



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-1633/1
MDK:wlj

2017 BILL

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 establishes a program for reimbursing certain individuals who operate small farms for their higher education debt. Under the bill, an individual is eligible for reimbursement if he or she 1) graduated from an accredited public or nonprofit institution that awards associate or baccalaureate degrees; 2) completed a farm and industry short course offered by the University of Wisconsin System; or 3) obtained a technical college diploma or certificate in agriculture or a field related to agriculture. However, no more than 30 percent of the amount appropriated for the program in a fiscal year may be used to reimburse individuals who completed a farm and industry short course or obtained the technical college diploma or certificate described above. 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

BILL

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 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 secretary of agriculture, trade and consumer protection or his or her designee and the chancellor of the UW-Extension or his or her designee. The 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.

For an individual to be eligible for reimbursement, the council must find that he or she satisfies the above educational requirements and that he or she is a state resident whose primary occupation is to operate a small farm. Also, to be eligible, the individual must begin to operate a small farm no later than five years after obtaining an associate or baccalaureate degree, completing a farm and industry short course, or obtaining the technical college diploma or certificate. 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. 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. Under an agreement, an individual must 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 individual must also 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

BILL

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 2017-18, \$120,000; in fiscal year 2018-19, \$240,000; in fiscal year 2019-20, \$360,000; in fiscal year 2020-21, \$480,000; and in fiscal year 2021-22 and each fiscal year thereafter, \$600,000. 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 because of circumstances beyond their control, and those circumstances must include deployment in the U.S. 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, 2016.

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 use in prioritizing applicants if sufficient funding is not available. No later than July 1, 2024, and every ten years thereafter, the LAB must submit a report to the legislature regarding the evaluation. The report must include

BILL

the LAB'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 is amended to read:

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

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

11 15.137 (7) SMALL FARM HIGHER EDUCATION DEBT COUNCIL. There is created in the
12 department of agriculture, trade and consumer protection a small farm higher
13 education debt council consisting of the secretary of agriculture, trade and consumer
14 protection or his or her designee, the chancellor of the University of
15 Wisconsin-Extension or his or her designee, and the following members appointed
16 by the secretary of agriculture, trade and consumer protection for 3-year terms:

BILL

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 2017-18 may
10 not exceed \$120,000, in fiscal year 2018-19 may not exceed \$240,000, in fiscal year
11 2019-20 may not exceed \$360,000, in fiscal year 2020-21 may not exceed \$480,000,
12 and in fiscal year 2021-22 and each fiscal year thereafter may not exceed \$600,000.

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

14 **39.52 Small farm operators. (1) FINDINGS.** The legislature finds that
15 farming is central to this state's traditions and economy and essential for feeding
16 residents of this state and beyond. The legislature also finds that as the population
17 of farmers ages, this state faces a challenge recruiting and retaining new farmers.
18 The legislature believes that higher education debt is a significant barrier for new
19 farmers who work towards economic viability during the early years of their careers.
20 The legislature therefore finds it in the best interest of the state to establish a
21 program to provide financial assistance to new farmers carrying student debt in their
22 first years of farming in exchange for a commitment to farming in this state. The
23 purpose of the program is to recruit and retain new Wisconsin farmers of diverse
24 backgrounds who have completed postsecondary education, regardless of field of
25 study, previous state residency, or background in agriculture, and to sustain this

BILL

1 state's small and midsize family farms while fostering innovation in sustainable best
2 practices.

3 (2) DEFINITIONS. In this section:

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

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

10 (3).

11 (c) "Institution of higher education" means a nonprofit or public educational
12 institution that awards an associate or baccalaureate degree and that is accredited
13 by an accrediting agency that is recognized by the secretary of the federal
14 department of education.

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

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

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

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

BILL

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

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

6 2. The individual satisfies one of the following:

7 a. The individual has graduated from an institution of higher education with
8 an associate or baccalaureate degree.

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

11 c. The individual has obtained a technical college diploma or certificate in
12 agriculture or a field related to agriculture.

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

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

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

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

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

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

BILL

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

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

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

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

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

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

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

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

BILL

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

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

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

5 **(5) REIMBURSEMENT PAYMENTS.** Except as otherwise provided in this section, for
6 each individual with whom the board enters into an agreement under sub. (4) (a), the
7 board shall make 5 annual payments of equal amounts to the individual that in total
8 equal the total amount of the individual's outstanding higher education debts, or
9 \$30,000, whichever is less. The board shall make the first payment as soon as
10 practicable after entering into the agreement and the subsequent payments
11 annually thereafter upon receipt of the documentation required under sub. (4) (c) 2.

12 **(6) ADJUSTMENTS.** The department of administration shall annually on July 1
13 adjust the amounts appropriated under s. 20.235 (1) (em) and the amount specified
14 in sub. (5) to reflect any changes in the U.S. consumer price index for all urban
15 consumers, U.S. city average, as determined by the U.S. department of labor, for the
16 12-month period ending on the preceding December 31.

17 **(7) LIMITS.** In a fiscal year, no more than 30 percent of the amount appropriated
18 under s. 20.235 (1) (em) for the fiscal year may be used to make payments under subs.
19 (5) and (9) (b) to individuals who satisfy sub. (3) (a) 2. b. or c.

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

BILL**SECTION 4**

1 2. Upon termination of an agreement under subd. 1., an individual is liable to
2 the board for an amount equal to the product obtained by multiplying the amount
3 of the most recent annual payment received by the individual under sub. (5) or (9)
4 (b) by a fraction in which the denominator is 365 and the numerator is the number
5 of days after the termination date that remain in the year immediately following the
6 most recent annual payment.

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

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

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

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

23 1. Applicants with the greatest financial need.

BILL

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

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

5 4. Applicants who operate small farms that employ sustainable best practices
6 for farming that are identified in the list of approved conservation enhancements and
7 practices under the Conservation Stewardship Program of the U.S. department of
8 agriculture.

9 5. Applicants who are members of groups that are underrepresented in farming
10 in this state.

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

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

21 (b) If an individual with whom the board has entered into an agreement under
22 sub. (4) (a) fails to comply with a requirement under sub. (4) (c) 4. or intentionally
23 provides false information to the board or council under this section, the board shall
24 terminate the agreement and the individual is liable to the board for the total amount

BILL**SECTION 4**

1 of payments made to the individual under sub. (5) together with interest at the rate
2 of 10 percent per year from the date of the payments.

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

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

8 (13) AUDITS. The legislative audit bureau shall evaluate the effectiveness of the
9 program established under this section in accomplishing the purposes specified in
10 sub. (1). No later than July 1, 2024, and every 10 years thereafter, the legislative
11 audit bureau shall submit a report of its evaluation to the chief clerk of each house
12 of the legislature for distribution to the appropriate standing committees under s.
13 13.172 (3). The report shall include the legislative audit bureau's recommendations
14 on terminating, continuing, revising, or expanding the program, including any
15 recommendations regarding funding the program.

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

17 71.05 (6) (b) 53. For taxable years beginning after December 31, 2016, any
18 amount received by an individual under the program under s. 39.52.

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

20 227.01 (1) "Agency" means a board, commission, committee, department or
21 officer in the state government, except the governor, a district attorney or a military
22 or judicial officer. "Agency" includes the small farm higher education debt council.

23 **SECTION 7. Nonstatutory provisions.**

24 (1) INITIAL COUNCIL MEMBERS. Notwithstanding the length of term for certain
25 members of the small farm higher education debt council that is specified in section

BILL

1 15.137 (7) (intro.) of the statutes, the initial member appointed under section 15.137
2 (7) (a) of the statutes shall have a term expiring on July 1, 2019, the initial member
3 appointed under section 15.137 (7) (b) of the statutes shall have a term expiring on
4 July 1, 2020, and the initial member appointed under section 15.137 (7) (c) of the
5 statutes shall have a term expiring on July 1, 2021.

6 **SECTION 8. Effective date.**

7 (1) This act takes effect on July 1, 2017, or on the 2nd day after publication of
8 the 2017-19 biennial budget act, whichever is later.

9 (END)