of higher education or to complete a farm and industry
18 short course offered by the University of Wisconsin System, but does not include any
19 debt reimbursed, assumed, or otherwise paid for under any public or private program
20 other than the program established under sub. (3).

21 (c) "Institution of higher education" means a nonprofit or public educational
22 institution that awards an associate's or baccalaureate degree and that is accredited
23 by an accrediting agency that is recognized by the secretary of the federal
24 department of education.

25 (d) "Operate a small farm" means to do both of the following:

ASSEMBLY BILL 913

1 1. Engage in agricultural activities at a small farm.

2 2. Participate in the day-to-day operation of a small farm.

3 (e) "Small farm" means farm premises, as specified in s. 102.04 (3), in this state
4 that, at the time of the first payment to an individual under sub. (5) or (9) (b), has
5 annual gross cash farm income that is not less than \$35,000 nor more than \$500,000
6 or 140 percent of the maximum annual gross cash farm income for a small farm under
7 the typology of the economic research service of the U.S. department of agriculture,
8 whichever is greater.

9 **(2) FINDINGS.** The legislature finds that farming is central to this state's
10 traditions and economy and essential for feeding residents of this state and beyond.
11 The legislature also finds that as the population of farmers ages, this state faces a
12 challenge recruiting and retaining new farmers. The legislature believes that higher
13 education debt is a significant barrier for new farmers who work towards economic
14 viability during the early years of their careers. The legislature therefore finds it in
15 the best interest of the state to establish a program to provide financial assistance
16 to new farmers carrying student debt in their first years of farming in exchange for
17 a commitment to farming in this state. The purpose of the program is to recruit and
18 retain new Wisconsin farmers of diverse backgrounds who have completed
19 postsecondary education, regardless of field of study, previous state residency, or
20 background in agriculture, and to sustain this state's small and midsize family farms
21 while fostering innovation in sustainable best practices.

22 **(3) REIMBURSEMENT PROGRAM; ELIGIBILITY.** (a) The council shall establish a
23 program that reimburses the higher education debt under sub. (5) or (9) (b) if the
24 council finds that all of the following are satisfied:

ASSEMBLY BILL 913

1 1. The individual is a state resident whose primary occupation is to operate a
2 small farm.

3 2. The individual satisfies one of the following:

4 a. The individual has graduated from an institution of higher education with
5 an associate's or baccalaureate degree.

6 b. The individual has completed a farm and industry short course offered by
7 the University of Wisconsin System.

8 3. No later than 5 years after satisfying the requirement under subd. 2., the
9 individual begins to operate a small farm.

10 4. No later than 5 years after satisfying the requirement under subd. 2., the
11 individual applies to the council for reimbursement.

12 5. The individual intends to operate a small farm for at least 5 years after
13 applying to the council for reimbursement.

14 6. No other individual who also operates the small farm specified in subd. 3.
15 is reimbursed for his or her higher education debt under sub. (5) or (9) (b).

16 (b) The council shall allow an individual to apply for reimbursement prior to
17 satisfying the requirement under par. (a) 2.

18 **(4) AGREEMENTS.** (a) The board shall enter into an agreement for making
19 payments under sub. (5) or (9) (b) to an individual whom the council finds satisfies
20 the requirements under sub. (3) if the board finds all of the following:

21 1. Except as provided in subd. 2., the repayment period for each student loan
22 within the individual's higher education debt that is reimbursed under this section
23 does not exceed 10 years.

ASSEMBLY BILL 913

1 2. For each federal student loan within the individual's higher education debt
2 that is reimbursed under this section, the individual enters into the standard
3 repayment plan of the federal department of education for the loan.

4 (b) The board may waive a requirement under par. (a) 1. or 2. if the board finds
5 that the requirement presents a financial hardship. The board may require an
6 individual to submit documentation necessary for the board to determine whether
7 the requirement presents a financial hardship.

8 (c) An agreement under par. (a) shall do all of the following:

9 1. Express the individual's commitment to pursue a long-term career in
10 farming in this state and to make a good faith effort to comply with the requirements
11 of this section during the 5-year period in which the individual receives payments
12 under sub. (5) or (9) (b).

13 2. Require the individual to annually submit documentation showing to the
14 board's satisfaction that the individual continues to be a state resident whose
15 primary occupation is to operate a small farm and that the individual has in the
16 preceding year made all required payments on the individual's outstanding higher
17 education debt.

18 3. Except as otherwise provided in this section, require the board to make
19 annual payments under sub. (5).

20 4. Require the individual to notify the board within 60 days if the individual
21 ceases to be a state resident or ceases to have as a primary occupation the operation
22 of a small farm.

23 5. Require the individual to provide the board with any information the board
24 determines is necessary for administering this section.

25 6. Identify the higher education debt to be reimbursed.

ASSEMBLY BILL 913

1 7. Provide for termination of the agreement as specified in sub. (8) (a).

2 **(5) REIMBURSEMENT PAYMENTS.** Except as otherwise provided in this section, for
3 each individual with whom the board enters into an agreement under sub. (4) (a), the
4 board shall make 5 annual payments of equal amounts to the individual that in total
5 equal the total amount of the individual's outstanding higher education debts, or
6 \$30,000, whichever is less. The board shall make the first payment as soon as
7 practicable after entering into the agreement and the subsequent payments
8 annually thereafter upon receipt of the documentation required under sub. (4) (c) 2.

9 **(6) ADJUSTMENTS.** The department of administration shall annually on July 1
10 adjust the amounts appropriated under s. 20.235 (1) (em) and the amount specified
11 in sub. (5) to reflect any changes in the U.S. consumer price index for all urban
12 consumers, U.S. city average, as determined by the U.S. department of labor, for the
13 12-month period ending on the preceding December 31.

14 **(7) SHORT COURSE LIMITS.** In a fiscal year, no more than 25 percent of the amount
15 appropriated under s. 20.235 (1) (em) for the fiscal year may be used to make
16 payments under subs. (5) and (9) (b) to individuals who satisfy sub. (3) (a) 2. b.

17 **(8) TERMINATION.** (a) 1. Except as provided in par. (b), on the date that an
18 individual ceases to be a state resident, or an individual's primary occupation ceases
19 to be the operation of a small farm, the board shall terminate the individual's
20 agreement under sub. (4) (a) on that date and the individual is not eligible to receive
21 any remaining payments under the agreement.

22 2. Upon termination of an agreement under subd. 1., an individual is liable to
23 the board for an amount equal to the product obtained by multiplying the amount
24 of the most recent annual payment received by the individual under sub. (5) or (9)
25 (b) by a fraction in which the denominator is 365 and the numerator is the number

ASSEMBLY BILL 913**SECTION 4**

1 of days after the termination date that remain in the year immediately following the
2 most recent annual payment.

3 (b) In consultation with the council, the board shall promulgate rules that allow
4 an individual to remain eligible for payments under an agreement under sub. (4) (a)
5 if, due to circumstances beyond the individual's control, the individual ceases to be
6 a state resident, or ceases to operate a small farm, for a limited period of time. The
7 circumstances shall include deployment in the United States armed services or
8 national guard. The rules shall provide for each of the following:

9 1. Suspending payments during the period the individual ceases to be a state
10 resident and reinstating payments when the individual is a state resident.

11 2. Suspending payments during the period the individual's primary occupation
12 ceases to be the operation of a small farm and reinstating payments when the
13 individual's primary occupation is the operation of a small farm.

14 **(9) APPLICANTS; FUNDING.** (a) The council shall advise the board whether an
15 applicant for reimbursement payments satisfies the requirements under sub. (3). If
16 there is not sufficient funding to make reimbursement payments to all applicants for
17 reimbursement, the council shall give priority to applicants under the following
18 categories in the council's selection of applicants with which to advise the board:

19 1. Applicants with the greatest financial need.

20 2. Applicants who are most likely to successfully continue operating a small
21 farm based on factors including an applicant's interest, training, experience,
22 business plan, and relationship with a mentor.

23 3. Applicants who own or who are working toward ownership of a small farm.

24 4. Applicants who operate small farms that employ sustainable best practices
25 for farming that are identified in the list of approved conservation enhancements and

ASSEMBLY BILL 913

1 practices under the Conservation Stewardship Program of the U.S. department of
2 agriculture.

3 5. Applicants who are members of groups that are underrepresented in farming
4 in this state.

5 (b) If funding is available due to agreement terminations under sub. (8) (a) or
6 (10) (b), or if funding is available because the total amount of grants made by the
7 board under sub. (5) in a fiscal year does not exceed the limit specified in s. 20.235
8 (1) (em), the council shall advise the board of other individuals who are eligible for
9 reimbursement under sub. (3). Based on the amount of funding that is available, the
10 board may make payments to eligible individuals for a total amount that is less than
11 the amount required under sub. (5).

12 **(10) PENALTIES.** (a) Any individual who intentionally provides false
13 information to the board or council under this section may be required to forfeit no
14 more than \$500.

15 (b) If an individual with whom the board has entered into an agreement under
16 sub. (4) (a) fails to comply with a requirement under sub. (4) (c) 4. or intentionally
17 provides false information to the board or council under this section, the board shall
18 terminate the agreement and the individual is liable to the board for the total amount
19 of payments made to the individual under sub. (5) together with interest at the rate
20 of 10 percent per year from the date of the payments.

21 **(11) RULES.** The board and council may promulgate rules to carry out their
22 respective duties under this section.

23 **(12) ADMINISTRATIVE SUPPORT.** The department of agriculture, trade and
24 consumer protection shall provide administrative support to the council for carrying
25 out the council's duties under this section.

ASSEMBLY BILL 913**SECTION 4**

1 **(13) AUDITS.** The legislative audit bureau shall evaluate the effectiveness of the
2 program established under this section in accomplishing the purposes specified in
3 sub. (2). No later than July 1, 2023, and every 10 years thereafter, the legislative
4 audit bureau shall submit a report of its evaluation to the chief clerk of each house
5 of the legislature for distribution to the appropriate standing committees under s.
6 13.172 (3). The report shall include the legislative audit bureau's recommendations
7 on terminating, continuing, revising, or expanding the program, including any
8 recommendations regarding funding the program.

9 **SECTION 5.** 71.05 (6) (b) 53. of the statutes is created to read:

10 71.05 **(6)** (b) 53. For taxable years beginning after December 31, 2015, any
11 amount received by an individual under the program under s. 39.52.

12 **SECTION 6.** 227.01 (1) of the statutes is amended to read:

13 227.01 **(1)** "Agency" means a board, commission, committee, department or
14 officer in the state government, except the governor, a district attorney or a military
15 or judicial officer. "Agency" includes the small farm higher education debt council.

16 **SECTION 7. Nonstatutory provisions.**

17 **(1) INITIAL COUNCIL MEMBERS.** Notwithstanding the length of term for certain
18 members of the small farm higher education debt council that is specified in section
19 15.137 (7) (intro.) of the statutes, as created by this act, the initial member appointed
20 under section 15.137 (7) (a) of the statutes, as created by this act, shall have a term
21 expiring on July 1, 2017, the initial member appointed under section 15.137 (7) (b)
22 of the statutes, as created by this act, shall have a term expiring on July 1, 2018, and
23 the initial member appointed under section 15.137 (7) (c) of the statutes, as created
24 by this act, shall have a term expiring on July 1, 2019.

25 **SECTION 8. Effective date.**

