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Indicates New Matter

Committee Report

January 24, 2024

H. 3951

Introduced by Reps. Haddon, G. M. Smith, Bannister, Hiott, Ligon, Hixon, Leber, Erickson, Forrest, Brewer, Murphy, Robbins, Willis, Calhoon, Pope, Davis and M. M. Smith

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Read the first time March 30, 2023

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The committee on Senate Finance

To whom was referred a Bill (H. 3951) to amend the South Carolina Code of Laws by enacting the “Working Agricultural Lands Preservation Act” by adding Chapter 57 to Title 46 so as to define terms, establish, 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. Section 48-59-40(A) and (B) of the S.C. Code is amended to read:

Section 48-59-40. (A) There is established the South Carolina Conservation Bank. The bank is governed by a fourteen-memberseventeen-member board selected as follows:

(1) the Chairman of the Board for the Department of Natural Resources, the Chairman of the South Carolina Forestry Commission, the Commissioner of Agriculture, the Secretary of Commerce, the Secretary of Transportation, and the Director of the South Carolina Department of Parks, Recreation and Tourism, or their designees, all of whom shall serve ex officio and without voting privileges;

(2) three members appointed by the Governor from the State at large;

(3) four members appointed by the Speaker of the House of Representatives, one each from the Third, Fourth, and Sixth Congressional Districts and one member from the State at large; and

(4) four members appointed by the President of the Senate, one each from the First, Second, Fifth, and Seventh Congressional Districts.

(B)(1) In making their respective appointments to the board, the Governor, Speaker of the House of Representatives, and President Pro Tempore of the Senate shall take all reasonable steps to ensure that the members of the board reflect the state's racial and gender diversity.

(2) Each member of the board must possess experience in the areas of natural resources, land development, forestry, farming, finance, land conservation, real estate, or law.

SECTION 2. Chapter 59, Title 48 of the S.C. Code is amended by adding:

Section 48-59-150. (A) There is established in the State Treasury the Working Farmland Protection Fund for the purpose of providing permanent protection to working farmland properties whose continued availability to commercial agricultural businesses is essential to the long-term future of the economic sector. Balances in the fund must be retained and carried forward annually and interest earned on balances in the fund must be credited to the fund.

(B) The Working Farmland Protection Fund must be used by the bank only for the purpose of awarding grants to eligible trust fund recipients for the purchase of interests in farmland in which a landowner derives at least fifty percent of his income.

(C) When evaluating applications for grants under this section, the bank must use the criteria set forth in Section 48-59-70(D), except for Section 48-59-70(D)(9) and Section 48-59-70(D)(13), along with the following criteria:

(1) the authority of the owner of the working farmland property to make the subject farmland available via lease or transfer of the protected property to another farmer or other farmers so as to advance the goal of preserving and increasing access to farmland for new and expanding farms;

(2) the threat of conversion of the working farmland property such that it would become unavailable for commercial production of agricultural products;

(3) the percentage of soils classified by the United States Department of Agriculture as prime farmland, unique farmland, farmland of statewide importance, and farmland of local importance;

(4) the agricultural structures and improvements associated with the working farmland property;

(5) the economic viability of the working farmland property in terms of current and potential future commercial agricultural activities in local, regional, and statewide markets; connection of the working farmland property to agricultural services including processors, aggregators, and distributors; and the number of on-farm jobs supported by the working farmland property;

(6) the multiple natural resources values associated with the working farmland property, including open space land, forested land and wetlands, riparian buffers, wildlife habitat, and freshwater aquifers; and

(7) whether the working farmland is located or serving in an underserved or underprivileged community.

SECTION 3. This act takes effect upon approval by the Governor.

Renumber sections to conform.

Amend title to conform.

HARVEY PEELER for Committee.

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A bill

TO AMEND THE SOUTH CAROLINA CODE OF LAWS by enacting THE “WORKING AGRICULTURAL LANDS PRESERVATION ACT” by adding Chapter 57 TO title 46 so as to define terms, establish a committee, and outline program criteria, among other things.

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

SECTION 1. This act may be cited as the “Working Agricultural Lands Preservation Act”.

SECTION 2. Title 46 of the S.C. Code is amended by adding:

CHAPTER 57

Working Agricultural Lands Preservation Program

Section 46‑57‑10. For purposes of this section:

(1) “Applicant” means a not‑for‑profit charitable corporation or trust authorized to do business in this State whose principal activity is the acquisition and management of interests in farmland for conservation and preservation purposes and which has tax exempt status as a public charity under the Internal Revenue Code of 1986.

(2) “Committee” means the South Carolina Working Farmland Protection Program committee created to administer the program.

(3) “Farmland” means land used for the production of food, fiber, or other agricultural products.

(4) “Fund” means the South Carolina Working Farmland Protection Program Fund.

(5) “Matching payment” means payment for qualifying projects not to exceed fifty percent of the value of the qualified interest in land.

(6) “Program funds” means appropriate match amount in order to execute the purposes of the South Carolina Working Farmland Protection Program; including reasonable transaction costs not to exceed twenty‑five thousand dollars per qualifying project.

(7) “Qualifying projects” means a project that results in the permanent protection of lands that are engaged in active agricultural and timber production and the landowner derives at least fifty percent or more income from farm-related activities.

(8) “Qualified interest in land” means a fee simple acquisition or conservation easement.

Section 46‑57‑20. The South Carolina Working Farmland Protection Program, referred to in this chapter as “the program”, is established to create a committee that will identify and provide permanent protection to strategically significant working farmland properties whose continued availability to commercial agricultural businesses is essential to the long‑term future of the economic sector and to create a fund for qualifying projects under this program.

Section 46‑57‑30. (A) The committee administers the program and is comprised of the following eight voting members, each serving two‑year terms:

(1) the Commissioner of Agriculture who serves as the chairman of the committee;

(2) two members designated by the Governor;

(3) two members designated by the Speaker of the House of Representatives;

(4) two members designated by the President of the Senate;

(5) one member designated by the South Carolina Black Farmers Coalition; and

(6) The chairman of the South Carolina Conservation Bank serves as an ex officio member.

(B) The committee shall:

(1) evaluate and verify whether an applicant’s proposed project qualifies for the program following the selection criteria in Section 46‑57‑40; and

(2) designate the amount of program funds to be applied to a qualified project.

(C) A majority of committee members must agree that a proposed project qualifies for the program and designate the allocation of program funds for a qualified project.

Section 46‑57‑40. When evaluating the applications for protection of working farmland property, the committee must use the following selection criteria to include, but are not limited to:

(1) the authority of the owner of the working farmland property to make the subject farmland available via lease or transfer of the protected property to another farmer or other farmers, to advance the goal of preserving and increasing access to farmland for new and expanding farms;

(2) the threat of conversion of the working farmland property such that it would become unavailable for commercial production of agricultural products;

(3) the percentage of soils classified by the United States Department of Agriculture as prime farmland, unique farmland, farmland of statewide importance, and farmland of local importance;

(4) the agricultural structures and improvements associated with the working farmland property;

(5) the economic viability of the working farmland property in terms of current and potential future commercial agricultural activities in local, regional, and statewide markets; connection of the working farmland property to agricultural services including processors, aggregators, and distributors; and the number of on‑farm jobs supported by the working farmland property;

(6) the multiple natural resources values associated with the working farmland property, including open space land, forested land and wetlands, riparian buffers, wildlife habitat, and freshwater aquifers; and

(7) whether the applicant is from or serving an underserved or underprivileged community.

Section 46‑57‑50. The fund’s purpose is to compliment agricultural projects funded by the South Carolina Conservation Bank and cooperating entities by creating a matching grant payment for qualified projects. Funds shall be awarded only for qualified projects which result in the permanent protection of agricultural lands.

(A) The fund is housed in the South Carolina Conservation Bank as a separate line item in the budget.

(B) The fund may carry forward any unexpended funds to be used for the same purpose.

Section 46‑57‑60. The provisions of Section 48‑59‑70(L) do not apply to lands of qualified projects.

Section 46‑57‑70. The provisions of Section 48‑59‑80(K) do not apply to lands of qualified projects owned or operated by a person whose gross income is fifty percent or greater derived from the trade or business of farming.

Section 46‑57‑80. Elected or appointed officials of the State and their immediate family members are not eligible to participate in the program.

SECTION 3. This act takes effect upon approval by the Governor and is contingent upon funding in the general appropriations act.

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